

Wiltshire Council Human Resources

Disciplinary policy and procedure

This policy can be made available in other languages and formats such as large print and audio on [request](#).

What is it?

This policy and procedure sets out expectations of employee conduct and ensures any disciplinary matters are managed fairly and consistently, in line with legislation.

Go straight to the section:

- When [does](#) this policy apply / When [doesn't](#) this policy apply
- [Main points](#) – employee guide
- Resolving matters [informally](#)
- [Establishing the facts](#)
- When to use [paid suspension](#)
- Conducting a [formal investigation](#)
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There is also a [toolkit of documents](#) including letter templates and guidance notes to use when following this policy.

Who does it apply to?

This policy applies to all employees of Wiltshire Council with the exception of teaching and non-teaching staff employed in locally managed schools.

In disciplinary matters relating to the conduct of the chief executive, corporate directors or service directors this policy must be read in conjunction with their NJC terms and conditions of employment and [Wiltshire Council's constitution](#).

When does it apply?

This policy will apply in cases of alleged misconduct.

It is not possible to define all acts of misconduct or unacceptable behaviour which may lead to disciplinary action.

Examples of acts which may lead to disciplinary warnings or dismissal can be found in this [guidance](#) document.

In all cases the question should be asked "Would a reasonable person be aware that disciplinary action would result from a certain act or omission?"

When does it not apply?

This policy does not apply in cases of:

- alleged incompetence, incapability or other poor performance at work which is due to a lack of skill, ability, knowledge, experience or aptitude. In these cases the [capability procedure](#) should be applied. However it does apply to poor performance due to deliberate lack of care or wilful refusal.
- absence or ill health which should be dealt with under the [absence management policy](#).
- dismissals for reason of redundancy where the [redundancy policy](#) should be applied.

Main points of the policy – employee guide

1. All disciplinary matters will be dealt with fairly and consistently.
2. All those involved in a disciplinary have a responsibility to:
 - raise and deal with issues promptly
 - not unreasonably delay meetings, decisions or confirmation of decisions;
 - behave consistently, appropriately and professionally
3. Any necessary investigations will be carried out to establish the facts of the case.
4. You will be informed of the nature of the alleged misconduct, and have an opportunity to put your case in response, before any decision is made.
5. You may be accompanied by a work colleague or Trade Union representative at any formal disciplinary meeting.

6. Your manager will make any necessary reasonable adjustments to ensure that you are treated equally – see guidance on [equal opportunities in disciplinary situations](#).
7. You will have the right of appeal against any formal decision made.

Informal stage

8. In cases of minor misconduct or unacceptable behaviour it is expected that your manager will attempt to resolve the matter informally, rather than invoke the disciplinary procedure. See [guidance for managers – informal resolution of issues](#).

Disciplinary procedure

Preliminary informal investigation meeting to establish the facts

9. Where a potential disciplinary matter arises your line manager will establish the facts of the case. If it is not appropriate for your line manager to be involved an alternative manager will be nominated by the head of service to establish the facts of the case.
10. In most circumstances this will involve holding an informal investigatory meeting with you as soon as possible after the incident occurs or is brought to their attention.
11. You will be informed that this meeting is an opportunity for you to comment on the allegation and is not, at this stage, a formal disciplinary hearing.
12. There is no right to be accompanied by a trade union representative or work colleague at this stage, although where the allegations are serious you may request to be accompanied – see guidance on the right to be accompanied.
13. Notes of the meeting will be taken (using [template](#) or other method) and an attempt will be made at the end of the meeting to seek your agreement of the accuracy of this account.
14. Following the meeting the manager will confirm to you whether:
 - they are satisfied with your response and the matter will be dropped without further investigation; or
 - a further formal investigation will be undertaken that may lead to a formal disciplinary hearing; or
 - the allegation is serious enough to warrant a period of suspension with pay whilst further formal investigations are undertaken.

Paid suspension

15. Suspension should not be undertaken without obtaining advice from an HR advisor and must be authorised by the head of service or their nominee.
16. If you are suspended it will be made clear that this is a neutral act and not a disciplinary action. You will be issued with a [suspension letter](#) and [frequently asked questions about suspension](#) document within one working day.

Formal investigation

17. Your line manager, or the manager nominated by the head of service, will take the role of investigating officer and carry out further investigations to collect evidence that may be presented at any disciplinary hearing.
18. This may include formally interviewing you again, taking statements from relevant witnesses and gathering any documentary evidence.
19. At this stage the investigating officer must inform their HR advisor that the investigation is taking place if they are not already aware. Depending on the circumstances of the case an HR advisor may attend the formal interviews.
20. If a formal investigation interview is required you will be [notified in writing](#) and will have the right to be accompanied at the interview by a trade union representative or work colleague.
21. The investigating officer will ensure a written account is kept of any formal interview (using templates found in guidance on conducting formal investigations) and an attempt will be made to seek agreement of the accuracy of this account.
22. The investigating officer will produce an [investigation report](#) summarising their findings together with their decision of whether there is a disciplinary case to answer.
23. If their decision is that there is no disciplinary case to answer the investigating officer will inform you of this in writing (using [template letter – no case to answer](#)) and the matter will be closed.

Disciplinary hearing

24. Where the investigating officer decides that there is a disciplinary case to answer they will arrange, in conjunction with their HR advisor, for a disciplinary hearing to take place.
25. You will be sent a [notification of disciplinary hearing letter](#) at least 5 working days in advance of the disciplinary hearing.
26. In exceptional circumstances (for example where the potential outcome of the case could be gross misconduct) there may be a mutual agreement to extend the minimum notice to 10 working days.

