



## Human Resources

# Disciplinary Policy and Procedure



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## 1 Introduction

Surrey Heath Borough Council (the Council) recognises and acknowledges that the vast majority of its employees wish to, and consistently do conduct themselves by working in an acceptable and appropriate manner. It also recognises that there are occasions when an employee's conduct may be unacceptable, thereby requiring a fair and effective disciplinary policy to deal with the matter.

## 2 Scope

The policy applies to all employees who work under a contract. During a probationary period, the Council's Disciplinary Policy and Procedure may not apply. This policy and procedure should be read in conjunction with other relevant policies including but not limited to:

- a) Grievance Procedure
- b) Capability Procedure
- c) Sickness Absence Policy
- d) Dignity and Respect Policy

## 3 Policy Statement

The purpose of this policy and procedure is to provide guidance when dealing with disciplinary issues. This policy and its procedures are in line with the requirements of the [ACAS Code of Practice 2015](#). It also outlines employee rights throughout the process and explains each stage of the procedure. The underlying philosophy is that the disciplinary procedure is designed, except in the case of proven gross misconduct, to offer all employees the opportunity and encouragement to improve their behaviour and conduct.

Managers who deal with cases of misconduct must ensure that they take action at the earliest opportunity so that the employees have the opportunity to remedy the situation before further instances of misconduct occur and further, more serious disciplinary action needs to be taken. Wherever possible, managers must seek to resolve issues informally in the first instance.



Before invoking the formal disciplinary procedure, and throughout every case, managers must seek the advice of the Human Resources Team. The Council reserves the right to implement the procedure at any stage as set out below taking into account the alleged misconduct of an employee. Where time limits are referred to in the course of this procedure they may be varied by agreement between the employee and the Council.

## 4 Equality Assessment Policy

The Council's [Achieving Equity Strategy Equality Scheme](#) demonstrates ~~our its~~ commitment to [treating people fairly, providing equality of opportunity and removing barriers created/experienced by protected characteristics. We will consider the need for reasonable adjustments and support the wellbeing of employees as part the disciplinary process in order to make sure that the process is fair and treats people with dignity and respect. equality internally and externally and ensures that all sections of the community are given an opportunity to contribute to the wellbeing of the community.](#) An equality impact assessment has been carried out on this Policy and Procedure. This policy will also support those employees with protected characteristics in relation to the implementation of the procedures.

## 5 Principal and Aims

- 5.1 The purpose of this policy and procedure is to ensure that employees understand the Council's rules and procedures for dealing with disciplinary issues thereby promoting and supporting high standards of conduct and effective working relations.
- 5.2 Informal action will be considered, where appropriate, to resolve problems. No disciplinary action will be taken against an employee until the case has been investigated.
- 5.3 In cases of gross misconduct the penalty will be dismissal without notice and payment in lieu of notice.
- 5.4 An employee will have the right to appeal against any disciplinary action.
- 5.5 The procedure may be implemented at any stage of the formal disciplinary procedure if the employee's alleged misconduct warrants this.



- 5.6 Managers are responsible for ensuring matters of misconduct are fairly, effectively and consistently addressed.

## 6 Informal Discussions

- 6.1 It is recognised that most problems involving work performance or behaviour are best resolved by informal discussions between an employee and their manager. Where an employee is failing to meet the required standards of work performance or behaviour the manager should counsel the employee, which should normally take the form of a one-to-one discussion where the issue(s) can be discussed. The employee should be made aware of the standards required, where these are not being attained and what support, including training they might expect to help achieve them. Problems relating to the work situation, and/or any personal problems raised by the employee should also be discussed. Please contact the Human Resources Team for further information regarding informal discussions.

- 6.2 In some cases a mediator can help to resolve disciplinary issues. Mediators may be accredited employees or an external mediator. Mediation can be used for:

- e) conflict between colleagues or a manager;
- f) to address a range of issues, including personality clashes, communication problems etc.;
- g) to rebuild relationships after a formal dispute has been resolved.

