

Disciplinary Procedure

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Disciplinary Procedure

These guidelines are to provide helpful information to assist the management of disciplinary issues and are not intended to amount to legal advice.

1. Introduction

This Procedure should be read in conjunction with the Disciplinary Policy.

2. Vision and Values

Our vision is for a prosperous and sustainable Cambridgeshire and Peterborough. Driven by our values and using our collective voice and strengths, we seek inclusive good growth for an equitable resilient, healthier and connected region.

Our values define what is important in the way we deliver this vision. At Cambridgeshire and Peterborough Combined Authority our core values are Collaboration, Integrity, Vision, Innovation and Leadership. We are committed to ensuring our culture enables our employees to display these values regardless of their roles within the organisation. Managers and employees alike must ensure our core values are upheld when implementing this policy.

3. Definitions

Misconduct is any unacceptable or improper behavior by an employee. Examples of misconduct are contained within Annex 1 of the Disciplinary.

For the purposes of this procedure the 'Disciplinary Manager' is defined as the line-manager except in cases where this procedure is being applied to a Director or Head of Service (Tier 1 and 2) in which case the 'Disciplinary Manager' will be the Chief Executive or any senior management staff appointed by the Chief Executive.

4. Preliminary Considerations

The Authority has an obligation to investigate any misconduct it becomes aware of.

In all circumstances where an employee is alleged to have engaged in any misconduct their line-manger ('the Disciplinary Manager') should instigate this Procedure. This should be done with guidance from their HR Representative.

Upon becoming aware of or receiving allegations of an employee's misconduct, the Disciplinary Manager should make preliminary enquiries to establish:

- Whether or not the matter can be appropriately dealt with informally;
- The general nature of the misconduct sufficient to determine whether this is likely to give rise to an allegation of gross misconduct, misconduct or both;
- The need to suspend the employee pending the outcome of the Disciplinary Procedure; and
- The form and extent of the investigation required.

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5. Informal action

Minor misconduct issues should, where appropriate, be resolved informally through discussion between the employee and the Disciplinary Manager. Where appropriate the Disciplinary Manager may issue an informal verbal warning.

A written management instruction should be kept and forwarded to HR Support in accordance with the Document Retention requirements at Section 14 of this procedure.

Where informal discussion does not resolve the issue or is not appropriate in the circumstances, the formal procedure should be followed.

6. Suspension

In some circumstances it may be necessary for the Disciplinary Manager to suspend the employee from work. Suspension is not a disciplinary penalty and does not imply that any decision has already been made about the allegations of misconduct.

Before any employee is suspended both the line manager and the HR Manager must ensure other alternative to suspension have been explored.

The following is a list of non-exhaustive examples of when the need for suspension may arise:

- where it is perceived that the employee's continued presence in the workplace could result in a risk to them, other employees, the service users or the delivery of services.
- where the employee's continued presence at the place of work is likely to impede or interfere with the investigation.
- for some other substantial concern.

The decision to suspend an employee will be carried out without delay with support from HR. The employee will be given written confirmation of the suspension as soon as possible and where possible at the point of suspension.

Throughout the period of suspension from duty, the employee will be paid full contractual remuneration.

When suspended from duty, the employee must not visit or otherwise contact the workplace, work colleagues, clients and contractors other than in compliance with proper instructions and as necessary for purposes of the investigation. If the employee needs to make contact with a work colleague or witness in order to assist with their case, then contact should be made through the HR Department.

The employee must make themselves available during normal working hours or at any other reasonable time in order to cooperate with the investigation to include attendance at meetings. Employees are not allowed to work for another employer during suspension. In cases where an employee has 2 roles within the Authority and is suspended from one. An assessment will be made by the HR Manager and relevant Director to consider if the employee should be

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suspended across both roles.

Normal leave arrangements may proceed during a period of suspension, subject to prior authorisation by the Disciplinary Manager and provided such arrangements do not in any way jeopardize the investigation.

If an employee falls sick during the period of suspension, they must notify the Disciplinary Manager on the first day of incapacity. During any period of sickness, the employee must continue to comply with the Attendance Policy.

The Disciplinary Manager shall keep periods of suspension under review and will only continue for as long as is necessary.

7. Investigation/Fact-finding

The Disciplinary Manager will determine the most appropriate means of investigation to include appointing internal or external Investigator. In all cases guidance **must** be sought from the HR Department before making this decision.

Reasonable notice will be given to the employee and all relevant witnesses subject to the fact-finding process. Any invite to an investigation meeting (either as the employee affected, the employee the grievance is raised against or a witness) should be issued with at least 3 working days' notice.

Investigations should be carried out without unreasonable delay and should incorporate both the employee's account as well as that of any relevant witnesses.

Employees must co-operate fully and promptly in any investigation. This may include providing the names of any witnesses, disclosing relevant documents and attending interviews.

Employees will not normally have the right to be accompanied at an investigative interview. However, in exceptional circumstances where an employee needs extra support, the investigating officer may at their discretion allow the employee to bring a companion who is not a work colleague or trade union representative. In allowing this support the investigation must not be unreasonably delayed.

8. Outcome

Following conclusion of the investigation, a report will be submitted to the Disciplinary Hearing Manager stating the findings and recommendations.

If there is a case to answer, the Hearing manager will schedule a Disciplinary Hearing with the employee. An invite to a hearing meeting should be issued with at least 5 working days' notice. Any supporting evidence should be provided no later than 3 working days before the Hearing.

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If it is decided that no further formal action is necessary, the employee must be informed of this and a written record forwarded to HR Support in accordance with the Document Retention requirements specified at Section 14.