Employee responsibilities prior to the disciplinary hearing

27. If you intend to present any supporting documentation or witness statements at the disciplinary hearing these must be provided to the manager hearing the case at least 2 working days in advance of the meeting.
28. If you would like any witnesses to attend the hearing it is your responsibility to contact the witnesses and inform them of the date, time and venue of the meeting. Witnesses must approach their manager at the earliest opportunity to request time off to attend in line with the guidelines for witnesses.
29. If you are unable to attend the hearing you should inform the manager hearing the case as soon as possible. If you are unable to attend due to circumstances outside of your control the meeting will be re-arranged.
30. If you do not attend the hearing, you will be expected to contact the manager hearing the case to rearrange the meeting. If you do not make contact on or before the original hearing date your manager will attempt to contact you to establish the reason for your non attendance.
31. A further hearing date will be scheduled and you will be notified of this date in writing.
32. At this stage you will also be notified that failure to attend this hearing without prior arrangement may lead to the hearing taking place and a decision being taken, in your absence, on the basis of the available evidence.
33. If failure to attend the hearing is due to sickness absence an occupational health appointment will be arranged where appropriate to obtain advice on your fitness to attend.

Who attends a disciplinary hearing

34. The disciplinary hearing will normally involve:

Manager hearing the case	Wherever possible this will be your manager's manager. If this is not possible the service director will nominate another manager from within your service area. In the case of gross misconduct the manager must be at head of service level or above.
HR advisor	Who will advise the manager hearing the case on procedural matters.
Investigating officer	Who wrote the investigation report making the recommendation for disciplinary action and will present the management case.
Employee	Against whom the allegation is made.
Employee's representative	A work colleague, trade union representative or an official employed by a trade union.

Relevant witnesses	From either the employer's or employee's side.
Note taker	Nominated by the employer's side to keep an accurate record of the meeting.

Disciplinary hearing format

35. The hearing will follow a standard format as outlined in the guidance document [format of a disciplinary hearing](#).
36. The manager hearing the case will decide whether or not disciplinary action will be taken.
37. The decision will usually be reached immediately following the meeting, but must be made and confirmed in writing within 5 working days of the meeting taking place.
38. One of the following decisions must be taken:

The allegation is not upheld

39. If an adequate explanation has been provided, or there is no evidence to support the allegation that has been made, the manager hearing the case will issue a letter confirming no disciplinary action will be taken.
40. This letter may confirm any informal advice given to the employee by the manager hearing the case, for example guidance about future behaviour.

Stage 1 – written warning

41. Where misconduct is confirmed a [written warning letter](#) will be issued setting out the nature of the misconduct and the change in behaviour required, with timescales.
42. A further act of misconduct within 6 months would usually result in a final written warning or dismissal.
43. The written warning remains current and on file for the purposes of disciplinary for 6 months.

Stage 2 – final written warning

44. A final written warning will be issued where the misconduct is similar in nature to that for which a written warning has already been issued.
45. If the misconduct is sufficiently serious (for example if your actions have had, or are liable to have, a serious or harmful impact on another employee, service user, customer or the council) it may be appropriate to move straight to a first and final written warning.

46. A [final written warning letter](#) will be issued setting out the nature of the misconduct and the change in behaviour required, with timescales.
47. The final written warning remains current and on file for the purposes of disciplinary for 12 months.
48. You will be informed that, should there be no improvement or change in behaviour in the required timescale they may be subject to dismissal or action short of dismissal.

Action short of dismissal

49. Where misconduct is serious, but dismissal is deemed too severe to be an appropriate sanction, action short of dismissal may be taken in line with managers guidance on taking action short of dismissal.
50. Such action may be taken alongside issuing a final written warning or as an alternative to dismissal.
51. A [letter confirming action short of dismissal](#) will be issued setting out the sanctions which may include one or a combination of:
 - a period of unpaid suspension;
 - withholding of incremental progression;
 - a compulsory transfer to another team or location at no expense to the council;
 - dismissal and re-engagement on new terms and conditions with no pay protection (which may involve loss of seniority).

Dismissal

52. Dismissal may be the result of continued misconduct or failure to improve following the issue of previous warnings.
53. In the case of gross misconduct, it may be appropriate to move straight to dismissal, without issuing a prior warning.
54. Only a manager at head of service level or above, can dismiss.
55. A [dismissal letter](#) will be issued setting out the reasons for the dismissal, the date on which your employment will terminate, the appropriate period of notice and your right of appeal.
56. Where dismissal occurs as a result of gross misconduct no notice, or payment in lieu of notice, is applicable and a [letter confirming summary dismissal](#) will be issued.

Appeal

57. If you feel that the outcome of the disciplinary hearing is wrong or unjust you have the right to appeal against the decision in line with the council's appeals procedure.

58. The appeal panel, hearing an appeal against disciplinary action including dismissal, may:
- dismiss the appeal;
 - allow the appeal;
 - allow the appeal and substitute a different warning;

Special circumstances – action against Trade Union representatives

59. Where disciplinary action is being considered against an employee who is a trade union representative the normal disciplinary procedure should be followed.
60. Depending on the circumstances it is advisable to discuss the matter at an early stage with an official employed by the union, after obtaining the employee's agreement.

Special circumstances - criminal offences

61. If an employee is charged with, or convicted of a criminal offence this is not normally in itself reason for disciplinary action.
62. Consideration needs to be given to what effect the charge or conviction has on the employee's suitability to do the job and their relationship with their employer, work colleagues and customers.

Special circumstances - grievances

63. Where an employee raises a grievance during the disciplinary process the disciplinary process may be temporarily suspended in order to deal with the grievance. Where the disciplinary and grievance are related it may be appropriate to deal with both cases concurrently.