- 6.3 ~~There is no right to be accompanied to informal discussions or mediation sessions do not attract the right to be accompanied.~~ The only exception to this is where there is a requirement to consider specific adjustments for example a deaf employee requiring an interpreter.

- 6.4 ~~Where In the event that appropriate informal action is not successful inas resolving the issue, should be considered and the employee should be advised that if the required improvement in work performance, conduct or behaviour is not achieved then formal action under the Disciplinary Procedure will be considered. is likely to be invoked.~~

## 7 Establishing the Facts



- 7.1 If it is suspected or believed that there has been a contravention of any of the Council's policies or rules, it may be necessary for an investigation into the circumstances and facts relating to the allegations to be undertaken.
- 7.2 The investigation will be [proportionate to the circumstances alleged and](#) as thorough as it needs to be depending on the seriousness of the matter. The employee's manager will normally carry out the investigation but in some cases it may be necessary to appoint an alternative manager of a similar level (See Appendix I). This role as 'Investigating Officer' is to ascertain the facts to enable a decision to be made as to whether a Disciplinary Hearing is appropriate and, if so, to present the facts at that Hearing.
- 7.3 The employee has the right to be accompanied to the [i](#)nvestigation meeting, they must choose their companion from one of the following:
- [a work colleague who is not implicated or connected with the case](#)
  - [Staff Representative](#)
  - a workplace trade union representative who's certified or trained in acting as a companion
  - an official employed by a trade union.

The employee will be required to update the HR Team with the details of the individual who is attending with the employee. Notes will be taken by the Investigating Officer, [or a member of the HR Team who may be supporting the Investigating Officer, and these notes which](#) will be shared with the employee.

- 7.4 The employee will be notified as soon as possible that there will be an investigation [and the details of the allegations under investigation.](#) ~~and~~ investigations will be undertaken without delay and will be concluded as quickly as possible.
- 7.5 During the investigation, if deemed to be necessary, the Council reserves the right to examine relevant systems [including emails sent and received from the Surrey Heath Borough Council email address.](#) It also reserves the right to search an employee's workstation/locker content [and, if relevant to the investigation, the employee's social media content.](#) [The decision to undertake the above investigations can only be made by the Head of HR, Performance and Communications, the HR Manager or a Strategic Director/Head of Paid Service.](#) [In such circumstances the employee will be advised accordingly, and be given the opportunity to attend. If they are unavailable for the](#)



date and time proposed, they may nominate a staff representative to act on their behalf, or one may be appointed on their behalf if they cannot be contacted ~~in such circumstances, the employee will be advised accordingly and will have the opportunity to attend whilst their workstation/locker content is examined. If the employee is on suspension, they will have the opportunity to either attend or arrange for their appropriate representative to attend on their behalf.~~

- 7.6** Whilst every effort will be made to conclude any investigation quickly, in order for the investigation to be as thorough as possible, it will take as long as the investigating officer considers necessary. As part of the investigation, interviews may be held with the employee under investigation and witnesses identified where appropriate.
- 7.7** The Council reserves the right to dispense with an investigatory interview with the employee and to proceed directly to a formal Disciplinary Hearing.

## 8 Suspension

- 8.1** An employee may be suspended if it is believed that their attendance at work could be harmful to themselves or the Council, Council property, equipment or to any people who work in, with or for the Council, others or disruptive to the business of the at the Council.

8.2 An employee may also be suspended if it is perceived that evidence may be is tampered with or destroyed; if witnesses could be pressurised or in serious cases of alleged gross misconduct.

~~An employee may also be suspended if evidence is tampered with or destroyed; if witnesses could be pressurised or in serious cases of alleged gross misconduct.~~

- 8.32** Suspension of an employee will be on full pay with contractual benefits and should be regarded as a neutral act to protect people including the employee during the process of the investigation. It is not a disciplinary sanction. The wellbeing and the reputation of the employee during the investigation will be fully considered at all times by the Council.



**8.43** If during the course of ~~the~~ investigation the Officer conducting the investigation forms the opinion that a serious breach of discipline may have occurred, the employee who is the subject of the investigation may then be suspended.

