



Northumberland  
County Council

**HUMAN RESOURCES  
POLICIES AND PROCEDURES**

**Disciplinary Policy**

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<b>Target audience</b>	All employees except those: in schools with delegated budgets, or where staff have been subject to terms and conditions covered by a prior TUPE transfer.

**This Policy has been Impact Assessed against the Equality Act 2010**

**History of previous versions of this document:**

Approved Where	Approved Where	Version	Issue Date	Review Date	Contact Person

**Statement of changes made in most recent version:**

Version	Date	Description
1.0	November 2017	Policy in revised format
2.0	January 2018	Major redraft and introduction of Case Manager

## **NORTHUMBERLAND COUNTY COUNCIL – Disciplinary Policy HRP-09-V1**

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## **HUMAN RESOURCES POLICIES AND PROCEDURES**

<b>Title: Disciplinary Policy</b>
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## 1. Operational Summary

### 1.1. Policy Aim

The aims of this policy are:-

- To ensure uniformity of treatment for all individual employees;
- To ensure the efficient and smooth running of the organisation;
- To ensure that management, unions and employees are aware of their rights and obligations in respect of disciplinary processes;
- To ensure that the strictest confidentiality is preserved at all stages of the process;
- To ensure compliance with relevant employment, and other relevant legislation and ACAS guidelines.

The Disciplinary Policy and its procedures are designed to encourage improvement in an individual's conduct. Line Managers are responsible for day-to-day support and supervision of employees.

### 1.2. Policy Summary

The policy details informal and formal approaches to dealing with misconduct issues. Where formal action is required the policy details when suspension should be considered and how it should be undertaken, how an investigation should be carried out and the possible outcomes of a formal disciplinary hearing. The policy details the categories of misconduct that are considered sufficiently serious as to warrant disciplinary action.

The County Council will ensure that every care is taken that the most appropriate policy is followed, dependent on relevant circumstances. Please see page 19 for associated policies.

## 2. Introduction

The County Council and the trade unions are committed to the achievement of the highest levels of conduct and competence and will seek to co-operate in the realisation of this ideal. However, it is accepted by the County Council and the staff as represented by their trade unions that disciplinary policies and their procedures are necessary to assist in maintaining standards of conduct and for promoting fairness. This policy provides a framework within which all disciplinary matters can be dealt with fairly and without delay. It has also been designed to ensure that management, trade unions and individual employees are aware of their rights and obligations. The policy takes full account of the recommendations of the ACAS Code of Practice and the various national negotiating bodies and also reflect the rules of natural justice.

This policy applies to all employees of the County Council except those within scope of the School Standards and Framework Act 1998. Employees 'managed' by the County Council and employed in a school will be subject to the procedures within

this policy, other than where there is a potential dismissal case when the relevant school procedure will apply. Schools procedures reflect the principles of this policy and representatives of the Wellbeing and Community Health Services Directorate and Corporate Services Directorates have a right to attend any hearings to give advice.

### **3. Purpose**

This policy is designed to encourage an improvement in an individual's conduct where this is necessary and is not merely a method of applying sanctions. In this respect it is accepted by all parties that line managers play an important role in the day to day counselling and supervision of their staff and, depending on the seriousness of the misconduct, they should seek initially to rectify problems through informal discussions without invoking the formal procedures.

Where the matter cannot be resolved through the normal supervisory relationship or where the alleged action or omission is considered to be of a more serious nature, the formal procedure should be followed.

### **4. Duties**

All County Council employees are responsible for reading the policy to ensure they are aware of the standard of conduct the County Council expects from its employees.

Senior Manager – it is the responsibility of the appropriate senior manager to give full consideration to any concerns or issues regarding any member of their staff's conduct, and to make the decision as to whether the formal procedure should be followed.

Authorised Officer – refers to a senior manager specifically designated as an 'Authorised Officer' of the Council. A list of Authorised Officers is maintained by HR and is available on the intranet. The Authorised Officer will chair any hearings and is responsible for making the decision at a hearing and being the Presenting Officer at any subsequent appeals.

Case Manager - refers to the senior officer who asks for the investigation to be initiated, agrees the terms of reference for the investigation, acts as a quality controller and ensures timescales are adhered to. The Case Manager will review the full report including appendices once completed and will make the decision whether it should proceed to a disciplinary hearing. The Case Manager does not take part in a hearing.

Investigating Officer – this is the individual identified by the Case Manager to undertake a disciplinary investigation and produce a report on their findings. It is the responsibility of the Investigating Officer to carry out a full and fair investigation in accordance with this procedure. To act as Investigating Officer, Handling Investigations training must be undertaken.