Roles and responsibilities

Investigating manager responsibilities

64. To ensure that each stage of the disciplinary procedure is followed without unreasonable delay.
65. To establish the facts of the case and, where appropriate, conduct a formal investigation. See guidance notes for undertaking formal investigations.
66. To keep your human resources advisor and relevant senior managers informed of the progress of the case, and to seek advice from them where appropriate.
67. To ensure accurate records are kept of any meetings or interviews, including arranging for a note taker to attend the disciplinary hearing.
68. To keep the employee under investigation informed about the progress of the case.

69. To make arrangements for any disciplinary hearing including ensuring attendance of all relevant parties and, where necessary, rearranging the meeting.
70. To ensure the employee receives notification of any disciplinary hearing within appropriate timescales, together with relevant documentation and written confirmation of the outcome (using appropriate template letters).
71. To present the management case at the disciplinary hearing.
72. To make any reasonable adjustments required to ensure equality of opportunity.

HR advisor responsibilities

73. To advise on policy and procedure and to ensure that the case is managed in an appropriate and timely manner.
74. To attend formal investigation interviews where appropriate.
75. To attend disciplinary hearings to advise on procedure.
76. To advise the manager hearing the disciplinary case regarding any live warnings on the employee's file.

Frequently asked questions

77. I am in the middle of conducting a formal investigation but the employee against who the allegations have been made has just been signed off as unfit to work by his GP. Can I continue to follow the disciplinary procedure or should I wait until he is back at work?
 - You should take advice from your HR advisor. You may need to postpone the investigation for a short period of time. It may also be appropriate to arrange for the employee to attend an occupational health appointment
78. I issued an employee with a written warning 7 months ago. Their conduct during the 6 month period whilst the warning was live was good but, now the warning has lapsed, their conduct has deteriorated. Do I have to issue another written warning or can I move on to a final written warning.
 - You will need to go through the full disciplinary procedure to establish the facts of the case and decide whether a disciplinary hearing should be held.

If, during the disciplinary hearing, evidence is presented to show that there is a pattern of misconduct the manager hearing the case would be entitled to look back at the employee's previous disciplinary record (including warnings which have expired) when deciding on the level of warning to give and how long this warning should remain live for.

It would not be appropriate to get into a cycle of giving multiple first written warnings for similar misconduct over a relatively short time period. It may be reasonable to escalate this to a final written warning or to extend the period for which the warning remains live.

Legislation

[ACAS Statutory Code of Practice \(April 2009\)](#)

Further advice and information

There are a number of related policies which you should be aware of:

- Capability policy and procedure
- Appeals procedure
- Absence management policy
- Redundancy policy and procedure
- Grievance policy and procedure

For further information please speak to your manager, service director or contact a member of your [HR advisory team](#).

Toolkit

- [Managers guide – taking informal action to resolve disciplinary matters](#)
- [Equal opportunities in disciplinary situations](#)
- [Examples of acts or omissions which may lead to disciplinary action](#)
- [Template letter - paid suspension](#)
- [Frequently asked questions – paid suspension](#)
- [Template letter – notification of formal investigation interview](#)
- [Template – record of formal investigation interview](#)
- [Template – investigation report](#)
- [Template letter – no disciplinary case to answer](#)
- [Template letter – notification of disciplinary hearing](#)
- [Format of disciplinary meeting](#)
- [Template letter – written warning](#)
- [Template letter – final written warning](#)
- [Template letter – action short of dismissal](#)
- [Template letter – dismissal with notice](#)
- [Template letter – summary dismissal \(no notice\)](#)
- [Flowchart - role of investigating manager](#)
- Guidance for investigating managers
- Guidance on holding a formal meeting
- Guidance on taking action short of dismissal

Being worked on by other people in policy team

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Managers Guide – Informal resolution of issues

Cases of minor misconduct or unsatisfactory performance are often best dealt with informally.

An informal conversation may be all that is required to improve an employee's conduct or performance. In some cases additional training, coaching and advice may be needed.

However where informal action does not bring about an improvement, the misconduct is repeated or where the issue is considered too serious to be dealt with informally, the formal disciplinary procedure should be followed.

Informal discussions should be:

- Held in private and away from colleagues;
- A two-way conversation aimed at resolving the problem;
- Clear - making the employee aware of what the expected standards are and giving examples of where these have not been met;
- Constructive - with the emphasis on finding ways for the employee to improve and for this improvement to be sustained;
- Specific – in terms of the timescales over which improvements are expected.

It may be useful to follow up the meeting with an email or letter confirming what was discussed and agreed. This should be copied to HR for the employee's file. You may also want to arrange a date for a review meeting.

Be careful that any informal meeting does not turn into formal disciplinary action as this would deny the employee certain right, such as the right to be accompanied.

If, during the discussion, it becomes clear that this is a more serious matter which cannot be resolved informally you should adjourn the meeting and explain to the employee that you will continue the matter under the formal disciplinary procedure.

Example:

An employee is late for work on a number of occasions causing difficulties for other people in the team who have to provide cover.

You talk to the employee who reveals that he has recently split up from his wife and he now has to take the children to school on the way to work. You agree a temporary adjustment to his start and finish times and he undertakes to make alternative arrangement to cover the school run.

No formal disciplinary action is required; however you confirm the agreement in an email to the employee (copied to HR) and arrange a follow up meeting to review the situation.

Source: [The Acas Guide – Discipline and Grievance at work](#)

Guidance for managers - Equal opportunities in disciplinary matters

Equality is not about everybody being treated in exactly the same way; it is about everybody having equal opportunities and removing barriers that stop this from happening.

Managers have a responsibility to consider whether:

- particular groups are more likely to be subject to the disciplinary procedure;
- people from particular groups may be prevented from participating fully in the disciplinary process

and to look at whether there are adjustments that can be made to overcome these issues.