**8.54** The ~~Executive Head—Transformation~~The decision to suspend an employee must be made with HR advice support and guidance and may be made by:

- The Head of HR, Performance and Communication
- A Strategic Director
- The Head of Paid Service

~~— or HR & OD Manager or a Senior HR Advisor must give approval to suspend an employee and notify the Chief Executive.~~

The suspension will be confirmed in writing by an HR Representative within five clear working days and will state:-

- (a) the reason(s) for suspension;
- (b) the name of the Officer who will carry out an investigation and, remind the employee - that if necessary, a formal Disciplinary Hearing may take place at the earliest opportunity;
- ~~(c)~~ (c) ~~that~~ the employee is advised to consult with either their Staff or Trade Union Representative or appropriate colleague who is not implicated or connected with the case;
- (d) that the employee should not visit the Council premises without a member of the Human Resources Team's permission and should be available during normal working hours.

**8.65** Contact will be maintained with the employee throughout the period of suspension and they will be kept informed of developments.

## 9 Formal Disciplinary Procedure

**9.1** Where, upon completion of an investigation, there are reasonable grounds to believe that an employee has committed an act of misconduct, the employee will be invited to attend a Disciplinary Hearing.



**9.2** Where the Council considers that formal disciplinary action may be necessary then the following formal disciplinary procedure will apply:

### **9.3** Notice of a hearing

Other than in exceptional circumstances, an employee will be given a minimum of **five clear** working days' notice in writing which will include the following:

- (a) the date, time and location of the Hearing;
- (b) written details of the nature of the employee's alleged misconduct;
- (c) any additional relevant information not less than five **clear** working days in advance of the Hearing;
- (d) a request that the Council be provided with copies of any evidence the employee wishes to rely on, to be received two **clear** working days in advance of the hearing;
- (e) the right to be accompanied by either a Staff or Trade Union Representative or appropriate colleague who is not implicated or connected with the case (**See Section 10**).
- (f) a request to be advised of the identity of the individual accompanying the employee;
- (g) a request to be advised of the details of any witnesses the employee intends to call;
- (h) whether reasonable adjustments may be needed for the employee or their companion;
- (i) a statement that following the conclusion of the Hearing, disciplinary action may be taken against them, which could be up to and including summary dismissal.

### **9.4** Rearranging/Postponement of hearings

In the event that an employee or their chosen representative/ companion is not available on the date or at the time proposed for the Hearing, the employee can propose an alternative date and/or time, provided that the proposal is reasonable and is within five **clear** working days of the original date. Only very exceptionally will the Council permit a postponement of greater than five days ~~or a request for less than five.~~

### **9.5** Employee's failure to attend a hearing





If an employee fails to attend a Hearing, a new Hearing date will be arranged. Where an employee continues to be unavailable to attend a Hearing the Council may conclude that the decision will be made on the evidence available. The employee will be informed of this in writing.

Unless there are special circumstances mitigating against it, if the employee is unable to attend the rearranged Hearing, the rearranged Hearing may take place in the employee's absence. The employee's chosen representative/ companion may attend in such circumstances and will be allowed the opportunity to present the employee's case. The employee will also be allowed to make written submissions in such a situation.

## **10 Right to be accompanied**

**10.1** As stated in the principles above, an employee will have the right to be accompanied by a Staff or Trade Union Representative or appropriate colleague at any formal Disciplinary/Appeal Hearing who is not implicated or connected with the case.

A Trade Union Representative who is not an employed official must have been certified by their union as being competent to accompany an employee. Employees may also alter their choice of companion if they wish. As a matter of good practice, in making their choice employees should bear in mind the practicalities of the arrangements. For instance, an employee may choose to be accompanied by a companion who is suitable, willing and available on site rather than someone from a geographically remote location. Legal representation is not permitted.

**10.2** At the Hearing the companion is allowed to address the Hearing in order to:

- put the employee's case;
- sum up the employee's case;
- respond on the employee's behalf to any view expressed at the Hearing;
- ask witnesses questions.

The companion can also confer with the employee during the Hearing. The companion does not have the right to answer questions on the employee's behalf, to address the Hearing if the employee does not wish it, or to prevent the Council from explaining its case.