9. Grievances

Where an employee raises a grievance during a disciplinary process the disciplinary process may be temporarily suspended in order to deal with the grievance.

In any circumstance where both the grievance and disciplinary procedures apply in relation to the same facts it may be appropriate to deal with both matters together. This decision will be made by the Grievance and/or Disciplinary Manager.

10. Disciplinary Hearing

If there is a case to answer following an investigation process, the employee will be invited to a Disciplinary Hearing.

Employees are expected to attend the hearing without fail. If the employee or their companion is unable to attend the meeting, they must notify the Hearing Manager as soon as possible. An alternative date should be agreed if it is reasonable and unless exceptional circumstances exist not more than 1 week after the original date proposed.

If an employee continues to be unable to attend scheduled meetings, the meeting may take place in their absence and a decision will be made on the evidence available.

The purpose of the Disciplinary Meeting is to enable the employee an opportunity to respond to the allegations of misconduct before a decision is taken as to whether any further action is required.

If at any stage it becomes apparent to the Hearing Manager that further investigation is required, the Disciplinary hearing would be adjourned to enable this.

Where dismissal is a possible outcome of the meeting, the Hearing Manager must be a Head of Service or Director.

- The Meeting will be chaired by the Hearing Manager and HR Representative will also be present to provide professional employment law and procedural advice, however any ultimate decision is that of the hearing manager. The HR representative may also serve as the note taker.
- The Hearing Manager will explain the allegations against the employee referring to the evidence that has been gathered.
- Once the evidence has been explored, and the employee has been given an opportunity to comment and respond, the meeting should be adjourned for the Hearing Manager to reach a decision.
- The Disciplinary Hearing may be reconvened on the same day, unless there are matters arising which require further consideration or investigation which will take longer than the

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remainder of the day to complete.

- Where the Disciplinary Hearing cannot be reconvened on the same day, a future date will be arranged without undue delay. In such circumstances the employee should be given written notice of the date, time and venue at the earliest opportunity and usually not less than 3 days beforehand unless otherwise agreed

Following the hearing an outcome letter would be sent to the employee within 7 days containing the following information:

- The decision made and the reasons for reaching it; and
- Confirming the employee's right to appeal and to whom.

11. Right to be Accompanied

Employees may bring a companion to any Disciplinary Hearing under this procedure. The companion may be a trade union representative or a work colleague.

Companions may make representations and ask questions but should not answer questions on the employee's behalf.

Acting as a companion is voluntary and no employee is required to fulfil this role unless they are happy to do so.

If the employee's choice of companion is unreasonable, they may be asked to choose someone else for example:

- If there is a conflict of interest or the companion's attendance may prejudice process; or
- If the companion's unavailability will cause unnecessary delays within the prescribed timeframes unless exceptional circumstances exist.

12. Outcomes

In deciding an appropriate sanction for a misconduct, the hearing manager **must** take into account, the nature and level of seriousness of the offence and the employee's history of conduct and performance, their responses, and any mitigation presented.

First Written Warning

This will remain on the employee's personal records for **12** months. The employee should be advised any further misconduct may result in proceeding to the next stage of the policy.

Final Written Warning

This will remain on the employee's personal records for **12** months. The employee should be advised any further misconduct may result in proceeding to the next stage of the policy and may result in dismissal.

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The decision to dismiss an employee can only be taken by a Head of Service, Director or above.

Examples of situations where dismissal may be an option include:

- Further misconduct where there is an active final written warning on the employee's disciplinary record. In such circumstances the employee will usually be given notice in accordance with their terms and conditions.
- Any gross misconduct whether there are active warnings on the employee's disciplinary record. In such circumstances the dismissal will usually be immediate without notice or payment in lieu of notice (summary dismissal).

Alternatives to Dismissal

In some cases, the hearing manager may consider alternatives to dismissal i.e., downgrading of the employee's role. This will usually be accompanied by a final written warning. Any such proposals must be approved by the Head of Corporate Services and should be permitted by the employee's contract and/or with the employee's agreement.

If the employee is being summarily dismissed, the Hearing Manager will arrange for the employee to be accompanied to their workstation and ensure that all CPCA property, including access cards/keys, mobile telephone and laptop computer is returned before they leave the premises. These situations will be handled in a sensitive and respectful manner.

13. Appeal

If the employee is dissatisfied with the outcome of the disciplinary meeting, they may appeal in accordance with the Appeals Policy and Appeals Procedure.

14. Document Retention

The Hearing Manager and Disciplinary Manager should forward copies of all paperwork relating to the investigation and hearing to the HR Department. Any such correspondence should be marked as 'Strictly Private and Confidential'.

Any paperwork provided will be stored and/or destroyed in accordance with CPCA's records retention and management policies.

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Governance: Disciplinary Procedure

References:
Disciplinary Process
Grievance Policy & Procedures

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| <u>Document Control Sheet</u> | |
| Purpose of document: | This policy is designed to ensure that there is a consistent approach across the authority to disciplinary procedures. |
| Type of document: | Procedure |
| Document checked by Legal | No |
| If applicable, has an initial Equality Impact Assessment (EIA) been completed? | Yes |
| Document lead and author: | The HR Team |
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| What other documents should this be read in conjunction with: | Documents listed in the Procedure |
| Who will review the document (job title): | The HR Team |
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| Mandatory Read | Yes |

Revisions

| Version No. | Page/ Paragraph No. | Description of amendment | Date approved |
|-------------|---------------------|---|---------------|
| 2 | | Changes made in line with statutory updates. Number of days notice for investigation reduced to 3 days (witness and subject). Number of days notice for hearing and supporting documentation specified. | March 2023 |
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