
Disciplinary Policy

South Oxfordshire and Vale of White Horse District Council





Change Record

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1 Introduction

1.1 Purpose

This document outlines the disciplinary policy and procedure for the councils, regarding initiation, handling and resolution of employment-related disciplinary issues.

1.2 Scope

This policy applies to all permanent and temporary employees of the councils, excluding contractors / agency workers and casual workers. For any issues involving contractors / agency and casual workers, please liaise with HR, who will advise on how to proceed.

This is with the exception of the head of paid service (the Chief Executive), the section 151 officer and the monitoring officer, because these posts are covered by separate statutory requirements as set out in each council's constitution, although the principles and procedures in this policy should still be incorporated into any associated disciplinary action.

This policy does not apply to the expiration of a fixed-term contract or disciplinary action and / or dismissal during a probationary period (including any extended probationary period), where a basic procedure in line with the Acas code of practice on disciplinary and grievance procedures will apply instead. Where these circumstances apply, please contact HR, who will advise and support in accordance with the latest employment law.

The councils reserve the right to revise, withdraw or replace policies at any time and to introduce new policies from time to time to reflect the changing needs of the organisations.

This policy document supersedes any previously existing or alternative policies, agreements or arrangements relating to the disciplinary policy at the councils.

1.3 Contractual Status

This policy forms part of your contract of employment. The councils are entitled to introduce minor and non-fundamental changes to this policy by notifying you of these changes in writing. The council will consult all employees on any major changes to the policy.

1.4 Relevant legislation

Acas Code of Practice on Disciplinary and Grievance Procedures

Data Protection Act 2018

Employment Relations Act 1999

Employment Rights Act 1996



General Data Protection Regulation (2016/679 EU)

1.5 Alternative formats

Please do not hesitate to contact a member of the Strategic HR Team if you would like this policy in an alternative format, via: hadminandpayroll@southandvale.gov.uk



2 Policy

2.1 Overview

South Oxfordshire and Vale of White Horse District Councils are committed to maintaining a good working culture. In any work environment, however, there will be occasions when problems and complaints arise. It is important that these problems and complaints are discussed so that a solution can be reached. Most problems can be solved, but if they are not freely discussed they often become more serious. Therefore, it is the responsibility of everyone to help maintain a good working culture.

The councils also recognise that in order to promote fairness and transparency, a policy needs to be in place with the primary objective to help and encourage employees to improve. Wherever possible, dependant on the nature of any alleged misconduct, we prefer to avoid taking formal disciplinary action in the first instance. Every effort will be taken in such circumstances to resolve issues in an informal manner through counselling and guidance of employees by line managers and HR.

Where informal approaches (i.e. 1-2-1s, conversations clarifying expectations and mediation, where applicable) are not successful in achieving an effective outcome within a reasonable timeframe or where the nature of the conduct warrants more formal action (see section 3.2), the following policy and procedure is designed to guide the investigation, consideration and resolutions of behaviours/actions considered to be within the scope of misconduct.

In cases relating to job performance, HR will advise as to whether the Disciplinary or Capability Policy is the most appropriate to address an individual situation (or a combination of both). Essentially, this will involve assessing what is within the employee's control (such as poor delivery, lack of application or attitudinal problems) and what is outside their control (such as health, a lack of training or the changing nature of the job). Any performance issues should have been raised previously in 1-2-1s or related discussions before being referred for formal action.

This policy complies with prevailing UK legislative requirements and incorporates best practice in order to help and encourage employees understand the standards expected in being employed by the councils and, where required, improve their conduct.