## 11 The Disciplinary Hearing

- 11.1 A Disciplinary Hearing will normally be conducted in person by/with a senior manager as the Chair with a representative from Human Resources (the panel). **See Appendix I for further information.**
- 11.2 Any member of management responsible for the investigation of the disciplinary offence(s) shall not be a member of the panel, although such managers may present any supporting facts and material to the Disciplinary Hearing. The investigating officer may be required to attend some or all of the hearing as appropriate and this will be the decision of the Chair.
- 11.3 The employee will be entitled to be given a full explanation of the case against them and be informed of the content of any statements provided by witnesses. The employee will be able to call their own witnesses. They will be permitted to set out their case and answer any allegations.
- 11.4 Where the Council intends to call relevant witnesses it will give the employee advance notice of this. The employee must also give advance notice if they intend to call relevant witnesses. Normally providing 2 clear working days' notice.
- 11.5 The employee will be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses. They will also be given the opportunity to raise points about any information provided by witnesses.
- 11.65 The Council may adjourn the disciplinary proceedings if it appears necessary or desirable to do so (including for the purpose of gathering further information). The employee will be informed of the period of any adjournment. If further information is gathered, the employee will be allowed a reasonable period of time, together with either their Staff or Trade Union Representative or a colleague who is not implicated or connected with the case to consider the new information prior to the reconvening of the disciplinary proceedings.
- 11.6 As soon as possible after the conclusion of the disciplinary proceedings, the disciplinary Chair will inform the employee the decision of the panel and what disciplinary action, if any, is to be taken. The decision will be confirmed in writing. The employee will be notified of their right of appeal under this procedure.



11.7 A note taker (normally a member of HR) will be appointed to attend the Hearing and act as witness to what was said. All records will be treated as confidential and will be kept in accordance with the Data Protection Act 2018 and General Data Protection Regulation.

11.8 If a witness wishes to remain anonymous this may be possible in the early stages but anonymity cannot be guaranteed.

## 12 Formal Disciplinary Action

### 12.1 Misconduct – definition

Examples of misconduct include (but are not limited to):

- Persistent bad time keeping;
- Unauthorised absence;
- Minor damage to the Council's property;
- Misuse or unauthorised use of Council's resources, vehicles, equipment etc
- Minor failure to observe the council's policies and procedures;
- Abusive behaviour;
- Unreasonable refusal to follow management instruction;
- Poor attendance;
- Smoking of any description in non-designated areas;
- Behaviour in the workplace that has a negative impact on the work of the service, colleagues or on the service delivery

### 12.2 Gross Misconduct - definition

Gross misconduct is misconduct of such a serious and fundamental nature that it breaches the contractual relationship between the employee and the Council. In the event that the Council has established to its satisfaction that an employee has committed an act of gross misconduct, the Council will be entitled to terminate summarily the employee's contract of employment without notice or pay in lieu of notice.

Matters that the Council views as amounting to gross misconduct include (**but are not limited to**):



- stealing from the Council, members of staff or the public and other acts of dishonesty or fraud including: falsification of a qualification that is a stated requirement of the employee's employment or results in financial gain to the employee; and falsification of records, reports, accounts, expense claims or self-certification forms whether or not for personal gain; undertaking other paid employment whilst receiving sick pay or other benefits from the Council during a period of sickness or unauthorised absence unless agreed with Human Resources;
- sexual misconduct at work;
- physical violence, incivility, harassment or bullying of any kind, including fighting, assault or threats of assault against any -employee, contractor or customer whether or not on Council premises or during working hours;
- deliberate or negligent damage to or misuse of the Council's property;
- serious incapacity at work brought on by alcohol or being under the influence of illegal drugs and /or possession, custody or control of illegal drugs on the Council's premises;
- serious breach of the Council's rules, policies and procedures including but not limited to serious misuse of computer, e-mail, social media or internet facilities;
- breaking statutory regulations relating to the Council;
- gross negligence which causes unacceptable loss, damage or injury or puts the Council at risk;
- serious breach of health and safety rules
- unauthorised disclosure or transmission of confidential information, including information which may be of use to a competitor within a tendering situation or quotation procedure
- maliciously raising a grievance or making a malicious allegation;
- conviction of a criminal offence that is relevant to the employee's employment;
- breaches of Child Protection Legislations and associated policies;
- serious breach of trust and/or confidence;
- serious insubordination;
- conduct that brings the Council's name into disrepute; and
- unlawful discrimination or harassment of a fellow employee, contractor or customer on the grounds of sex, sexual orientation, gender reassignment, race, disability, age, marriage or civil partnership, maternity or pregnancy, religion or belief.

