

Discipline Policy

Author	<i>Employee Relations</i>	Contact details	<i>EmployeeRelationsTeam@northlan.gov.uk</i>
Owner	<i>Fiona Whittaker</i>		<i>whittakerf@northlan.gov.uk</i>

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Governance Committee		Date approved	
Review date			

Strategic Alignment
Improving the Council's Resource Base – A Workforce Strategy that is built around the needs of the Council (as a single resource base) to deliver the priority outcomes, ensuring future workforce requirements, new skills and innovative approaches, and succession planning are recognised.

Consultation process		
Stakeholders	Contacts identified for each service	
	<i>Joint Trade Unions</i>	
Distribution		

Change record

Date	<i>28/02/2019</i>	Author	<i>Employee Relations Team, EmployeeRelationsTeam@northlan.gov.uk</i>
Change made	<i>New format</i>		

Purposes and Principles

The Council aims to ensure that there will be a fair and systematic approach to the application of standards of conduct affecting its employees. The purpose of the Council's discipline policy, therefore, is to ensure the consistent application of a disciplinary procedure, and the fair treatment of individual employees.

Each Executive Director shall have delegated powers to enable them or their appointed Officers to take disciplinary action, in accordance with the Council's policy. Executive Directors will be responsible for approving Service rules and accepted standards of conduct and performance and ensuring these are known to all their employees.

Managers should recognise the importance of informing their employees, at an early stage, when their performance or conduct does not meet acceptable standards. Such action, which should be regarded as informal action, should hopefully minimise the requirement to proceed to the formal disciplinary stages.

Disciplinary action should not be taken against an employee until they have had the opportunity to state their case and be accompanied at a properly convened and conducted disciplinary hearing. Equally, employees will be entitled to representation in those circumstances where an official investigative process is established which appears likely to involve discipline of the employee(s) concerned.

Managers and other Officers responsible for disciplinary issues should be adequately trained.

Investigation

Where an incident occurs which may be due to an employee's misconduct or performance a thorough investigation must be conducted. It is not recommended that Officers who investigate such matters ultimately take the decision to discipline an employee, however it is accepted in some instances, particularly where minor breaches of misconduct or performance occur, that this can satisfactorily be achieved without any bias on the part of the Manager.

Investigations must be conducted swiftly and impartially. Statements should be produced in writing signed and dated and the investigating officer's report passed to the Officer convening the disciplinary hearing.

Disciplinary Hearings

The nominated Officer, having considered the investigation report, should decide whether disciplinary action may be required and if so convene a formal disciplinary hearing. Factors such as the nature and seriousness of the incident, the employee's previous work performance, training record and any mitigating circumstances determined at the investigation stage should be thoroughly assessed before coming to the decision to proceed to the formal disciplinary procedures.

The employee should be notified in writing of the disciplinary hearing and the alleged charges to which he must respond. Employees should be given adequate notice of a hearing in order to make preparation and obtain appropriate representation. Investigating Officers should be available, if required, at the formal disciplinary hearing. The employee should be fully informed of all relevant evidence from the investigation and upon which the Disciplining Officer has relied.

A Human Resource representative must be in attendance at all disciplinary hearings.

Disciplinary Action

Following a properly convened disciplinary hearing, the following action may result:-

Verbal Warning

Where an employee's conduct or performance in his or her job is such as to warrant admonition, a verbal warning may be issued. It is expected this will arise as a response to minor breaches of conduct, performance etc. The Disciplining Officer must clearly state that an official verbal warning has been issued. The Officer must ensure that the employee clearly understands the reason for the warning and the potential consequences of repetition. The appeal procedure should also be confirmed.

A record of the Verbal Warning should be lodged in the employee's personnel file, signed by the employee to ensure future authentication.

Currency Period

The Verbal Warning will remain "live" on the employee's file for a period of six months. After this time has elapsed the warning cannot be referred to when establishing any subsequent disciplinary action to be taken against the employee.

Written Warnings

If the disciplinary matter is of a serious nature, but does not constitute gross misconduct then a Written Warning, which may be a Final Written Warning, may be issued. The written decision should outline the grounds relied upon for the action and the consequences of a recurrence or commission of subsequent, different acts of misconduct. The appeal procedure should also be confirmed.

Currency Periods

The Written Warning will remain "live" on the employee's file for a period of nine months. After this time has elapsed, the warning cannot be referred to when establishing any subsequent disciplinary action to be taken against the employee.

The Final Written Warning will remain "live" on the employee's file for a period of twelve months. After this time has elapsed, the warning cannot be referred to when establishing any subsequent disciplinary action to be taken against the employee.

Punitive Action

In addition to the issue of a warning, there may be circumstances where the gravity of the action warrants punitive action such as the withholding of an increment or a reduction in grade (demotion).

