

FAIRNESS AT WORK

DISCIPLINARY PROCEDURE

APPLICATION

This Procedure applies to all employees of the Council, except:-

- Teachers and those school based staff in respect of whom responsibility for disciplinary matters lies with the governing body under the School Standards and Framework Act 1998 as amended from time to time.
- Top Management as defined in the Council's Constitution

NOTE: This document replaces the Council's previous disciplinary procedure dated 22nd January 2002

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THE DISCIPLINARY PROCEDURE

1. INTRODUCTION

This Procedure has been developed in the context of the Council's Industrial Relations Framework and the ACAS Code of Practice to ensure that high standards of conduct are met and to establish a fair and consistent method of dealing with problems of conduct. Clear standards are set out in the Council's Disciplinary Rules (Code of Practice on Standards of Discipline) which are appended to this Procedure. (Appendix D)

The procedure should be read in conjunction with the Toolkit for Managing Discipline.

2. INFORMAL DISCUSSION

- 2.1 The need for formal disciplinary action will be reduced if managers and supervisors demonstrate high standards of conduct themselves and make it clear that the same high standards are expected from their staff.
- 2.2 Managers are responsible for communicating to their staff the duties of each individual's job and any particular requirements which are relevant to the work, the work environment or to relationships with colleagues.
- 2.3 An early and courteous intervention explaining the Council's expectations and requirements can be an effective way of improving minor failures in conduct or behaviour. Such guidance and instruction is a normal part of management and supervision.
- 2.4 Managers should ensure that privacy is maintained when conducting such discussions with their staff.
- 2.5 Employees should be given the opportunity to discuss and understand the manager's concerns and the standard of conduct required.
- 2.6 Where the manager decides that improvement is required it is important that the employee understands what needs to be done, and when his or her conduct will be informally reviewed again. It may be necessary to retain a written note of informal discussions of this nature including a record of what action has been taken, if any.
- 2.7 If the misconduct continues, a further informal discussion may be appropriate, which should be confirmed in writing to the employee including the consequences should it continue.
- 2.8 The Council believes that this constructive informal approach in cases of minor failings will help to achieve the high standards expected of its employees.
- 2.9 However, managers and their staff must be aware that more serious concerns about conduct may lead to immediate formal disciplinary action. Managers are referred to the Council's Guidelines on Management Investigations (**LINK:** Toolkit- Investigation Process - May09) which must be followed.

3. GENERAL PRINCIPLES IN FORMAL DISCIPLINARY CASES

- 3.1 No disciplinary action will be taken against an employee until the matter has been fully investigated.
- 3.2 No employee will be dismissed for a first breach of discipline except in a case of gross misconduct when the sanction may be immediate dismissal without notice and without payment in lieu of notice.
- 3.3 The employee will be notified in writing of the allegations at least 10 working days before a disciplinary hearing. This notification should contain sufficient information about the alleged misconduct and its possible consequences to enable the employee to prepare to answer the case at a formal disciplinary hearing.
- 3.4 The Council and the employee (and their companions) should make every effort to attend scheduled meetings.
- 3.5 An employee will have the right of appeal against any disciplinary sanction imposed.
- 3.6 The proceedings, notes of investigations and minutes of hearings, witness statements and other written records are to be kept confidential by all parties.

4. THE RIGHT TO BE ACCOMPANIED

- 4.1 The right to be accompanied or represented by a companion will be confirmed in writing to the employee. The companion can be a Trade Union representative or Official employed by a trade union or a fellow employee or worker. However it is not reasonable for employees to insist on being accompanied by a companion whose presence might prejudice or disrupt meetings or who might have a conflict of interest, therefore management can refuse such a request.
- 4.2 During any management interview, an employee has a reasonable right to be accompanied by a companion. Such accompaniment must be arranged by the employee so that the interview can take place within 2 working days of the written notification of the interview. This timescale will be extended only by agreement.
- 4.3 An employee who is interviewed as a witness as part of a management investigation also has the right to be accompanied.
- 4.4 At the disciplinary hearing, an employee has a reasonable right to be represented by a companion. The companion should be allowed to address the hearing on behalf of the employee, to respond to any comments or views expressed at the hearing and to confer with the employee, but the companion's role is neither to answer questions on the employee's behalf nor to prevent other parties from explaining their case.

5. TRADE UNION OFFICIALS

Normal standards of conduct and performance will apply to trade union officials who are employees of the Council. However, no disciplinary action will be taken until the circumstances of the case have been discussed with an appropriate full-time official. In the case of suspension this may not be practical and should not prevent management taking action.

6. NOMINATED OFFICERS

The nominated officers with powers to act at the various stages of this procedure are determined by joint consultation within each Department.