This list is **not** exhaustive and other acts of misconduct may come within the general definition of gross misconduct.



## 13 Formal Action Stages

- 13.1** At any point the Chair conducting the Hearing may decide that the case is unproven and that no sanction will be imposed. The employee will be notified in writing to this effect.
- 13.2** In some cases the Chair may not consider it appropriate to issue a formal warning but instead provide details of the expected level of future conduct. This will be detailed in a disciplinary outcome letter and will include the improvement required, the timescale for improvement, any help that may be given including training and the period the letter will remain on the staff members file. This sanction will be considered as spent upon expiry as long as the level of improvement is achieved and maintain a satisfactory performance. The outcome letter will also advise that if the level of improvement is not achieved or maintained then an appropriate written warning will be issued as detailed under Stage 2 (13.5) or Stage 3 (13.6)
- 13.3** Where the Council considers that formal disciplinary action may be necessary then the following disciplinary action may be taken: (There are 3 stages, subject to the principle that stages may be omitted should the nature of the allegation warrant such action. The employee will be notified in writing to this effect).

### 13.4 Stage 1- Preliminary Warning

Where a minor offence or offences have been committed a documented **Stage 1 Preliminary Warning** may be given. The recorded warning will state that any further misconduct will render the employee liable to further disciplinary action. The employee will be informed that the warning will remain **'live' for 6 months**. During this period, the Council may rely on such a warning in the event of further misconduct on the part of the employee. This warning will follow a Hearing and will be confirmed in writing within five clear working days. The written confirmation will state:-

- (a) the nature of the offence;
- (b) the decision that a formal preliminary- warning is being given and that it will be recorded on the employee's file;
- (c) the period of time that the warning will remain live on the employee's file;
- (d) an indication of the improvement required and the time span allowed for this to take place;
- (e) the likely outcome if no improvement takes place;



- (f) the employee's right of appeal against the decision and timescale for doing so.

### 13.5 Stage 2 - First written warning

When an employee's conduct or omission is thought to warrant formal disciplinary action more stringent than a **Preliminary Warning, a First Written Warning** will be issued by the Chair conducting the Hearing. The employee will be informed that the warning will remain **'live' for 12 months**. This warning will follow a Disciplinary Hearing and will be confirmed in writing within five clear working days. The written confirmation will state:-

- (a) the nature of the offence;
- (b) the decision that a first written warning is being given and that it will be recorded on the employee's file;
- (c) the period of time that the warning will remain live on the employee's file;
- (d) an indication of the improvement required and the time span allowed for this to take place;
- (e) the likely outcome if no improvement takes place;
- (f) the employee's right of appeal against the decision and timescale for doing so.

### 13.6 Stage 3 - Final Written Warning

This stage in the procedure can be applied if the offence is sufficiently serious, or if there is further misconduct or a failure to improve performance during the currency of a prior warning, a final written warning may be given to the employee. It will warn that failure to improve may lead to dismissal (or some other action short of dismissal) and will refer to the right of appeal.

The employee will be informed that the warning will remain **'live' for 12 months**. This warning will follow a Hearing and will be confirmed in writing within **five** clear working days. The written confirmation will state:-



- (a) the nature of the offence;
- (b) the decision that a final written warning is being given and that it will be recorded on the employee's file;
- (c) the period of time that the warning will remain live on the employee's file;
- (d) an indication of the improvement required and the time span allowed for this to take place;
- (e) the likely outcome if no improvement takes place;
- (f) the employee's right of appeal against the decision and timescale for doing so.

