

Disciplinary Procedure

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1.0 Introduction

This policy is designed to ensure that fair and effective arrangements exist for dealing with employee conduct and disciplinary issues and to encourage all employees to achieve and maintain acceptable standards of conduct and behaviour.

Shropshire Council expects lawful, appropriate and acceptable standards of work and behaviour whilst on Shropshire Council business (either on or off Council premises) which support the efficient operation of the Council's business and the safety and security of its staff, property and its service users. In addition, employees should be mindful of their conduct outside of employment if it is potentially damaging to the reputation of Shropshire Council and are expected to uphold the [Code of Conduct](#).

Shropshire Council reserves the right to discharge, without exhausting the full procedure for employees with less than 12 months service if their level of conduct within their role at Shropshire Council is not satisfactory.

2.0 Scope

This policy applies equally to all employees of Shropshire Council, with the exception of posts that form part of a school establishment and is designed to assist and encourage all employees to achieve and maintain acceptable standards of conduct and behaviour.

Except where indicated, this policy is not contractual and does not confer any legal rights on employees. The following procedure outlines the process which will be followed in most instances. However, the Council reserves the right to adapt and amend the process according to exceptional circumstances of the disciplinary issue.

The Capability procedure should be followed in situations where the work performance is not meeting the required standard due to the employee's lack of skills and/or aptitude to do the job or because their general work performance has deteriorated. Where, however, an employee's performance is believed to be unsatisfactory because of a deliberate failure or refusal on their part to perform at the required standard, then this will be treated as a disciplinary offence to be dealt with under this policy.

3.0 Aims and Objectives

The aims of this policy are to ensure that:

- The Council meets all relevant legal requirements regarding disciplinary decisions it takes in relation to employees.
- Employees are treated in a fair and consistent manner in relation to unacceptable conduct or behaviour issues through an agreed process.
- Managers are supported in carrying out their responsibilities for the maintenance of high standards of conduct of all Council employees and that standards of conduct of individual employees are improved, wherever necessary and practicable.
- All facts are gathered, and a fair and reasonable investigation is carried out.
- Where the facts are in dispute, no disciplinary penalty is imposed until the case has been carefully investigated.

4.0 Management Responsibilities

Ensuring that employees understand expected standards of conduct, the Council's code of conduct, practices and procedures and local rules or regulations specific to the job or service area. **An example of this is Social Work England with respect to registration and fitness to practice of Social Workers.**

To consult with the relevant HR Adviser for advice and assistance on disciplinary issues prior to taking any formal action.

Developing a culture where employees are supported and assisted in achieving/maintaining the required standards of conduct and behaviour.

Throughout normal day to day management meetings e.g. one-to-ones and/or supervision, to address and resolve work conduct issues informally and promptly as appropriate. The manager is required to make notes of dates, circumstances and advice given, and to provide a copy of the notes to the employee.

To inform the employee if there is a risk of formal disciplinary proceedings should the employee fail to meet any requirements for future behaviour. **This does not however constitute part of the formal disciplinary process and is not recorded on the employee's personal file.** It is the Line Managers responsibility to keep notes of this discussion which may form part of Supervision, one-to-one meetings or Performance Appraisal. The Line Manager will decide where these notes are saved locally, using the suitable tools available in line with GDPR legislation.

5.0 Employee Responsibilities

Employees are responsible for adhering to the Shropshire Council Code of Conduct, the Disciplinary policy, Council Policies and Procedures and any local rules, relevant professional standards and regulations including any reasonable management instruction

Social Workers are also responsible for adhering to Social Work England standards with respect to registration and fitness to practice.

Employees are responsible for cooperating with disciplinary investigations, interviews and hearings convened in accordance with this policy.

Where an employee is a member of UNISON, GMB or UNITE they are advised to contact their representative at their earliest opportunity. The union representative will advise and support their member during the process.

