

Disciplinary Policy



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1. Introduction

- 1.1. This policy applies to all Slough Borough Council employees, except for those in their probationary period. In this case the probationary policy will apply.
- 1.2. This policy also excludes the Chief Executive, Appointed S151 Officer, the Monitoring Officer and all staff employed under JNC Conditions for Chief Officers, who are covered by separate procedures.
- 1.3. This policy does not apply to school-based staff who are under the control of Governing Bodies, Volunteers, Agency Workers and Contractors. We will however, be recommending this to our maintained schools
- 1.4. We have clear standards of conduct which all of our employees (covered under this policy) must meet. These standards are set out in our policies and procedures and they are communicated on a day-to-day basis through management instructions.
- 1.5. Council employees are expected to maintain standards of conduct both at work and outside of work. Everything we do and say may reflect back on Slough Borough Council both inside work and outside of work. As an example, this could include but is not limited to potential arrestable offences (fighting, sexual in nature or harassment). The Council's Code of Conduct, Dignity at Work Code of Conduct (and relevant professional Codes of Conduct) expands further on some of these standards. Examples of behaviors seen as misconduct are listed in Appendix 6. This shows some examples but is not an exhaustive list.
- 1.6. This Policy sets out the procedure which we will follow if you breach the conduct standards expected of you. We will normally follow this process in disciplinary situations, but we are not obliged to do so in all cases (such as if you are in your probationary period).
- 1.7. Where there may be shortcomings in performance on the part of the employee which arises from a lack of aptitude or skill (rather than any willful or negligent failure to carry out their duties) the Managing Performance Policy and Procedure will apply.
- 1.8. Separate guidance exists for dealing with problems arising from alcohol dependence or substance abuse. However, significant problems of misconduct arising from behavior whilst under the influence of alcohol or drugs, particularly in cases of failure to engage with support offered, may also be dealt with under this procedure.
- 1.9. An employee who provides information on criminal acts, breaches of legal obligations, health and safety dangers, environmental risks and related cover ups will have the right not to be dismissed or victimised for speaking out about such malpractice. Please see the Council's Whistleblowing Policy. In the

event of a malicious or spurious allegations this will be dealt with under this policy and will fall outside the whistleblowing policy.

- 1.10. All matters relating to investigations and disciplinary issues or outcomes must be kept strictly confidential by both managers and employees, unless relevant to the investigation process. Data collected as part of the investigation stage and any subsequent stages should this lead to disciplinary action, must be held securely and accessed by and disclosed to individuals only for the purposes of completing the disciplinary procedure.
- 1.11. Inappropriate access or disclosure of employee data whether by manager or another employee constitutes a data breach and should be reported under the Council's Data Protection Policy. It may also constitute a disciplinary offence which will be dealt with under this disciplinary policy and procedure.
- 1.12. **False Allegations.** The Council will view very seriously any false or malicious allegations or allegations made for personal gain. In circumstances where this is proven, disciplinary action may be taken against you under this Disciplinary Policy. Similarly, if an agency worker, external secondee, volunteer etc makes malicious or vexatious allegations or allegations made for personal gain, then the Council will consider parting with their services.
- 1.13. This Policy does not form part of your contract of employment. We reserve the right to amend this policy at our discretion and in line with legislative changes.

2. Policy Statement

- 2.1 The Council promotes and expects high standards of behaviour and conduct for all employees and takes appropriate action where those standards are not met.
- 2.2 The Council's Disciplinary Policy and Procedure provides a framework for ensuring that employees are made aware of unacceptable conduct and behaviours.
- 2.3 The Policy aims to secure a change in performance and/or attitude in circumstances where either fall short of SBC's expected values and behaviours.

This will be achieved by:-

- promoting and valuing excellent standards of conduct and integrity among employees;
- managing disciplinary matters promptly, effectively, fairly and lawfully, in accordance with the ACAS Code of Practice on disciplinary and grievance procedures and relevant legislation including the Employment Act 2008.