Where a final written warning is given to an employee above, the Council may also impose on the employee the following sanctions:

- disciplinary suspension without pay;
- disciplinary transfer;
- loss of seniority;
- loss of increment;
- demotion.

The above sanctions may be imposed in conjunction with other forms of disciplinary

## 14 Dismissal

Where the employee has committed further acts of misconduct (these being acts of misconduct other than gross misconduct) following a final written warning given above, the employee may be dismissed with notice or with pay in lieu of notice.

Where the Council establishes that an employee has committed an act of gross misconduct, the employee may be summarily dismissed.

If it is considered that dismissal is warranted, the decision to dismiss will be made by a senior officer hearing the disciplinary after consulting with Human Resources and notifying the Chief Executive.



The dismissal of an employee will be confirmed in writing within **five clear** working days. The written confirmation will state:-

- (a) the reason(s) for the dismissal;
- (b) the employee's right of appeal against the decision and timescale for doing so in accordance with the Appeals section below;
- (c) the period of notice, if any, and the arrangements for the completion of such notice.

For Statutory Officers please refer to the Officer Employment Rules at Part 4 Section J.

## 15 Employees Charged or Convicted of a Criminal Offence

Criminal charges or convictions for offences of dishonesty, fraud or violence committed (including outside working hours) may result in disciplinary proceedings being taken against the employee, up to and including summary dismissal.

A charge or conviction for any other type of offence may result in disciplinary proceedings being taken against the employee where, in the opinion of the Council, the charge or conviction is such as to affect, or be likely to affect, the suitability of the employee for the position in which they are employed, or the business or reputation of the Council, or where the existence of the charge or conviction could, in the opinion of the Council, otherwise seriously undermine the trust and confidence that the Council has in the employee.

In the case of a conviction, ~~then~~ the decision of the Courts will be used to assess the risk of continued employment for the employee and within the Council as part of the investigation.

An example of this could be where a member of staff has been convicted of a crime relating to driving whilst in SHBC employment. Part of their ~~The major part of the role for the employee~~ requires them to drive ~~is driving~~ within the Borough and they have been disqualified from driving for:





- [Driving whilst under the influence of drugs and alcohol](#)
- [Causing serious injury by careless driving](#)
- [Receiveds a ban from driving for any other reason for example 'totting up' of points](#)

[In this instance, the investigation would focus on whether their role can still be performed to a reasonable standard during the period of the ban and also consider the risk to the Council of employing a driver with this history as their employee.](#)

## 16 Appeals

An employee may appeal against any disciplinary sanction imposed against them, with the exception of an informal action. An Appeal Hearing will concentrate on a review of the action taken and the procedure adopted; its purpose is not to re-hear the matter. However, the Appeal Hearing panel will consider new evidence that was not available at the time of the Disciplinary Hearing and both sides will have the opportunity to comment on such evidence during the Appeal Hearing process.

Appeal Hearings will normally take place within **thirty** days' of receipt of the employee's written notice of appeal. In exceptional circumstances the Appeal Hearing may take place after thirty days'.

The employee must write to the appeals officer named in the disciplinary outcome [letter with a copy sent to the HR Manager](#) of their intention to appeal. This submission must be made within **ten** [clear](#) working days of ~~receipt~~[date](#) of the disciplinary outcome [letter](#).

When lodging an appeal, an employee should state:

- the grounds of appeal; and
- whether they are appealing against the finding that they have committed the alleged act or acts of misconduct, or against the level of disciplinary sanction imposed.

### 16.1 Notice of Appeal Hearing



The employee will receive notice in writing and will include the following:

- (a) the date, time and location of the Hearing;
- (b) any additional relevant information not less than **five clear** working days in advance of the Hearing;
- (c) the Council must be provided with copies of any additional evidence the employee wishes to rely on, to be received **two clear** working days in advance of the hearing;
- (d) the right to be accompanied by either a Staff or Trade Union Representative or appropriate colleague who is not implicated or connected with the case (**See Section 10**).
- (e) a request to be advised of the identity of the individual accompanying the employee;
- (f) a request to be advised of the details of any witnesses the employee intends to call;
- (g) whether reasonable adjustments may be needed for the employee or their companion;
- (h) a statement that following the conclusion of the Hearing that the decision of the Appeal Chair is final.