6.0 Disciplinary Procedure

6.1 Informal Stage

An initial informal discussion is often more effective in dealing with minor conduct issues rather than a formal disciplinary investigation. If a manager has concerns about an employee's conduct, they should meet to discuss their concerns.

The employee will be reminded of the expected standards of conduct required and given an opportunity to explain their conduct and any mitigating circumstances. The manager will advise when the matter will be reviewed which should generally be within

three months. Should further issues arise before the review date, the manager may take further action before the timescale has elapsed.

Notes of the discussion are to be recorded and retained by the manager with a copy made available to the employee. The manager will decide where these notes are saved locally, using the suitable tools available in line with GDPR legislation.

The notes should confirm:

- The nature of concerns discussed;
- The required standard of conduct;
- The employee's comments made at the meeting;
- Any training, support or additional supervision that is to be provided;
- The likely consequence of further breaches of conduct.

Informal discussions may not always be the most appropriate action. Where a manager is uncertain as to whether or not informal action is appropriate, they should seek advice from their HR Officer.

6.2. Suspension

The allegations will be considered and if appropriate, a suspension risk assessment will be undertaken. This will review potential risks of allowing the employee to continue to carry out their job, or if any restrictions need to be implemented, up to and including suspension. The decision to suspend is seen as a neutral act and does not imply guilt, but to ensure a fair and thorough investigation can be undertaken. Suspension during an investigation is not disciplinary action or pre-judgment of the issue. The Council may suspend the employee under investigation on full pay, or look to redeploy on a temporary basis. The period of the suspension shall be for the duration of the investigation or such other period as the Council may reasonably decide. The Council will seek to ensure that suspension with pay is for the shortest period reasonably possible and consistent with completion of the investigation and any disciplinary action. The period of suspension will be reviewed by the Service Area Director/ Assistant Director in conjunction with Human Resources after a period of ten working days, and subsequently reviewed on a monthly basis, unless new information comes to light during the course of the investigation, prior to the next scheduled review date. The employee on suspension will be informed in writing of the progress of the case.

If the Council decides that suspension is not required in any case, this has no bearing upon the view which the Council may ultimately take of the seriousness of the offence or sanction which it decides to impose.

A suspended employee will be assigned a Support Officer who will be their first point of contact for support and the purposes of obtaining information in order to prepare their case.

At all times, managers must be mindful of the dignity of the employee and the stress that can be caused by a suspension. For example, if an employee is to be escorted from the premises this should be done with the minimum of fuss, in a time and manner that does not draw unnecessary attention. The Council will ensure that employees are informed prior to the commencement of the suspension meeting, that if they are a

member of a Trade Union, they are entitled to have a Trade Union Representative present, should they wish, at the suspension meeting.

When an employee has been suspended, the manager should consider the implications of maintaining the individual's access to IT systems and networks. The suspended employee should surrender their Council ID, along with all council owned electronic equipment. The manager should discuss the circumstances of the suspension with their HR Officer.

6.3 Formal Stage

6.3.1 Investigation

A full and impartial investigation must be undertaken if the manager considers:

- Informal discussion is inappropriate in view of the potential severity of the allegation;
- Informal discussion has already taken place, but the misconduct has been repeated or has persisted.

It is critical that investigations are carried out in a prompt and thorough manner. It is particularly important to interview witnesses promptly, before memories fade and to avoid unnecessary delay for the individual under investigation.

The disciplinary investigation will be initiated by a Hearing Officer who will appoint an Investigating Officer who will report to them. In all cases, it will be the Hearing Officer who will conduct the disciplinary hearing, where this is deemed necessary. The employee will be informed of who the Hearing Officer will be and will be able to raise any concerns about this during the process.

The employee under investigation will normally be informed verbally first and then in writing:

- That an investigation is being carried out;
- The nature of the complaint or allegation under investigation;
- The name of the Investigating Officer leading the investigation;
- Their right to be accompanied at investigation meetings by a Trade Union Representative or work colleague;
- The employee will be provided with a copy of the Council's Disciplinary Procedure.