3. Referrals to Professional Bodies and the Disclosure and Barring Service

- 3.1. Where a post requires registration with a Professional Body e.g. Health & Care Professions Council (HCPC), the Council is required to advise the Body of any concerns related to conduct or competence. Contact with the professional body can be made before, during or after any actions taken, depending on the circumstances of the case.
- 3.2. In relation to professionals registered with the HCPC and their Fitness to Practice, HCPC will always be notified in the case of any dismissals, resignations during a disciplinary process or downgrading to a level below that of a registered health professional e.g. Assistant. The HCPC recommend that health and care professionals take an active part in managing their own fitness to practice. Where a registrant has an understanding of their impaired fitness to practice they should speak to their manager or seek advice from the HCPC at the earliest opportunity.
- 3.3. There may be a need to refer the circumstances of a particular case to other professional bodies, e.g. The Teaching Agency
- 3.4. The Council has a legal duty to refer information to the Disclosure and Barring Service (DBS) where it has removed an individual from working or volunteering or has concerns in respect of an individual's contact with children or vulnerable adults. For further information see the Council's Policy on the Referral to the DBS.
- 3.5. Where application of suspension or formal disciplinary action is being considered against a Trade Union Official or Representative, the case must first be discussed with a Senior Trade Union Representative or Regional Official in accordance with the ACAS Code of Practice.
- 3.6. Some workplace disciplinary offences may also be criminal offences such as theft, fraud, or sexual offences. In respect of potential fraud and financial irregularities the alleged incident must be discussed and reported immediately to the Corporate Fraud Team and the Council's Audit Section. In these instances, there may be a duty to advise the police. Advice from the HR Team should be sought in the first instance before disciplinary proceedings are embarked upon.
- 3.7. In certain cases (e.g., where current and ongoing fraud is suspected) it may be appropriate not to inform the employee at this stage in order to allow necessary observations and collection of evidence to take place. Under statutory provisions, covert surveillance may be conducted though this will require the approval of designated senior officers in accordance with the Regulation of Investigation Powers act 2000 (RIPA). Advice must be sought from the Associate Director for Regulatory Services and the Council's Monitoring Officer. Evidence collected as part of a disciplinary investigation may include CCTV. This evidence will be held on file for whatever period is determined as required as part of the investigation and the disciplinary process and in compliance with GDPR 2018. Before proceeding advice and guidance in respect of the use of CCTV evidence must be sought from HR.

The council's CCTV policy must be referred to and applied before proceeding.

4. Procedure

4.1. Minor Conduct Issues and Informal Action

SBC will aim to address the majority of minor conduct incidents informally and promptly through effective discussion and support between you and your manager. Often a discussion stating SBC's expectations and talking you through available support is enough to resolve the situation. In some cases, it may be that additional training, coaching, advice or facilitation, will be required to support you. In such cases, the procedure set out in this Policy will not be followed immediately.

- The line manager will make a note of the discussion, any extenuating circumstances raised by the employee and/or any measures of support put into place where appropriate. This note will be placed on the employee's HR file for reference.
- Employee is advised of the need to improve a particular skill, e.g. communication style and an action plan can be put in place to support this.
- A written record of the meeting will be provided to the employee confirming the informal management action taken.
- No formal warnings will be issued at this stage.
- This information can be used as evidence of ongoing misconduct should there be a reason for a related disciplinary in the future.
- Stock piling incidents to be used against the employee at a later date is not appropriate. If the incidents have already been addressed and unless live sanctions are in progress they should be disregarded.

Where previous informal attempts to resolve concerns have failed and your conduct does not improve (or where the issues are of a more serious nature), we will follow the formal process set out below.

4.2. Preliminary Inquiry

- The aim of the preliminary inquiry is to gather sufficient information to determine if a problem exists and if a formal investigation is required.
- When an alleged misconduct emerges, a preliminary inquiry needs to be undertaken as soon as possible by the line manager (or another nominated manager)
- In most cases the first step is for the manager (or their nominee) to make brief preliminary enquiries to assess whether further action may be

required. This may include meeting with the employee and asking them for a response on the matter.

