



Rutland County Council

DISCIPLINARY POLICY AND PROCEDURE

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CONTENTS

	Page No.
1 POLICY INTRODUCTION	3
2 SCOPE	3
2.1 Probationary employees.....	3
2.2 Exclusions	3
2.3 Trades Union Officials	3
2.4 Role of Officers	4
3 THE INFORMAL PROCEDURE	4
3.1 Applying the Informal Procedure	4
3.2 Monitoring during the Informal Procedure.....	5
3.3 Recording the informal discussion	5
4 PRINCIPLES THAT APPLY TO THE FORMAL PROCEDURE	5
5 THE FORMAL PROCEDURE	7
6 FORMAL RESOLUTIONS	10
6.1 Case Dismissed	10
6.2 Written warning	11
6.3 Final written warning	11
6.4 Action short of dismissal	11
6.5 Dismissal	12
6.6 Confirmation of the Resolution	12
6.7 Warnings	12
6.8 References.....	12
7 APPEALS	12
8 CRIMINAL OFFENCES COMMITTED OUTSIDE THE COUNCIL'S EMPLOYMENT	13
9 DISCIPLINARY MATTERS RELATING TO SAFEGUARDING ISSUES	14
10 REVIEW	14
<u>APPENDICES</u>	
1 The Investigating Officer's Role	15
2 The Nominated Disciplining Officer's Role	17
3 The Line Manager's Role	18
4 The Human Resources Role	19
5 The Trade Union Representative or Work Colleague's Role	20
6 Examples of Gross Misconduct	21
7 Disciplinary Hearing Procedure	22
8 The Appeals Process	24

RUTLAND COUNTY COUNCIL

DISCIPLINARY POLICY AND PROCEDURE

1. POLICY INTRODUCTION

- 1.1 This policy is designed to help and encourage all employees to achieve and maintain standards of conduct. Its purpose is to ensure fair treatment, in accordance with the Council's Equality and Diversity Policy, of employees who become liable to disciplinary action because of failure to meet the required standards of conduct or behaviour. Strict confidentiality should be maintained with discussions and information sharing being strictly limited. The Managers Guidance on dealing with Disciplinary issues, which can be accessed on the intranet HR Policies/Disciplinary, should be referred to in addition to this Policy.

2. SCOPE

This disciplinary policy and procedure applies to employees of Rutland County Council, including permanent, temporary and casual employees. Exclusions to this are referred to at 2.2.

2.1 Probationary employees

The Council's Probation Policy and procedure should be applied where an employee has not satisfactorily completed their probationary period and dismissal arises from unsuitability for the position. Unsuitability may be, for example, any serious failure in performance and/or unacceptable conduct and behaviour.

2.2 Exclusions

The following are excluded from this disciplinary policy and procedure:

- The Chief Executive and holders of statutory posts for whom a separate procedure exists, in accordance with The Local Authorities [Standing Orders] [England] (Amendment) Regulations 2015.
- Employees based in Schools and Colleges
- Individuals engaged either an in Interim or Agency worker capacity through an employment agency.

2.3 Trade Union Officials

Normally no disciplinary action shall be taken against an accredited Trade Union Representative until the circumstances has been discussed with a Regional Official of the Trade Union Regional Office, after obtaining the employee's agreement.

2.4 Role of Officers

There are various roles involved in the process. These are the Investigating Officer [IO], Disciplining Officer [DO], Line Manager [LM], Human Resources Adviser, recognised Trade Union Representative or work colleague [employee of the Council] and the Contact Person (CP). These roles are described in Appendices 1 to 5. The term Representative is used to mean whichever the employee chooses to accompany him/her,

3. THE INFORMAL PROCEDURE

Standards in the workplace are normally maintained on an informal basis. One-to-one meetings between the manager and employee and team meetings can provide opportunities to clarify the required standards. Cases of minor misconduct should be dealt with speedily and informally by the employee's manager. The aim is to discuss the issue with the employee, establish their version of events and where appropriate provide advice and guidance on expected improvements and how these might be achieved. This may include an informal warning. Taking informal action quickly provides an opportunity to avoid relatively minor difficulties becoming a major problem. The manager and employee can explore the difficulties together and agree a way forward to enable acceptable working standards to be achieved.