Adjustments may include:

- obtaining advice from external bodies with a better understanding of a particular group (for example a particular race or religion) in order to understand why an employee behaved in a particular way;
- providing a translator or interpreter for an employee with English as a second language or a disability (such as deafness) which makes communication more difficult.

Remember that where an employee has declared a disability under the Disability Discrimination Act we have a duty to make reasonable adjustments.

Some examples of inequality in disciplinary cases include:

A part time employee is unable to arrange a meeting with their trade union representative prior to a disciplinary hearing due to the fact that they are only in the office two days a week.

It would be reasonable to agree with the employee to rearrange the date of the hearing to allow them to meet with their representative. It would also be reasonable to arrange the hearing on the employee's normal working days.

An employee with a hearing impairment is asked to attend a disciplinary hearing but states that they will find it impossible to participate.

You could ask the employee what adjustments could be made to improve their ability to participate – this could include arranging for a sign language interpreter to attend the hearing.

Further advice

We have two staff forums where staff can network and support each other:

Staff disability forum

If you have a disability or hidden impairment, your experiences will be valued in the forum. Members meet every other month to share information and resolve practical issues related to disability, as well as acting as a consultation group.

Black and minority ethnic forum

The forum is open to all employees across the council who consider themselves to be BME as well as other individuals who may be subject to discrimination and harassment on the basis of their own ethnicity, nationality or faith, or of those with whom they are associated. They also act as a consultation group.

Contact the [equality and diversity team](#) for information about accessing these forums.

Access to Work

When considering reasonable adjustments for disabled employees "[Access to work](#)" can provide advice and support to both employees and managers. Contact by telephone 02920 423 291 or textphone 02920 644 886.

More information

The council's [equality and diversity team](#) are happy to offer support on equality issues affecting any groups of staff.

Individual employees with queries can contact their [HR advisor](#).

Examples of acts / omissions which may lead to disciplinary action

- Unauthorised acceptance of gifts, presentations and awards;
- Undisclosed pecuniary interest in the council's contracts;
- Unauthorised action on behalf of the council or service;
- Public criticism of the council's decisions and/or activities connected with the employee's own work;
- Disobedience to orders (i.e. when an employee without sufficient cause disobeys, omits or neglects to carry out a lawful order whether in writing or not) including failure to observe operational regulations and policies;
- Abuse of authority and/or where an employee's conduct towards a fellow employee or a member of the public is oppressive, abusive or disrespectful;
- Unauthorised employment (i.e. engaging in unauthorised employment during hours when contracted to work for the council, or engaging in employment during off-duty hours which is detrimental to the interests of the authority);
- Misconduct, in relation to official documents (i.e. when an employee without sufficient cause destroys or mutilates any record or document made, kept or required for the purposes of the council, or alters, erases or adds to any entry in such a record or document);
- Improper disclosure of information, including the breach of the data protection act;
- Sleeping on duty;
- Unauthorised use of the council's equipment;
- Smoking within designated no smoking areas, including council property or on council owned premises, or vehicles;
- Unauthorised absence or abuse of the sickness scheme.

Examples of acts that could be deemed to be gross misconduct

- Wilful breaches of safety rules, including the use of a mobile telephone whilst driving for the purposes of work;
- Conviction of a criminal offence related to, or liable to have a serious adverse affect on the work of the employee or other employees or the credibility of the council;
- Theft and/or fraud;
- Threatening behaviour, assault or fighting;
- Deliberate and serious misuse of and/or damage to council property;
- Incapability at work brought on by alcohol or illegal drugs;
- Negligence which causes unacceptable loss, damage or injury;
- Acts of insubordination;
- Discrimination against a member of staff or the public on any grounds of sex, race, disability, age, religion or belief, sexual orientation, pregnancy and maternity; gender reassignment or marriage or civil partnership;
- Deliberate use of the council internet and/or email to access or distribute material of a pornographic, offensive, obscene or inappropriate nature;
- Bringing the council into serious disrepute.

These lists are not exhaustive. You should apply the test "Would a reasonable person be aware that disciplinary action would result from a certain act or omission?"

Template - Record of informal investigation meeting

Date:	Time:
Manager's name:	Employee's name:
Prior to commencing meeting ensure the employee is aware: This is an informal investigatory meeting to establish facts. There is no right of accompaniment but in serious cases they may be accompanied. Possible outcomes of this meeting are: <ul style="list-style-type: none">• No further action will be taken;• To undertake a formal investigation that may result in a formal disciplinary hearing;• In the case of very serious allegations or where the person remaining in post would be detrimental to the investigation/service to suspend the employee on full pay whilst the investigation is carried out.	
The reason for this meeting is (outline allegations):	
Employee's response:	
Outcome of meeting:	

Copies - one for employee, one retained by manager, one to HR for file

Template letter – paid suspension

Confidential (usually sent by recorded delivery or hand delivered)

Name

Address

DATE

Dear NAME

SUSPENSION FROM DUTY

Further to your meeting today with NAME, JOB TITLE [and ADD OTHER ATTENDEES], I am writing to confirm that you have been suspended from duty with immediate effect.

The reason for your suspension is that it is alleged [add allegations].

The suspension will continue until the investigation is complete and I can assure you there will be no unnecessary delay.

Suspension is a neutral act and is not a form of disciplinary action and you will continue to receive your normal pay during this period.

The terms of your suspension are that;

- You do not remove or retain any documents;
- You do not enter any of the council buildings and will return any keys or equipment that you have in your possession to me;
- You must make yourself available, during normal working hours, to attend any meetings connected with the investigation. You will be given reasonable notice and normally you should be prepared to attend on the day following the request;
- If for any reason you wish to visit any council premises during your suspension you must first obtain permission from myself.