7. SUSPENSION

- 7.1 In certain circumstances the Nominated Officer may consider it appropriate to suspend an employee from duty based on sufficient preliminary information.
- 7.2 The decision to suspend may be made by the manager in the absence or unavailability of the Nominated Officer, but the suspension must be reviewed with the Nominated Officer at the earliest opportunity.
- 7.3 All reasonable alternatives to suspension such as relocation to a different place of work or re-allocation of duties must be considered, prior to the decision to suspend.
- 7.4 Every effort must be made to avoid lengthy periods of suspension.
- 7.5 Suspension is not a disciplinary action and this should be made clear to the employee in writing. Examples (non exhaustive) of when it may be appropriate are as follows:
- (i) to prevent disturbance and/or distress to service users or fellow employees or the general public
 - (ii) to prevent damage to persons or property including computer data to which the employee has actual or potential access
 - (iii) to facilitate investigation where the employee's presence may hinder the progress of the investigation or intimidate potential witnesses
 - (iv) where the allegations are serious enough to amount to potential gross misconduct
- 7.6 The decision to suspend, the nature of the allegations which led to the decision and the reasons for the suspension must be conveyed to the employee in person by the suspending manager and later confirmed in writing.
- 7.7 Prior to a suspension meeting, and where possible, an attempt should be made to arrange accompaniment for the employee by a Trade Union Official or fellow employee. *See the Trade Union contact numbers listed in Section 5 of the Managers Guidelines on the Disciplinary Procedure.*

- 7.8 If the suspended employee is a trade union member, the appropriate full-time trade union official will be informed as soon as possible and within one working day, if practicable.
- 7.9 Suspension will be paid suspension. For details of entitlement to pay during suspension, see Appendix A.
- 7.10 The suspension will be reviewed after **2 months** and on a monthly basis thereafter by the nominated officer. The suspended employee will have an opportunity to make written representations at each review if he or she wishes to do so and will be informed of the outcome of each review.
- 7.11 Any decision to lift the suspension will be communicated in writing to the employee and arrangements will be made for him or her to return to work.

8. DISCIPLINARY HEARINGS

8.1 Notification

If the Nominated Officer decides that there is a disciplinary case to answer the employee must be notified in writing of this decision and given sufficient information about the alleged misconduct and its possible consequences to enable the employee to answer the case at a disciplinary hearing.

The Disciplinary Hearing should be conducted by the Nominated Officer in accordance with the Council's suggested Running Order (see Appendix B).

It will be usual practice for the Nominated Officer to try to agree a mutually convenient date for the hearing with the employee and their companion (if there is one). If this proves impracticable, the Nominated Officer will set a date for the disciplinary hearing giving a minimum of 10 working days notice (but see 8.2 below).

8.2 Postponement of Hearings/Appeals

In accordance with Section 10(4) of the Employment Relations Act 1999 an employee may seek a postponement of the hearing and propose an alternative time, if their chosen companion is not available. The Act states that the alternative time proposed by the employee must be reasonable and fall within 5 working days beginning with the first working day after the date initially notified by the Council.

8.3 Documents and Witness Statements

The parties should attempt to agree if possible any evidence and/or documents which are not matters of dispute between them.

It may be possible to accept some witness statements in writing without the necessity for the witness to attend, particularly if the statement only contains uncontested evidence e.g. character references.

The employee will be provided with any written evidence including any witness statements with the notification letter at least 10 working days prior to the hearing.

The employee should make every effort to provide the Council with copies of any documents and witness statements which he or she intends to rely upon in advance of the hearing and if possible 5 working days prior to the hearing.

8.4 Witness Evidence

Both the employee and the Council will have the opportunity to call relevant witnesses at disciplinary hearings and appeals.

Advance notice must be given by the employee and the Council respectively if it is intended to call relevant witnesses who must be identified.

There will be opportunity at any disciplinary hearing to present evidence, both written and oral, to call witnesses and to ask questions or raise points about information provided by witnesses.

If the employee believes that relevant evidence may be available from witnesses who would otherwise not appear at the hearing then a request that the Council calls such witnesses may be made. Such requests must state why the witness's evidence is relevant. The decision as to whether to call such witnesses will rest with the Council. All witnesses who it is agreed should be called to a disciplinary hearing should receive paid time off to attend.

9 DISCIPLINARY SANCTIONS

- 9.1 It may be appropriate to deal with cases of minor misconduct informally. If, however, the facts of the case appear to require formal disciplinary action because informal action has not brought about an improvement or because the misconduct is too serious to classify as minor, the following sanctions may be used following investigation and a disciplinary hearing.

It will not invariably be the case that an employee found to be engaging in misconduct will move through each level of warning sequentially. There may be circumstances in which it may be appropriate at the first instance to move directly to a written warning or a final written warning.

9.2 Level 1 - First Warning

A First Warning may be given by the Nominated Senior Officer and a note of it will be kept on file. This type of warning will lapse for disciplinary purposes after 6 months, subject to satisfactory conduct.

9.3 Level 2 – Written Warning

Where a First Warning has been given and not lapsed and insufficient improvement or change of behaviour has occurred or where the misconduct is sufficiently serious, a Written Warning may be given by the Nominated Senior Officer and a copy of it will be kept on file.

A Written Warning of this type will lapse for disciplinary purposes after 9 months subject to satisfactory conduct.