Where employees undertake 'regulated activity' as part of their job, as defined by the Disclosure and Barring Service (DBS), Shropshire Council has an obligation to notify the DBS of any cases of alleged abuse of children or vulnerable adults. Where a formal hearing relates to a care issue involving an allegation by a service user, it will be heard by a panel of three members, chaired by the Hearing Officer.

The Investigating Officer will make a thorough investigation of the areas of concern relating to the employee. They will collate evidence, which will include carrying out interviews and taking statements from relevant parties and preparing this evidence for possible presentation at a formal hearing. Whereby the evidence is an inappropriate image(s), the image(s) should not be included in the investigation report and be replaced by a statement confirming that the image(s) are deemed inappropriate and made available for viewing only by the employee and/or their representative. The

Investigating Officer will prepare a written report for the Hearing Officer setting out the facts arising from the investigation, including signed statements from the interviewees. The Investigating Officer will not make recommendations within the report.

The Hearing Officer will receive the report from the Investigating Officer and decide whether a formal hearing is necessary. The Hearing Officer will be responsible for managing the disciplinary procedure and, if deemed necessary, conducting the formal hearing and will have delegated authority to deal with any outcome of the procedure, including dismissal.

Whereby an individual has requested anonymity during an investigation, the Council will endeavour to protect their identity. It must, however, be appreciated that the investigation process may reveal the source of the information and a statement by the employee may be required as part of the evidence.

6.3.2 Notification of Disciplinary Hearing

Upon completion of the investigation, a formal disciplinary hearing will be convened if the Hearing Officer believes there is a disciplinary case to answer.

The hearing will be chaired by the Hearing Officer, who will be assisted by a HR representative. The HR representative will provide guidance on procedural aspects of the process.

The Hearing Officer, at least five working days prior to the hearing, will notify the employee that they are required to attend a disciplinary hearing. The letter instructing the employee to attend the disciplinary hearing should:

- Set out the date, time and place of the hearing and the name/s of those attending the hearing;
- Confirm the nature of the allegation(s) and how they breach Council Policy.
- Advise the employee of their right to be represented at the hearing by either a recognised Trade Union representative or a work colleague;
- Advise of the names of any witnesses intended to be called and copies of any documents or statements which will be produced. This will include the investigation report;
- Provide copies of any documentation material that will be relied upon at the disciplinary hearing.

6.3.3 Attendance at Disciplinary Hearing

Only the following people may attend a disciplinary hearing:

- The employee facing disciplinary action;
- The employee's representative;
- The Hearing Officer;
- A HR representative who shall act as support to the Hearing Officer;
- The Investigating Officer;
- A HR representative who shall act as support to the Investigating Officer;
- A note taker;
- A translator /other support (as described below);
- Any witnesses invited to attend (who shall remain only for the duration of their evidence).

The employee must make all reasonable efforts to attend any disciplinary hearing. If the employee fails to attend without proper excuse, and is unable to substitute a proposed alternative date within five working days of the original hearing date, then the Council may proceed with the hearing in the employees' absence and draw such inferences as are appropriate from the material in its possession and from their absence.

If an employee's ability to represent themselves is hindered in any way, for instance due to a disability or lack of fluency of the English language, then they should notify Human Resources immediately. The Council will then consider what steps it can take to ensure the employee is not unreasonably disadvantaged during the disciplinary process.

6.3.4 Representation

If the employee is asked to attend a disciplinary hearing (or any meeting at which the possible termination of their employment is to be discussed) the employee has the right to be accompanied either by a work colleague or represented by a Trade Union representative.

The Council will arrange a date for all meetings to take place. If the employee's chosen representative cannot attend on the proposed date, the employee can offer an alternative time and date so long as it's reasonable and falls within five working days after the date proposed by the Council.

Where an employee/witness is accompanied at an investigation meeting, it should be made clear that the role of the person accompanying them is to provide support, ensure adherence to due process, but not to speak on behalf of the witness.