Human Resources – are available to advise line managers or employees on all

aspects of this policy. One HR Adviser will provide advice for the Case Manager and the Investigating Officer and a separate HR Adviser will provide advice for the Authorised Officer at a hearing.

Representation – an employee may invite a companion to any formal meeting, this may be a Trade Union Representative or an official employed by the Trade Union. Where an employee does not have Trade Union representation, they may invite a work colleague not acting in a professional capacity.

## **5. Which Procedure to Use**

There will be situations where it is not immediately obvious to the Case Manager which procedure should be used because the situation is unclear or because the case involves some mixture of capability, disciplinary, health or wellbeing. In such situations, the case should be initiated using whichever procedure seems appropriate but, when coming to a conclusion, the Case Manager should make separate mention of each of the relevant issues. This decision should always be made in consultation with HR.

The Disciplinary Procedure should be invoked where it is alleged that the employee has:

- failed to adhere to rules, policy and procedures, e.g. in the case of residential care employees, failed to report a suspected incident of abuse by a colleague,
- failed to respond adequately to one or more informal warnings regarding conduct,
- acted (or omitted to act) in a manner that is considered to warrant formal disciplinary action; or,
- committed an act of discrimination or harassment contrary to any County Council policy or guideline.

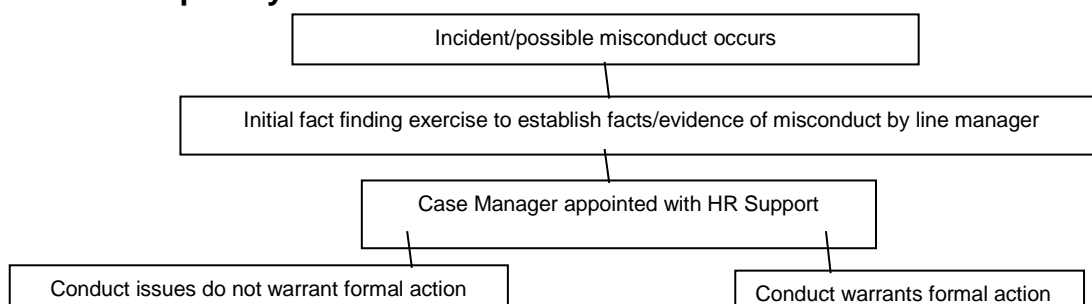
Capability encompasses skill, aptitude or any other physical or mental quality and is usually distinguishable from conduct or misconduct (details of how to deal with Capability issues are set out in the Capability Policy and Procedure) . For example, an employee may not have the innate ability needed to reach the required standards for the job; in which case, the capability procedure is the appropriate procedure to use. This is to be distinguished from cases where the employee is able to reach those standards but, for some reason, has lost the intent or will to do so. In such cases the disciplinary procedure should be invoked.