Throughout all disciplinary-related proceedings, the following core principles will be followed:

- All matters will be progressed in a timely manner
- All those involved in formal proceedings will be kept up to date and informed
- Those responsible for conducting proceedings will keep an open mind
- The facts will be established as far as practicably possible
- All parties to the proceedings will be given the opportunity to have their say
- Proceedings will be conducted in a professional and dignified manner



- Nobody associated with formal proceedings will be subject to disadvantageous behaviour or acts
- Confidentiality will be upheld
- Decisions will be factually based and justified
- Written records of proceedings will be made and shared with the parties involved in the relevant stage of the process
- Legal compliance will be adhered to at all times
- The Councils' policies & procedures will be consistently applied at all times



3 Procedure

3.1 Informal Action

Depending on the nature of the alleged disciplinary offence, line managers should, in the first instance, raise concerns and issues directly with employees on an informal basis in order to resolve matters swiftly and should keep a record of any such conversations. It is vital to continue to conduct regular 1-2-1s and to ensure the employee is aware of any alleged issues and all expectations are clearly communicated and documented. The employee is entitled to make and record their own notes, which can be submitted as evidence should formal proceedings be initiated.

Witnesses to any alleged misconduct should either raise the issue with an individual's line manager or report it to HR.

The councils will look to deal with minor instances of misconduct informally by way of counselling, guidance or instruction, a letter on file or mediation, depending on the situation. If a problem continues or the alleged misconduct is sufficiently serious (i.e. requires immediate or swift resolution or is potentially gross misconduct, see section 5.2), formal disciplinary proceedings will apply.

Once informal action has been undertaken, managers should liaise with HR if they believe formal action may be required. HR will advise managers on how to proceed i.e. timescales, which policy applies, any further informal action required etc.

3.2 Initiating Formal Disciplinary Proceedings

Formal disciplinary proceedings will commence where:

- an issue is not resolved through informal efforts (see section 3.1)
- the expectations following informal action have not been addressed or maintained (see section 3.1)
- the concern is of a more serious nature i.e. alleged misconduct or gross misconduct
- alternative processes via other policies and procedures (e.g. capability) prove not to be applicable

3.3 Investigations

In consultation with HR, an informal review of any matter that is reasonably suspected to constitute misconduct will be held. Acas defines misconduct as "when an employee's inappropriate behaviour or action breaks workplace rules". The review will be conducted by the line manager (or alternative manager from a different service, if deemed more appropriate by HR).

A review may progress to a more in-depth investigation depending on the nature of the allegation and the initial facts which are established. Employees will be informed if they are subject to an investigation.



Depending on the circumstances of the situation, employees may be invited to attend an investigatory interview. Investigatory interviews are fact-finding meetings, following which a decision will be taken as to whether or not formal or further action is warranted in accordance with the Disciplinary Procedure. Employees may be supported by a council colleague or a trade union official at investigatory interviews.

The councils reserve the right to dispense with an investigatory interview and to proceed directly to a formal Disciplinary Hearing if the designated manager and HR decide there is already sufficient evidence to indicate there is a case to consider.

Should it be decided that a formal hearing is required, the designated chair (see section 4) is permitted to gather evidence, including interviewing witnesses, ahead of the hearing to ensure they have all the information required to conduct a thorough and fair hearing.

Employees are permitted to request for witnesses to be interviewed by the Chair to support their case. The Chair may not interview all recommended witnesses if they believe sufficient evidence has been gathered. Should any witnesses proposed by the employee not be interviewed, an explanation will be provided by the Chair.

3.4 Suspension

There may be instances where suspension from the workplace, with pay, may be necessary whilst a review, or full investigation, is undertaken.

Any decision to suspend must be agreed by the Head of Corporate Services (or another member of SMT if they are unavailable), having been briefed of the situation by HR.

Suspension does not constitute disciplinary action and all the necessary requirements and actions will be fully discussed with employees prior to the commencement of any suspension. All requirements and actions will also be confirmed in writing to employees, either at the time of suspension or within 24 hours of removal from the work environment.

Whilst on suspension, depending on the circumstances of the situation, employees may be requested to attend an investigatory interview.

3.5 Written Allegations

Employees will be notified, in writing, of the allegations against them and will be invited to attend a Disciplinary Hearing to discuss the matter. Information regarding the allegations, and the possible consequences, will be provided to enable employees to address the case against them. Information will include copies of written evidence, including witness statements where appropriate.