9.4 **Level 3 – Final Written Warning**

Where there is a prior warning of any kind and there has been a failure to improve or change behaviour or where misconduct has occurred which is sufficiently serious and/or harmful to the Council, a Final Written Warning may be given by the Nominated Principal Officer and a copy of it kept on file.

A Final Written Warning will lapse for disciplinary purposes after 12 months subject to satisfactory conduct save in exceptional circumstances where a Nominated Officer may decide that the period should be longer. (See toolkit for examples of exceptional circumstances).

The employee will be advised that failure to improve or change behaviour or where misconduct continues to occur which is sufficiently serious and/or harmful to the Council, then further disciplinary action may lead to dismissal.

9.5 **Written Confirmation of Warnings**

All warnings (including first warnings) will be confirmed in writing to the employee and contain the following information:

- a) The level of warning;
- b) The reason for the warning;
- c) The future action required of the employee, if relevant;
- d) Where applicable, details of the assistance which the Council will make available to the employee e.g. training or guidance;
- e) Notification of the right of appeal;
- f) The date on which the warning will lapse;
- g) Notification that further disciplinary action including dismissal may be taken if there is further misconduct or insufficient improvement whilst the warning remains live.

9.6 **Level 4 – Dismissal**

Where the employee is already the subject of a Final Written Warning for whatever reason and if further misconduct occurs, or where the case is so serious as to justify moving directly to dismissal or where the conduct of the employee is such as to amount to gross misconduct, the Nominated Principal Officer may dismiss the employee. A dismissal must be confirmed in writing and the employee must be told the reason for the dismissal, the date on which the contract of employment will end (if dismissal is with notice) or has ended (if the dismissal is without notice) and of the right to appeal

In those exceptional circumstances where the Nominated Principal Officer decides that s/he has lost trust and confidence in an employee *only* in respect of the employee's *current* post, s/he may impose a final written warning and transfer the employee to another post, or demote the employee, as an alternative to dismissal.

The alternative post should be identified when the outcome of the disciplinary hearing is announced and this may require the proceedings to be adjourned. Such transfers will not carry any protection of salary, hours, allowances or any other emoluments. Should the employee not agree to such a transfer s/he will be dismissed.

Any appeal against a final warning and disciplinary transfer can only be against the decision to issue the final warning. There will be no right of appeal against the post s/he is to be transferred to.

9.7 Gross Misconduct

Gross misconduct is misconduct so serious in itself or which has such serious consequences for the Council that it may call for dismissal without notice and without pay in lieu of notice even for a first offence. Nonetheless, a fair and thorough disciplinary investigation and process will be followed before the decision to dismiss is taken

The Employee Code of Conduct on Standards of Discipline (see Appendix D) contains a non-exhaustive list of circumstances which would normally amount to gross misconduct.

10 RIGHT OF APPEAL AGAINST DISCIPLINARY ACTION

- 10.1 An appeal against a First Warning or Written Warning may be exercised by writing to the Assistant Director giving the grounds for the appeal within 15 working days of the date of the decision letter. This appeal will be heard by the appropriate Nominated Principal Officer. This is the final level of appeal.
- 10.2 An appeal against a Final Written Warning issued by a Nominated Principal officer may be exercised by writing to the Strategic Director giving the grounds for the appeal within 15 working days of the date of the decision letter. This appeal will be heard by a different Nominated Principal Officer. This is the final level of appeal.
- 10.3 An appeal against a dismissal decision may be exercised by writing to the Chief Executive giving the grounds for the appeal within 15 working days of the date of the decision letter. This appeal will be heard by a panel of Elected Members. This is the final level of appeal.

11 DISCIPLINARY APPEAL HEARINGS

- 11.1 The parties should attempt to agree evidence/documents which are not matters of dispute between them.
- 11.2 Any documentary evidence and details of witnesses to be presented by management at the hearing must be given to the employee and the employee's representative at least 10 working days prior to the appeal.
- 11.3 The employee and the employee's representative will make every effort to provide any documents and details of witnesses they intend to present at the appeal as soon as practicable.
- 11.4 Either side may introduce new evidence at the appeals stage. If new evidence is produced, the Officer/Appeals Panel hearing the appeal will allow the other side time to consider the evidence, adjourning if necessary.
- 11.5 On appeal, the Officer/Appeals Panel hearing the appeal cannot reconsider any allegations which were found unproven at the original hearing.
- 11.6 The Appeal Hearing should be conducted by the Nominated Officer in accordance with the Council's suggested Running Order please refer to Appendix C.

PAY DURING SUSPENSION

- A. The employee is entitled to normal pay during a period of suspension. Normal pay means the pay which the employee would have been paid in the particular week of the suspension. The appropriate regular payments listed below shall also be included, providing that they would have been paid to the employee in that particular week but for the suspension.

The payments to be included, **if regular**, are for:-

- Shift work
- Night work
- Split duty
- Weekends
- Unsocial hours
- Scheduled standby duty
- Contractual overtime.