- If a preliminary meeting is to be held with the employee, it is important to inform them that they can bring a trade union representative or work colleague or support worker to the meeting to accompany them if they so wish. If the employee confirms that they are a member of a recognised Trade Union, every effort should be made to have a trade union representative present. The unavailability of the representative will not however delay the meeting.
- In some cases, and where video evidence is readily available and is submitted, the manager or nominee should show the employee and ask them to clarify what has taken place. This may speed up any formal investigation if needed.
- Review with the HR Business Partnering Team.
- The preliminary inquiry may recommend an alternative resolution to a formal investigation. Please refer to Section 6 of this Policy, Informal Action.
- If no further action is taken the manager will let the employee know straight away. All information gathered as part of the preliminary inquiry will be destroyed in accordance with the requirements of the General Data Protection Regulations.
- If it is found that an issue does exist and a formal investigation is required, then consideration needs to be given to the seriousness of this concern and whether suspension needs to take place.

5. Suspension

5.1. Suspension should be a last resort, however there are some circumstances where this may be necessary. If there is an allegation of misconduct, then the first thing SBC will consider is whether there is a need to suspend an employee from work whilst SBC follow the investigation and disciplinary process. There may be times when suspension (s) are for a longer period, this could be necessary dependent on other hearings or potential court cases.

- We will generally only do this where the allegation is one of potential gross misconduct, a Safeguarding concern, concern over fitness to practice
- if we have concerns regarding preserving evidence
- where it could be detrimental to allow the employee to remain at work pending completion of an investigation and any disciplinary meeting
- there may be a potential risk to the employee, colleagues, or other individuals, or risk to the investigation itself

5.2. Depending on the nature of the misconduct or concern, consideration should be given to whether there is a viable suitable alternative to the suspension

- it may be possible to find alternative work for the employee
- a temporary transfer to another location, post, manager or team

This, however, may not always be possible.

5.3. **Suspension is a neutral act**

- It is a temporary
- It is not an assumption of guilt
- It is not a disciplinary sanction
- It can protect the employee from further allegation claims

5.4. **If we suspend you:**

- The employee will only be suspended for as long as reasonably necessary to allow us to complete our investigation and any formal process which follows it.
- The employee will retain the pay they would have received if at work during the period of suspension (based on their average earnings for the 12-week period prior to suspension) unless your contract of employment says otherwise.
- The suspended employee will be provided with information in respect of the EAP support that is available in the suspension letter. [Employee assistance programme](#)
- A Contact Officer will be nominated by the Commissioning Manager. (Please also refer to Appendix 1 for details of roles and responsibilities). This will be an employee with no involvement in the case. It is important that the suspended employee feels comfortable with the nominated Contact Officer
- The employee must stay away from work; not visit our premises; and not make contact with staff, clients, suppliers or contractors (unless we authorise this in writing and in advance).
- In the employee's absence the line manager may require access to their work/ IT system etc. in order to ensure day to day business is not impacted. The line manager will advise the employee.
- The employee must make themselves available for any meetings and notify their line manager through their nominated Contact Officer if they

wish to take annual leave or sickness absence while suspended from work.

- The employee may contact people specifically to ask them to be a witness, or to accompany you at a meeting under this Policy, without asking us first. You could also do this through your contact officer.
- If pre-approved holidays fall during a period of suspension, they will still count as holiday leave and will be deducted from your holiday entitlement as normal.
- Suspension will be subject to regular review by the Commissioning Manager (every 4-6 weeks) and may need to continue beyond the period of the investigation. Please also refer to Appendix 1 for details of roles and responsibilities.
- Whilst suspension is under review it may be decided to lift your suspension at any time if we decide that it is no longer necessary. Likewise, we may decide to suspend you at any point during the disciplinary process even if at the start of the process we did not choose to do so based on information being gathered.

6. Investigations

6.1 It is important that all disciplinary allegations are fully investigated prior to any decisions or actions being taken.

