

DISCIPLINARY POLICY

POLICY STATEMENT

POLICY OBJECTIVE

The objective of the disciplinary procedure is to encourage employees to adhere to their terms and conditions of employment, required standards of conduct, and any other specific rules. It provides for all employees to receive consistent, fair and reasonable treatment in cases of breach of these standards and allows them to take the necessary steps to improve their performance.

The procedure will be used only where it is clearly necessary. Where possible, it will be used as an aid to improvement rather than a means of punishment.

Officers and supervisors operating this procedure will comply with the ACAS Code of Practice on Disciplinary and Grievance Procedures. They will maintain fairness and consistency of treatment, to ensure that all cases are investigated thoroughly and that decisions reached are fair and reasonable in all the circumstances, and avoid any unlawful discrimination in the operation of the procedure.

The procedure applies to all NJC staff. The procedure does not apply to the Chief Executive and Chief Officers to whom separate procedures apply under JNC Conditions of Service.

The procedure does not apply to dismissals for the reason of redundancy, efficiency of the service or some other substantial reason.

THE COUNCIL'S RESPONSIBILITY

All new employees will be provided with an appropriate induction to the Council and to their individual workplace.

Appropriate on and off the job training should be provided for job skills and knowledge, and where necessary training in Council policies and procedures.

Employees will be informed of certain specific standards of conduct expected from them.

Each employee's manager is responsible for ensuring that employees are made aware of relevant rules, policies and procedures, including any updates or changes to them. This means that the Council will make employees aware of where policies and procedures, including updates, are available, however it is each employee's personal responsibility to regularly keep up-to-date.

Managers will ensure that where it has been made known to them that an employee's English and/or reading skills is limited, or who has little previous experience of work, are assisted to understand fully all relevant rules.

Disciplinary matters will be dealt with as quickly as possible whilst ensuring fairness.

The day-to-day supervision of employees and monitoring of their conduct is part of the normal managerial process.

The manager will draw to the employee's attention unsatisfactory conduct explaining the improvement required and allowing a reasonable period for improvement; where necessary coaching, instruction or training will be given to the employee in order to meet the objectives.

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EMPLOYEE'S RESPONSIBILITIES

Employees must maintain conduct of the highest standard such that public confidence in their integrity is sustained. The Council has a Code of Conduct and competency framework which sets out the core values overall standards of acceptable behaviour.

Following induction and training, employees' must observe all Council policies and procedures.

It is an employee's personal responsibility to keep updated on policies and procedures; act in a responsible manner, at all times, observe all Health & Safety rules; and report any acts of potential misconduct (i.e. it appears to be misconduct and requires investigation) to their line manager.

OUTCOMES

The intended benefit of this policy is a workforce that understands what is expected in respect of duties and responsibilities, rules, procedures, policies, procedures and regulations in order that it can contribute to the Council's vision and service.

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PROCEDURE

PRINCIPLES

No disciplinary action will be taken against an employee until the case has been thoroughly investigated and the employee has been given a full opportunity to respond to any allegations.

Employees will have the right to be accompanied at all formal stages (precluding advisory meetings and precautionary suspension notification meetings) of the procedure by either a Trade Union Representative or another employee of the Council. The role of the companion is explained further in the disciplinary procedure.

At every stage of the procedure employees will be informed of the nature of the complaint.

If an employee has a disability, reasonable adjustment(s) will be considered, in consultation with him/her, with the aim of overcoming the effect(s) of his/her disability during an investigation and/or disciplinary proceedings.

No disciplinary action will be taken against any recognised Trade Union Representative until the circumstances of the case have been discussed with a full time Trade Union Official of the union concerned.

An employee will have the right to appeal against any disciplinary action or penalty imposed.