An informal warning may be issued in appropriate circumstances and may be confirmed in writing to ensure clarity of the improvement required and over what period.

If informal action does not bring about an improvement or the misconduct is considered too serious to be classed as minor, then more formal action may be taken.

3.1 Applying the Informal Procedure

An informal meeting should be arranged to take place at a suitably discreet venue. There is no automatic right for an employee to be accompanied at an informal meeting. However, in exceptional circumstances the manager has the discretion to deviate from this. The employee must clearly state their reasons for the request in order for it to be considered.

The manager should:

- Explain the reason for the meeting
- State that it is to discuss areas of concern
- Advise that it is an informal discussion
- Clarify the reasons for concerns and provide any relevant evidence, dates/times etc.
- Listen to the employee's response
- Consider any explanation
- Make it clear whether and if so what improvements are expected

- Advise that a failure to improve will result in formal disciplinary proceedings
- Agree clear goals and timescales for improvement where appropriate
- Agree a date to review progress where appropriate.

3.2 **Monitoring during the Informal Procedure**

Targets and regular reviews should be set, so that the manager can monitor the employee's progress and agree further action. At the review meeting, if the employee has achieved the agreed improvement, then no further action will be necessary unless there is a subsequent lapse in the required standards.

3.3 **Recording the Informal discussion**

The manager should make a record of the discussion, including the concerns raised, the employee's responses, targets set, reviews undertaken and the outcome. Records should be destroyed when it is determined that no further action is required.

Copies of any correspondence with the employee regarding the issues and remedies for improvement should also be kept by the manager. There is no right of appeal.

4. **PRINCIPLES THAT APPLY TO THE FORMAL PROCEDURE**

- 4.1 There will be fair and consistent treatment of employees who become liable to disciplinary action and a commitment to resolving issues as soon as reasonably practicable.
- 4.2 Disciplinary decisions may include a requirement for counselling/training in certain cases. It is important that negligence and misconduct are distinguished from capability, as the latter should be dealt with under the Council's Capability Procedure.
- 4.3 An HR Adviser must be consulted on all disciplinary matters and will be present at a Disciplinary Hearing to give advice on policy and procedure.
- 4.4 In most cases no disciplinary action will be taken against an employee until a full, formal investigation has been conducted. There may be circumstances where no investigation is necessary but as a minimum, the collation of evidence is essential ie. minor cases of misconduct. The nature and extent of the investigation will be proportionate and depend on the seriousness of the matter.
- 4.5 Managers will need to ensure that an employee with a communication difficulty is provided with the appropriate assistance. An employee may request appropriate assistance where necessary. Reasonable adjustments will be considered for any disabled employee at any stage of the policy.
- 4.6 All stages of the Disciplinary Procedure must be kept confidential. Any breach in confidentiality could result in the disciplinary procedure being used in respect of the breach of confidentiality.

- 4.7 In cases of alleged harassment, discrimination or bullying the Council's Grievance Policy and Procedure should be referred to in the first instance.
- 4.8 In the majority of cases disciplinary action will relate to conduct or behaviour at work. However, there may be occasions where it will relate to conduct or behaviour outside of work, this could, for example, impact on the Council's reputation. In such circumstances, it may have a direct bearing on the employee's suitability for employment. It is important to consider each case according to the circumstances.
- 4.9 An employee who has concerns of possible fraud or corrupt behaviour should report this to their line manager or a nominated individual under the Council's Whistleblowing Policy.
- 4.10 There may be circumstances where the disciplinary procedure will be concluded regardless of whether the employee leaves the authority in the meantime. The Council may be under a duty to do this in relation to an employee who would have to be reported to the Disclosure and Barring Service [DBS] if the allegations were found to be proven, i.e. it could potentially cause significant risk to children/vulnerable adults if an employee is charged with a safeguarding disciplinary offence and the disciplinary is not concluded.
- 4.11 No employee will be dismissed for the first breach of discipline, except in the case of gross misconduct. Examples of gross misconduct are set out at Appendix 6.
- 4.12 An employee has the right to appeal against any disciplinary penalty.
- 4.13 Grievances

Where an employee raises a grievance during a disciplinary process, consideration may be given to temporarily suspending the process in order to deal with the Grievance.

Where a grievance triggers a disciplinary investigation the grievance process may be temporarily suspended in order to deal with the disciplinary matter.