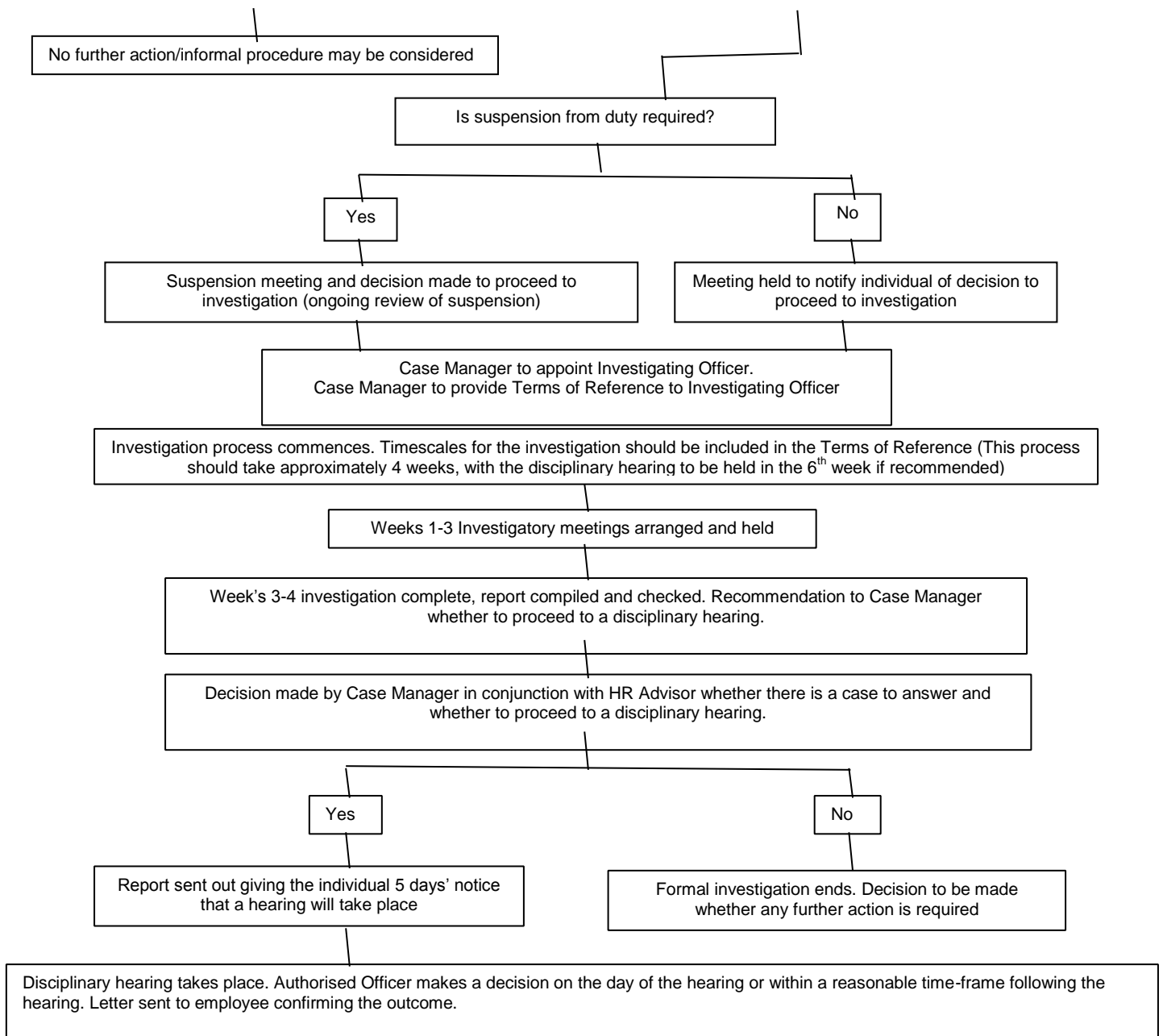
In exceptional circumstances where management has good reason to believe that the underlying cause of a complaint against an employee is ill health or disability, the case should be dealt with under the Health and Wellbeing Policy.

Normally, the formal disciplinary procedure will not be invoked before the line manager has attempted to rectify problems through informal discussions (which are not part of the formal procedure). If the line manager believes that the employee's conduct is such that formal disciplinary action should be considered, they should

contact the Human Resources Department and their Senior Manager who will be able to give guidance and begin any appropriate investigation

## 6. Disciplinary Procedure





## 6.1 Informal Process

An informal process may often be a more appropriate method of resolving problems rather than instigating the formal disciplinary process as the need for improvements can be highlighted at an early stage. In many situations the right word, at the right time and in the right way may be all that is needed and will often be a more productive method of dealing with issues of discipline, rather than a formal process.

This is not formal disciplinary action. It should only be undertaken in relation to conduct below the standard required but which is not serious enough to justify formal procedural action.



Where the informal process is considered to be appropriate, the line manager will discuss the matter with the employee. The purpose will be to establish whether there are any problems with which the employee can be helped and to ensure that the employee is aware of the standards required.

The employee must be made aware of any improvement which is expected over a given period and that continued failure to meet the required standards may result in disciplinary action. The conversation should be constructive with emphasis placed on finding ways for the employee to improve. This conversation will be recorded and the employee will be asked to sign a copy to confirm that they are aware of what is expected of them.

If the line manager believes that the employee's conduct is such that formal disciplinary action should be considered, they should contact the Human Resources Department and their Senior Manager who will be able to give guidance and begin any appropriate investigation.

## **6.2. Suspension**

Where an investigation might be impeded by their presence at work, the Case Manager may suspend an employee. If there is a likelihood that the employee remaining at work could lead to further instances of serious or gross misconduct the Case Manager may consider it appropriate to suspend. Wherever possible, suspension should be avoided and an alternative to suspension may be restricting or amending duties, temporarily changing location or any other measure which the Case Manager (upon consultation with HR) feels necessary. Each case should be assessed to determine whether suspension is appropriate or necessary. The Case Manager must seek advice from Human Resources prior to suspending an employee. *Suspension in all circumstances is not a form of disciplinary action and normal remuneration and terms and conditions of employment apply (ie, in respect of sickness and annual leave) apart from in the case of exceptional circumstances surrounding the suspension.*

The suspension of an employee must be confirmed in writing by the Case Manager as soon as reasonably possible following the decision being taken. The suspension should be as brief as possible and should be kept under active review by the Case Manager with the aim of minimising the period of suspension. If at any time after the employee has been suspended, the investigation shows that either the allegations are without foundation or that further investigation can continue with the employee working normally, the suspension should be lifted and the employee should be allowed to return to work as soon as practicable.