The Council does not regard it as a reasonable request for an employee to be accompanied by another worker against whom the same disciplinary allegations have been raised or who is otherwise involved in the subject matter of the allegations.

6.3.5 Conducting the Disciplinary Hearing

The Hearing Officer will outline the purpose of the disciplinary meeting and invite those present to make introductions and explain their role. The Hearing Officer will invite the Investigating Officer to present their report. The employee will be given the opportunity to respond, as will the employee's representative. The employee may be asked to reply to related questions and confirm final responses.

Having considered everything they have heard at the disciplinary hearing, the Hearing Officer shall consider whether the procedure has been correctly applied, and if so, whether any disciplinary charges have been proven on the balance of probabilities. Where the disciplinary allegations have been found proven, the Hearing Officer will consider whether or not to apply a disciplinary sanction.

Once confirmed all parties are satisfied that they have had the opportunity to communicate what they want to say, the hearing will be closed, and the Hearing Officer will consider the information presented as part of the investigation.

The Hearing Officer will inform the employee of their decision, which may result in a disciplinary sanction. The employee will be sent a response in writing within two working days from the date of the hearing. In some cases, further information may be required by the Hearing Officer which will exceed the two working days; however, this will be communicated to the employee.

Notes of the meeting will be taken by a note taker. These will not be verbatim but should accurately reflect the content of the meeting and will be shared with all present as soon as possible, and usually within ten working days of the hearing.

The employee and/or their Trade Union representative will then have ten working days to consider the decision, and to make an appeal in writing to the HR representative who supported the Hearing Officer if they disagree with the outcome.

6.3.6 Disciplinary Hearing Outcomes

The possible outcomes of a hearing are:

- No further action
- Stage 1 - First Written Warning
- Stage 2 - Final written warning
- Dismissal with notice
- Summary dismissal (without notice)

No further action

If no further action is to be taken, this must be clearly indicated in the letter confirming the decision. The Hearing Officer may feel it is appropriate to set out expected standards of behaviour in order to avoid further allegations, which may lead to disciplinary action. This does not however constitute a written warning. The Hearing Officer should set out a monitoring period for reviewing progress.

Stage 1 – First written warning

For more serious offences, the employee will be given a first written warning which will set out the duration of the warning, nature of the offence and the likely consequences of any further offences.

A first written warning will remain in force for a period of time as determined by the Hearing Officer, but not exceeding six months from the date on which it was given.

If an employee is absent from work for a continuous period of one month or more; the circumstances of the employees absence will be considered by the Hearing Officer, supported by Human Resources and the duration of any warning may be extended by the amount of time that they are absent.

Stage 2 – Final written warning

For very serious offences, falling short of gross misconduct, or if the employee has committed a further offence of a similar nature during the period covered by a previous first written warning, the employee will be given a final written warning. This will set out the duration of the warning, nature of the offence and the likely consequences of any further offences.

A final written warning will remain in force for a period of time as determined by the Hearing Officer, but not exceeding twelve months, except where an employee has committed serious harassment or bullying; in these cases, the period may be extended up to a maximum of 24 months.

If an employee is absent from work for a continuous period of one month or more; the circumstances of the employee's absence will be considered by the Hearing Officer, supported by Human Resources and the duration of any warning may be extended by the amount of time that they are absent.

Stage 3 – Dismissal with notice/summary dismissal

For offences of gross misconduct or gross negligence, or if the employee has committed a further offence of the same nature during the period covered by a final written warning, then the employee may be dismissed. In the case of gross misconduct or gross negligence, dismissal will generally be without notice and notice pay at the discretion of the Hearing Officer.

