

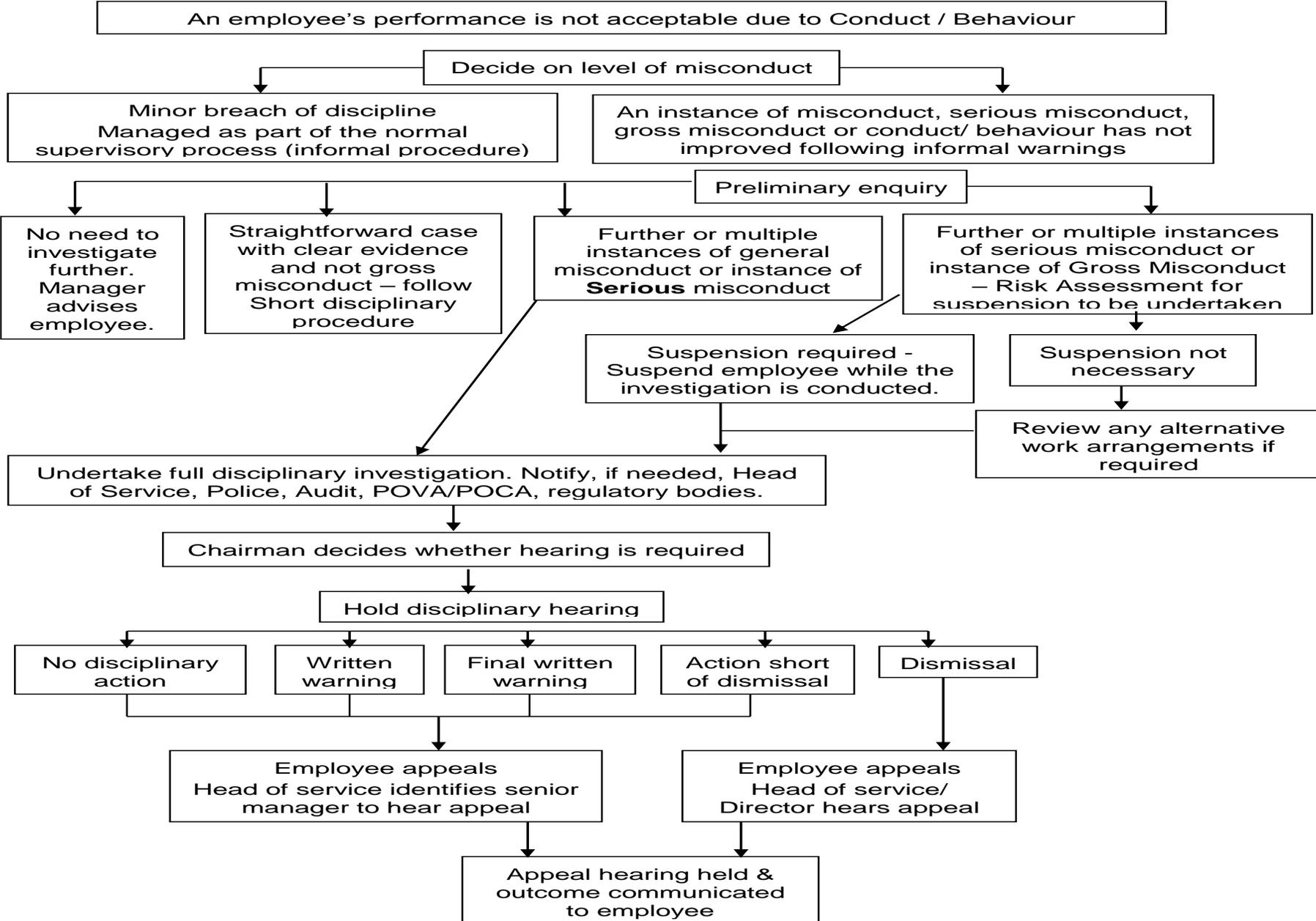


SURREY

Disciplinary Procedure



Disciplinary procedure flow chart



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Purpose

The formal disciplinary procedure provides more detailed guidance that support employees and managers in the Council in dealing with disciplinary situations. It is supported by a guidance document consisting of FAQs and template documents and letters.

This procedure should be used when preliminary enquiries indicate that there is enough evidence to suggest that some misconduct has taken place that cannot be handled through everyday management processes.

Managers should consider the following when informally managing minor breaches of disciplines:

Informal Stage

Cases of minor misconduct are usually best dealt with informally. A quiet word is often all that is required to improve an employee's conduct.

1. You should meet the employee, in the same way you would during performance conversations/supervision, and make them aware of their inappropriate conduct and the expected improvement. You do not need to wait for your next performance conversations/supervision session as early intervention can help resolve matters before they escalate.
2. Depending on the nature of the misconduct, you may wish to capture your discussion in writing to set out the agreed performance standards and support to help the employee to improve.
3. You should only keep a copy of the letter/e-mail on the employee's performance conversations/supervision file. As it is not part of the formal procedure, you should not file a copy on the employee's personnel file.

Dealing with minor misconduct informally does not form part of the formal disciplinary procedure as this should form part of the normal management process

Formal Stage – Preliminary enquiries

If informal action does not bring about an improvement, or the misconduct is considered too serious to be classed as minor, managers should inform employees that the formal disciplinary procedure will be invoked.

Managers need to establish, before starting the formal procedure, whether there is enough evidence to indicate that misconduct has taken place and that the formal procedure should be applied.

At this stage, as the preliminary enquiries stage is about gathering information for the purpose of ascertaining if there is sufficient evidence that misconduct took place. Managers should not unreasonably refuse a request from the employee to be accompanied by a trade union representative or work colleague for such a meeting

If the decision is taken to progress to the formal procedure, the employee will have the right to be accompanied at a disciplinary interview and meeting.

Formal procedures

There are two types of formal disciplinary procedures.

Following which disciplinary stage depends on the severity, frequency and general circumstances of the issue in question. There is no obligation to follow the stages sequentially.

1. Short disciplinary procedure (SDP)

- This is used to resolve relatively straight forward cases with clear evidence at an early stage that issues need to be dealt with more formally than through normal performance conversations/supervision. For example, where an employee has admitted the misdemeanour and the issue is not serious enough to be considered gross misconduct.
- **Sanction** - Brief letter of written warning
- **Timescale** – 3 months

2. Full length disciplinary procedure

- This is used if the offence is a serious one, or if a further offence occurs.
- **Sanction** –written warning/final written warning/dismissal
- **Timescale** – 12 months

Formal Stage – Investigation

The employee's line manager will normally undertake the formal disciplinary investigation and report on their findings.

- All investigatory/fact finding meetings will be fair and reasonable
- The nature and extent of the investigations will depend on the seriousness of the matter and the more serious it is then the more thorough the investigation should be.
- If a meeting is held, give the employee advance warning and time to prepare.
- Employees will have the right to be accompanied at these meetings however if this causes any unreasonable delay e.g. more than 5 days, then the investigating manager may choose to go ahead with the meeting.
- If it becomes apparent that formal disciplinary action may be needed then this should be dealt with at a formal hearing at which the employee will have the statutory right to be accompanied.

Formal Stage – Suspension

Any suspension is brief, and is never used as a sanction against the employee prior to a disciplinary hearing and decision. Always keep the employee informed of progress

- The council has the right to suspend with pay where there are reasonable grounds for concern that evidence may be tampered with, destroyed or witnesses pressurised before the disciplinary hearing, or if there is a potential risk to the business of the council or other employees or third parties in allowing the employee to remain at work.
- HR should be contacted when considering complex suspension decisions.
- The decision to suspend an employee will be made in consultation with the Director and HR Business Partner.
- Consideration should be given to alternatives to suspension, such as the employee working in a different role whilst the investigation takes place.
- This is considered a neutral act which in no way implies that the allegations are proven.

Formal Stage – Hearing and potential outcomes

Following the investigation, if there are reasonable grounds to believe that an employee has committed an act of misconduct, a formal disciplinary hearing will be arranged.

- **Written Warning – 12 months** - This would be applied as a potential outcome for relatively serious offences or if a further offence occurs following a short disciplinary hearing that requires a full length disciplinary procedure.
- **Final Written Warning – 12 months** - This would be applied for persistent failure to improve, or if the misconduct is sufficiently serious to warrant only one written warning, but insufficiently serious to justify dismissal
- **Action short of dismissal** - Where the offence is such that dismissal would normally be the outcome, but there is mitigation to warrant taking action short of dismissal, an alternative, with conditions, may be used. This may include:
 - Final written warning with a recommendation of a transfer to a post at a similar grade in the same or in another area where available
 - Final written warning with an offer of continuing employment conditional on the employee accepting an offer of a post at a lower grade without salary protection.

Where these conditions cannot be met, for example following an unsuccessful redeployment attempt, then the dismissal may still proceed.

Formal Stage – Hearing and potential outcomes

Dismissal

- If conduct is still unsatisfactory and the employee still fails to reach the prescribed standards, dismissal will normally result. The employee will be provided, as soon as reasonable practicable, with written reasons for dismissal, the date on which employment will terminate and the right of appeal.
- If an employee is dismissed for an act of gross misconduct the result will normally be summary dismissal without notice or payment in lieu of notice.

Formal Stage – Hearing and other considerations

- If an employee commits a very similar offence for which a warning has already been issued, the earlier issue will be considered for the new disciplinary matter if the previous warning is still live.
- Where a serious safeguarding concern has been raised it may be that the relevant warning or the existence of a previous investigation should never be disregarded for disciplinary purposes.
- Other sanctions that may be imposed include financial reimbursement where there has been a financial loss e.g. fraud or theft to the council.

Appeal

Employees have the right of appeal following an outcome at the hearing stage.

- If an employee wishes to exercise their right of appeal, they must do so by lodging a notice with the appropriate manager stating the grounds of the appeal within 10 working days of being notified of a decision.
- The appeal will be heard by a senior manager, appointed by the Director, who has not previously been involved in the proceedings. The Director will chair any appeal against dismissal. The decision of the chair is final.
- A decision will normally be given verbally and confirmed in writing within five working days of the appeal hearing.

Other helpful bits

This page has useful stuff

Guidance document that includes the following:

- FAQs
- Examples of general and gross misconduct
- Template Letters
- Template Investigators report
- How to... do a suspension risk assessment
- How to... chair a short and full disciplinary procedure