3.6 Preparation Time

Employees will be given a minimum of 3 working days advance notice of attendance at a formal Disciplinary Hearing. During this time, employees may prepare their case and, if required, obtain the agreement of a 'companion' (see section 3.7) to accompany them at any formal hearings.

The Chair may choose to provide longer notice for a hearing, for example where there is a lot of evidence to consider or where further investigatory interviews are required.

Employees may request further time to prepare for hearings, which may be no longer than 2 working days from the date of the original hearing. The Chair may also postpone the date of the hearing if employees provide evidence that requires additional preparation time.

3.7 Right to be Accompanied

Employees have a statutory right to be accompanied by a council colleague or a trade union official at any formal Disciplinary or Appeal Hearing.

Employees choosing to be accompanied must notify HR at least 24 hours in advance of the hearing. The councils reserve the right to challenge the choice of companion if there is any potential for conflicts of interest i.e. if the companion is a potential witness.

Employees who are approached by employees to act as their companion in Disciplinary Hearings or related meetings are under no obligation to fulfil such requests.

At any Disciplinary Hearing or Appeal Hearing, the companion will be allowed to:

1. address the hearing to present and summarise the employee's case
2. respond on behalf of the employee to any views expressed at the meeting
3. confer with the employee during the hearing
4. take notes
5. call an adjournment with the employee's consent

The companion does not have the right to:

1. answer questions on the employee's behalf
2. address the hearing if the employee does not wish it
3. prevent the councils from explaining their case



3.8 Accessibility

Employees requiring support and / or a reasonable adjustment during disciplinary proceedings should raise this with HR and must notify the chair of any requests for reasonable adjustments at least 1 working day ahead of any formal hearing.

3.9 Disciplinary Hearing Attendance

Employees must make every effort to attend a hearing at the specified time.

Where extenuating circumstances prevent attendance, employees must inform HR as soon as possible, providing the reason for their failure to attend. A hearing may then be re-scheduled where appropriate.

Where employees fail to attend without explanation, or unsuccessful attempts have been made to organise or reschedule a hearing on multiple occasions, a hearing may take place in the employee's absence. The employee's nominated companion may attend in such circumstances and will be allowed to present the employee's case. The employee would be allowed to make a written submission in such a situation.

Where a nominated companion is not available on the day scheduled for a Disciplinary or Appeal Hearing, the hearing can be re-scheduled, provided that the employee can offer an alternative date within 5 working days of the originally scheduled date.



4 Disciplinary Hearing Proceedings

Disciplinary hearings will be chaired by a designated manager or senior officer (the level of officer will depend on the alleged nature of the disciplinary offence and the procedural stage) and attended by a member of the HR team, who will provide advice to the Chair on the councils' policies and relevant employment law, where applicable. The HR representative will usually also take notes during the meeting, but may choose to invite a dedicated note-taker from within the HR team.

Coaching and support will be provided by HR to any manager or senior officer acting as Chair.

At a Hearing, employees, or their companion, will be provided with every opportunity to address the allegations, present their case and any mitigating circumstances. They may choose to provide the Chair with a written statement ahead of the hearing, but this is not mandatory.

Employees may ask questions, present evidence, call relevant witnesses and raise points about any information provided by witnesses and/or the councils. Should the employee wish to call witnesses, they must notify the Chair at least 24 hours before the hearing. Employees must not approach witnesses directly requesting a statement or evidence. This will be managed through the Chair and HR representative. Should additional preparation time be required to speak to witnesses or consider the evidence provided by the employee (see section 3.6), the Chair will organise for the hearing to be postponed to a later date, usually within 5 working days of the original proposed hearing date.

Although face-to-face hearings are preferable, virtual meetings may be arranged where appropriate i.e. for wellbeing or geographical purposes.

4.1 Conduct During Proceedings

The councils expect all parties to be treated with respect during any procedural matters. Abusive or insulting behaviour will not be tolerated by anyone involved in or conducting disciplinary procedures. Such behaviour will be treated as misconduct in accordance with the Disciplinary Policy.