ROLES

Role	Responsibility	Delegation
Disciplinary Officer	Where minor breaches are suspected the Disciplinary Officer will investigate the breaches of conduct. The Disciplinary Officer will chair the disciplinary hearing and make a decision. The maximum sanction issued by an investigating disciplinary officer is a verbal warning.	Line Manager, Manager or Director
Investigating Officer	In more complex cases an Investigating Officer will be appointed by the Disciplinary Officer to carry out an investigation. The Investigating Officer will present their findings at the disciplinary hearing.	Line Manager, Manager or Director
Appeal Officer	The Appeal Officer hears the basis of the appeal from the employee and the Council's case from the Disciplinary Officer. The Appeal Officer's decision is final and there are no further rights of appeal.	Director or Chief Executive Dismissal - Members
Dismissal Appeals	The HR Appeals Committee hears the basis of the appeal from the employee and the Council's case from the Disciplinary Officer. The Committee's decision is final and there are no further rights of appeal	Members of HR Appeals Committee

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INVESTIGATION

Before taking any formal disciplinary action under this procedure, the circumstances must be fully investigated.

In straightforward cases where minor breaches of conduct are suspected, the Disciplinary Officer may carry out the investigation. If all parties are in agreement following investigation the Disciplinary Officer may decide to continue straight into a disciplinary hearing. In these circumstances the maximum sanction imposed would be a verbal warning. If there is no agreement to continue, arrangements will be made to have the case heard by a new Disciplinary Officer at which the original Officer will present the management's case.

An investigatory interview with the employee will be held to help to establish sufficient facts to determine what, if any, further action should be taken. Any relevant information should be discussed at this stage. The employee should attend any investigatory meeting. Failure to attend the investigatory meeting as request may not prevent the process from continuing.

Employees have the right to postpone an investigatory interview for a valid reason e.g. non-availability of a companion, however an alternative date must be offered by the employee within five working days of the original date. Where it is not possible to accommodate the availability of the companion, the employee may be requested to seek an alternative companion/work colleague or no companion attends.

In particularly complex cases and/or where serious breaches of conduct are suspected, the Disciplinary Officer will nominate another officer to carry out an investigation - 'the Investigating Officer'. Where a criminal matter is suspected this may run in parallel with or follow a Police investigation.

Once a thorough investigation has been completed, a decision will be made to either:

- (a) Take no action- if there is no case to answer.
- (b) Arrange a formal session to correct a situation and prevent it from getting worse without using the disciplinary procedure. However, dependent on the circumstances the individual should be made aware that any further incidents of a similar nature may lead to disciplinary action.
- (c) Arrange a disciplinary interview if the matter is more serious and it appears that there has been a disciplinary offence.
- (d) Carry out further investigations as a result of the Investigatory Interview that may result in disciplinary action being taken.

ROLE OF THE COMPANION

The companion is someone who has been chosen by the employee to accompany the employee at the disciplinary meeting, this can either be a Trade Union Representative or another employee of the Council.

Rights of the companion include:

- The companion may address the meeting
- The companion may ask questions on behalf of the employee, but they may not answer questions on their behalf

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- The companion may ask for reasonable time to confer with the employee during the meeting and facilities will be provided if the parties wish to confer in private

If a Companion is not available to attend a disciplinary meeting another date must be offered within 5 working days or another or no Companion attends.

SUSPENSION

Suspension is a precautionary measure and will be on full pay.

Depending on the circumstances of the case the employee may be:

- (a) required to remain in their own post on restricted duties
- (b) required to work in any other position within the Council
- (c) suspended from all duties and required to remain away from work.

Suspension will be appropriate where criminal investigations or proceedings are pending which render the employee unsuitable to continue his/her type of work; where the employee's continued presence at work might prejudice the proper operation of the Team, or the investigations themselves; where it is unreasonable to expect other employees to continue working with him/her or where the employee may be placed in a vulnerable position if they continue to work as normal during an investigation.

If none of the criteria above are satisfied then the employee should not be suspended however it may be appropriate for a) or b) above to be considered as alternatives to suspension.