Misconduct

The following list, which is not exhaustive, provides examples of conduct and behaviour which are regarded as misconduct:

- First breach of Council rules, Code of Conduct or HR policies/ procedures;
- Failure or refusal to obey a reasonable management instruction without good reason;
- Maliciously raising a grievance or making an allegation against another employee;
- Breach of health and safety rules

Gross Misconduct

The following list, which is not exhaustive, provides examples of conduct and behaviour which are regarded as gross misconduct:

- Words or acts that breach the Council's Code of Conduct, equal opportunities including any form of unlawful discrimination, victimisation or harassment;
- Offences of dishonesty, whether or not for personal gain, including but not limited to:
 - Theft,
 - Fraud,
 - Deliberate falsification of records, reports, documents, accounts, expense claim forms, self-certification forms,
 - Abuse of the hours of work policy,
- Fighting, physical violence, assault on another person;
- Unauthorised absence;
- Falsification of a qualification that is a stated requirement of the employee's employment or results in financial gain to the employee;
- Data protection breaches, disclosure of company documents, trade secrets or other confidential information to unauthorised third parties;
- Abandoning duty without notification;
- Wilful, malicious or deliberate damage to Council premises or property;
- Serious incapability at work brought on by alcohol and/or illicit drugs or being found in possession of the same;

- Possession, custody or control of illegal drugs on the organisation's premises, and/or the use or distribution of illegal drugs while working;
- Gross negligence or breach of health and safety rules which may cause unacceptable loss, damage or injury;
- Unauthorised access to computer records and/or misuse of the computer, email or internet facilities;
- Malicious transmitting of confidential information pertaining to the organisation;
- Deliberate negligence which causes or may cause unacceptable loss, damage or injury;
- Racial or sexual abuse or bullying and harassment;
- Failure to disclose a pecuniary interest which prejudices a decision or action taken by or on behalf of the Council or other bodies;
- Conviction of a criminal offence which adversely affects the reputation of the Council and its interests that is relevant to the employees employment (subject to the nature of the offence);
- Using social network sites to make derogatory comments about other organisations or individuals in relation to their employment/ work activity;
- The posting of photographs on social networking sites, or the distribution of photographs, that could bring the Council or/and its Officers into disrepute and/or harm;
- Indecency;
- Gross insubordination;
- Misuse or abuse of social media in and outside work;
- Deliberately accessing pornographic, offensive or obscene material;
- Making covert recordings of colleagues or managers;
- Conduct that brings the organisation's name into disrepute;

If Shropshire Council is satisfied that gross misconduct has occurred, the individual may be summarily dismissed without notice or payment in lieu of notice at the discretion of the Head of Service/Director.

6.4 Social Work England – Fitness to Practice

This applies where an employee's role is identified as a protected title and subject to Social Work England registration and regulation of their fitness to practice to work, for relevant professional bodies such as Social Workers.

It should be noted that fitness to practice is not just about professional performance, it also includes acts by a registrant, which may affect public protection, or confidence in the profession or the regulatory process. This may include matters not directly related to professional practice.

Every case will be considered individually, however further to Social Work England guidance in respect of fitness to practice, the following list provides examples of conduct and behaviour which might impact on a registrant's fitness to practice and/or may also be considered under the disciplinary process (but are not limited to):

- Dishonesty, fraud, or abuse of trust;
- Exploitation of a vulnerable person;
- Failure to respect service user's rights to make choices about their own care;

- Failure to deal with health problems which may affect the safety of service users;
- Hiding of mistakes or attempts to block an investigation;
- Improper relationship with a service user;
- Reckless or deliberate harmful acts;
- Serious or persistent failure to meet professional standards including Social Work England standards;
- Involvement in sexual misconduct or indecency (including any involvement in child pornography);
- Substance abuse or misuse problem;
- Violent or displayed threatening behaviour;
- Other, equally serious activities which affect public confidence in their profession.

Additional information and guidance is available at <https://www.socialworkengland.org.uk/>

Where a relevant professional body is suspended or dismissed on grounds of misconduct or professional capability, their Head of Service must ensure that Social Work England is notified. Likewise, if a Social Worker's registration has been suspended by Social Work England, they must ensure their Head of Service is notified.