Whilst suspended, an employee must remain contactable and must be available to attend for any investigatory/disciplinary interviews or hearings during normal office hours unless there are specific circumstances which prevent this happening. Failure to comply with the process of investigation may be deemed as misconduct. If an employee subsequently advises that they are unfit for work, the suspension and the sick leave will run concurrently. Upon the submission of a fit note, the employee will receive sick pay and will be expected to comply with both the terms of their suspension and the sickness reporting procedure.

The alleged disciplinary matter should not be discussed by the employee with any work colleagues, other than their representative. Whilst suspended an employee must not visit any of the County Council's premises or contact County Council employees in relation to work unless specifically requested to do so. Any breach of this may be prejudicial to the investigation and may be deemed as misconduct.

The suspension letter will make these conditions clear and will state that contravention of these terms may be regarded as misconduct.

Suspension can prove to be a stressful time for an employee so employees should be advised of support facilities available to them during their suspension. Welfare support is available from both the Occupational Health Department or via the DAS Personal Counselling Helpline (telephone 0117 934 2121). The Chaplaincy Service is also available. A Link Officer will be assigned to the individuals during the period of suspension, they will be given the task of keeping the employee informed of the progress of the disciplinary process in general terms.

### **6.3. Formal Disciplinary Procedure**

#### **6.3.1. Disciplinary Investigation**

It may be necessary in some circumstances to conduct a fact finding exercise to establish whether or not there is any substance to an allegation of misconduct. This may involve preliminary discussions with employees as part of the normal remit of managerial duty. The appropriate senior manager will designate an appropriate individual to conduct these preliminary enquiries. If the informal procedure is not appropriate and a conduct issue is identified, a formal investigation will proceed. A Case Manager will be assigned to oversee the investigation and to appoint an Investigating Officer.

No disciplinary action of any kind should be taken without a full and fair investigation of the facts and circumstances surrounding each case with professional advice from a Human Resources Adviser being sought.

The investigation should take place immediately or as soon as possible after the alleged misconduct has occurred.

The employee who has allegedly carried out the act of misconduct will be informed of the allegation in writing by the Case Manager and through the investigation, will be interviewed to investigate the situation by the Investigating Officer. They have the right to be accompanied by a trade union representative or a work colleague during an investigation interview and would be advised of this in advance of the meeting. It is not reasonable however, for an employee to be accompanied by someone whose presence could potentially prejudice the outcome of the hearing itself.

The investigation will be conducted in a timely fashion and without undue delay. A reasonable timescale, dependent on the circumstances of the case, will be specified by the Case Manager in the terms of reference. Once the investigation is completed, the Investigating Officer will produce a report with a recommendation for the Case Manager. The Case Manager will consider the content of the report and then decide with HR support whether the case should be heard at a disciplinary hearing. The report, which should include the employee's statement and any witness statements,

will give a factual summary of the investigation.

### **6.3.2. Disciplinary Hearing**

Where the investigation alleges misconduct the employee shall be called to attend a disciplinary hearing before the Authorised Officer (details for Hearings are set out in appendix 1). The employee concerned will be notified in writing of the requirement that they attend a hearing, they will be given 5 working day's notice of the date and time of the hearing.

In accordance with grey book terms and conditions, dependent upon the circumstances of the case and the possible consequences, firefighters are entitled to receive up to 21 day's notice of the hearing. The letter will detail:

- the specific complaint (s) against him or her
- their opportunity to prepare and state a case
- their right to be accompanied if so desired, by a trade union representative or a work colleague, who is not involved in the case. They will be asked to confirm whether they intend to be accompanied, the capacity of the person concerned and of any witnesses they intend to call during the hearing.
- The possible consequences arising from the hearing ie demotion, first warning, final warning, dismissal

Copies of the investigation report and supporting documentation will accompany the notification of hearing letter. If any information is presented on the day of hearing, the Authorised Officer will determine whether it is appropriate to accept this information.

At the hearing the Investigating Officer must present the findings of the investigation. The employee must be allowed to set out their case and answer any allegations that have been made. The employee must also be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses. They should also be given an opportunity to raise points about any information provided by witnesses. Where either party wish to call relevant witnesses they must give advance notice to the Authorised Officer that they intend to do this.