The Chair is also permitted to adjourn a hearing or interview at any stage in the event of inappropriate behaviour from any participant.

4.2 Use of Recording Devices

Use of any recording devices e.g. mobile phones, Dictaphones etc., in any hearings or meetings is prohibited, unless agreed by all parties as a reasonable adjustment.

If any act of covert recording is discovered, or proven after the event, such behaviour will be treated as misconduct in accordance with the disciplinary policy.



4.3 Adjournments

Disciplinary or Appeal Hearings may be adjourned. Typical reasons for an adjournment may include gathering of further information or clarification of points raised in a hearing. There is no requirement to come to a final decision until the Chair is satisfied they have sufficient evidence to do so. In some instances, this may mean the hearing is conducted across multiple sessions with adjournments in-between.

When an adjournment is called by the Chair, participants in the proceedings will be informed of the reason and likely duration of the adjournment.

If further information is gathered during an adjournment, employees, together with any companion, will be given reasonable time to consider the new information prior to re-convening.

When an adjournment is called by the employee/companion, the reasons and likely duration of the adjournment will also be required and, in instances where new information is to be introduced or confirmed, reasonable time to consider the new information prior to re-convening will be applied on behalf of the councils.

Adjournments must be taken for reasonable cause and be of reasonable duration. Should there be any dispute on adjournments, the ultimate decision lies with the Chair.

4.4 Witnesses

Where witnesses are required to be questioned during a hearing, the Chair will adjourn the hearing to speak to and gather evidence from the witness and provide the employee with notes of the discussions when the hearing is reconvened. Sufficient time will be allowed for the employee (and companion, if applicable) to read and review these notes before proceeding.

If such witness notes provide new or significant evidence not previously submitted, reasonable time will be permitted for the employee (and companion, if applicable) to digest and consider their response before reconvening and completing the hearing (including providing counter-evidence or requesting further information). This could mean reconvening at a future date.

Should there be any dispute on adjournments, the ultimate decision lies with the Chair.

4.5 Disciplinary Hearing Notes

Written notes will be taken of formal Disciplinary or Appeal Hearing proceedings and provided as an accompaniment to procedural documentation within 5 working days of the hearing.

The employee has the right to review and amend any of the notes, which must be returned to the Chair within 2 working days of receipt. However, if there is any dispute over the accuracy of any statements within the notes, both records will be kept and used as separate pieces of evidence along with the submitted comments. The ultimate decision lies with the Chair.



5 Formal Stages of Disciplinary Action

Following a Disciplinary Hearing, if it is established that employees have committed a disciplinary offence, the following stages of action will be taken.

STAGE 1: First Written Warning

Where a First Written Warning is issued, employees will be advised in writing of the following:

- The specific reason(s) for the disciplinary warning
- The change in behaviour / conduct required and how this will be reviewed and monitored
- The timescale over which improvement is to be achieved
- The consequences if the terms of the First Written Warning are not satisfied
- The right to appeal against the decision

A First Written Warning will be placed on an employee's personal record for a period of 12 months, at which point it will expire, subject to ongoing satisfactory conduct during the period. Any further misconduct (or a repeat of the behaviour that led to the warning being issued) during the lifetime of this warning will be dealt with in accordance with this disciplinary policy and procedure.

STAGE 2: Final Written Warning

Failure to improve conduct, repeat of the conduct for which a First Written Warning has previously been issued, or a first instance of serious misconduct (i.e. wilful or deliberate misconduct, continuous poor conduct / performance or an incident with serious impact on the councils or colleagues) will result in a Final Written Warning being issued.