6.5 Sickiness During Disciplinary Proceedings

The Council recognises that it can be stressful to be notified of a disciplinary investigation or to be called to a disciplinary hearing and that an employee may go off sick. However, the Council has an obligation to conduct a thorough investigation into alleged misconduct and to proceed with investigations and disciplinary hearings promptly and without undue delay.

During the disciplinary process, the Council will look at the timing of any absence and the stated reason. Support is available for employees who are subject to disciplinary proceedings and it will therefore not be considered acceptable for an employee to go off with stress or any other related medical condition as soon as they are aware that they have been made subject to disciplinary proceedings.

As appropriate, advice may be sought from Occupational Health and/or other medical practitioners, in order to establish the individuals' ability to participate in the process, which includes attendance at investigation meetings and disciplinary hearings whilst they are off sick.

If an employee's illness is physical, then a reasonable time for postponement of an investigation meeting or disciplinary hearing will be given.

Employees who are off sick may also be given one or more of the following options, as appropriate:

- Sending a representative in their place;
- Sending written submissions;
- Attending at a neutral location (not on Council premises)
- Attending a virtual meeting

6.6 Allegations concerning a Trade Union representative

This procedure applies in full to Trade Union Representatives. Where allegations concern a Trade Union Representative, no formal action should be taken until the case has been notified to the full-time official of the union concerned, after obtaining the employees agreement.

6.7 Appeals

6.7.1 Appeals Procedure

An employee has a right of appeal against any disciplinary action taken. This will be confirmed in the letter, from the Hearing Officer, notifying the individual of the outcome of the disciplinary hearing.

Appeals should be submitted, in writing, to the Hearing Officer within ten working days of receipt of the outcome letter. The appeal letter should clearly state the reason for the appeal and the points in dispute.

Appeals against dismissal, will be heard by an appeal committee comprising of three elected members, supported by a HR representative who has not previously been involved in the case. The Appeal Hearing will be arranged, where possible, during the employees notice period and within a maximum period of 12 weeks from the date of appeal.

All other appeals should be heard by a manager, normally senior to the Hearing Officer who has not previously been involved in the case. Where the Hearing Officer is the Chief Executive, the appeal will be heard by an appeal committee comprising of three elected members, supported by a HR representative who has not been involved in the case.

Appeals will be based on the points in dispute from the employee who raised the appeal, provided that they are relevant to the disciplinary case.

6.7.2 Procedure to be followed prior to Appeal

The HR Adviser will write to the employee to acknowledge receipt of the appeal. They will then make the necessary arrangements for an appeal meeting: identifying an Appeal Hearing Officer, suitable date/time and venue, etc. The details will be communicated to the employee at least ten working days before the date for which the Appeal Hearing is scheduled. The letter will inform the employee of their right to be accompanied by a trade union representative or work colleague and will include a copy of the appeal procedure.

The employee will be asked to confirm their intention to attend the Appeal Hearing and whether they will be accompanied and if so by whom.

The employee (or their representative) and the original Hearing Officer must submit to the HR Adviser, at least five working days in advance of the Appeal Hearing, any new documentation and the names of any witnesses it is their intention to call. The HR Adviser will forward this information to the Appeal Committee/ Appeal Hearing Officer.

6.7.3 Procedure to be followed at Appeal Hearing

The Chair of the Appeal Committee/Appeal Hearing Officer will introduce those present, and confirm the status and purpose of the hearing, and the procedure to be followed.

The Chair will inform all parties that the hearing may be adjourned at any stage at the request of either side, depending on the nature of the request.

The original Hearing Officer will present a report setting out the evidence leading to the decision taken. Previous evidence agreed between the parties prior to the Appeal Hearing and given in advance to the Appeal Committee will not be re-presented.

The original Hearing Officer will call such witnesses as may be necessary. However, any witnesses whose evidence is not challenged will not be called.

The employee and the representative may ask questions of any witnesses called.

The original Hearing Officer or their adviser may re-examine the witnesses.

The employee or their representative will make a submission as to why the decision taken should not be upheld.