- An Investigation officer (IO) will be appointed. This person will be as independent as is reasonably practical from the current employee the allegation is against.
- The IO will receive a term of reference from the commissioning manager outlining what is to be investigated and the allegations.
- The investigation officer will gather facts/evidence in relation to the allegation/s.
- The IO will in most cases hold a meeting with the employee to discuss the allegation.
- Investigation meetings are solely for the purpose of fact-finding, and no decision on disciplinary action is taken by the investigating officer.
- The IO may need to meet other witnesses, gather documents and view recordings.
- The IO will regularly update the Commissioning manager and employee up to date in respect of the progress of the investigation.

- How much time an investigation will require depends on the nature and complexity of the allegation, however we would expect an investigation to normally be concluded within 4-6 weeks. Where it is envisaged, this will not be possible the Commissioning Manager and employee should be informed by the IO.

6.2 The Investigating Officer (IO) will:

- establish the facts of the case and gather evidence.
- interview the employee and any appropriate witnesses.
- ensure the employee and witnesses are warned they must keep matters confidential and not collude with other witnesses or they could become subject to disciplinary action.
- take notes/arrange for notes to be taken/agree notes of meetings with the employee and any witnesses.
- ensure witnesses are aware of the purpose of the investigation and that any information obtained may be used/relied on in the course of any subsequent disciplinary hearing and they may be required to attend a hearing to give evidence.
- During the course of the investigation there may be an occasion where additional concerns arise/are raised and if pertinent to the original investigation may need to be included into the findings. At this stage the IO should inform the commissioning manager who will decide if this should be addressed in this way. If so the TOR will need to be updated and the employee informed.
- **ensure the employee under investigation is:**
 - given sufficient detail so that the allegation(s) being investigated can be fully explored.
 - provided with a copy of the disciplinary policy and procedure.
 - given an opportunity to offer an explanation and state their case.
- report what is likely to have happened based on balance of probability and confirm their findings with the Business Partnering team and the Commissioning Manager
- after completion of the investigation retain the report for an appropriate period of time

6.3 End of Investigation Stage

At the end of the investigation stage and once all facts have been gathered the IO will present a report based on their findings to the commissioning

manager. This report will provide recommendations for the commissioning manager and will confirm.

- there is enough evidence for the allegation to be looked into further via a formal process (a disciplinary meeting to be arranged) and a case to answer.
- that there is evidence but feels no formal action needs to be taken at this time and makes other recommendations to mitigate similar circumstances in the future. Possibly dealt with informally (there may be an alternative solution for the manager to deal with via another policy)
- investigation finds there is no case to be answered and no further action is required.
- In addition, the IO during their investigation may find other areas of concern relating to the individual or service and may therefore make one or several recommendations in order to mitigate similar circumstances in the future.

6.4 **A Case to Answer**

If it is then decided by the Commissioning Manager that there is a case to answer at a formal disciplinary meeting the Investigating Officer will:

- arrange the “bundle” of all the documents and evidence they have acquired during the investigation and the investigation report to be relied upon in a disciplinary hearing for the Commissioning Manager to present
- attend the disciplinary/appeal hearing as a witness and in a fact giving capacity. They should not be there to give their opinion or present the case against the employee.
- make any additional management recommendations if appropriate and requested to be considered separate to the disciplinary hearing, confirming details of whom and how the recommendations will be reviewed

Please refer to

- Appendix 1 for the role and responsibilities of an Investigating Officer
- Appendix 2 for guidance on how to carry out an investigation.
- Appendix 3 Investigation Report Template.
- Please also refer to the ACAS guidance on conducting workplace investigations.

6.5 **The Commissioning Manager will;**

- Confirm their decision to the employee in writing in respect of the outcome of the investigation and whether the matter will proceed to a Disciplinary meeting
- Present the management case to the hearing panel (or arrange for another appropriate peer manager to do so)

Please refer to Appendix 1 for the role and responsibilities of the Commissioning Manager.