Such a warning will set out:

- The specific reason(s) for the disciplinary warning
- The change in behaviour / conduct required and how this will be reviewed and monitored
- The timescale over which improvement is to be achieved
- The consequences if the terms of the Final Written Warning are not satisfied, including the potential for dismissal
- The right to appeal against the decision

The Final Written Warning will be placed on an employee's record for a period of 12 months at which point it will expire, subject to ongoing satisfactory conduct during the period. Any further misconduct (or a repeat of the behaviour that led to the warning being issued) during the lifetime of this warning will be dealt with in accordance with this disciplinary policy and procedure.



STAGE 3: Dismissal

Failure to meet the requirements set out in the Final Written Warning will normally lead to dismissal, with appropriate notice or pay in lieu of notice.

A first instance of misconduct may also result in dismissal, depending on the seriousness of the impact of the alleged conduct or the impact of the conduct on the councils or colleagues.

The decision to dismiss, or to apply an alternative to dismissal (see section 5.1), will only be made when the Head of Corporate Services (or the Chief Executive or a Deputy Chief Executive, if the Head of Corporate Services is unavailable) has been informed of the case, its key details and permits this as a potential outcome. Should this be agreed, the decision to dismiss within a formal hearing can be taken by the Chair, who should be an officer at grade 11 (service manager) or above.

Should a dismissal be recommended by the Chair and permission to dismiss has not been obtained by the Head of Corporate Services (or the Chief Executive or a Deputy Chief Executive, if the Head of Corporate Services is unavailable), the hearing should be adjourned, allowing the Chair to inform the appropriate person of the case, its details and the recommended outcome. The final decision should then be communicated once the hearing has been reconvened.

The role of the Head of Corporate Services (incorporating the HR service) is to check and challenge the Chair to ensure due process has and will be followed and to uphold their decision if so. It remains the decision of the Chair to issue a sanction appropriate to the evidence that has been presented.

Employees will be informed of the reasons for the dismissal, the appropriate period of notice, the date on which the employment will terminate and how they can appeal against the decision.

Where acts of Gross Misconduct are established (see section 5.2), this would usually result in summary dismissal. In such cases, the councils reserve the right to dismiss without notice of termination or pay in lieu of notice.

The councils reserve the right to initiate action, where appropriate, at any stage of the Disciplinary Procedure, taking into account the impact and severity of the alleged misconduct.

5.1 Alternatives to Dismissal

The councils may consider alternative actions rather than dismissal.

It is possible that any such action could also be implemented in addition to a Final Written Warning.

Examples of alternative action include but are not limited to:

- Demotion
- Loss of seniority
- Transfer to another team, service or position



Any offer of alternative action will be made entirely at the councils' discretion and the council reserves the right to dismiss without offering an alternative. Should the employee not accept such an offer, the councils will enforce the dismissal decision. As this is purely at the councils' discretion, requesting an alternative to dismissal will not be considered as acceptable grounds for appeal alone (see section 6).

5.2 Gross Misconduct

On completion of the relevant procedural stages, where it is concluded that employee behaviour amounts to gross misconduct, dismissal from the councils will usually be immediate, with no consideration of alternatives as detailed in section 5.1.

Examples of gross misconduct include, but are not limited to:

- any breach of the criminal law, such as theft
- any unauthorised possession or removal of council products or property, or property belonging to another employee, client, customer, or visitor
- fraud (including making fraudulent or false expense claims), deliberate falsification of records, false declarations in connection with employment or applications for employment or any other form of dishonesty
- offering, promising or giving a bribe or requesting, agreeing to receive or accepting a bribe in connection with employment contrary to the Bribery Act 2010
- wilfully or negligently causing harm or injury to another employee, customer, contractor or visitor
- physical violence, assault, fighting, bullying, harassment or grossly offensive or aggressive behaviour or language
- deliberately or negligently causing damage to council property or to property belonging to another employee, customer, contractor or visitor
- a serious breach of the councils' policies or rules, such as Health and Safety or computer/social media usage, including acts or omissions which endanger the safety of another employee, customer, contractors or visitors
- a serious breach of customer or supplier site policies or rules
- causing loss, damage or injury through serious carelessness or gross negligence
- dereliction of duty, including sleeping whilst at work with no medical explanation or mitigating circumstance
- wilful refusal to obey a reasonable management instruction or serious insubordination
- displaying signs of being under the influence of alcohol or illegal drugs, whether consumed on or off the premises but which affects the employee's ability to carry out their job duties whilst at work
- bringing illegal drugs on to council premises or other locations whilst on council duty
- smoking on council premises other than in designated external smoking areas