The Authorised Officer is required to consider and reflect on all of the evidence presented by both sides. They will consult HR on legal issues, procedure and process. The Authorised Officer will make their decision on 'the balance of probabilities' and not on the basis of 'beyond reasonable doubt'.

Relevant information should be gathered prior to the hearing, however the hearing may be adjourned if it is found that further information is required.

### **6.3.3. Non Attendance at Hearing**

Where, due to unavoidable circumstances, an employee or their companion are unable to attend, the hearing will be re-arranged. However in the event that the employee or their companion are unable to attend the re-arranged hearing it will go ahead and a decision will be taken in their absence. The decision made will depend upon the reasons given by either the employee or the Trade Union representative acting on the employee's behalf.

The employee will be asked to confirm that they have received notification of the date of the hearing. If an employee does not attend the hearing and does not notify the Authorised Officer that they are unable to attend, the Authorised Officer will attempt to contact the employee and their representative, if known, to ascertain the circumstances of the non-attendance. If notification of the date of the hearing has been received by the employee and there is no known reason or the Authorised Officer does not accept the reason for their non-attendance, then the hearing will proceed in absentia or with the representative participating with the authority of the employee involved.

#### 6.3.4. Sanctions

Not every hearing will result in a sanction being taken but the sanctions which can be imposed under this procedure are:-

Demotion

A first written warning

A final written warning

A final warning may be given where a further act or omission warranting disciplinary action occurs during the review period of an existing warning or the alleged misconduct is considered to be of a more serious nature

Dismissal/Summary Dismissal (Dismissal without notice)

If further misconduct has occurred, following a first or final written warning, the employee may be liable to dismissal with notice. In cases of dismissal where notice is given the employee will either be given a period of paid notice or be given pay in lieu of notice. In cases of proven gross misconduct the employee may be liable to summary dismissal. In cases of summary dismissal no period of notice is payable and the employee shall be paid up to and including the date of the disciplinary hearing at which they were dismissed.

#### 6.3.5. Life of Sanctions

Sanction	Length of time remains live	Timescale for appeal	Appeal to whom
First Written Warning	12 Months (6 months for those covered by Grey Book T&C's)	10 working days from receipt of written confirmation of warning	Director of Human Resources
Final Written Warning	24 months (18 months for those covered by Grey Book T&C's)	10 working days from receipt of written confirmation of warning	Director of Human Resources

Demotion	Indefinitely	10 working days from receipt of written confirmation of warning	Director of Human Resources
Dismissal/Summary Dismissal	N/A	10 working days from receipt of written confirmation of dismissal	Director of Human Resources

Any prolonged period(s) of absence during the life of the warning for reasons other than annual leave may extend the end date of the warning by a like amount and such extensions will be confirmed in writing. Manager's should consult HR if considering this action as each case will be considered on an individual basis.

A warning shall be disregarded for the purposes of the procedure after its end date unless a further disciplinary issue originates before that date. If such a situation arises, the warning will continue to be 'live' until the conclusion of any hearing that might ensue.

Previous similar misconduct may be taken into consideration when determining an appropriate outcome ie 'expired' warnings may be considered 'live' if repeated misconduct is substantially the same.

### **6.3.6. Categories of Misconduct**

Below are examples of misconduct which the County Council considers to be sufficiently serious as to warrant disciplinary action. However, it must be noted that the following lists are purely illustrative and not exhaustive. Furthermore, these examples will not restrict the right of the County Council, or any of its authorised officers, to determine what disciplinary action is appropriate in light of the circumstances of each individual case.

For the sake of brevity every type of misconduct referred to below is not necessarily repeated in every sanction. A particular type of misconduct, e.g. dishonesty, can be regarded as gross, serious or minor depending on the degree of seriousness of the particular offence.

### **6.3.7. Serious Misconduct**

The following are examples of serious misconduct which may usually warrant the issue of a first written warning or final written warning for a first offence:

- Unauthorised absence

- Abuse or misuse of sickness pay/leave provisions
- Participating in other employment, paid or not, or the carrying out of any other trade or business or profession which is prejudicial to, or adversely affects, employment with the County Council
- Deliberately not meeting the expected standards of the job role.
- Misuse or abuse of facilities, policy provisions or council property
- Threatening or provoking assault
- 

### **6.3.8. Gross Misconduct**

For the purpose of this procedure, gross misconduct is behaviour of such a nature that the County Council is unable to tolerate the continued employment of the individual. Before deciding to treat a case as gross misconduct, directorates should seek the advice of the Director of Human Resources.

