

## Disciplinary Process – Notes for Flowchart

### **1. Complaint/Allegation comes to light**

As soon as the complaint or allegation is made against an employee or the matter comes to light – **Head of Service/Team Manager** to notify Human Resources and **Chief Executive or Deputy Chief Executive Officer (as appropriate)** immediately.

- *If the problem has come to light as a result of a complaint, the complainant must be kept informed of how the complaint is being dealt with. If, after the preliminary investigation, it is determined that the matter becomes one of disciplinary action, the complainant can be informed that the matter is being dealt with under the Council's Disciplinary Policy, but **not** the outcome of the disciplinary process.*

### **2. Conduct initial investigation**

Conduct a prima facie (preliminary) investigation to determine the nature of complaint and whether a full disciplinary investigation needs to be conducted. The preliminary investigation should be conducted by the line manager **as nominated by a Head of Service/Team Manager** and may or may not involve the employee at this stage.

- *If the complaint is one of discrimination, i.e. racial, religious, sexual, disability, gender orientation, age) in all cases a full investigation must be carried out.*

### **3. Actions following outcome of initial investigation**

#### a) No case to answer

If the outcome of the prima facie investigation identifies there is **no** case to answer, the employee should be informed, **by the Head of Service/Team Manager**, that a complaint was made, the nature of the complaint and of the Council's decision not to act. The confidentiality of the complainant must be maintained at all times so the employee must not be informed of any details of the complainant where these could lead to them being identified.

The complainant should be informed that the matter has been dealt with under the Council's Disciplinary Process.

#### b) Case to answer

If the prima facie investigation identifies that there **is** a need for a full investigation. **The Head of Service or Team Manager will determine whether they wish to delegate authority to another officer (usually a line manager) to conduct the disciplinary process.** Once it has been determined who will be responsible for conducting the disciplinary process the following will take place:

(i) Consider suspension

- Consider suspending the employee (on full pay) if the nature of the alleged offence, if proven, would be viewed as gross misconduct resulting in the employee's summary dismissal or if the suspension would facilitate the investigation. A letter must be sent to the employee giving details of the rules surrounding suspension. Seek advice from **Head of Human Resources**.

(ii) Conduct an investigation

- An independent Investigating Officer will be appointed, in discussion with the **Head of Human Resources**.
- The employee will be informed verbally that a formal disciplinary investigation is to be conducted, together with brief details of the complaint/allegations made. This must be followed up in writing by Human Resources.

*NB throughout the investigation the employee under investigation should be kept informed of progress – it is the responsibility of the **Chief Executive/Deputy Chief Executive Officer/Head of Service/Team Manager or her/his nominated representative** to ensure that this takes place. They may delegate this responsibility to the Investigating Officer, but **they** must make sure that the communication is taking place.*

**4. Conduct full investigation**

The Investigating Officer will conduct the **full investigation** in accordance with the Council's procedure for carrying out a disciplinary investigation - please see the document 'Undertaking Disciplinary Investigations - Guidance Notes'.

**5. Actions following the outcome of the full investigation**

On completion of the investigation, the Investigating Officer will prepare a report for the **Chief Executive/Deputy Chief Executive Officer/Head of Service/Team Manager or her/his nominated representative**, with recommendations for action. Recommendations for action can be:

- No case to answer
- Case to answer – but merits no more than a verbal warning
- Case to answer and the matter should go to a disciplinary hearing and indicate the seriousness of the complaint/allegation i.e. misconduct or gross misconduct.

6. If the **Chief Executive/Deputy Chief Executive Officer/Head of Service/Team Manager or her/his nominated representative** agrees with the recommendations given in the Investigating Officer's report, the following actions should be taken:

(i) No case to answer –

- **Head of Service/Team Manager** to ensure that the employee is informed immediately, followed up in writing from Human Resources.

(ii) Case to answer – but merits no more than a verbal warning

- **Head of Service/Team Manager** should issue the verbal warning immediately. Human Resources should be informed and a written record of the warning will be placed on file for the determined period (this should be for no more than six months). The employee must be informed in writing, within 5 working days of the verbal warning being given, of the implications of committing further offences whilst the warning is 'live'.

(iii) Case to answer – leading to a Disciplinary Hearing

- Human Resources should be informed immediately **and assist the Head of Service/Team Manager in the setting up of** the Hearing. The employee will be informed verbally by the line manager that a Hearing will take place, followed by a letter from Human Resources. If the allegation is one of gross misconduct reconsider suspending the employee, if appropriate (see 3 above).

If, for any reason, the **Chief Executive/Deputy Chief Executive Officer/Head of Service/Team Manager** or her/his nominated representative does not agree with the Investigating Officer's decision, **the Head of Human Resources** should be consulted before the final decision is made and communicated.

The Investigating Officer must be informed of the **Chief Executive/Deputy Chief Executive Officer/Head of Service/Team Manager** or her/his nominated representative's decision prior to the decision being communicated to the individual.

## 7. **The Hearing**

If the matter is to go to formal Disciplinary Hearing the seriousness of the allegations will determine the make up of the panel as follows:

- Misconduct – the Hearing panel need not include a **Deputy Chief Executive Officer** unless the employee is a **Head of Service or a Team Manager**
- Gross Misconduct – the Hearing panel must include a **Deputy Chief Executive Officer, Head of Service or a Team Manager.**

## 8. **Decision of the Hearing Panel**

The employee should be informed verbally, by the **Chairman of the Panel** of the decision at the time of the Hearing, followed by a letter from Human Resources, within 5 working days of the Hearing.

- If, as a result of the investigation and/or hearing, shortfalls in management actions or faults in existing processes have come to light. The **Chairman of the Panel** should make recommendations to the **relevant manager and/or the Head of Human Resources as appropriate**, together with suggested timescales for each action point to avoid the offence recurring.

## 9. **Right of Appeal**

If the matter is one of **misconduct** where the penalty will always be short of dismissal, the Appeal will be heard by a Panel which includes either a **Deputy Chief Executive Officer/Head of Service/Team Manager**, whose decision is final. Should the Panel determine, after hearing all the evidence, that the dismissal of the employee would be appropriate, **they may award the greater penalty.**

If the matter is one of **gross misconduct** and the penalty is short of dismissal the Appeal will be heard by a Panel which includes a **Deputy Chief Executive Officer/Head of Service/Team Manager**, whose decision is final.

If the matter is one of **gross misconduct** and the penalty is one of dismissal the Appeal will be heard by Members, whose decision is final.

Human Resources will make the arrangements for all Hearings and Appeal Hearings.

**Revision History**      Disciplinary Flowchart

<b>Revision date</b>	<b>Summary of Changes</b>	<b>Revised by</b>
31.12.2007	New job titles following implementation of hybrid Senior Management Structure	Elaine Orchard
Apr 2008	Devolution of power from Deputy Chief Executive Officers to Heads of Service/Team Managers – following changes at DCEO level	Elaine Orchard