7. Disciplinary Notification

- 7.1 If as a result of the investigation the Commissioning Manager believes there is a case to answer they will convene a disciplinary meeting to consider the allegations. This decision must be taken in discussion with the HR Business Partnering team.
- 7.2 The employee will be advised in writing by the Commissioning Manager that the matter is progressing to a formal disciplinary. Where possible the date of the meeting will take place within 10 working days. However, there may be occasions due to other priorities that this may be extended to 14 working days. We will provide at least 7 working days written notice. Shorter notice of the meeting may be mutually agreed. In exceptional circumstances, a deferment where further time is required to prepare for a meeting will not be unreasonably refused, but such a deferment will not normally exceed 5 working days.
- 7.3 If a decision is taken that an allegation should be taken forward to a disciplinary meeting, then we will write to you to:
- a. Confirm the date, time and venue for a formal disciplinary meeting.
 - b. Set out the allegation/s which have been made (these will usually be the same as in the investigation)
 - c. Provide copies of all evidence that will be looked at when considering the allegation/s, this includes a copy of the Investigation Report;
 - d. Give the Names of all those who will be present at the meeting. This includes any witnesses who will be attending and the Investigating Officer.
 - e. Outline the employee's right to be accompanied by a Trade Union representative or work colleague. In exceptional circumstances where the employee has a disability or mental health concern a support worker may attend.
 - f. Reference the employee's right to call witnesses, present written submissions and witness statements; this information together with a list of the names of any witnesses must be supplied in writing to the delegated manager at least 5 working days prior to the meeting;

- g. Set out the possible outcomes of the meeting (including whether dismissal might result)
- h. Confirm the requirement that the employee should verify their attendance at least 5 working days prior to the meeting.
- i. Consequences of non-attendance i.e depending on the circumstances the meeting could proceed in the employee's absence. We will usually reschedule the meeting once, provided we are satisfied with the reason for not attending. We will not reschedule the meeting a second time.
- j. Include a copy of the disciplinary policy and procedure.

8. Disciplinary Hearings

- 8.1 Audio or visual recordings at any stage of the Disciplinary procedure or meeting is not permitted.

8.2 The Disciplinary Panel

The panel hearing the case will normally consist of three officers: -

- Chair of panel - a nominated senior manager.
 - normally, and as far as possible this person can be from the employee's directorate but not from the same service.
 - There should be no conflict of interest/direct relationship between the commissioning officer and the chair of panel (i.e., commissioning officer manages the chair)
 - The Chair has discretion to call on technical or specialist officers to advise the panel (e.g., audit / legal).
- another manager independent from the section or service concerned.
- a Human Resources representative

8.3 Witnesses

Witnesses should only be called where relevant. They should only be present to give evidence and to be questioned. Witnesses will be informed that they should keep matters confidential and should not collude with any other witnesses or they could become subject to disciplinary action. Details of proposed witnesses should be communicated to either party in advance of the meeting, as indicated above, and witness statements should be provided by both sides, wherever possible.

- 8.4 Where the employee who is the subject of a disciplinary calls witnesses it is the responsibility of the employee to arrange their release from work so that they can attend. It is the employee's responsibility to obtain the witnesses' agreement

to speak on their behalf. The employee should liaise with their Contact Officer to make arrangements for witnesses to be released.

The Council has a guide for the meeting process, which is attached as Appendix 7. However, the Chair of the Panel has the discretion to vary this to ensure fairness in the proceedings.

- 8.5 The Chair of the Panel must arrange for a note taker from within the service itself. Alternatively, the chair may ask the other panel members or commissioning manager for assistance in finding a note taker.
- 8.6 It may be necessary for brief adjournments to take place during a disciplinary meeting. Either party may request an adjournment. The Chair will consider these requests. It should be noted that these may also be seen as a reasonable adjustment where an employee has a medical/physical/learning disability.
- 8.7 The panel's deliberations take place in private. The note taker will remain to capture the deliberations of the panel as these notes may be relied on in an Employment Tribunal. We may not make a decision on the day of the meeting. In this case we will usually send you our decision in writing. We will try to do this within 5 working days of the disciplinary meeting
- 8.8 The Chair of the Panel presents the decision following the deliberation.
- This will normally be given verbally to both parties following the meeting
 - The decision of the Panel should be confirmed in writing by no later than 5 working days after the end of the meeting, together with information on the right to appeal.
 - A copy of the outcome letter will be retained on the individual's HR file for the length of time stipulated in the letter.
 - A copy of the notes of the hearing, but not the panel deliberations, will be agreed by the panel and given to the employee after the meeting.
 - The notes are for information only as record of the event and should not be taken as full and formal minutes of the meeting.
- 8.9 **If a Decision can not be reached on the day of the meeting**
- This will normally be given verbally to both parties following the meeting
 - The decision of the Panel should be confirmed in writing by no later than 5 working days after the end of the meeting, together with information on the right to appeal.