Whilst you are suspended from duty you must not contact any employee of the council in the course of their employment, or visit any council premises without the specific consent of myself.

I would advise you that if you meet with colleagues outside of work and intend to discuss your suspension, this may place them in a difficult position. You should, therefore, approach them sensitively and consider whether it is appropriate to discuss the reasons for your suspension.

I advise you to contact your Union, if you belong to one. You may also, if you wish make use of the confidential Employee Well-Being Helpline available on 01225 713147 and establish whether a referral to specialist counselling would be appropriate in your circumstances.

A human resources advisor, who will have no involvement with the case, has been allocated to you to answer any procedural questions you may have and explain what the various stages mean. They will not be able to advise on your specific case or accompany you to any meetings.

Your advisor will be **ADD NAME AND JOB TITLE**, who can be contacted by telephone on **ADD DETAILS** or by email on **ADD DETAILS**. Please note that this advisor will not be able to comment on the progress of the investigation or offer you advice other than guidance on procedural matters.

Please would you acknowledge receipt of this letter by signing the attached copy letter and returning it to me.

I enclose the document “Frequently asked questions – paid suspension” which aims to answer the most common questions asked by employees in this situation. However if you have any queries please do not hesitate to contact me or your HR advisor.

Yours sincerely

NAME
JOB TITLE

Enc. “Frequently asked questions – paid suspension”

I acknowledge receipt of the letter of suspension dated **ADD DETAILS** and confirm that I will comply with the terms of my suspension from duty.

Signed:..... Date:.....

ADD NAME

Frequently asked questions – paid suspension

Currently at <http://hr.wiltshire.gov.uk/employee-handbook/eh-employee-conduct/employee-conduct-guidance-for-employees-who-have-been-suspended.htm>

When is paid suspension used?

Paid suspension is not considered a disciplinary sanction but a neutral act enabling a full investigation to be carried out. It is normally used where a particularly serious allegation is made, where relationships have broken down or where it would be impossible for a full investigation to be completed if the employee was still in the workplace.

Suspension will not be undertaken without obtaining advice from a human resources advisor and must be authorised by a head of service.

How should I be notified of my suspension?

Normally you will be notified by your line manager (or nominated manager):

- Verbally - if it is practical or possible for you to be informed in this way;
- By telephone - if it is not possible to meet with you in person;
- By letter - if it is not possible to meet with you or contact you by telephone.

Regardless of how you are informed of your suspension you will be issued with a suspension letter outlining the reasons for your suspension and any terms you must abide by during the period of the suspension.

Will I be paid if I have been suspended?

You will normally continue to receive full pay during your suspension. However, if you are certified as unfit to attend for work, owing to ill-health or you are on maternity leave, your payments will be made in accordance with your conditions of service.

Will continuous service be affected by suspension?

Suspension does not affect your employment rights. For the purposes of calculating continuous service in relation to benefits such as sickness, maternity, redundancy, pensions etc. the period of suspension counts as normal employment.

Do I have to stay at home during my normal working hours in case I am called back to work?

You are required to make yourself available to your employer at reasonable notice (e.g. for a meeting or interview). Normally this would mean you should be prepared to report to work on the day following the request for you to report to work.

However, you could be asked to return on the same day as the request is made, which would not be unreasonable if the request was made early in the day for an afternoon meeting and a representative was also available.

What happens if I wish to make a trip away from home during the period of suspension?

Annual leave arrangements still apply during suspension, therefore if you wish to make a trip away from home, which would make you unavailable to attend work as described above, you will need to seek authorisation for annual leave from your line manager in the normal way.

Given that suspension is not a disciplinary penalty, annual leave which has been arranged prior to suspension will be honoured other than in exceptional circumstances, where the matter will be discussed with you.

You will need to clear any request in advance, including confirming pre-arranged leave, with your line manager. They will need to consider the likelihood of your being required to attend work during the time requested.

Am I allowed access to my workplace and colleagues during suspension?

The council does not wish to impede you in preparing your case. If you wish to visit your workplace during the suspension period you must first obtain the permission of your line manager or other nominated manager. S/he will need to be satisfied that there are reasonable grounds for your request and that your visit will not interfere with any related investigation.

Your employer, obviously, cannot prevent you from meeting with colleagues outside normal working hours. However, if you intend discussing the matters relating to your suspension, please be aware that this may place your colleagues in a difficult position. In any event, they may choose not to discuss it with you. You should, therefore, approach them sensitively.

What assistance is there for employees on paid suspension?

If you are a member of a trade union you are advised to seek advice from your trade union representative.

Your manager, or another nominated person if this is not appropriate, will keep in contact with you to both advise you of progress regarding the investigation and keep you updated with any development in connection with your job.

You will also be allocated an HR advisor (who has had and will have no involvement in the case) to answer any procedural questions and explain what the various stages mean.

The employee well-being helpline is a confidential service that provides the opportunity to talk to somebody about any issues affecting your physical and emotional well-being.

The helpline number is 01225 713147. You will hear a recorded message and be invited to leave your contact details and a member of the occupational health team will call you back and will help directly or signpost you to other services that will be able to help. No-one has access to any details about those calling the helpline – it is completely confidential unless you give consent for the information to be shared.

How long can the suspension last?

There are no specified time limits. However, suspension will be for as short a period as possible.

Where a suspended employee is the subject of external investigations, police enquiries or charged with a criminal offence, the length of the suspension may be prolonged pending the outcome of police enquiries or legal proceedings.

Where the investigation is subject to a delay your line manager (or other nominated manager) will write to inform you of the delay and the reason for it.