All punitive action will be recorded on the employee's file, for a period of twelve months and will be taken into account in the event of a recurrence or commission of subsequent, different acts of misconduct.

Currency Periods of Disciplinary Action

After the time limits noted above, disciplinary action shall not be held against an employee involved in any further disciplinary incident except

where the employee's conduct is satisfactory throughout the period the warning is in force only to become unsatisfactory again shortly thereafter. Where a pattern of behaviour like this emerges and there is evidence of abuse, the employee's overall disciplinary record shall be borne in mind in deciding both the level and duration of any subsequent action.

Dismissal/Summary Dismissal

Executive Directors or their nominated senior Officers may dismiss employees who have failed to respond to corrective disciplinary action and who persist with acts of misconduct or poor performance.

Normally an employee should not be dismissed for a first offence unless the offence is deemed to be gross misconduct.

The disciplining Officer shall notify the employee in writing, outlining the grounds relied upon for the decision and advising the employee of his or her right to appeal.

Gross Misconduct

Where an act of misconduct is deemed to be gross misconduct, there shall be no entitlement to notice and the employee may be dismissed summarily.

It is not possible to categorise definitely the conduct of an employee, which will entitle the Council to dismiss summarily. It should also be borne in mind that not only the nature of the conduct but also the degree (seriousness) of it must be considered, as well as the surrounding circumstances. The question must, in any event, be decided in relation to the facts and the contractual terms and conditions governing the employee, including explicit Service rules.

The following conduct may be of a kind to justify summary dismissal, (a) assault, including physical assault, verbal assault or sexual harassment; (b) dishonesty including falsification and fraud; (c) malicious damage to Council property; (d) disclosure of confidential information; (e) refusal to obey a lawful and reasonable instruction; (f) flagrant breach of health and safety regulations; (g) breach of professional ethics, and (h) flagrant breach of established Service practices.

The above list is not categorised definitively. Individual Services will have the right in conjunction with the Head of Human Resources to detail specific rules which they consider if broken would justify summary dismissal. Any such rules must be clearly notified to employees in writing.

Appeals Against Disciplinary Action

It is open to an employee to appeal against any disciplinary action taken against him or her. In the case of punitive action or dismissal the employee shall have a right of appeal both at Service level and committee level.

The Executive Director, or his nominated Officer, who should be a senior Officer to the disciplining Officer, should convene a meeting with the appellant, and his representative, where appropriate, and the disciplining Officer. A Human Resource Officer should be in attendance at all appeal hearings. Where the appeal is against punitive action or dismissal, Human Resource representation will be provided by corporate Human Resources. In such cases, the Executive Director or nominated Officer shall notify the Head of Human Resources, immediately, of the notification of appeal.

Following the meeting, the decision of the appeal panel, which shall be final, except in cases of dismissal or punitive action, will be either to (a) uphold the appeal and rescind the action taken; (b) uphold the appeal in part which may result in the level of action being reduced, or (c) dismiss the appeal.

The decision of the appeal meeting should be issued to the employee, in writing, within five days of the hearing.

Where the appeal is lodged against dismissal or punitive action, the employee shall have a further right of appeal to the Policy and Resources (Human Resources Appeals) Sub-Committee. The appeal should be lodged, in writing, with the Head of Human Resources, within 14 days of notification of the Service appeal decision.

Equally, in cases where the disciplining Officer is the Executive Director of a Service, the appeal shall be to the Policy and Resources (Human Resources Appeals) SubCommittee.

Suspension

During disciplinary investigations, it may be prudent to suspend the employee where (a) the investigation may be otherwise impeded or (b) the workplace may be disrupted, in coming to a decision on suspension, Managers should consider the seriousness of the offence and the likelihood of repetition. Suspension shall always be with pay and should be for as limited a period as possible, subject solely to the investigation being completed. Suspension is not regarded as punitive nor should it be utilised in this manner. Upon suspension, the employee shall immediately leave the place of work. There is no right of appeal against suspension.

Miscellaneous

(a) Trade Union Representation

While the matter of representation is entirely one for the employee, it would be anticipated that in normal circumstances, trade union representation will be selected from within the employee's Service to ensure the matter is dealt with quickly and effectively.

(b) Action Against a Trade Union Representative

Specific legislation exists which protects Trade Union Representatives personally involved in a disciplinary situation. Therefore no disciplinary action should be taken against a trade union representative until the circumstances of the case have been discussed with a full time Official. The Head of Human Resources should be advised if such an instance should occur, prior to any disciplinary process being set in motion.

(c) Third Tier Officers

Where the employee is a third tier officer, the disciplinary matter should be referred to the Head of Human Resources who will ensure representation from corporate Human Resources.