The employee or their representative will call such witnesses as may be necessary. However, any witness whose evidence is not challenged will not be called.

The original Hearing Officer or their Adviser may ask questions of the witnesses and of the employee.

The employee or representative may re-examine the witnesses.

Members of the Appeals Committee/Appeal Hearing Officer and their adviser may ask questions of the parties or witnesses at any stage but will seek to confine questionings until after questioning of the witnesses by the parties is completed. The witnesses will leave once all questioning is completed.

The original Hearing Officer will be invited to make a closing statement.

The employee or their representative will be invited to make a closing statement.

The Chair will ask all parties (with the exception of the HR Adviser) to leave the room whilst they deliberate. At this point the Chair will inform both parties when a decision will be reached and how this will be communicated to them.

The decision will be confirmed in writing within two working days of the Appeal Hearing.

The Appeal Committee/ Appeal Hearing Officer may recall witnesses or call for further evidence on specific points. If this occurs after the hearing has taken place, both parties should be recalled and advised.

6.7.4 Procedure to be followed after an Appeal

Following the Appeal Hearing, the Chair of the Appeal Committee/Appeal Hearing Officer will write to the employee, notifying them of the outcome of their appeal, and the reasons for it within two working days. The employee should sign and return a copy of this letter as acknowledgement of receipt.

The letter should also make it clear that the decision is the final stage of the appeals procedure.

7.0 Equality Statement

This policy ensures that the Disciplinary procedure is implemented in a fair and consistent manner and in line with Shropshire Council's values and priorities and that it does not discriminate against any employee on the grounds of one or more protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation).

8.0 Data Protection

Any personal data collected will be processed in accordance with our Data Handling Policy.

9.0 Related Policies and Procedures

- Absence Management policy
- Capability Procedure
- Code of Conduct
- Grievance Policy and Procedure
- Harassment and Bullying Policy and Procedure
- Social Media Policy

10.0 Key Stakeholders

Key stakeholders for this Policy are employees, Line Managers, Human Resources and Trade Union Representatives.

11.0 Key Legislation

This policy is guided by the ACAS Code of Practice on disciplinary and grievance procedures.

12.0 Review

The policy will be reviewed at regular intervals and no later than two years after its implementation by Human Resources in consultation with Trade Unions.

Stage 1 – First Written Warning

If the conduct or behaviour is considered to be serious, or if deemed a breach of unacceptable conduct, a First Written Warning will be issued to the individual by the Hearing Officer. It will detail the complaint, the improvement required and the timescale. It will make reference to actions which may be taken under Stage 2 if the desired improvements are not made, together with the right to appeal.

A copy of the First Written Warning will be retained on the employee's personal file and disregarded for disciplinary purposes after six months, subject to satisfactory conduct and performance.

Alternative Options – To consider prior to moving towards Final Written Warning (Stage 2).

The Council may impose any or all of the following additional sanctions. These may be combined together with other additional sanctions or imposed in isolation. They will normally be combined with a warning issued at the appropriate level. The power to impose the following disciplinary sanctions forms part of the employee's terms and conditions of employment.

(a) Temporary or permanent transfer to another role, or location (with agreement of an Officer with delegated authority to dismiss)

The employee may be transferred on a temporary or permanent basis to work in another role, or location. The duration of any transfer and the new role/location will be set out in writing in the decision notifying the employee of the outcome of the disciplinary hearing. Transfer will normally be on the employee's existing pay and benefits (except that any change in grade, which would result in the loss). The Council, in consultation with the employee and after consideration of all relevant circumstances will not transfer the employee to work at an alternative location, which they could not reasonably reach from their permanent home address.

(b) Temporary or permanent demotion (with agreement of an Officer with delegated authority to dismiss)

The employee may be demoted on a temporary or permanent basis to another role. If demoted on a temporary basis, at the end of the period the employee will return to their substantive post. This may require the employee to work at another location or at different times. Any demotion will involve a change in the employee's terms and conditions of employment for the duration of the demotion to the terms and conditions of employment that apply to the job to which the employee has been demoted to. The duration of any demotion and the new role and its terms and conditions will be set out in writing in the decision notifying the employee of the outcome of the disciplinary hearing.