In any circumstance where both the grievance and disciplinary procedures apply in relation to the same facts it may be appropriate to deal with both matters together. It will be for the Manager and/or Disciplining Officer to make a decision. Advice should initially be sought from an HR Adviser. The employee will be entitled to make representations to the Manager and/or Disciplining Officer if s/he believes the matters are more appropriately dealt with separately however the ultimate decision rests with Rutland County Council.

5. THE FORMAL PROCEDURE

5.1 Is Suspension Appropriate?

In some instances it may be necessary for an employee to be suspended pending resolution of the investigation and/or process. This is likely only to be appropriate in exceptional circumstances and require approval by a Director. In all such circumstances advice should be sought from HR and any period of suspension should be kept under review.

The following points should be noted:

- Suspension is not an assumption of guilt and is not considered a disciplinary sanction. It may be appropriate, for example, where relationships have broken down.
- Suspension may be appropriate in circumstances where it is considered there may be a risk of interference with evidence or witnesses pressurised before the meeting
- Suspension may be appropriate if an incident raises safeguarding concerns regarding children, young people or vulnerable adults.
- It may be appropriate where the allegations, if proved, would be likely to amount to gross misconduct.
- Suspension will be on normal pay. Normal pay includes all earnings that would be paid during a period of normal working, but excluding any payments not made on a regular basis.
- Suspension should be for as brief a period as necessary. In order to facilitate this, the investigation should be given high priority and the appointed IO released from their work duties as much as possible.
- In the event of a suspension the Line Manager will appoint a CP who should keep in touch with the employee during the period of suspension and keep the employee informed of progress. It may not be appropriate for the manager of the employee to be the contact person if the manager is involved in the investigation or other aspects of the disciplinary process.
- The potential for temporary redeployment to other duties or another location should be considered and exhausted, prior to consideration of suspension. The employee will receive their normal pay whilst redeployed.

5.2 The following should be considered:

In some circumstances it may not be appropriate for an employee's LM to undertake or commission an investigation e.g. where they are themselves a witness. In such circumstances an alternative staff member will be appointed. This should be discussed with HR before any decisions are made. Employees will be notified in writing of any decisions in this respect.

5.3 The Investigation Process

- 5.3.1 An Investigating officer will be appointed – this will be either
- the Line Manager (but cannot then act as Disciplining officer) OR
 - an independent Investigating Officer not connected to the issues of the case.

For illustrative purposes:

- in cases of minor misconduct such as timekeeping, the Line Manager will be more averse with the evidence and issues of the case and therefore it is unlikely that another independent IO would be necessary. Any hearing would be conducted by another manager.
- for cases where the allegations are more serious, it would be appropriate to appoint an independent IO.

Of paramount importance and in all cases, is separation of roles between someone undertaking an investigation and the individual conducting and making decisions at a disciplinary hearing. In addition, it is vital that an IO has the requisite skills and experience to undertake a disciplinary investigation; the Council will from time to time provide specific training to identified officers. The role of the IO is further explained in Appendix 1.

The Council reserves the right to appoint an external IO where the circumstances may call for it – this will be considered by the relevant Director and a representative from HR. The cost will be funded by the Directorate within which the employee is employed.

- 5.3.2 The terms of reference given to the IO should give a clear indication of the scope and limitations of what needs to be achieved and the timescales involved.
- 5.3.3 The employee should be advised that the purpose of the investigation is to decide whether or not there is a case to answer. The employee will be given sufficient details of the alleged offence to be in a position to understand the nature of the complaint and to have sufficient time to consider a response.
- 5.3.4 Employees must co-operate fully and promptly in any investigation. This may include providing the names of any witnesses, disclosing relevant documents and attending interviews.
- 5.3.5 At every stage of the procedure the employee will be given the opportunity to state their case and ask questions.
- 5.3.6 At the Investigation interview the employee may be represented by a workplace colleague or recognised Trade Union representative. This is Council policy rather than a statutory right.
- 5.3.7 Once an employee has been notified of an investigation, the employee must advise the IO of the name of the employee's Representative [if applicable] and the names of any witnesses they wish to request to give statements [if applicable].