DISCIPLINARY SANCTIONS

Verbal Warning

For first instances of minor misconduct the employee will normally be given a verbal warning. He or she will be advised of the reason for the warning, the improvement required and timescale and of his/her right of appeal. A letter confirming the verbal warning will be kept on file. This will be disregarded for disciplinary purposes after 9 months, subject to continued satisfactory conduct.

Written Warning

For first instances of more serious misconduct or in cases where misconduct persists following a verbal warning, the employee will normally be given a written warning. This will give details of the complaint, the improvement required and the timescale. It will warn that, if there is no satisfactory improvement, further disciplinary action will be considered and will inform them of their right of appeal. A copy of the warning will be kept on the employee's personal file but will be disregarded for disciplinary purposes after 12 months, subject to continued satisfactory conduct.

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Examples of Misconduct

Some examples of misconduct that could necessitate a Verbal or Written Warning are:

- Lateness.
- Genuine work mistake that has had a negative effect on the reputation of the Council.
- Disregard for the Council's competency framework and values.
- Minor breaches of Council policies and procedures including use of telephones, internet, email and social media.

This list is neither exhaustive nor exclusive and should be used as a guide only.

Final Written Warning

In cases where the employee still fails to improve following a written warning or if the misconduct is sufficiently serious to warrant only one written warning but insufficiently serious to justify dismissal they will normally be given a final written warning. This will give details of the complaint, the improvement required and timescale. It will warn that dismissal will result if there is no satisfactory improvement and will advise of the right of appeal. A copy of the warning will be kept on the employee's personal file but will be disregarded for disciplinary purposes after 12 months, subject to continuous satisfactory conduct within the prescribed period.

Dismissal

Since dismissal is the most severe sanction, it is anticipated that its use will be confined to rare cases. It may however be necessary in the following cases:

(a) Following a Final Written Warning

If conduct is still unsatisfactory and the employee still fails to reach the prescribed standards further disciplinary action will be taken which may result in dismissal.

The employee will receive either their contractual notice of termination of employment or be given pay in lieu of notice of their termination.

b) Gross Misconduct

Gross misconduct is misconduct which is so serious it makes any further working relationship and trust impossible, so that the employer cannot reasonably be expected to allow an employee to continue at work.

Examples are:

- Unauthorised removal, possession or use of, or theft or attempted theft of property, funds or resources, belonging to the Council
- Fraudulent manipulation, misrepresentation or falsification of official documents (including financial accounts and records, flexitime scheme records, application forms, timesheets, expenses claim forms etc)

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- Failure to declare a pecuniary interest in contracts.
- Unlawful discrimination.
- Serious breach of health and safety rules.
- Malicious or wilful damage to Council property.
- Serious breaches of safety or fire regulations or any behaviour likely to cause injury to himself/herself or others, including physical violence or serious assault.
- Alcohol or drug misuse which affects the ability of the individual to carry out their duties or being in possession of illegal substances during working hours or on the Council's premises
- Unauthorised access to computer records, abuse of the e-mail system, infecting the computer with a virus, unauthorised or inappropriate use of the internet during working hours
- Harassment victimisation or bullying, against a member of the public or Council employee.
- Acceptance of bribes or other corrupt practices.
- Disclosure of or unauthorised use of confidential information
- Conduct which has the effect of undermining public confidence in the Council.
- Committing a criminal offence, not necessarily at or in connection with their employment, which substantially affects the employment relationship.
- Gross insubordination.
- An act of negligence or an error where the actual or potential consequences are extremely serious.

This list is neither exhaustive nor exclusive and should be used as a guide.

Any employee who is found to have committed gross misconduct will be summarily dismissed (that is without notice or payment in lieu of notice).

The letter of dismissal will be signed by the Disciplinary Officer and will be handed to the employee or sent by hand delivery or recorded delivery. The letter will specify the nature of misconduct, the effective date of dismissal and will advise of the right of appeal and the time limit for lodging an appeal. A copy will be placed on the employee's file.