In addition, where appropriate, employees shall continue to receive the following allowances providing they would have received them but for the suspension:-

- Essential car user lump sum allowance

For any bonus earner, normal pay shall also include a sum equal to his/her average bonus earnings. This shall be determined by reference to the average bonus earned per hour over the preceding 3 months prior to the suspension, or any other period as agreed locally. Once such a bonus sum is calculated as described, then it will remain fixed at that amount for the duration of the suspension. However, if new bonus rates are agreed for the particular bonus scheme during the period of suspension, or if the bonus rates are amended due to any general pay increase, then the sum will be appropriately revised. If the employee becomes no longer contractually eligible to receive such bonus payments during the period of suspension then, from that date, the bonus will cease to be paid.

- B. If the employee takes annual leave or is sick at any time during the suspension, then pay for such leave or sickness will be calculated in accordance with the normal provision of the Council's annual leave or sickness scheme. Any other payments, e.g. the allowances detailed above, will be paid in accordance with that scheme's rules for any leave or sickness absence.

When any period of sickness as described above comes to an end, then the employee – if still suspended – again becomes entitled to normal pay during suspension as defined in paragraph (A) above.

APPENDIX B

RUNNING ORDER FOR DISCIPLINARY HEARINGS

The following running order is designed to provide a systematic and orderly way of conducting a disciplinary hearing to enable full information to be presented by both sides and for the Nominated Officer to seek sufficient information to make a fair and reasonable decision.

However, it is recognised that on occasions the running order may be varied by the Nominated Officer after consultation with both parties.

- i. At the beginning of the hearing, the Nominated Officer shall explain the procedure to the parties.
- ii. The Authority's representative(s) will put the Management case and may call witnesses.
- iii. The Employee and the Employee's Representative will have the opportunity to ask questions of the Authority's representative(s) and any witnesses he/she has called.
- iv. If, as a result of this questioning, new evidence is brought out, the Authority's representative may re-examine the witness (es) regarding this evidence.
- v. The Nominated Officer may ask questions of the Authority's representative(s) and any witnesses he/she has called, and call for further information to clarify matters. If, as a result of questioning, new evidence is brought out, both parties will be given an opportunity to comment and, if necessary, an adjournment may be granted.
- vi. The Employee and/or the Employee's representative will put his/her case and may call witnesses.
- vii. The Authority's representative(s) will have the opportunity to ask questions of the Employee and any witnesses he/she has called.
- viii. If, as a result of this questioning, new evidence is brought out, the Employee and/or the Employees representative may re-examine the witness (es) regarding this evidence.
- ix. The Nominated Officer may ask questions of the employees representative(s) and any witnesses he/she has called, and call for further information to clarify matters. If, as a result of questioning, new evidence is brought out, both parties will be given opportunity to comment and, if necessary, an adjournment may be granted.
- x. The Authority's representative will have the opportunity to sum up their case.
- xi. The Employee or the Employee's Representative will have the opportunity to sum up their case.
- xii. Provided that the Nominated Officer is satisfied that there is no further clarification needed of the evidence already presented at the hearing, the parties to the case will be asked to withdraw from the hearing and the Nominated Officer will consider his/her decision.
- xiii. The decision will normally be announced orally as soon as possible following conclusion of the hearing, and the decision, together with the reasons, will normally be confirmed to the employee in writing within 5 working days of the hearing.

RUNNING ORDER FOR DISCIPLINARY APPEALS

The following running order is designed to provide a systematic and orderly way of conducting a disciplinary hearing to enable full information to be presented by both sides and for the Officer/Appeals Panel hearing the appeal to seek sufficient information to make a fair and reasonable decision.

However, it is recognised that on occasions the running order may be varied according to the circumstances of the case.

- i. The Authority's representative(s) will put the management case and may call witnesses.
- ii. The Employee and the Employee's Representative will have the opportunity to ask questions of the Authority's representative(s) and any witnesses he/she has called.
- iii. If, as a result of this questioning, new evidence has been brought out, the Authority's representative(s) may re-examine witness (es) regarding this evidence.
- iv. The Officer/Appeals Panel hearing the appeal may ask questions of any party and call for further information to clarify matters. If, as a result of questioning, new evidence is brought out, both parties will be given an opportunity to comment and, if necessary, an adjournment may be granted.
- v. The Employee and/or the Employee's Representative will put his/her case and may call witnesses.
- vi. The Authority's representative(s) will have the opportunity to ask questions of the Employee and any witnesses he/she has called.
- vii. If, as a result of this questioning, new evidence has been brought out, the Employee and/or representative may re-examine witness (es) regarding this evidence.
- viii. The Officer/Appeals Panel hearing the appeal may ask questions of any party and call for further information to clarify matters. If, as a result of questioning, new evidence is brought out, both parties will be given an opportunity to comment and, if necessary, an adjournment may be granted.
- ix. The Authority's representative will have the opportunity to sum up their case.
- x. The Employee or the Employee's representative will have the opportunity to sum up his/her case.
- xi. Provided that the Officer/Appeals Panel hearing the appeal is satisfied that there is no further clarification needed of the evidence already presented at the appeal hearing, the parties to the case will be asked to withdraw from the appeal and the Officer/Appeals Panel hearing the appeal will consider the evidence, and make a decision.
- xii. The decision will normally be announced orally as soon as possible following the conclusion of the hearing and the decision, together with the reasons, will normally be confirmed in writing within 5 working days of the hearing. If the decision is to substitute a lower level of discipline, the letter confirming the decision must set out clearly the terms of the warning, as detailed in 10.5 above.