Whilst this is not normally the case, there may be rare occasions when a decision is not given on the day of the meeting. Where this is the case, we

will send the decision in writing. We will try to do this within 5 working days of the disciplinary meeting.

8.10 **The panel may decide;**

- there is no case to answer,
- to refer the case for further investigation (where additional evidence has been raised during the meeting and requires further consideration)
- to take disciplinary action, in the form of a warning or sanction, and additionally,
- to make management recommendations (that may include allegations or an investigation against other employees) along with the details of who and how the recommendations will be reviewed

8.11 The severity of the sanction imposed will relate to the gravity of the misconduct.

9. DISCIPLINARY ACTION

The following formal actions are available:

9.1 **First Written Warning:** This is the lowest form of formal warning and is generally appropriate for minor offences. The warning should contain details of the misconduct and the improvement required in a given timescale, if appropriate. The warning should be given in writing indicating that a First Formal Written Warning has been issued and should be kept on the employee's file. This will, normally, be disregarded for disciplinary purposes after 6-12 months.

9.2 **Final Written Warning:** Generally, appropriate for serious offences or where there is an accumulation of minor offences, and a previous written warning is still "live". However, in very serious cases, the final warning may in fact be the first warning issued. The warning should contain details of the misconduct and the improvement required in a given timescale, if appropriate. Employees should be advised that any further misconduct would result in dismissal. The warning should be given in writing to the employee with a copy placed on the employees' file. This will, normally, remain "live" for a period of 12 months. The Panel can impose a longer time period for this warning but the reason for this should be made clear to the employee and must be reasonable according to the circumstances of the case.

9.3 **Dismissal:**

An employee's contract of employment can be terminated in the following instances:-

- a. if a further instance of misconduct occurs during the period of a Final Formal Written Warning is still in place; and/or

b. for a first incident of gross misconduct.

9.4 **Dismissal for**

- misconduct will be by contractual notice or with pay in lieu of notice.
- Dismissal for gross misconduct will normally be effected immediately as gross misconduct is misconduct of such a serious and fundamental nature so that it breaches the contractual relationship between the employee and the Council.
- In the event that an employee commits and admits an act of gross misconduct, the Council will be entitled to immediately (summarily) terminate the employee's contract of employment without notice or pay in lieu of notice.
- The letter to the employee should confirm the last day of service and any payments or deductions due.

9.5 **Transfer to a lower graded post:** This should not be the norm but is available to be used in serious cases in addition to written warnings. The downgrading should be proportionate to the gravity of the offence. The Director should formally approve this sanction before it is communicated to the employee. In these circumstances, no salary or wage protection rights will apply.

9.6 **Impose a financial penalty or other requirement:** This includes making good a financial loss suffered by the Council; taking back money falsely claimed by the employee; the prevention of further incremental progression or withholding an annual increment. This can be done either independently of or in addition to other formal sanctions on the basis of the gravity of the offence.

9.7 **Expiry of disciplinary action:** Disciplinary action taken will normally be disregarded for disciplinary purposes after the warning has expired. The decision to dismiss will not be based on an expired warning but there may be occasions where the existence of such a warning will explain the reasoning behind a decision to dismiss e.g. where an employee's conduct is satisfactory throughout the period a warning is valid, but ceases to be satisfactory very soon thereafter.