How will I know when the suspension has ended?

Normally, suspension ends when, following the completion of the investigation, a decision is taken.

This decision may be:

- to take no action and end the suspension;
- to proceed with formal disciplinary action;
- to take some other form of action.

In any event you will be notified in writing of the decision.

Where disciplinary action is taken, the suspension will normally continue until the hearing takes place, and it will be decided at the hearing when the suspension will end. You will remain suspended until informed otherwise by your head of service.

How can I return to work after being suspended?

Paid suspension is not a disciplinary penalty. Employees can return to work successfully after being suspended and will receive support from both their manager and HR advisor in this event.

Template letter – notification of formal investigation meeting

Dear **NAME**

Formal investigatory interview

Further to our meeting on **DATE** I am now writing to invite you to attend a formal investigation meeting on **DATE**, at **TIME**, in **LOCATION**.

This meeting will be led by myself/**NAME** [and will also be attended by **NAME (HR)**]. A note taker will also be present to ensure that an accurate record is taken – you will have access to these notes.

The purpose of this meeting will be to discuss and ask you questions in relation to the allegation(s) that **ADD INFO**

[You should be aware that the above allegation is considered to be gross misconduct under the council's disciplinary procedure].

This is a formal meeting and you have the right to be accompanied by a trade union representative or a work colleague. I would be grateful if you could advise me in advance of the name of your representative.

Following this meeting I will assess whether it is appropriate to carry out further investigations.

Please note that, depending on the outcome of the formal investigation, it may be necessary to hold a formal disciplinary hearing.

I enclose a copy of the disciplinary policy and procedure for your information. If you have any queries please do not hesitate to contact me.

Please sign a copy of this letter and return it to me to acknowledge receipt and to confirm that you will attend this meeting.

Yours sincerely

NAME
JOB TITLE

Enc. Copy letter for signature and return
Wiltshire Council disciplinary policy and procedure

I acknowledge receipt of this letter and confirm that I will attend the investigation meeting on **DATE**.

Signature: _____ Date: _____

Record of formal investigation interview - with employee under investigation

Record of investigation meeting held on DATE

Meeting attended by:	
Investigating manager:	
Note taker	
HR Advisor (if required)	
Employee being interviewed	
Employee's representative	

Checklist prior to starting meeting

If employee has not brought a representative with them the investigating manager must ask the employee if they are happy to proceed without any representation? Record employee comments in the notes section below.	√
--	---

Investigating manager must explain to employee:

You are being interviewed as part of an investigation under the Council's disciplinary procedure which may lead to informal action or possibly a disciplinary hearing taking place.	
The allegations being investigated are: ADD DETAILS	
Notes will be taken of this meeting. You will have an opportunity to review and comment on these notes. If the matter leads to a disciplinary hearing these notes will be used as evidence.	
You should not discuss the matter under investigation with colleagues except for your representative and any individual you may wish to call as a witness if the matters leads to a disciplinary hearing.	
Introduce all of those present at the meeting	

Initials of person speaking	What was asked / said (written in language used)

Signature of attendees that this is a true record of the meeting:

Name:	Signature:
Name:	Signature:
Name:	Signature:

Record of formal investigation interview - with witness

Record of investigation meeting held on DATE

Meeting attended by:	
Investigating manager:	
Note taker	
HR Advisor (if required)	
Witness being interviewed	
Witness's representative	

Checklist prior to starting meeting

If witness has not brought a representative with them the investigating manager must ask if they are happy to proceed without any representation? Record comments in the notes section below.	√
--	---

Investigating manager must explain to witness

You are being interviewed as part of an investigation under the Council's disciplinary procedure which may lead to informal or formal action or possibly a disciplinary hearing taking place.	
Notes will be taken of this meeting. You will have an opportunity to review and comment on these notes. If the matter leads to a disciplinary hearing these notes may be used as evidence and you may be called as a witness.	
You should not discuss the matter with anyone (including the employee under investigation and other witnesses) apart from the investigating manager.	
Introduce all of those present at the meeting	

Initials of person speaking	What was asked / said (written in language used)

Signature of attendees that this is a true record of the meeting:

Name:	Signature:
Name:	Signature:
Name:	Signature:

Template letter – outcome of formal investigation no disciplinary case to answer

Confidential

Name

Address

DATE

Dear NAME

Outcome of formal investigation

I am writing to confirm that, following a formal investigation into the allegations of ADD DETAILS, it has been found that there is no disciplinary case to answer.

As discussed at the meeting on DATE, it was agreed that ADD ACTIONS AGREED.

No further action will be taken and a copy of the investigation report will be sent to human resources to be held on your file.

IF EMPLOYEE ON SUSPENSION AGREE BACK TO WORK PLAN

If you have any queries regarding this matter please do not hesitate to contact me.

Yours sincerely

NAME OF INVESTIGATING MANAGER
JOB TITLE

Template letter – notification of disciplinary hearing

Confidential

Name

Address

DATE

Dear NAME

Notification of disciplinary hearing

I am writing to inform you that further to a formal investigation taking place, and in accordance with Wiltshire Council's disciplinary policy and procedure, you are required to attend a disciplinary hearing to be held on DATE AND TIME. The hearing will take place in LOCATION.

NAME, JOB TITLE will hear the case (and will be advised by HR NAME, JOB TITLE). A note taker will also attend the hearing.

You will be required to answer the allegation(s) that

- DETAIL ALLEGATIONS

[You should be aware that the above allegation is considered to be "gross misconduct" and could result in summary dismissal. Please note that where dismissal occurs as a result of gross misconduct no notice, or payment of lieu of notice, is applicable.]

As the investigating manager I will be presenting the management case.