Employee Code of Conduct

These rules, standards and expectations are determined by the Council and the Council reserves the right to amend them from time to time in consultation with staff and Trade Unions.

The Need For Disciplinary Rules

Clear standards benefit both the Council and its employees. Rules are necessary because they set standards of conduct at work and make clear to employees what is expected of them. They are put in writing to ensure that all employees know what is required and expected of them and to avoid any misunderstanding. They should be readily available and easily understood by both employees and managers.

It is unlikely that any set of rules can cover all circumstances that may arise. The following set of rules is not intended to be a complete list of all possible "offences". The emphasis is on outlining standards of performance and behaviour which are expected of employees. Common sense and good judgement is required on the part of managers in the fair and consistent application of these rules to employees.

1. Application of the Code

1.1 Application

This Code of Conduct applies to all employees of the Council whilst acting in the course of their employment with the Council. It does not apply in any personal capacity unless indicated.

The Code is in addition to any professional Code of Conduct that applies to Employees in specific service areas.

The Code, or parts of it, may be applied, by specific arrangement, to employees of contractors of the Council, to Agency and Temporary Staff discharging Council's functions, to employees seconded to another body or to volunteers working with the Council.

1.2 Interpretation

This Code contains practical rules that add to the General Principles of Conduct (Appendix 1). These are contained in the Council's Constitution.

This Code shall be interpreted broadly, recognising that in a large changing organisation, precise disciplinary rules cannot be worded to cover every circumstance of conduct and behaviour.

Further information on the application of this Code may be obtained from the Human Resources Department.

1.3 Extent of Code

This Code deals with the conduct and behaviour of employees. Other rules, procedures and responsibilities also apply to employees, which in some circumstances may overlap with this Code. These Codes are available either on the Council's internal website or from Line Managers.

This Code is added to or may be varied by specific departmental rules (e.g. standards, use of equipment, data protection and confidentiality) as agreed locally.

1.4 Breach

Failure to comply with this Code (or any rule, procedure or responsibility such as those indicated above) will be regarded as serious and any breach is likely to lead to investigation and disciplinary action under the Council's agreed disciplinary procedures.

2 Conduct and Behaviour

2.1 General Conduct and Behaviour

In general terms, the basic standard of conduct for a Local Government officer is laid down in paragraph 70 of the National Conditions of Service for APT&C staff.

"The public is entitled to demand of a local Government officer conduct of the highest standard

This is incorporated into the local conditions of service for former APT&C staff and a similar provision is also in the local conditions of service for Craft and former Manual workers.

In terms of employees' general conduct, the following rules and expectations apply:-

- Employees are expected to set the highest standards of conduct and must behave politely and reasonably to colleagues, members of the public and clients/customers of the service.
- Employees must not abuse their authority either in relation to a colleague or a member of the public.
- Employees must achieve an appropriate standard of dress, which meets health and safety requirements, neatness and personal hygiene.
- Employees must not conduct themselves in a manner in relation to their employment or otherwise which could reasonably be regarded as bringing themselves or the Council into disrepute.
- Employees must not be under the influence of alcohol or unprescribed drugs during working hours, in so far as it impairs employee performance, conduct or safety.
- Employees must not smoke in work areas which are designated by the Council as no-smoking areas, within the terms of the Council's smoking policy.
- Employees must take reasonable care with Council property, equipment, resources and facilities and ensure that they are only used for Council purposes.
- Employees must act honestly and in good faith in the course of their duties.
- Employees must behave towards any other person in a way that creates mutual respect.
- Acts of violence, threatening behaviour and verbal abuse are unacceptable.
- Employees must not subject any other person to any form of harassment, victimisation or bullying. Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power

through means intended to undermine, humiliate, denigrate or injure the recipient. Bullying or harassment may be by an individual against an individual (perhaps by someone in a position of authority such as a manager or supervisor) or involve groups of people. Harassment includes:

- a) Use of derogatory language relating to a person's gender, race, disability, culture, religious beliefs, age, sexuality, class, economic or other disadvantage.
 - b) Unwelcome and intentional touching of another person's body or clothing.
 - c) Threatening to take action against a person over whom the harasser may appear to have power. This could include, for example, threatening to withhold Council services if sexual advances are rejected or implying that promotion will be denied because of a person's gender, race, disability, culture, religious beliefs, age, sexuality, class, economic or other disadvantage.
 - d) Behaviour which is found to be offensive by the recipient and is perceived by them to be harassment and which persists, despite the recipient making it clear that they object to the behaviour in question or the offence caused is apparent to any reasonable person.
 - e) Behaviour which continues after the recipient has made it clear that it is offensive.
 - f) Use of remarks, 'jokes' and banter verbal, written or in electronic communications or social media, or other words or actions about age, disability, gender, race, religion and belief or sexual orientation, which are offensive, abusive or belittling and detrimental to a good working environment.
- Employees must comply with all lawful and reasonable instructions of the Council and their managers.
 - Employees must familiarise themselves with the legislation, standards, rules and procedures that relate to their work and general conduct.
 - Employees requiring further information or guidance as to the appropriate course of action to adopt in any situation must refer to their Line Manager.
 - Employees must provide, when required by the Council, accurate personal information, e.g. date of birth, status, qualifications, experience, health, home address and phone number.