As an alternative to dismissal the Disciplinary Officer may in certain circumstances consider imposing the following sanctions:

- (a) suspension from work for a maximum period of 10 working days without pay (The employers pension contribution would not be paid for the unpaid period of suspension. If the employee should want to buy back any pension due to the unpaid period of suspension then they would be responsible for the whole cost of the pension buy back and no contribution will be made towards it by the council)
- (b) downgrading, including removal of additional allowances,
- (c) transfer to a different job,

These sanctions will always be accompanied with a final written warning.

ARRANGEMENTS FOR A DISCIPLINARY HEARING

If a disciplinary hearing is arranged the employee will be given the following information at least three clear working days before the hearing:

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- (a) the date, time and place of the hearing;
- (b) the nature of the complaint(s) including copies of all documents to support the management case and any witness statement to be presented at the hearing;
- (c) the name of the Disciplinary Officer conducting the disciplinary hearing;
- (d) the names of any witnesses;
- (d) the fact that the employee has a right to be accompanied by a recognised Trade Union Representative or another employee of the Council.

In particularly complex cases or when there is significant documentation to consider, on request from the Trade Union exchange of documents may be extended to 7 working days to allow for preparation.

Similarly, if the employee wishes to produce supporting documents, information, witnesses or anything they consider relevant at the hearing, then this must also be exchanged at least three working days (or seven working days if agreed) prior to the disciplinary hearing.

The three clear working days notice of the meeting can be waived for minor breaches with the agreement of both parties.

Employees have the right to postpone a disciplinary hearing for a valid reason however an alternative date must be offered by the employee within five working days of the original date. Where it is not possible to accommodate the availability of the companion the employee will be requested to seek an alternative companion or no companion attends. If failing all efforts to agree an alternative date within the five days and the process is being unduly delayed the disciplinary hearing may proceed and a decision made without the employee/companion being present.

DISCIPLINARY HEARING

The purpose of the disciplinary hearing is to enable the Disciplinary Officer to gather sufficient information to take a decision on what, if any, level of disciplinary action is necessary. In doing so, the following will be taken into consideration:

- The severity of the conduct
- Decisions in previous cases
- The individual's general employment record
- Any live disciplinary warnings
- Any special or mitigating circumstances

Normally the conduct of the hearing will be as detailed below. However, if a departure from the procedure would assist in revealing the full facts, this is not precluded at the discretion of the Disciplinary Officer.

Introduction

The Disciplinary Officer will ensure that the employee is fully aware of:

- the nature of the meeting
- the matter(s) to be considered
- the procedure to be followed
- the employee's right to be accompanied to the meeting

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Procedure

In cases where an Investigating Officer has been appointed, he/she will present the findings of the investigation to the Disciplinary Officer. In cases where the Disciplinary Officer has investigated the complaint, he/she should proceed by presenting the evidence. In presenting the case, the Disciplinary Officer or Investigating Officer, as appropriate, may call witnesses or refer to any documentary evidence. The Disciplinary Officer or the Investigating Officer's case should have been produced and distributed along with any supporting documents at least three working days prior to the date of the hearing.

In cases where an Investigating Officer has presented the case the Disciplinary Officer may question him/her or any witnesses on the evidence given.

The employee or his/her companion may question the person who has investigated the complaint and any witnesses.

The employee or his/her representative will then have full opportunity to respond to the case calling on their witnesses and/or documentary evidence. They will also be given a chance to highlight any mitigating circumstances.

The Disciplinary Officer may then question the employee and his/her witnesses.

In cases where an Investigating Officer has presented the case, he/she will have an opportunity to question the employee and his/her witnesses.

Both sides may then sum up their cases with the employee or his/her representative speaking last. No new evidence may be introduced at this stage.

The Disciplinary Officer may ask any final questions of the employee, the Investigating Officer and any witnesses.

The Decision

The Disciplinary Officer will adjourn the hearing to consider all the evidence in private. If it is necessary to clarify a point(s) before reaching a decision, both parties may be asked to return to the hearing.