The following are examples of gross misconduct, which may well warrant summary dismissal, even for a first offence.

- Fighting on County Council premises or whilst on duty
- Discrimination or harassment
- Bullying
- Victimisation, i.e. due to whistleblowing
- Committing assault whilst on County Council premises or on duty
- Being unfit for duty through the use of alcohol or the misuse of drugs or solvents (refer to the Alcohol and Substance Misuse Policy)
- Consuming alcohol or recreational drugs whilst on duty
- Malicious or reckless damage to County Council property, or the property of others, whilst on duty
- Gross insubordination (e.g. the persistent use of offensive language)
- Gross negligence
- Refusal to carry out a lawful instruction of a more senior officer
- Theft
- Fraud
- Bribery
- Serious non-compliance with County Council policies and procedures
- False claims for time off under the County Council policies and procedures, i.e. parental leave, study leave, special leave
- Deliberately accessing internet sites containing pornographic, offensive or obscene material or the distribution of such material.
- Abuse or misuse of the County Council's email system by receiving and sending pornographic, offensive or obscene material
- A serious breach of confidence
- Unauthorised disclosure of personal details or circumstances of a member of staff acquired during the course of, or for the purposes of employment
- Deliberate breach of Health and Safety rules and/or statutory regulations regarding Health and Safety
- Bringing the organisation into serious disrepute
- Failure to declare criminal record/arrest/criminal charges
- Working without valid entitlement to work in the UK

## **7. Safeguarding**

Any complaints or concerns in relation to a child or vulnerable adult being harmed or put at risk of harm must be notified immediately to the appropriate safeguarding officer. The relevant officer will give advice on how the investigation should be carried out.

## **8. Trade Union Officials**

Trade union representatives are expected to observe the same standards of conduct as all other employees. However, no formal action shall be taken against an accredited trade union representative until the circumstances of the case have been discussed with a senior representative or full time official of the organisation concerned. In such circumstances, Senior Human Resources Support should be gained at the earliest opportunity.

Where gross misconduct is alleged of a trade union representative, the employee may be suspended after consultation with Senior Human Resources Support. A senior representative or full time official of the organisation concerned shall be informed of this action as soon as reasonably possible and confirmation shall be given to the trade union promptly in writing.

## **9. Involvement of elected members in individual cases**

Elected Members will rightly be concerned about disciplinary issues relating to staff from time to time and may be eager to see progress. In such circumstances, they should ensure that they do not become directly involved unless and until the matter is brought formally to their attention at an appropriate stage in the disciplinary procedure. This does not prevent the Case Manager consulting with appropriate Elected Members informally on a particular case but the Elected Member must thereafter take no formal part in the procedure. Elected Members should be aware that this approach is necessary because cases of discipline have to be handled with care. Attempts to influence, abridge or circumvent these procedures may well prejudice natural justice.

## **10. Criminal offences**

In the event of a criminal offence connected with work being suspected on the part of an employee, the Case Manager shall report the matter to the Legal Services Section of the Corporate Resources Directorate. If deemed appropriate, Legal Services shall refer the matter to the police if it is not already the subject of police investigations.

If the suspected offence involves irregularities related to the finances of the County Council, the Chief Executive shall also be informed by the Case Manager in accordance with Financial Regulations. It may be necessary to refer the case to Internal Audit prior to a disciplinary investigation being undertaken.

If the suspected offence involves instances where a vulnerable person has been harmed or put at risk of harm notification must be made to the appropriate regulatory

body e.g. HCPC and ISA.

During investigations, the employee may be suspended by the Case Manager. Consultation with Human Resources is advised. In cases involving an alleged criminal offence, where it appears to management that sufficient evidence already exists to warrant it, a disciplinary hearing should be held prior to the outcome of court proceedings, unless advice has been given not to by the Police or the Crown Prosecution Service.

Where, exceptionally, an employee has been suspended pending the outcome of court proceedings, the subsequent conviction of that employee may indicate that gross misconduct has occurred and in such cases the matter shall be dealt with accordingly.

An alleged or proven criminal act by an employee occurring outside work shall not be treated as an automatic reason for dismissal. In determining what action, if any, should be taken, consideration should be given to the seriousness of the offence and whether the offence is one that makes the individual unsuitable for the work he or she undertakes or unacceptable to other employees. Where disciplinary action is considered necessary the advice of Human Resources should be sought concerning the timing of any proposed disciplinary hearing.

Where an employee is placed on remand, or subject to a custodial sentence, the advice of Human Resources should also be sought.