2.2 Work Performance

Employees must carry out their duties at a level of performance acceptable to the Council.

Employees must co-operate with reasonable requests and instructions from managers.

Employees must at work, and otherwise, act within the law to reflect the trust and confidence the public places in them.

Employees must assist where required with enforcement action taken by the Council.

Employees must co-operate with the police and other enforcement bodies in providing statements and evidence.

Employees must co-operate with any internal or external enquiry or investigation.

2.3 Attendance and Time-Keeping

Employees are contracted to the Council to carry out a job. Regular attendance at work is essential to undertake the duties of that job.

Employees must notify their supervisor of any absence from duty for any reason - including non-attendance at an approved course of training. Employees must explain their absence, as soon as is reasonably practicable or in accordance with other prescribed arrangements.

If the reason for absence is sickness, employees must comply with the appropriate sickness notification arrangements.

Employees must comply with their starting and finishing times including, where appropriate, the flexible working hours scheme.

Employees must comply with annual leave procedures.

Persistent lateness is unacceptable.

Persistent absenteeism is unacceptable.

2.4 Dress and Personal Appearance

Employees must maintain a standard of dress and appearance that is appropriate or required for the workplace and to the work being undertaken. Employees must be aware that their appearance contributes to the quality of customer care provided. Employees must be clean and tidy and ensure good personal hygiene.

Where particular clothing is provided for health, safety and hygiene as uniform and /or to portray a corporate image it must be worn. Where provided, name badges must also be worn in a conspicuous position.

Employees working in reception areas must wear corporate dress where this is supplied or must dress smartly and portray a business-like and professional image.

2.5 Honesty and Hospitality

It is a criminal offence under Section 117 of the Local Government Act 1972 for employees of a Local Authority under colour of their office of employment, to accept any fee or reward whatsoever other than their proper remuneration.

An employee must not give or offer gifts, inducements, bribes or considerations of any sort in connection with the Council's business in any way.

The public has a right to expect those employed by the Council providing a service to them, to have the highest standards of honesty and integrity and not to use their positions to their own advantage. Employees supervising contracts and having direct contacts with contractors and suppliers to the Council must exercise particular care and must be able to demonstrate complete integrity.

Any gift other than of nominal value (less than £25) may not be accepted and all offers of gifts must be reported to Senior Management. Hospitality may only be accepted in circumstances where it is courteous and reasonable to do so. All offers of hospitality must be reported to Senior Management. An employee, who is in any

doubt about whether an offer of hospitality is reasonable, should always discuss this with their supervisor before accepting.

2.6 Conflict of Interest

Employees should not place themselves in debt for money or services to any person where this might affect, or be thought to affect the proper performance of their duties.

Employees must notify their supervisor of any relationship through family (be it business or social) to any contractor, supplier, job applicant or client of the Council with whom they may come into contact in the course of their duties. It is the responsibility of employees to avoid any suggestion of conflict of interest arising in the course of their employment. Where there is the possibility of a conflict of interest occurring, employees must immediately notify their supervisor.

An employee must not take on private work from other organisations or individuals where there is or may potentially be a conflict of interest. Any contact which may compromise the Council's interest should be reported to line management. If employees are in any doubt whether such a conflict exists they should ask their supervisor.

2.7 Neutrality

Whilst engaged in Council business:

- Employees must act impartially, comply with decisions of the Council and not allow their personal or political opinions to interfere with their work. Employees must declare any financial interests (e.g. work where a fee is received) or their non-financial interests (e.g. Involvement in an official capacity in an outside organisation which has dealings with the Council).
- Employees must make decisions on behalf of the Council objectively and on their merit, having regard only to relevant information.
- Employees must not wear or display on their person, vehicle or items such as tools and equipment, objects indicating affiliation with or opposition to any political party or pressure group.

Employees in politically restricted posts:

- Must comply with the restrictions at work and otherwise. Employees whose posts are politically restricted will be informed of the restrictions that apply.
- Must primarily serve the Council. Where the Council discharges its functions through the Executive, Committees and Panels, and other bodies, employees must, where required, assist these bodies in their work.
- Must advise political groups in relation to the discharge of Council functions in ways that do not compromise their neutrality.
- Must advise elected members in a manner that ensures the impartiality of their advice. Employees must offer such advice in a way that creates mutual respect between employees and members.

The Protocol on Member-Officer Relations provides rules and guidance for employees involved in advising members of Council.