5.3.8 On conclusion of the investigation:

- The IO will compile a report for the LM and which will subsequently be submitted as part of the Disciplinary Hearing.
- The LM will then make a decision on whether or not a Disciplinary Hearing should be convened. If the decision is that there is no case to answer then the report should be destroyed.
- If the decision is **not to** convene a Hearing, the LM must advise the employee of the outcome and confirm the decision in writing. The letter will also advise of any issues or recommendations that may have been identified during the course of the investigation
- If the decision **is to** convene a Hearing, an appropriate officer will be nominated to act as the DO, who should be at an appropriate level to conduct a hearing and make a decision in accordance with the policy. .

5.4 Preparation for a Disciplinary Hearing

- 5.4.1 The employee will be given at least 10 working days' notice in writing as to where and when the Disciplinary Hearing will be held. However, any timescales laid down in this procedure may be adjusted by mutual agreement in exceptional circumstances. Documentary evidence will be provided to the person against whom allegations have been made to enable the preparation of a response to the allegations.
- 5.4.2 There may be exceptional cases in which it is considered that the names of witnesses should not be released due to, for example, a genuine fear of reprisal. The DO should seek advice from an HR Adviser when making a decision on this or in response to considering a request from the witness. Where this happens the employee should be notified in advance of the Hearing.
- 5.4.3 If a Disciplinary Hearing is convened, the employee should submit a written request at least 5 working days before the Disciplinary Hearing, to the DO, of the names of any witnesses they wish to call to the Hearing. The DO will then confirm whether or not they agree to this request, taking into consideration any potential conflicts of interest. A conflict of interest could be for example, due to a personal connection or financial interest. If the witness request is agreed to, it will be the employee's responsibility to ensure that they inform the witness/es that they intend to call of the relevant details of the Hearing. Paid time off to attend the Hearing will be granted to witnesses who are also employees of Rutland County Council.
- 5.4.4 An employee should take all reasonable steps to attend the Disciplinary Hearing. If an employee fails to attend the Disciplinary Hearing a decision will be made on whether to continue the Hearing in their absence. If an employee is off on long-term sickness absence, advice should be sought from HR, who will seek further medical advice if necessary. The purpose of the medical advice will

be to determine what if any reasonable adjustment can be made to facilitate the employee's full participation in the process.

A recommended format for the Disciplinary Hearing to follow is shown at Appendix 7.

6. FORMAL RESOLUTIONS

There are five possible resolutions of the Disciplinary Hearing:

- Case dismissed
- Written Warning
- Final Written Warning
- Action short of dismissal
- Dismissal

Each case will be considered on its merits based on all available evidence as presented by the investigating officer and the employee and their representative. Further factors will include (a) a subsequent incident of misconduct, (b) level of risk or harmful impact on the organisation or service users.

6.1 Case Dismissed

If a decision is made to dismiss the case, the DO will write to the employee confirming the reasons for reaching this decision. Advice on the letter should be obtained from HR. A record will not be kept on the personal file. If a case has been dismissed but it is considered that recommendations can be made for additional training, counselling, support or service improvements, the formal letter should also confirm this and any period within which this should be achieved.

6.2 Written Warning

In cases of minor offences a Written Warning will be given to the employee.

The content of the warning will be recorded and a copy will be given to the employee and placed on the personal file.

After the active period of six months from the date of the warning, the record will be removed from the personal file. It will be disregarded in deciding the outcome of future disciplinary proceedings. There may be exceptions to this, for example in connection with safeguarding issues. Reference is made at section 9 to disciplinary matters relating to safeguarding issues.

6.3 Final Written Warning

Where:

- the degree of misconduct is more serious than a Written Warning offence; or
- current written warning[s] have not been effective relating to conduct of a similar or the same issue, additional disciplinary action short of dismissal will be taken and a Final Written Warning will be issued to the employee.

This warning letter will set out clearly:

- i) the nature of the complaint;
- ii) the reasons for the warning;
- iii) reference to previous Written Warnings, if appropriate;
- iv) what improvement is needed – specifying any additional training that may be required and any period within which the improvement must be achieved; the letter will confirm the requirement for support from the manager to ensure that this is achieved;
- v) the consequences if improvement is not forthcoming;
- vi) the rights of appeal;
- vii) the written warning will be placed on the employee's personal file. After the active period of 12 months from the date of the warning letter, the record will be removed from the personal file. It will be disregarded in deciding the outcome of future disciplinary proceedings. There may be exceptions to this, for example in connection with safeguarding issues. Reference is made at section 9 to disciplinary matters relating to safeguarding issues.