You have the right to be accompanied by a Trade Union representative or work colleague during the disciplinary hearing. Please confirm as soon as possible who will accompany you to the meeting.

During the disciplinary hearing you will have an opportunity to present your case, call witnesses and give evidence.

The disciplinary procedure and two copies of the written statement of the case are enclosed. You should note that any written statement that you may wish to submit should also be circulated to all parties as soon as possible and in at least X working days before the hearing.

Choice of paragraphs

If you are unable to attend the hearing you should inform me as soon as possible. If you are unable to attend due to circumstances outside of your control the meeting will be re-arranged.

If you do not attend the hearing, you will be expected to contact me to rearrange the meeting. If you do not make contact on or before the original hearing date we will attempt to contact you to establish the reason for your non attendance.

A further hearing date will be scheduled and you will be notified of this date in writing. At this stage you will also be notified that failure to attend this hearing without prior arrangement may lead to the hearing taking place and a decision being taken, in your absence, on the basis of the available evidence.

If failure to attend the hearing is due to sickness absence an occupational health appointment will be arranged to obtain advice on your fitness to attend.

OR

This meeting has been rearranged at your request to enable you to attend. Please note that failure to attend this hearing without prior arrangement may lead to the hearing taking place and a decision being taken, in your absence, on the basis of the available evidence.

You will receive written confirmation of the decision of the disciplinary hearing and have a right of appeal against the decision.

Please acknowledge receipt of this letter by signing the second copy and returning it to me.

Yours sincerely

NAME OF INVESTIGATING MANAGER
JOB TITLE

Enc: Investigation report x 2
Disciplinary procedure

I acknowledge receipt of this letter dated **ADD DATE**.

Name: _____

Date: _____

Signature: _____

Format of a disciplinary hearing

1. The disciplinary hearing will be attended by:

Manager hearing the case	Wherever possible this will be your manager's manager. If this is not possible the service director will nominate another manager from within your service area.
HR advisor (if required)	Who will advise the manager hearing the case on procedural matters.
Investigating manager	Who wrote the investigation report making the recommendation for disciplinary action and will present the management case.
Employee	Against whom the allegation is made.
Employee's representative	A work colleague, trade union representative or an official employed by a trade union.
Relevant witnesses	From either the employer's or employee's side.
Note taker	Nominated by the employer's side to keep an accurate record of the hearing.

2. The manager hearing the case will open the hearing, ensure introductions are made and explain that the purpose of the hearing as detailed in the investigation report. They will outline the sequence of the hearing.
3. The investigating manager will state precisely what the allegation is and outline the case by going through the evidence that has been gathered during the formal investigation, including calling any witnesses if appropriate.
4. There will be an opportunity for the manager hearing the case and the employee to ask questions of the investigating manager.
5. The employee will be asked if they have any explanation for the alleged misconduct, or if there are special circumstances to be taken into account. They will also be given the opportunity to state their case, present evidence and call witnesses.
6. There will be an opportunity for the manager hearing the case and the investigating manager to ask questions of the employee.
7. The employee's representative is allowed to address the hearing to put and sum up the employee's case, respond on behalf of the employee to any views expressed at the meeting and confer with the employee. If requested by the employee they can also ask questions on their behalf of the investigating manager or their witnesses. (The representative does not have the right to answer questions on the employee's behalf, address the hearing if the employee

does not wish it, or prevent the investigating manager from explaining their case).

8. The manager hearing the case will have an opportunity to ask any remaining questions of either party or any witnesses.
9. Both sides will be asked to sum up their cases, the investigating manager will go first followed by the employee.
10. The manager hearing the case may adjourn the hearing at any point to allow a comfort break, discuss the case with their HR advisor or clarify a point of procedure.
11. Once both the management and employee's cases have been heard the manager hearing the case will adjourn to reach a decision.
12. If appropriate the manager hearing the case will reconvene the hearing to give their decision. Alternatively they may confirm the decision in writing within 5 working days of the meeting taking place.
13. The employee will have the right to appeal against any formal disciplinary action taken.

Template – Written warning letter

Confidential

NAME

ADDRESS

DATE

Dear **NAME**

Outcome of disciplinary hearing

I write to confirm the outcome of the disciplinary hearing which I heard on **DATE**.

The hearing was also attended by **NAME OF INVESTIGATING MANAGER** who presented the management case, and **NAME OF HR ADVISOR**, representing human resources.

You were accompanied at the meeting by **NAME**.

or

You were informed of your right to be accompanied at the hearing but declined to invite a representative.

[As requested I enclose a copy of the written record of the hearing].

At the disciplinary hearing the following allegations were considered.

-

Following careful consideration the decision was made to uphold the allegations made against you and to issue a written warning under the council's disciplinary procedure.

The written warning will be placed on your file but will be disregarded for disciplinary purposes after a period of **6 months (or timescale agreed at the meeting with explanation of why it is longer than 6 months)** provided there are no further incidents of this nature.

The following action is required by you within the noted timescales;

-

You are entitled to appeal against this decision in line with the enclosed appeals procedure. Any appeal must be received by the disciplining officer within 10 working days of receipt of this letter.

Please acknowledge receipt of this letter by signing and returning the enclosed copy

Yours sincerely

NAME

JOB TITLE

Enc. Appeal procedure

[Written record of disciplinary hearing]

I acknowledge receipt of this letter dated **ADD DATE**.

Name:

Date:

Signature:

DRAFT

Template – Final written warning letter

Confidential

NAME

ADDRESS

DATE

Dear **NAME**

Outcome of disciplinary hearing

I write to confirm the outcome of the disciplinary hearing which I heard on **DATE**.

The hearing was also attended by **NAME OF INVESTIGATING MANAGER** who presented the management case, and **NAME OF HR ADVISOR**, representing human resources.