2.8 Secondary Employment/Private Work

The Council recognises that some employees will take additional employment outside their employment with the Council, or in some cases unpaid voluntary work. However, the following rules should be followed:-

This work must not be carried out during the hours which employees are contracted to work for the Council, including hours where employees may be required to work on a rota basis.

Employees must not engage in employment, including self-employment, during their off-duty hours, when such employment conflicts with the interest of the Council or in any way weakens public confidence in the conduct of the Council's business.

Private work which might involve any dealings with the Council must be disclosed and can only be done with a 3rd tier officer or above, approval.

Officers above scale 6 covered by the NJC for Local Authority's APT&C staff conditions of service, shall devote their whole time service to the work of the Council and shall not engage in any other business or take up any additional appointment without the express consent of the Council. This consent shall be requested in writing from a 3rd tier officer or above.

2.9 Confidentiality of the Council's Business Interests

Employees should be aware that increasingly the Council is in the position of having to compete for the provision of its own services. Employees must not pass on information to the Council's competitors.

Employees must not pass on Council Business information to other than authorised officers. This specifically includes information in relation to in-house tender strategy, in-house tender preparation or in-house contract management. Such information should in no circumstances be passed to competitors and any employee leaving the Council is forbidden to take with them copies of information of a competitive business nature or make available knowledge gained in the course of the Council's employment.

Employees involved in appointing or supervising contractors must:

- Inform their Strategic Director or Assistant Director in writing of any conflict of interest in respect of any contractor or prospective contractor immediately the interest becomes apparent and comply with any instruction as to such involvement. The Code relating to Conflict of Interest and Registration of Interest contains more specific details.
- Familiarise themselves with the Council's Procurement Strategy, Procurement Code of Practice, Contract Standing orders and Financial Regulations and comply with them.
- Exercise fairness and impartiality and be able to demonstrate such.
- Not in any way favour any person in the formulation of contract specifications and tender documents.
- Not in any way favour any other employee or former employee of the Council or their partners or business associates.
- Only appoint contractors on merit.

- Keep secure any confidential information provided by any person in the course of tendering and contract arrangements.
- Not disclose, during the course of a tendering process, information received from a prospective contractor to another prospective contractor other than in accordance with approved arrangements.
- Report to their manager the circumstances of any contractor failing or apparently failing to comply with the conditions of any contract.

Employees must not provide any information (that is not otherwise publicly available) to any prospective contractor, other than in accordance with approved arrangements that involve all prospective contractors.

Employees must not, on leaving the employment of the Council, take with them any document or copy of any document, not otherwise publicly available, that may be of advantage to any prospective contractor.

Where there is a 'client' and 'contractor' structure within the Council, employees must be clear as to their respective roles and comply with relevant Financial Regulations. Employees must discharge the 'client' role in accordance with this part of the Code of Conduct as if the 'contractor' were an external contractor.

Where the tendering of a Council function is being undertaken, employees involved in the process must declare their membership of or affiliation to, any organisation which may have an interest in tendering for the function to their Strategic Director and Assistant Director.

2.10 Health and Safety

Employees and employers have legal duties under the Health and Safety at Work Act to provide and maintain a safe working environment. It is Management's responsibility to inform employees of Health & Safety requirements and accident reporting procedures.

Employees must wear appropriate protective clothing where it is provided by the Authority for particular duties.

Employees must comply with accident reporting procedures.

Employees must follow safety instructions and codes of practice.

Employees must comply with hygiene requirements, food handling etc.

Employees must not engage in dangerous or reckless behaviour involving risk of injury to themselves or other persons.

3 Adherence to Council Procedures

It is Management's responsibility to make all employees aware of Council rules or relevant legislation by issuing these or drawing attention to their availability.

All employees should familiarise themselves with the Council's rules and any legislation relevant to their employment.

The Council also has a number of rules, procedures and agreed protocols etc. which must be followed. All employees must in so far as it affects their duties and responsibilities familiarise themselves with: -

- Legal requirements,
- Financial regulations,

- Health and safety procedures,
- Personnel and equal opportunity policies
- Any other Departmental or Council procedures.

4 Upholding the Integrity and Credibility of the Council

Employees of the Council must ensure at all times - and particularly in any dealings with the public - that their words and actions do not bring the Council into disrepute.

Conduct, whether during work hours or not and including conduct of a criminal nature, is a legitimate concern of the Council and disciplinary action may be taken where conduct has been prejudicial to the Council's interest.

Employees should notify their supervisors if they are convicted of any criminal offence during their employment with the Council where the offence may be relevant to the job or may reasonably be regarded as affecting the reputation of the Council, the credibility of the service offered or the integrity of the employee.

5 Confidentiality of Personal Information

Employees must not disclose to any unauthorised person any information about clients of the Council or other employees or members of the public obtained in the course of the Council's business.

Where confidentiality is required - of any information held by the Council - employees must maintain such confidentiality. Employees must not spread malicious rumours or gossip, as this can create unnecessary distress and fear.