6.4 Action Short of Dismissal

Action short of dismissal may be appropriate in cases where the employee has behaved in a manner justifying dismissal, but the DO conducting the hearing considers that there are mitigating circumstances. It may be agreed with the employee, that in place of dismissal, additional sanctions will be made in addition to a final warning. The DO must obtain the advice from HR on additional sanctions.

Where the sanction given is temporary, regular review meetings should be arranged to determine an employee's progress and also following any appropriate training and support measures that have been put in place. This will help to determine what improvements; increased understanding etc. has been achieved to assist in reaching a conclusion on when it is appropriate for the additional sanction to be lifted. The outcome of the review meetings should be confirmed in writing to the employee.

6.5 Dismissal

Where current disciplinary action has been ineffective, or in cases of gross misconduct or gross negligence, an employee may be dismissed.

According to the severity of the case, the DO will decide whether or not to give notice.

Summary dismissal is dismissal without notice and is only considered for 'gross misconduct'. This is where a situation is serious enough for a dismissal to take place without warning [e.g. for violence, abuse, fraud].

The action taken will be confirmed in writing following the Hearing, and will include the reasons for the dismissal and rights of appeal.

EXAMPLES of where immediate dismissal without notice may be appropriate are set out at Appendix 6. It is stressed that the list is neither exclusive nor exhaustive.

6.6 Confirmation of the resolution

During the adjournment of the Hearing the DO will give full consideration to the evidence presented in order to reach a decision. It may not, in all cases, be possible or appropriate for the decision to be made on the same day. Written confirmation of the resolution will normally be given within 5 working days of the hearing. In cases where it is not possible the employee will be informed of when to expect a decision.

6.7 Warnings

Warnings will be disregarded after the specified period and provided that there is no abuse of the Disciplinary Procedure [see section 10].

6.8 References

Unspent formal warnings will be referred to in any employment reference until such a time that the warning is deemed to be spent.

In cases where an employee leaves the Council prior to the conclusion of an investigation or prior to a Disciplinary Hearing, the reference **will** include the fact that the employee was due to attend a Disciplinary Hearing but left prior to the conclusion, if this information is requested. Live sanctions will be included on a reference for a future employer.

7. APPEALS

7.1 There is a right of appeal against formal disciplinary action.

7.2 Any appeal must be lodged within 10 working days following the date on the letter confirming the disciplinary penalty, giving the grounds of the appeal. The person, to whom an appeal should be lodged, depends on the disciplinary penalty given.

- 7.3 The aim will be to hold an Appeal Hearing within 21 days of the appeal being lodged and with 10 working days' notice given. However, it may take longer to arrange depending on the availability of attendees.
- 7.4 The employee has the right to be accompanied by a Representative if he or she so wishes and may request witnesses.
- 7.5 An appeal will be heard by a higher authority than that taking the disciplinary action and/or by parties with no prior involvement in the case to be appealed.
- 7.6 Appeals against dismissal should be addressed to the Head of Corporate Governance. Appeals are heard by the Employment and Appeals Committee.
- 7.7 Full consideration will be given by the Appeals panel to the evidence presented in order to reach a decision. It may not, in all cases, be possible or appropriate for the decision to be made on the same day. Written confirmation of the resolution will normally be given within 5 working days of the Appeal. In cases where it is not possible the employee will be informed of when to expect a decision.
- 7.8 A decision on internal appeal may, on the evidence provided or after seeking further advice or information:-
- Dismiss the appeal and confirm the decision already taken
 - Reduce the penalty to a lesser penalty
 - Uphold the appeal

If a decision to dismiss is withdrawn, then the action will be to:-

- Reinstatement of the employee with continuous service and award an amount to ensure that no pay has been lost, for the period lost through dismissal, or other disciplinary sanctions may apply

A recommended format for the Appeal Hearing to follow is shown at Appendix 8.

8. CRIMINAL OFFENCES COMMITTED OUTSIDE THE COUNCIL'S EMPLOYMENT

- 8.1 An employee shall not be dismissed or otherwise disciplined solely because he or she has been charged with or convicted of a criminal offence.
- 8.2 Disciplinary action may be taken, however, where the Council decides that the nature of the alleged offence committed affects the interest of the Council and/or the employee's continued performance of his or her contract of employment and/or working relationships.