## **11. Driving**

If driving is an essential part of an employee's role within the County Council, the employee is responsible for ensuring that they are fully licensed to drive. If at any time the employee is unable to provide satisfactory evidence that complies with the prevailing statutory requirements in relation to driving, the employee must notify their line manager immediately. Failure to comply with these requirements is a serious disciplinary matter.

If statutory prohibition makes it impossible for the employee to continue in his or her role and re-deployment is not an option, this may result in dismissal.

## **13. Eligibility to appeal**

Following the disciplinary hearing the employee will be issued with a letter giving full and comprehensive details of the events and facts leading to the outcome of the disciplinary hearing. The letter will include an outline of the right of appeal within 10 working days of receipt of the written sanction to the Director of Human Resources.

(Details of eligibility and arrangements for appeal are set out in appendix 1).

## **14. Employees Resigning from Employment**



Where an employee voluntarily resigns from their post and leaves the County Council before a disciplinary matter is concluded, the County Council, in light of its public responsibilities, reserves the right to proceed with the process; reaching a decision in the absence of the individual should they choose not to engage with the investigatory process or attend the subsequent hearing in person.

In such situations the individual who has not been present at their hearing will be notified of the County Council’s decision in writing, and made aware of any follow up action such as the reporting to the relevant professional body.

**15. Monitoring and Audit**

**15.1** The County Council will monitor the application of this policy and has discretion to review it at any time through the appropriate consultation mechanisms.

**15.2** Responsibility for the implementation, monitoring and development of this policy lies with the Director of Human Resources. Day to day operation of the policy is the responsibility of Heads of Service who will ensure that this policy is adhered to.

**16. Training and Support**

Advice can be gained from the HR department in relation to the implementation of this policy and associated procedure.

**17. Associated Documentation and References**

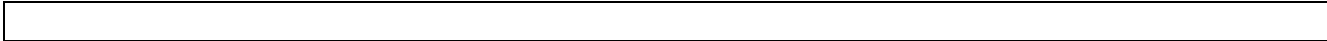
Reference	Title
HRP-08-V1	Capability Policy
HRP-01-V1	Health and Wellbeing Policy
	Procedure for Hearings and Appeals
	Disciplinary Procedures – Information for Employees
	Guidance notes on the operation of the Disciplinary procedure

Appendix 1



## **HUMAN RESOURCES POLICIES AND PROCEDURES**

### **Procedures for hearings and appeals**



## **NORTHUMBERLAND COUNTY COUNCIL – Procedures for hearings and appeals**

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## **1. Part 1 - General Issues and Arrangements**

### **1.1 Service of documents**

Where a document is sent to a party's last known address by first class post it will be deemed to have been delivered to them the next day.

### **1.2 Summons to attend a formal hearing**

A summons to attend a formal hearing may be delivered by hand or sent by first-class post to the employee's last known address. It must be in writing and state the time, date, venue and purpose of the formal hearing.

In the case of formal hearings the summons must give the employee not less than five days notice of the hearing and must also:-

- state the nature of the management's complaint or proposal in sufficient detail to allow the employee to prepare a defence.
- enclose copies of any documents which management intends to use in evidence.
- Identify any witnesses which management intends to call.

### **1.3 Summons to attend an appeal hearing**

A summons to attend an appeal hearing may be delivered by hand or sent by first-class post to the employee's last known address. It must be in writing and state the time, date, venue and purpose of the meeting and give the employee not less than fifteen days notice of it

Following the issue of the summons the two parties must each submit the following documents to the Director of Human Resources at County Hall not less than ten days before the meeting:-

- a full written statement of case including the grounds upon which the appeal or grievance is presented (or is resisted, as appropriate),
- copies of any documents the party concerned intends to use in evidence; and,
- the identities of any witnesses the party concerned intends to call.

Provided that both parties have complied with the requirements of the preceding paragraph, the Director of Human Resources will circulate this information under confidential cover to the hearing body, and the two parties not less than five days before the hearing. A party failing to comply with the requirements of the preceding paragraph shall not be entitled to receive the other party's documentation in advance of the hearing.

The summons must inform the employee of their opportunity to attend the meeting in person and to be represented, or accompanied, by their trade union representative or by a work colleague. If the employee is not able to be represented by a trade union official or a work colleague then, subject to advice from the Director of Human Resources, representation by an alternative person may be agreed.

All parties shall preserve the confidentiality of any document which is endorsed "confidential". This duty of confidentiality also applies to all professional advisors, note takers and persons representing the parties at hearings.