10. APPEALS

10.1 An employee has a right of appeal against any formal sanction issued after a hearing that has been convened under this procedure. An employee wishing to appeal must submit their grounds for appeal in writing to their Associate Director to be received within 5 working days of the date of receipt of the notification letter that confirms the disciplinary action to be taken. They must provide details of their grounds. An appeal hearing is not a re-hearing but will focus on the grounds for appeal provided by the employee.

- 10.2 The letter should state that they wish to appeal on one or more of the following grounds with detail to support :-
- the decision was based on evidence that did not support the conclusion
 - a failure to follow procedure had a material effect on the decision
 - proper account was not taken of any matters of fact referred to at the original hearing
 - the action taken was too severe or inconsistent with previous decisions
 - where new relevant evidence relating directly to the original allegation(s) has become available.

Appeals against action less than dismissal are heard by an Officer Appeals Panel.

10.3 **The Officer Appeal Panel**

The Officer Appeal Panel hears appeals against disciplinary action short of dismissal. It will consist of three officers:-

- a nominated senior manager to Chair the hearing;
- another manager independent from the section or service concerned.
- a Human Resources representative

The panel has discretion to call on technical or specialist officers to advise (e.g. audit legal).

10.4 **Appeal Panel - Appeals against dismissal**

Appeals against dismissal are heard by a panel of 3:-

- minimum of one Executive Director/Director
- one senior manager
- HR representative

10.5 **Appeal Hearing Arrangements**

The arrangements for appeals are that the employee will be given at least 15 working days' written notice of the appeal hearing which should be heard as soon as possible. This will normally be within 25 working days of the employee receiving the letter confirming the outcome of the original disciplinary decision.

10.6 The letter should include as appropriate:-

- a. Confirm the date, time and venue for the meeting
- b. Reminder that the meeting forms part of the Disciplinary Procedure;
- c. Provide copies of all relevant evidence/paperwork that will be reviewed when considering the grounds for appeal (includes everything used for the Disciplinary meeting). In addition a copy of the Disciplinary Policy should be sent.
- d. Give the names of all those who will be present at the meeting including panel members, witness's and who is presenting the management case
- e. Witness's will be called into the meeting as needed and where both the chair and the employee/representative can ask questions of them. Once this has been completed, they will be asked to leave the meeting to mitigate the amount of people present at any given time.
- f. Outline the employee's right to be accompanied by a Trade Union representative or work colleague. In exceptional circumstances where the employee has a disability or mental health concern a support worker may attend.
- g. Reference the employee's right to call witnesses, present written submissions and witness statements; this information together with a list of the names of any witnesses must be supplied in writing to the delegated manager at least 5 working days prior to the meeting. the written submission should include any papers being referred to;
- h. Confirm the requirement that the employee should verify their attendance at least 5 working days prior to the meeting and if they will be accompanied.

10.7 The suitability of the venue and arrangements for the meeting should ensure equality of access, for example the meeting may need to be held at a specific venue or location that is away from the workplace to ensure confidentiality.

10.8 The Council has a model process for the appeal hearing process, which is attached as Appendix 7. However, the Chair of the Appeals Panel has the discretion to vary this to ensure fairness in the proceedings. The Chair of the Appeal Panel must arrange for a note taker from within the service area.

10.9 It may be necessary for brief adjournments to take place during disciplinary meeting. Either party may request an adjournment. The Chair will consider these requests. It should be noted that these may also be seen as a reasonable adjustment where an employee has a medical/physical/learning disability.

- 10.10 The panel's deliberations take place in private. The note taker remains to capture the panel's deliberations as these notes may be relied on in an Employment Tribunal.
- 10.11 The Chair of the Panel presents the decision. This will normally be given verbally to both parties after the meeting. However, it may be agreed with the employee to confirm the decision in writing instead. Where this is the case, the decision of the Panel should be confirmed in writing by no later than 5 working days after the end of the meeting. The letter will outline the main issues considered and the decision reached.
- 10.12 The employee should be informed that there is no further internal right of appeal. A copy of the outcome letter will be retained on the employees' HR file.
- 10.13 **Outcome of the Appeal Panel**

The panel may decide to;

- uphold the appeal and dismiss any disciplinary sanction;
- substitute a different disciplinary sanction providing this is not more severe than the original one;
- dismiss the appeal and uphold the original decision.