9. DISCIPLINARY MATTERS RELATING TO SAFEGUARDING ISSUES

- 9.1 Managers must ensure that they are aware of the relevant safeguarding policies and regulations where the matter relates to any safeguarding issue with regard to vulnerable groups. It may be necessary to refer to the Disclosure and Barring Service [DBS] for consideration of inclusion of the employee on the list of barred persons. Advice must be sought from HR in all cases.
- 9.2 If an employee is subject to registration or regulation by a professional body or regulator, e.g. HCPC or OFSTED, it may be appropriate to make a referral to that body. The Director for the Directorate concerned will decide whether or not to refer a matter to the relevant professional body. There is a statutory duty to report to the relevant body in specific cases.

10. REVIEW

- 10.1 This procedure may be reviewed from time to time subject to the appropriate consultation and with a view to seeking agreement with the recognised Trade Unions.
- 10.2 In every case the need to satisfy the test of reasonableness in all circumstances shall be exercised. So far as possible, account shall be taken of the employee's record and any other relevant factors

APPENDIX 1

THE INVESTIGATING OFFICER [IO] ROLE IN A DISCIPLINARY INVESTIGATION

The role of the IO is to conduct a balanced investigation and to collect relevant evidence. This should be concluded as soon as is reasonably and practicably possible.

Timescales laid down in the Policy should be followed by the IO in order to assist in speedy treatment.

Responsibilities are:

1. Interview the employee suspected of the alleged misconduct to provide the opportunity to respond to the allegation. HR can provide the IO with a template letter to use when arranging interviews.
2. As a guide, it is recommended that a minimum of 5 working days' notice in writing is given of the investigatory interview. This is in order to allow time for the employee [or witnesses] to consider the allegations and also to arrange to be accompanied by a Representative, should they wish.
3. Any witnesses must also be interviewed. Witnesses must be given notice in writing of the investigatory interview [date, time, venue etc.].
4. All interviews must be conducted on an individual basis, i.e. the employee against whom allegations have been made should not be present when a witness is interviewed and vice versa.
5. Interviews must be conducted with strict confidentiality. Where necessary, the IO may arrange for an officer to attend with them in order to take notes of the meetings. This will enable the IO to concentrate on the interview and assist in the provision of an accurate record.
6. The employee under investigation and witnesses should review, sign and date their statements. In some cases, the IO may produce the notes for approval at the time of the interview. The statements will comprise part of the report for the investigation. .
7. Witnesses should be made aware that it is normal practice to provide copies of all witness statements to the employee against whom allegations of misconduct have been made and to the complainant if there is to be a Disciplinary Hearing. However, there may occasionally be exceptions to this if the witness has a genuine fear of potential reprisals and believes that this could put them at risk. The witness may want their statement to remain anonymous. The DO will be required to make a decision following consultation with HR.

8. If the employee against whom the allegations have been made or any witnesses do not agree with the content of their statement, the IO should seek to clarify their understanding/interpretation. The final report will make reference to areas of the statement that were not agreed.
9. The report should also include any other evidence gathered or evidence that could substantiate comments made in employee or witness statements e.g. letters, memos, e-mails, reports, records etc.
10. The IO's report will be limited to presenting findings of fact and containing actions/behaviours/incidents etc. relevant to the allegations which it is considered could be viewed as concerning and a possible policy/procedural breach or any potential mitigation. It is not for the IO to determine a disciplinary sanction.
11. The Report should be forwarded to the LM and a copy sent to HR. Having carefully read and considered the Investigator's Report, the LM will determine whether or not to proceed with the formal disciplinary procedure.
12. If a Disciplinary Hearing is arranged the IO will normally attend to present their report and findings to the Disciplining Officer.