You were accompanied at the meeting by **NAME**.

or

You were informed of your right to be accompanied at the hearing but declined to invite a representative.

[As requested I enclose a copy of the written record of the hearing].

At the disciplinary hearing the following allegations were considered.

-

Following careful consideration the decision was made to uphold the allegations made against you and to issue a final written warning under the council's disciplinary procedure.

The final written warning will be placed on your file but will be disregarded for disciplinary purposes after a period of **12 months (or timescale agreed at the meeting with explanation of why it is longer than 12 months)** provided there are no further incidents of this nature.

The following action is required by you within the noted timescales;

-

Please note that, should you fail to make the required improvements within the given timescales you may be subject to dismissal or a sanction short of dismissal (which may include unpaid suspension, withholding of incremental progression, dismissal and re-engagement on new terms and conditions with no protection of salary or compulsory transfer to a new team or location at no expense to the council).

You are entitled to appeal against this decision in line with the enclosed appeals procedure. Any appeal must be received by the disciplining officer within 10 working days of receipt of this letter.

Please acknowledge receipt of this letter by signing and returning the enclosed copy.

Yours sincerely

NAME

JOB TITLE

Enc. Appeal procedure

[Written record of disciplinary hearing]

I acknowledge receipt of this letter dated ADD DATE.

Name:

Date:

Signature:

DRAFT

Template letter – action short of dismissal

Confidential

Name

Address

DATE

Dear NAME

Outcome of disciplinary hearing

I write to confirm the outcome of the disciplinary hearing which I heard on DATE.

The hearing was also attended by NAME OF INVESTIGATING MANAGER who presented the management case, and NAME OF HR ADVISOR, representing human resources.

You were accompanied at the meeting by NAME.

or

You were informed of your right to be accompanied at the hearing but declined to invite a representative.

[As requested I enclose a copy of the written record of the hearing].

At the disciplinary hearing the following allegations were considered.

-

Following careful consideration the decision was made to uphold the allegations made against you and to issue a final written warning under the council's disciplinary procedure.

The warning will be placed on your file but will be disregarded for disciplinary purposes after a period of 12 months (or timescale agreed at the meeting with explanation of why it is longer than 12 months) provided there are no further incidents of this nature.

Due to the seriousness of the misconduct it was also agreed that:

- You will be suspended without pay for a period of ..., effective from – ADD DETAILS
- Your incremental progression due on DATE will not be paid – add details
- You will be moved to a new team...ADD DETAILS

The following action is required by you within the noted timescales;

-

Please note that, should you fail to make the required improvements within the given timescales you may be subject to dismissal.

You are entitled to appeal against this decision in line with the enclosed appeals procedure. Any appeal must be received by the disciplining officer within 10 working days of receipt of this letter.

Please acknowledge receipt of this letter by signing and returning the enclosed copy.

Yours sincerely

NAME

JOB TITLE

Enc. Appeal procedure

[Written record of disciplinary hearing]

I acknowledge receipt of this letter dated ADD DATE.

Name:

Date:

Signature:

Template letter – dismissal with notice

Confidential

Name

Address

DATE

Dear NAME

Outcome of disciplinary hearing

I write to confirm the outcome of the disciplinary hearing which I heard on DATE.

The hearing was also attended by NAME OF INVESTIGATING MANAGER who presented the management case, and NAME OF HR ADVISOR, representing human resources.

You were accompanied at the meeting by NAME.

or

You were informed of your right to be accompanied at the hearing but declined to invite a representative.

[As requested I enclose a copy of the written record of the hearing].

At the disciplinary hearing the following allegations were considered.

-

Following careful consideration the decision was made to uphold the allegations made against you and to dismiss you under council's disciplinary procedure with effect from DATE OF DISMISSAL.

In line with the terms and conditions of your employment you are entitled to X weeks pay in lieu of notice.

You are entitled to appeal against this decision in line with the enclosed appeals procedure. Any appeal must be received by the disciplining officer within 10 working days of receipt of this letter.

Please acknowledge receipt of this letter by signing and returning the enclosed copy.

Yours sincerely

NAME

JOB TITLE

Enc. Appeal procedure

[Written record of disciplinary hearing]

I acknowledge receipt of this letter dated ADD DATE.

Name:

Date:

Signature:

DRAFT

Template letter – Summary dismissal (no notice)

Confidential

Name

Address

DATE

Dear NAME

Outcome of disciplinary hearing

I write to confirm the outcome of the disciplinary hearing which I heard on DATE.

The hearing was also attended by NAME OF INVESTIGATING MANAGER who presented the management case, and NAME OF HR ADVISOR, representing human resources.

You were accompanied at the meeting by NAME.

or

You were informed of your right to be accompanied at the hearing but declined to invite a representative.

At the disciplinary hearing the following allegations were considered.

-

ADD SUMMARY OF MEETING AND WHY DECISIONS WERE MADE

Following careful consideration the decision was made to uphold the allegations made against you.

As these allegations constitute gross misconduct under council's disciplinary procedure you will be summarily dismissed with immediate effect from DATE OF DISMISSAL.

Where dismissal occurs as a result of gross misconduct no notice, or payment in lieu of notice, is applicable.

You are entitled to appeal against this decision in line with the enclosed appeal procedure. Any appeal must be received by the disciplining officer within 10 working days of receipt of this letter.

Please acknowledge receipt of this letter by signing and returning the enclosed copy.

Yours sincerely

NAME

JOB TITLE

Enc. Appeal procedure

I acknowledge receipt of this letter dated ADD DATE.

Name:

Date:

Signature:

DRAFT

Flowchart – role of investigating manager in disciplinary procedure