- logging onto sexually explicit websites, downloading or circulating pornographic or other offensive, illegal or obscene material or using the internet or email for gambling, illegal activities or the sending of offensive emails (e.g. jokes and images) to work colleagues from your home computer in your own time
- behaviour outside of working hours or work location, whether resulting in criminal charges or convictions or not, which affect the employee's reputation or ability to perform their job duties
- persistent absence without authorisation
- discrimination against, harassing, bullying or victimising another employee, customer, contractor or visitor because of age, disability, gender reassignment, marriage and civil partnership, pregnancy, maternity, race (including colour, nationality and ethnic or national origins), religion or belief, sex and/or sexual orientation
- a serious breach of confidentiality, including unauthorised access of computer and personnel records and communication of confidential information to third parties
- a serious breach of a legal requirement in connection with employment
- bringing the councils into serious disrepute, even if committed outside of working hours

This list is intended as a guide only and is not exhaustive.

5.3 Disciplinary Hearing Outcome

Following any Disciplinary Hearing, a decision will be reached as to whether or not disciplinary action should be taken.

Employees will be informed, in writing, of the outcome within 5 working days of the hearing and notified of their right to appeal against any warning or dismissal.



6 Appeals

Employees have the statutory right to appeal against any disciplinary decision, including dismissal.

Appeals should be submitted to HR, in writing, within 5 working days from receipt of the written notification of the outcome of the hearing. The written appeal must state the grounds for the appeal, including whether the appeal is against the findings of the hearing and/or against the level of sanction imposed. An Appeal Hearing is not usually designed to re-hear the case. Unless new evidence is submitted, it will focus on the stated grounds for appeal only.

Appeal Hearings will usually take place within 10 working days of receipt of the written appeal. Should there be any delay beyond 10 working days, for example if a critical attendee is on leave, HR will notify and update the employee in writing.

Employees will be invited to attend an Appeal Hearing, chaired by an officer at grade 11 (service manager) or above not previously involved in the disciplinary proceedings. A member of HR will also be present. The HR representative will usually also take notes during the meeting, but may choose to invite a dedicated note-taker from within the HR team.

At an Appeal Hearing, employees will, as in the case of a Disciplinary Hearing, be given the opportunity to state the case for their appeal. During such proceedings, all employee rights e.g. accompaniment by a council colleague or a trade union official, reasonable adjustments and procedures as set out within this policy e.g. conduct during proceedings, prohibition of recording devices, provision of written notes etc., will apply.

Following the Appeal Hearing, the employee will be informed in writing of the appeal decision within 5 working days. If it is not possible to confirm the decision within the stated timescale, an explanation will be given to the employee regarding the delay plus an indication of when the decision will be expected.

The outcome of an Appeal Hearing is final.

6.1 Action following Appeals against a dismissal decision

Where an appeal is not upheld against a dismissal decision 'with notice', the period of notice will commence on the date as stated in the written confirmation of the original Disciplinary Hearing outcome.

Where an appeal is not upheld against a dismissal decision 'without notice' i.e. summary dismissal, the councils are under no obligation to reinstate or pay for the period between the date of the original dismissal decision and the appeal decision. In these circumstances the original date of termination will stand.

Where an appeal is upheld against a dismissal decision, employees will be reinstated with immediate effect and any owed backpay processed in the next available payroll (if applicable). In such cases, continuity of employment will be maintained.



7 Records of Disciplinary Proceedings

Notes and written outcomes from Disciplinary and Appeal Hearings will be retained on the individual's personnel file.

All written material will be stored in accordance with the General Data Protection Regulation (2016/679 EU).