- (c) **Temporary or permanent removal of some of the employee's existing duties and/or re-assignment of new duties to the employee (with agreement of an Officer with delegated authority to dismiss)**

The Council may remove some of the employee's existing duties and may require them to carry out other duties instead on a temporary or permanent basis. This will not normally involve any change to the employee's pay. The duration of any removal/re-assignment of duties and the duties varied will be set out in the decision notifying the employee of the outcome of the disciplinary hearing.

- (d) **Compulsory training**

The Council may require the employee to undergo compulsory training (at the Council's expense) in relation to any area, which has been highlighted during the disciplinary process. For example, any employee found to have committed a breach of equal opportunities rules may be required to undergo equal opportunities training. Failure to undergo the training or to participate in it fully and willingly will constitute a further disciplinary offence. The Council will take into account the fact that the employee has been trained in that particular area in relation to any other disciplinary offences which the employee may commit in deciding what sanction to impose in relation to those other offences. The nature of the training required and date by which it must be completed will be set out in the decision notifying the employee of the outcome of the disciplinary hearing.

Stage 2 – Final Written Warning

If there is still a failure to improve conduct or behaviour, or where there is misconduct or behaviour of a sufficiently serious nature to warrant more than a First Written Warning but is insufficient to warrant dismissal, then a Final Written Warning (Stage 2) will be given. This will detail the complaint and will warn that, without the desired improvement in performance or conduct within the timescale indicated, then Stage 3 of the process will be initiated, and dismissal will be considered.

A copy of the Final Written Warning will be retained on the employee's personal file and disregarded for disciplinary purposes after a specified period of at least 12 months, subject to satisfactory conduct and performance.

Alternative Options – To consider prior to moving towards Dismissal

The Council may impose any or all of the following additional sanctions. These may be combined together with other additional sanctions or imposed in isolation. They will normally be combined with a warning issued at the appropriate level. The power to impose the following disciplinary sanctions forms part of the employee's terms and conditions of the employment.

- (e) **Indefinite Final Warning for serious harassment or bullying**

If the employee commits a serious act of harassment or bullying on grounds of sex, race, disability, sexual orientation, religion or belief or age for which they could have been but are not dismissed then (in addition to any other sanction imposed) the Council may issue a Final Warning which will last indefinitely. The

effect of this Final Warning is that if the employee commits any future act of harassment or bullying on these grounds (of any level of severity) then they may be dismissed. This type of warning marks the seriousness with which the Council regards discriminatory acts of harassment and bullying and the importance it attaches to compliance with equal opportunities rules. The warning is only indefinite with regard to discriminatory acts of harassment or bullying. It is not indefinite in relation to any other disciplinary offences, which will fall within whatever other disciplinary warning was issued at the same time. The indefinite nature of the warning and the circumstances which will result in a breach of this warning will be set out in the decision notifying the employee of the outcome of the disciplinary hearing.

Stage 3 – Dismissal

If conduct or behaviour remains unsatisfactory and the employee still fails to reach the prescribed standard, then dismissal will normally result. In this circumstance, only an Officer with the authority to dismiss can make the decision. The employee will be provided with written reasons for the dismissal, together with the date on which employment will terminate and information regarding the right of appeal.

The procedure is cumulative where a breach in conduct or behaviour for the same offence occurs. An employee cannot at the same time be issued with two warnings of the same level. Where an employee commits for example an act which warrants a First Written Warning with an existing First Written Warning on file, a Final Written Warning must be issued.

Warning that have expired will be disregarded for the purposes of future disciplinary action.

For a list of Officers with delegated authority to dismiss, please speak to your HR Officer or contact Ask.HR@shropshire.gov.uk

Appendix B. Disciplinary Procedure Flowchart