The disciplinary hearing may be adjourned to enable further investigation into the complaint, if necessary, or to allow an employee or his/her representative an opportunity to obtain any relevant evidence, examine documents or interview further witnesses.

After all the evidence has been fully considered, the Disciplinary Officer's decision and the employee's right of appeal will be given verbally to the employee, their companion and the Investigating Officer. The decision and right of appeal will be confirmed to the employee in writing within 5 working days of the hearing.

Adjournments

The Disciplinary Officer may adjourn the hearing at any time.

The Investigating Officer or the employee may request the Disciplinary Officer for an adjournment at any time. They must give the reason(s) for the request and inform the Disciplinary Officer of the length of adjournment required. The Disciplinary Officer has the discretion to allow requests for adjournments.

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ABSENCE

The Council's aim is to proceed with all disciplinary matters with the minimum of delay. The process may therefore continue during an employee's sickness, which will not preclude the Council from starting or completing the process. The normal attendance management systems will also be used in any such cases.

APPEALS

The employee shall have a right of appeal against any disciplinary sanction.

Appeals will be heard by the Head of Service, Director, the Chief Executive or the Human Resources Appeals Committee depending upon:

- (a) the severity of the disciplinary sanction given,
- (b) the level of the Disciplinary Officer

Appeals will normally be heard in accordance with the following guidance.

DISCIPLINARY SANCTION	APPEAL TO
A verbal or written warning issued by an officer below Head of Service level.	Head of Service
A verbal, written or final written warning issued by a Head of Service.	Director or Chief Executive
Dismissal or any other disciplinary sanction imposed as an alternative to dismissal.	The Human Resources Appeal Committee.

In all cases the decision of the officer or Committee will be final and no further right of appeal will be given.

To exercise the right of appeal, the employee must notify Human Resources in writing, within 10 working days of notification of the disciplinary sanction on the 'Appeals against Disciplinary Action' form, stating the grounds of appeal (See Appendix 3).

Appeals will be dealt with as speedily as possible. Where an employee has been dismissed an appeal should be heard within three weeks after the Notice of Appeal has been received, unless both parties agree to a date outside this period. The procedure for the appeals are set out in Appendix 1 & 2.

The Appeals Panel will give its decision verbally on the date of the hearing. This will be confirmed in writing within 5 working days.

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APPENDIX 1

PROCEDURE FOR DISCIPLINARY APPEALS HELD BY HEAD OF SERVICE, DIRECTOR OR CHIEF EXECUTIVE

Normally the conduct of a hearing will be as detailed below. However, if a departure from the procedure would assist in revealing the full facts this is not precluded at the discretion of the officer hearing the appeal.

Both parties should produce a statement of case at least 5 working days prior to the date of the appeal hearing.

Introduction

At the hearing, the officer hearing the appeal will explain briefly the following procedure to the appellant and their representative.

Employee's Case

The appellant or representative will present the case including any documentary and/or evidence from witnesses in the presence of the Disciplinary Officer. If the representative presents the case, the employee will be given the opportunity to add comments, as necessary.

The Disciplinary Officer will have the opportunity to ask questions of the appellant or representative and any witnesses on the evidence given.

The Officer hearing the appeal will have the opportunity to ask questions of the appellant(s) or representative and any witnesses on the evidence given.

Council's Case

The Disciplinary Officer will present the case including any documentary evidence and/or evidence from witnesses in the presence of the appellant and representative.

The appellant or representative will have the opportunity to ask questions of the Disciplinary Officer and any witnesses present on the evidence given.

The Officer hearing the appeal will have the opportunity to ask questions of the Disciplinary Officer and any witnesses on the evidence given.

General Questions

The Officer hearing the appeal will have a final opportunity to ask any further questions of either parties in the presence of both parties.

Summing-up

The Disciplinary Officer and the appellant or representative will have the opportunity to sum-up their case if they wish. The appellant or representative will sum-up last and no new evidence will be introduced at this stage.