## 16.2 Rearranging/Postponing a Hearing

In the event that an employee or their chosen companion is not available on the date or at the time proposed for the Hearing, the employee can propose an alternative date and/or time, provided that the proposal is reasonable and is within **five** working days of the original date. Only very exceptionally will the Council permit a postponement of greater than five days or a request for less than five.

The parties should ensure that they attend the meeting at the specified time. If they are unable to attend because of circumstances beyond their control, they must advise the Human Resources Team. If either party fails to attend without explanation, or if it appears that the employee has made insufficient attempts to attend, the Hearing may take place in their absence, using the evidence available.



### 16.3 The Appeal Hearing

The Appeal Hearing will normally be conducted by a senior manager as the Chair with a representative from Human Resources (the panel). **See Appendix I for further information.**

A note taker will be appointed to attend the Hearing and act as witness to what was said. All records will be treated as confidential and will be kept in accordance with the Data Protection Act 2018 and General Data Protection Regulation.

~~Please refer to the guidance notes on the intranet for further information.~~

### 16.4 Appeal Against First / Final Warning

Where an appeal is lodged where there is no dismissal, the appeal will normally be heard by a manager more senior than the disciplinary officer. **See Appendix I for further information.**

Any representations made by the employee or their companion and those of the manager who conducted the investigation and the Chair of the disciplinary hearing will be considered carefully. The Chair of the appeal hearing must decide on the basis of both sets of representations, together with any subsequent facts that may have come to light, whether to uphold the disciplinary sanction.

### 16.5 Appeal Against Dismissal

Where an appeal is lodged following a decision to dismiss an employee, the appeal will be heard by a manager more senior than the disciplinary officer. **See Appendix I for further information.** The appeal Chair will consider representations made by the employee or their companion and the Chair of the disciplinary hearing will also be asked to attend, to present their findings.



Upon conclusion of the Appeal Hearing, the Chair will provide to the employee with written notification of the decision, within **ten** working days.

## 16.6 Increase to disciplinary outcome

In the event where an appeal is lodged and a hearing takes place the chair can allow for the disciplinary outcome to change, for example an increase from a Stage 1 Preliminary Warning to a Stage 3 Final Written Warning. If new evidence arising during the appeal indicates that the offence was more serious/less serious than originally judged, the appeal hearing will terminate and a new disciplinary process will begin. A new chair will be appointed in this situation.

The appeal chair's decision is final.

## 17 Grievances raised in relation to a disciplinary case

Where an employee raises a grievance during a disciplinary process the disciplinary process may be temporarily suspended in order to deal with the grievance. Where the disciplinary and grievance cases are related it may be appropriate to deal with both issues concurrently.

## 18 Vexatious claims

False or vexatious information disclosed during the course of the investigation or during a Disciplinary or Appeal Hearing may be regarded as misconduct or gross misconduct.

This policy is available in large print if requested.



Appendix I

Authority to Act – Disciplinary Procedure

<u>Disciplinary Investigation /Action concerning</u>	<u>Suspension</u>	<u>Investigate the allegations</u>	<u>Chair the Hearing and make the decision</u>	<u>Chair the Appeal and make the decision</u>
<u>All employees</u>	<u>Head of HR Performance and Communication, Strategic Director or Head of Paid Service HR Manager or a Senior HR Advisor who will notify the Chief Executive.</u>	<u>The employee’s manager or in some cases it may be necessary to appoint an alternative manager of a similar level or officer after consultation with Human Resources.</u>	<u>A senior manager, or where not appropriate, another similar manager at the same level of the manager above, with no previous involvement in the case.</u>	<u>A senior manager. Wherever possible the manager hearing the appeal will be senior to the manager who chaired the Disciplinary Hearing, with no previous involvement in the case.</u>

NB: For statutory officers please refer to the Officer Employment Rules at Part 4 Section J