APPENDIX 2

THE NOMINATED DISCIPLINING OFFICER [DO] ROLE

Responsibilities include:

1. Attend the Disciplinary Hearing to hear the case, call witnesses and ask questions. Adjourn in order to make a decision. Reconvene to sum up and deliver the decision and explain the reasons.
2. Ensure fair, consistent and speedy treatment of employees who become liable to disciplinary action. Giving employees the opportunity to state their case, call witnesses where appropriate and ask questions. Allow an employee to be accompanied by a Representative.
3. Give the employee a written explanation for any disciplinary action taken clarifying what improvement is expected and associated timescales, following advice from HR. The employee's manager should also receive a copy of the letter so that they are fully aware and able to monitor the situation accordingly.
4. Follow timescales laid down in the Policy to assist in speedy treatment.
5. Make a decision if an employee raises a grievance during any stage of the disciplinary process.
6. Present the case at an appeal.

APPENDIX 3

THE LINE MANAGER [LM] ROLE

1. Consult HR on all disciplinary matters and prior to instigating the formal procedure.
2. Ensure that employees are made aware of the standards expected of them.
3. Informal – the LM may give an informal reprimand (see the informal process Section 3.) There is no right of appeal against an informal reprimand.
4. Where formal action is required, the LM should arrange to meet the employee concerned to provide a brief verbal explanation and provide a formal letter advising of an investigation etc.
5. The LM must permit the employee against whom allegations have been made a reasonable amount of paid time off during working hours, for private discussions with their representative. This includes time off for the hearing itself, if applicable.
6. The LM should also allow an employee a reasonable amount of paid time off to familiarise him or herself with the case and confer with their representative in their support. This includes time both before and after the hearing.
7. The LM must permit an employee a reasonable amount of paid time off work during working hours, to act in support of another employee or appear as a witness for that employee. This also applies to time off for the hearing itself.
8. The employee, against whom allegations have been made, may need access to data, other relevant information and contact with colleagues to assist them in preparing their case; advice must be sought from Human Resources on this and before contact with colleagues is made.
9. An employee who is asked to provide a witness statement should be allowed a reasonable amount of paid time off to facilitate this and to attend the Hearing if their presence is required.
10. As this will be a difficult time for the employee against whom allegations have been made, the LM is advised to reiterate that the Council has a free, confidential counselling service should the employee feel that this may be of benefit to them. Further details can be obtained from Human Resources.
11. Attendance at meetings/Disciplinary Hearing, as appropriate.
12. Depending on the decision made and the resolution monitor and carry out regular reviews on the employee.
13. Act as DO where appropriate ie. Minor cases of misconduct.

APPENDIX 4

THE HUMAN RESOURCES [HR] ROLE

The Human Resources Team provide advice, guidance and support on the Council's Disciplinary Policy and Procedure. This includes:

- Advice on all disciplinary matters prior to any formal procedure being instigated.
- Assistance in drafting all formal letters. Produce the outcome letter for approval by the DO ensuring all legal and procedural aspects are covered.
- Attendance at any Disciplinary Hearings to provide advice, guidance and ask questions, as appropriate.
- Take notes at formal hearings
- Ensuring that files are kept up to date and warnings cancelled and disregarded on expiry, as appropriate.
- Seek further and specific legal advice where necessary.

APPENDIX 5

THE TRADE UNION Representative OR WORK COLLEAGUE'S [Representative] ROLE

If an employee is a member of a trade union or wishes to be supported by a work colleague [employee of the Council], they may request the following from their Representative:

- Provision of support and advice
- Attendance at meetings/Hearings.

If the employee wishes, the Representative can:

- Present the employee's case
- Sum up the employee's case
- Respond on the employee's behalf to any view expressed at the Hearing
- Confer with the employee during the Hearing
- Ask questions of witnesses.

However, they cannot answer questions on the employee's behalf or address the Hearing if the employee does not wish it. They may not prevent the management from explaining their case.

APPENDIX 6

EXAMPLES OF GROSS MISCONDUCT

Rutland County Council intends that the following examples of gross misconduct will call for the consideration of immediate dismissal without notice. Please note that the list is neither exclusive nor exhaustive. Acts which constitute gross misconduct are those resulting in a serious breach of contractual terms:

- Gross negligence
- Significant breach of safeguarding of children, young people or vulnerable adults
- Significant breach of the Council's Equality and Diversity Policy and acts of unlawful discrimination and harassment on the grounds of age, disability, gender reassignment, marriage and civil partnership, race, religion or belief, sex, sexual orientation, pregnancy and maternity
- Serious incidents of Harassment, Discrimination and Bullying on any other grounds
- Significant breach of the Council's Health and Safety Policy
- Significant breach of the Council's Code of Conduct, e.g. Bribery, fraud, corruption, accepting gifts or services [other than token] from outside bodies/individuals
- Deliberate falsification of claims or records
- Malicious damage to property and/or equipment
- Serious insubordination
- Physical assault or violence, or threatening violence whilst on duty
- Theft of property from the Council, its tenants or from fellow employees
- Serious incapability through alcohol or illegal drugs
- Significant breach of Computer Misuse Act e.g. unauthorised use of computer hardware or software facilities, loading or use of unauthorised and/or pirated software
- Serious breach of the Rutland County Council IT email and Internet Policy
- Negligent breach of the Data Protection Act 1998 and any other disclosure of confidential information
- Bringing the organisation into serious disrepute
- Serious breach of confidence
- Making serious and malicious, unfounded allegations against a fellow employee.

APPENDIX 7

DISCIPLINARY HEARING PROCEDURE

The purpose of this procedure is to ensure that a Disciplinary Hearing is conducted in a fair and equitable way. The order of events may be altered with the agreement of the parties and the Panel if the circumstances of the case make it desirable.

Management's Case

1. Management's Representative, normally the IO, will present their report and may call witnesses. In more serious case eg. Potential gross misconduct, the case may be presented by a management representative and the IO attend to present the Investigation report.
2. The employee [or their Representative] may ask questions of the Management's Representative and any witnesses.
3. The DO and HR may ask questions of Management and any witnesses.

The Employee's Case

4. The employee [or Representative] will put their case and may call witnesses.
5. The Management's Representative may ask questions of the employee [or Representative] and any witnesses.
6. The members of the Disciplinary Panel may ask questions of the employee [or Representative] and any witnesses.

General

7. Final questions of any party by the Disciplinary Panel on issues which may have emerged during the Hearing.

Summing up

8. Both parties to sum up if they wish. The Management Representative will sum up first.

Adjournment

9. Both parties, including any witnesses, to withdraw to enable the Disciplining Officer to consider and come to a decision in private seeking advice from the HRA as appropriate.
10. If it is necessary to recall either party to clarify certain points, both parties are to return.

11. During the adjournment of the Hearing the DO will give full consideration to the evidence presented in order to reach a decision. It may not, in all cases, be possible or appropriate for the decision to be made on the same day. Written confirmation of the resolution will normally be given within 5 working days of the Hearing. However, this may not always be possible. In cases where this is not possible the employee will be informed when to expect a decision
12. The IO should be advised of the outcome of the Hearing only after the employee has been notified of the outcome. Witnesses are not advised of the outcome of the Hearing.

APPENDIX 8

APPEAL HEARING PROCEDURE

The purpose of this procedure is to ensure that an Appeal Hearing is conducted in a fair and equitable way. The order of events may be altered with the agreement of the parties and the Panel if the circumstances of the case make it desirable.

Management's Case

1. Management's representative, normally the Disciplining Officer from the original Hearing will put the case and may call witnesses.
2. The appellant [or their Representative] may ask questions of the Management's Representative and any witnesses.
3. The members of the Appeal Panel may ask questions of Management and any witnesses.

The Appellant's Case

4. The appellant [or Representative] will put their case and may call witnesses.
5. The Management's representative may ask questions of the appellant [or Representative] and any witnesses.
6. The members of the Appeal Panel may ask questions of the appellant [or Representative] and any witnesses.

General

7. Final questions of any party by the Appeal Panel on issues which may have emerged during the Hearing.

Summing up

8. Both parties to sum up if they wish. The Management Representative will sum up first.

Adjournment

9. Both parties, including any witnesses, to withdraw to enable the Appeals Panel to consider and come to a decision in private, seeking advice from the HRA as appropriate..
10. If it is necessary to recall either party to clarify certain points, both parties are to return.
11. During the adjournment of the Hearing the Appeal Panel will give full consideration to the evidence presented in order to reach a decision. The decision will be

announced to both the manager and appellant at the same time and confirmed in writing. It may not, in all cases, be possible or appropriate for the decision to be made on the same day. Written confirmation of the resolution will normally be given within 5 working days of the Hearing. However, this may not always be possible. In cases where this is not possible the employee will be informed when to expect a decision.

A large print version of this document is available on request



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