No documentation shall be unreasonably withheld. If either party considers that relevant documentation has been withheld, they should ask the other party to supply the documentation at the earliest opportunity. If the matter is not resolved before the event the hearing body shall determine whether the document in question should be produced in evidence.

#### **1.4 Eligibility to appeal**

Before an appeal is heard and subject to prior consultation with the Director of Human Resources, a Head of Service shall have the absolute discretion to rescind the decision from which the appeal arises. If this happens the appeal will be aborted and a fresh hearing may be arranged. The fact that an appeal has been lodged will not in itself interfere with the decision of the hearing.

Provided that an appeal body has not already given its decision on the case, an employee may appeal against any decision reached at a formal hearing under the Disciplinary Procedure.

If more than one appeal is submitted on the same or similar grounds, the Director of Human Resources (or nominated representative) may, at his/her absolute discretion, decide that there will be a group appeal hearing. A representative group of employees will be selected by the Director of Human Resources or his/her nominated representative to present the appeal. In these cases there will be no individual right to an appeal hearing.

An appeal will be granted if written notice stating the detailed grounds of appeal is received by the Director of Human Resources within ten days of the date of the letter giving notification of the decision. The appeal body will not normally consider any matter not previously disclosed by the appellant in their detailed grounds of appeal.

## **1.5 The appeal body**

Where the appeal is against a decision of an Executive Director, the case shall be heard by Elected Members. In all other cases, the appeal body shall comprise the Head of Service or one or more Authorised Officers of the Service concerned at the discretion of the Head of Service. The Authorised Officer(s) shall be senior to the Authorised Officer who dealt with the case in the first instance, unless the appeal is against a decision of a Head of Service, in which case the Director of Human Resources will appoint a different Head of Service, Director or Executive Director to hear the appeal.

No Authorised Officer who has taken any part in any of the proceedings that gave rise to the appeal or who has any relationship or other connection with the employee that could compromise the proceedings shall hear the appeal.

No elected member who has taken any part in any of the issues that gave rise to the proceedings or who has any relationship or other connection with the employee that could compromise the proceedings shall sit on the Staff (Appeals) Committee.

The quorum of the Staff (Appeals) Committee shall be two.

The appeal body will re-hear the case presented at the original hearing.

## **2. Part 2 - Procedures**

### **2.2 Case presentation**

The applicant shall present the case (which may be read or otherwise) in the presence of the respondent and may call witnesses at any stage during the presentation.

On completion of the presentation the applicant may be questioned firstly by the respondent and then by the hearing body.

The respondent shall present the case (which may be read or otherwise) in the presence of the applicant and may call witnesses at any stage during the presentation.

On completion of the presentation the respondent may be questioned firstly by the applicant and then by the hearing body.

### **2.3 Witnesses**

Witnesses shall be excluded from the hearing until called. Witnesses can be questioned by either party. Once each party is satisfied that they have covered everything they need to with the witness the witness will leave the hearing. Wherever possible at this point the witness should be told whether they are likely to be

recalled.

## **2.4 Summing up**

The applicant and the respondent may sum up their case if they so wish. In all cases, the individual employee sums up last. The summing up shall not introduce any new matter.

If at any stage new facts are alleged or new evidence produced, the hearing body may adjourn the hearing (of its own volition or at the request of one of the parties) for so long as it thinks fit.

At the conclusion of the presentations the applicant and respondent shall leave the room.

## **2.5 Coming to a decision**

The hearing body shall deliberate in private. If they wish to clear a point of uncertainty on any evidence given, both parties shall be recalled even if only one party is to be questioned. The parties shall again leave the room after this process.

### **2.4 Notification of the decision**

If possible, a verbal decision will be given on the day of the hearing. Written notice of the decision must be given as soon as is reasonably possible. A copy of the notice will also be sent to the employee, their representative (if applicable) and the HR service. The notice should:

- refer to previous warnings under the disciplinary procedure where appropriate
- state clearly the decision taken (including any decision to take no action) and the effective date
- specify the reason(s) for this action

Where a warning has been issued, the notice should also indicate:

- that the warning or caution will be recorded on the employee's personal file together with any written comments or observations which the employee may wish to make
- any action that may be required by the employee to remedy the matter
- the likely result of any subsequent failures in conduct and the time scale over which the matter will be reviewed.

## **2.5 Basis of submissions**

In an appeal, the employee's case shall be based only on the grounds disclosed in their letter of appeal.

If the appeal body considers that there are exceptional reasons, additional issues raised by either parties will be taken into consideration. The hearing will be adjourned if necessary to allow sufficient time to research and prepare a response to the issues raised.