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Decision

The Disciplinary Officer and the appellant and representative will withdraw to enable the Officer hearing the appeal to consider the matter. The person advising the Officer hearing the appeal will remain.

The Officer hearing the appeal will consider the matter in private, only recalling the Disciplinary Officer and the appellant or representative to clear points of uncertainty on evidence already given. If a recall is necessary, both parties will return even if only one party may be concerned with the point giving rise to doubt.

Both parties will be asked to return when a decision has been reached.

The Officer hearing the appeal will announce the decision and inform the appellant and representative that it will be confirmed in writing.

Adjournments

The Officer hearing the appeal has the discretion to adjourn the hearing at any time he/she feels appropriate.

Either party may request an adjournment. They must give the reason(s) for their request and inform the Officer hearing the appeal of the length of adjournment required. The Officer hearing the appeal has the discretion to allow or deny any request.

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APPENDIX 2

PROCEDURE FOR DISCIPLINARY APPEALS AT HUMAN RESOURCES APPEALS COMMITTEE

Normally the conduct of a hearing will be as detailed below. However, if a departure from the procedure would assist in revealing the full facts this is not precluded at the discretion of the Chair.

Both sides should produce and distribute a Statement of Case to the appeals panel at least 5 working days prior to the date of the hearing.

Introduction

At the hearing, the Chair of the Appeals Committee will explain briefly the following procedure to appellant and their representative.

Employee's Case

The appellant or representative will present the case including any documentary and/or evidence from witnesses in the presence of the Council's representative. If the representative presents the case, the employee will be given the opportunity to add comments, as necessary.

The Council's representative will have the opportunity to ask questions of the appellant or representative and any witnesses on the evidence given.

The Appeals Committee will have the opportunity to ask questions of the appellant(s) or representative and any witnesses on the evidence given.

The Council's Case

The Council's representative who will usually be the disciplinary officer will present the case including any documentary evidence and/or evidence from witnesses in the presence of the appellant and representative.

The appellant or representative will have the opportunity to ask questions of the Council's representative and any witnesses present on the evidence given.

The Appeals Committee will have the opportunity to ask questions of the Council's representative and any witnesses on the evidence given.

General Questions

The Committee will have a final opportunity to ask any further questions of either parties in the presence of both parties.

Summing-up

The Council's representative and the appellant or representative will have the opportunity to sum-up their case if they wish. The appellant or representative will sum-up last and no new evidence will be introduced at this stage.

DISCIPLINARY POLICY

Decision

The Council's representative and the appellant and representative will withdraw to enable the Committee hearing the appeal to consider the matter. The person advising the Committee will remain.

The Committee will consider the matter in private, only recalling the Council's representative and the appellant or representative to clear points of uncertainty on evidence already given. If a recall is necessary, both parties will return even if only one party may be concerned with the point giving rise to doubt.

Both parties will be asked to return when a decision has been reached.

The Chair of the Committee will announce the decision and inform the appellant and representative that it will be confirmed in writing within 5 working days.

Adjournments

The Chair of the Committee has the discretion to adjourn the hearing at any time he/she feels appropriate.

Either party may request an adjournment. They must give the reason(s) for their request and inform the Chair of the Committee of the length of adjournment required. The Chair of the Committee has the discretion to allow or deny any request.

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APPENDIX 3

CHORLEY BOROUGH COUNCIL APPEAL AGAINST DISCIPLINARY ACTION

To: Head of Human Resources

From: Directorate:

Section:

Date of Disciplinary Hearing:

Name of Disciplinary Officer:

Sanction Imposed:

Date of Notification of Sanction:

GROUNDS OF APPEAL (tick appropriate box(es))

- Procedure That is, did procedural irregularities prejudice the disciplinary decision?
- Facts That is, were the full facts presented? Did the full facts support the decision or were the facts considered not relevant? Are there new facts to be considered?
- Decision That is, the act(s) of misconduct did not justify the level of disciplinary action taken?

Please give details to support your appeal where applicable (attach additional pages if necessary).

Signature of employee(s)

Date: