

# Surrey County Council

## Disciplinary Policy

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SURREY

## Disciplinary Policy

### Table of Contents

Policy Scope and Purpose .....	3
Policy Detail .....	4
1. Introduction .....	4
2. Guiding Principles .....	4
3. Defining disciplinary .....	5
4. Partnership working .....	6
5. Resolving discipline issues informally .....	6
6. Taking formal action.....	6
7. Safeguarding concerns .....	6
8. Employee Support.....	7
9. Equalities impact and review .....	7

<b>Policy Scope and Purpose</b>	
<b>Scope and Purpose:</b>	<p>The Council’s Disciplinary policy, procedure and associated guidance have been devised to ensure that lawful, fair and effective arrangements exist for dealing with matters relating to conduct and behaviour of a more serious and/or persistent nature.</p> <p><b>Aims and Objectives</b></p> <p>The objectives of this policy are to ensure that:</p> <ul style="list-style-type: none"> <li>• Employees are treated in a fair and consistent manner</li> <li>• Managers are supported in carrying out their responsibilities in maintaining high standards of conduct for all employees, and employees’ standards of conduct are improved wherever necessary and practicable</li> <li>• Issues are managed swiftly and effectively</li> <li>• The council, its employees, clients, the public and recipients of council services are protected from the consequences of misconduct.</li> </ul>
<b>Start point of the Policy:</b>	<p>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.</p>
<b>End Point of the Policy:</b>	<p>The outcome may either be one of the following:</p> <ul style="list-style-type: none"> <li>• No penalty</li> <li>• An appropriate written warning*</li> <li>• Action short of dismissal</li> <li>• dismissal</li> </ul> <p>* A restorative approach may also be taken that could also include a written warning</p>
<b>Legislative requirements:</b>	<p>The law on unfair dismissal requires employers to act reasonably. What is classed as reasonable behaviour will depend on the circumstances of each case.. However, the core principles are set out in the Acas Code of Practice which are adhered to in this policy and associated procedure.</p>
<b>Who uses this Policy:</b>	<p>Although in principle this policy applies to all employees of Surrey County Council, it will not apply to employees in the following situations:</p> <ul style="list-style-type: none"> <li>• The People, Performance and Development Committee hold responsibility for taking disciplinary action (including dismissal but see below) against Chief, Deputy Chief and Statutory Officers as defined in the Local Government &amp; Housing Act 1989 (including appointing an independent panel when required to do so).</li> <li>• Full Council has responsibility for dismissing the council’s Head of Paid Service, Section 151 and Monitoring Officers.</li> <li>• Teachers employed in schools and fire fighters have separate arrangements.</li> </ul>
<b>Roles and Responsibilities:</b>	<ul style="list-style-type: none"> <li>• Line Managers are responsible for implementing the policy in a fair and consistent manner</li> <li>• All employees will be responsible for engaging with and adhering to this policy and procedures</li> </ul>

	<ul style="list-style-type: none"><li>• Trade Unions will be consulted in regard to the content of the policy and will be reasonably available to support and represent their members</li><li>• The Human Resources team will be responsible for and providing guidance and direction</li></ul>
<b>Is there a procedure attached to this policy?</b>	Yes. The procedure provides a series of steps to be followed in a consistent way.

### 1. Introduction

- 1.1 Surrey County Council's Disciplinary Policy, Procedure and Guidance have been devised to ensure that lawful, fair and effective arrangements exist for dealing with matters relating to conduct and behaviour of a more serious and/or persistent nature.
- 1.2 The Policy and Procedure should be used, from the start, as an aid to supporting the effective management of misconduct and not purely as a mechanism for imposing sanctions.
- 1.3 Everyday issues regarding the standards of conduct and behaviour at work will be picked up during the regular communication and performance conversations/supervision between employees and their managers. This will include dealing with very minor breaches of conduct that are not considered to merit progression under this policy.

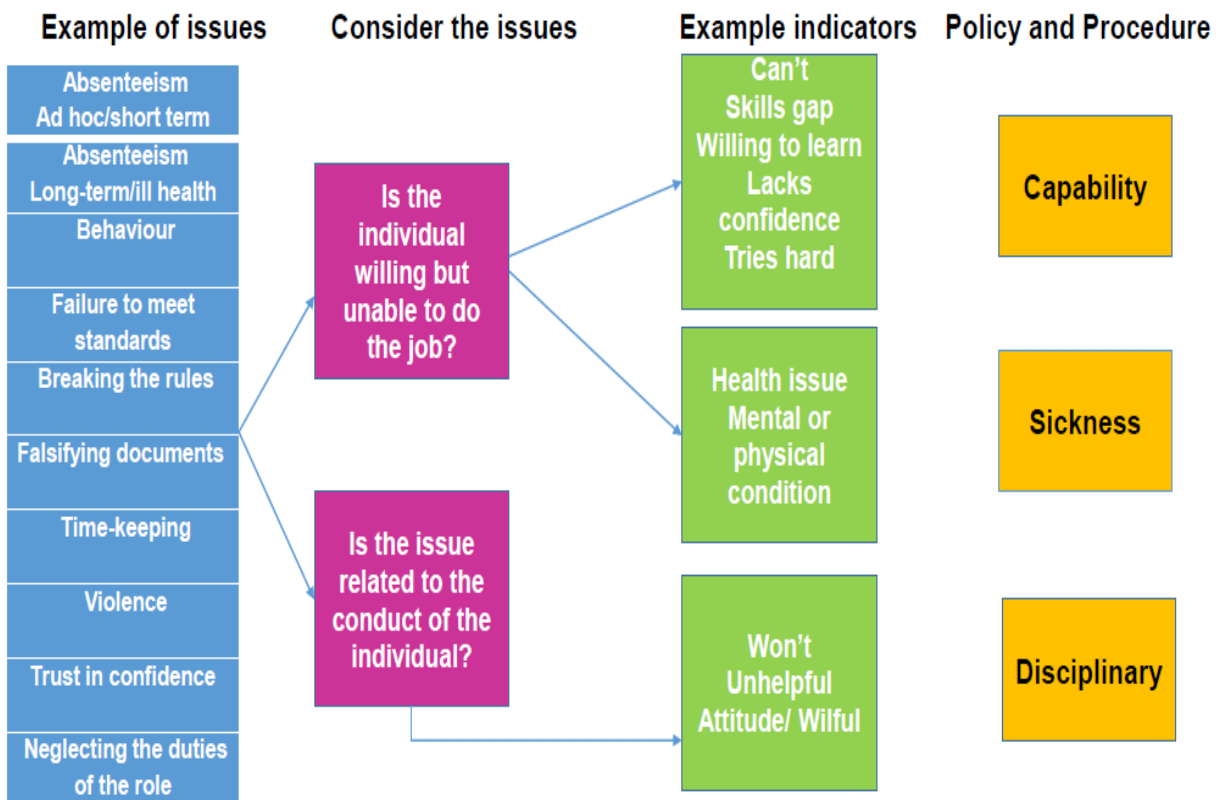
### 2. Guiding Principles

- 2.1 Employees are required to be aware of the council's values, policies and procedures and maintain appropriate standards of conduct and behaviour at all times. The following guiding principles underpin the Disciplinary Policy and should be observed in order to maximise overall benefit for the Council and its employees:
  1. No disciplinary action will be taken against an employee until the case has been fully investigated and facts established
  2. Line management intervention at an early stage will be considered, where appropriate, to resolve issues.
  3. For action under this policy the employee will:
    - *Be informed of the nature of the issue(s) of concern or case against them.*
    - *Be given the opportunity to offer an explanation before any decision is made.*
    - *Be given reasonable notice of any disciplinary meeting or hearing.*
    - *The employee will have the statutory right to be accompanied by a trade union representative, or work colleague not acting in a legal capacity at a formal meeting or hearing.*
    - *Be notified of the outcome of any disciplinary meeting or hearing in writing within the timescales set out in the disciplinary procedure.*
  4. The relevant manager will provide, where appropriate, employees with supporting evidence in advance of any disciplinary meeting.
  5. No employee will be dismissed for a first breach of discipline except in the case of gross misconduct, when the penalty will be dismissal without notice or payment in lieu of notice.
  6. An employee will be given the right of appeal against any disciplinary sanction imposed.
  7. Managers and employees will avoid unnecessary delays and seek to conclude a case within a reasonable timescale.

8. HR advice should be sought by managers in advance of any formal action being taken.

### 3. Defining disciplinary

- 3.1 Disciplinary is about managing and modifying poor behaviour/misconduct in the workplace by taking informal or formal action under the guidance of the disciplinary policy and procedure. It can also be referred to when an employee is judged capable of carrying out their role to the required standard but for some reason has chosen not to do so (can but won't).
- 3.2 The Council has separate Disciplinary, Capability and Sickness procedures, it is important to understand when each procedure would apply. The illustration below provides an outline of when each should be applied:



- 3.3 This Policy and its associated Procedure will only apply in cases of disciplinary. In circumstances where there are concerns about the performance capability or capability of an employee arising from absence due to ill health, the Performance Capability Policy and Procedure and [Sickness Absence Policy and Procedure](#) should be used.
- 3.4 Also where an employee's poor performance is believed to be the result of deliberate negligence or misconduct, or where serious errors have been made by them to the detriment of the Council, managers should use the SCC [Disciplinary Policy and Procedure](#).

#### **4. Partnership working**

- 4.1 If a conduct or behaviour issue impacts on more than one employer, every effort will be made to agree an approach that reflects best practice across the organisations involved. Managers from partner organisations will be expected to implement this policy and associated procedure when they are managing Surrey County Council (SCC) employees, with support from SCC management or HR.

#### **5. Resolving discipline issues informally**

- 5.1 Cases of minor misconduct are usually best dealt with informally. A conversation may be all that is required to improve an employee's conduct. In some cases coaching and advice may be what is needed. There will be situations where matters are more serious or where an informal approach has been tried but is not working. If informal action does not bring about an improvement, or the misconduct is considered too serious to be classed as minor, managers should refer to the formal stage of the disciplinary procedure.

#### **6. Taking formal action**

- 6.1 Disciplinary action is likely to be recommended against employees who do not adhere to the council's values and standards of behaviour as set out in the council's Code of Conduct and included in the Disciplinary Procedure.
- 6.2 Some acts, termed gross misconduct, are so serious in themselves or have such serious consequences that they may call for dismissal without notice for a first offence. Examples of gross misconduct include theft, fraud, physical violence, gross negligence and serious insubordination. Further examples are provided in the Disciplinary Procedure.
- 6.3 Where some form of formal action is needed, what action is reasonable or justified will depend on all the circumstances of the particular situation. Therefore whenever a disciplinary or grievance process is being followed it is important to deal with issues fairly. There are a number of elements to this:
- Managers and employees should raise and deal with issues promptly and should not unreasonably delay meetings, decisions or confirmation of those decisions.
  - Employers and employees should act consistently.
  - Managers should carry out any necessary investigations, to establish the facts of the case.
  - Employers should inform employees of the basis of the problem and give them an opportunity to put their case in response before any decisions are made.
  - Employers should allow employees to be accompanied at any formal disciplinary meeting.
  - Employers should allow an employee to appeal against any formal decision made.

## **7. Safeguarding concerns**

- 7.1 In cases involving serious allegations against an employee who works in a position of trust with children or vulnerable adults, the relevant safeguarding team should be informed immediately by the manager and, if appropriate, a strategy meeting set up.
- 7.2 All concerns in relation to the future employment of a person who may pose a risk to vulnerable adults or children should be made to the Disclosure and Barring Service at the conclusion of the disciplinary process. The line manager or appropriate manager, in consultation with HR is responsible for making any such referrals and ensuring they are made at the right time.
- 7.3 In cases where external referral is likely to be necessary, particular care needs to be taken to ensure good record are kept of the investigation and disciplinary process. The employee should be informed when an external referral will be made.

## **8. Employee Support**

- 8.1 All employees subject to disciplinary proceedings should be offered the support of the [Employee Assistance Programme](#) and be advised to contact their trade union representative if they have one.
- 8.2 Employers have a duty of care to all staff, particularly those who are suspended from duty, and someone outside of the disciplinary process should be appointed to act as their support and point of contact within the Council.

## **9. Equalities impact and review**

- 9.1 HR is responsible for monitoring the impact of this policy on the workforce and ensuring it is not applied disproportionately to certain staff groups. Reports showing the Equality & Diversity breakdown of cases in a Directorate should be shared at least annually with Directorate management teams. The policy will be kept under regular review and amended from time to time.