11. Relationships with Other Policies, Procedures and Processes

- 11.1 Certain acts of misconduct or allegations may lead to an employee being investigated under a different procedure/process such as Child Protection, Adult Protection or a criminal investigation. An employment investigation may run in parallel to a police investigation, audit and/or child protection or adult abuse investigation and should not be held up by any such investigations unless considered prejudicial to those investigations to proceed. It is not always necessary to await the outcome of a court hearing before deciding on disciplinary action.
- 11.2 A determination may be made at a disciplinary meeting prior to the outcome of other investigations being known. For example, whether the Council takes action in respect of a potential criminal matter is not dependent on the outcome in court. If exceptionally, it is sensible to delay a disciplinary meeting pending the outcome of another agency's investigations then the employee will be informed. If the employee is suspended, he or she will be told that the suspension will last until the outcome is known and it will be reviewed. This is in line with point 5 above.
- 11.3 There are also times however, when SBC's own investigation and any potential disciplinary action may be asked to hold whilst waiting for one of the above investigations to be completed. Any disciplinary action may also depend on the outcome of another investigation. Remember, we would still need to be mindful of malicious or vexatious claims.

- 11.4 If a case of this kind is brought to your attention contact your HR Business Partner.

12. Criminal offences

- 12.1 A criminal offence does not necessarily require internal disciplinary action to be taken. It depends what impact the employee's action has on their role within the Council and whether it breaches any other Council policies or procedures e.g., Code of Conduct.
- 12.2 Where an employee has been reprimanded/imprisoned a decision may be made in their absence.
- 12.3 Managers should take advice from the HR Business Partnering team in these instances.

13. Grievances

- 13.1 Where an employee who is subject to the disciplinary procedure raises a grievance, advice should be sought from the HR Business Partnering team.

The employee must submit the grievance form to their line manager, or manager's manager if their line manager is the subject of the grievance. It will then be determined the appropriate route for the grievance to be investigated.

13.2 The following principles need to be considered:-

- if the grievance is raised during the course of a disciplinary process and is related to the case/allegations then it should be considered as to whether it forms part of the disciplinary and can be dealt with by the investigating officer and considered at the hearing,
- or whether the grievance should be investigated separately before concluding the investigation.
- If the grievance is about another unrelated matter then the grievance procedure may be invoked and run concurrently (this would not impact on any outcome of the disciplinary process as that would be dealt with on its own merit);
- generally, an informal grievance would be dealt with during the investigatory stage,
- a formal stage grievance would be considered at a disciplinary hearing
- if the matter does not progress to a disciplinary hearing any outstanding grievance may be considered through the grievance procedure in the usual way

14. Performance

- 14.1 In cases where there are both capability or performance issues and a neglect of duty or other misconduct then the Disciplinary Policy and Procedure will apply, otherwise the Managing Performance Policy and Procedure will apply.

Policy Schedule

Policy schedule	Details
Policy owner and lead	HR BP Team
Consultation	Trade Unions Staff Network Groups Corporate / Senior Leadership Team
Equality Impact Assessment	
Approving body	Employment & Appeals Committee
Date of approval	DATE
Date of implementation	
This version number	
Last version	v.? - DATE
Related documents	<ul style="list-style-type: none"> • Microsoft Word - Part53LocalCodeofConductforEmployees, Dignity at work code of conduct Dec 2021 • Whistleblowing • Safeguarding • http://insite/media/2234/appendix-h-referrals-to-the-dbs.pdf • References Guidance • Data protection • Drug and Alcohol policy • Managing Performance • Probation • DISCIPLINARY POLICY AND PROCEDURE FOR CHIEF EXECUTIVE. • http://insite/media/5007/disciplinary-policy-for-directors-and-ads.doc
Review interval	Three Year minimum December 2026 or sooner if required by legislation.

Version

Version	Author	Date	Changes
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