6 Information, Data Protection and Confidentiality

Employees whose work involves holding information and personal data must familiarise themselves with relevant legal requirements and the Council's arrangements for data protection, and comply with them. They must make themselves aware of which information the Council is and is not open about and act accordingly

Employees whose work involves the provision of information held by the Council must familiarise themselves with the Council's Access to Information Procedure Rules and the Protocol on Member-Officer Relations and comply with them.

Employees must not disclose personal data or other confidential information to any person not authorised to have it. The Council's Policy Statement on Data-sharing should also be consulted before releasing information to partners.

Employees must produce personal data held by them to a person entitled to access to it in a timely and efficient manner.

Employees must take reasonable and practicable steps to verify the identity of a person applying for access to personal data.

Employees must not provide personal data relating to another employee of the Council to a person not authorised to have it, without first obtaining the permission of that employee.

Employees must comply with all security arrangements provide by the Council for the security of personal data and confidential information, including proper use of passwords on computers.

Employees must not provide a computer password that relates to personal data or confidential information to any person not having authorised access to such data or information.

Employees must not use information obtained in the course of their work (other than information that is publicly available) improperly for personal gain or benefit of themselves or any other person.

Employees must not, without the authority of a Strategic Director or Assistant Director, provide a reference on behalf of the Council in relation to any person.

7 Contact with the Media

Scope of Guidelines

These guidelines apply to employees who have contact with the media.

Definition of Media Relations

Most commonly this means writing letters or otherwise communicating with to newspapers but also includes any activities resulting in outside publication or broadcast, e.g. Books, articles, radio and television appearances. It also includes social media that uses web-based and mobile technologies to facilitate interactive dialogue, e.g. e-mails, blogs, facebook, web-sites and twitter.

As a Private Citizen

As a private citizen you are free to participate in media relations subject only to certain restrictions designed to protect the Council, as employer, from embarrassment and to preserve confidentiality within the context of Open Government.

You must not disclose:

- Confidential information affecting an individual or individuals.
- Commercial information, e.g. Details of contracts.
- Information relating to negotiations with Trade Unions.
- Information relating to any legal action in which the Council is, or is likely to become involved with.
- Information in connection with your duties.

You must be especially careful if what you say involves:

- Policy making and/or political controversy.
- Criticism of politicians, political groups or the Council's performance.
- Other employees.

It is important that there is no suggestion that you are speaking as an employee and that you have taken all reasonable steps to avoid any inference that, including denial if necessary, you are speaking as an employee. You must also ensure that neither the content of what you say nor the way in which you express yourself could in any way undermine your client's and/or public's confidence in you as an employee of Bradford Council.

As an Employee

If you have suggestions to make, grievances to air or wish to influence the development of Council Policy, you can do so by either:

- Taking it up with your immediate supervisor who has the duty to transmit your views through Department communication channels.
- Taking it up with the appropriate Office if it involves a Department other than the one in which you work.
- Taking it up with Internal Audit or
- Taking it up with your Trade Union or Professional Association who can pursue it through established procedures.
- Report any concerns confidentially under the procedures set out in the Council's Whistleblowing Policy.

You must not attempt to do so by media contact.

Employees Whose Duties Involve Media Contact

As a Council employee, you are in public service and therefore it is important that you adopt a tone, style and content that is consistent with your responsibilities.

Further Advice

If you are in any doubt as to whether the media contact you have in mind might infringe these guidelines, you should seek guidance from your line manager in the first instance.

8 Equal Rights

The Council has an Equal Rights & Diversity statement, the Equal Rights employment policy statement and the Council's Equality Strategy, which are available to employees via the portal or as a hard copy via departmental managers. Employees must comply with them. In accordance with the Equal Rights statement, all employees must not discriminate against or harass any colleague or member of the public on the grounds of a person's sex, race, disability, culture, age, sexual orientation, gender, pregnancy or maternity, religion and or belief, marriage or civil partnership, class, economic or other disadvantage. Harassment can be behaviour by one or more persons against any other person(s) which causes offence or embarrassment or creates fear, stress or tension or any other detriment in the workplace. Such behaviour may be physical, verbal non-verbal or written and can include intimidating acts, offensive comments or gestures and interference with the employee's property or work station. This definition includes racist or sexist remarks. Even if these are intended as a joke, they are very offensive and are not acceptable.

Employees must comply with and demonstrate positive commitment to Council's equality policies by their conduct, behaviour and example. This includes:

- Treating all people with equal respect whilst recognising and valuing differences;
- Understanding and making reasonable adjustments to meet different individual and community needs;
- Challenging inappropriate behaviour;

- Listening, interacting and responding in a positive manner.

Managers have a particular responsibility to ensure the workplace is free from discrimination and harassment and to take appropriate action at the earliest opportunity.

Employees must not display or circulate material which may cause offence.

Employees must undertake any training required of them, which is provided in connection with the Council's Equal Rights policy.

Managers and other employees in a senior role have a particular responsibility to conduct themselves in accordance with these rules and the spirit of the Council's policies on Equal Rights, at all times. It is important to manage by example to set standards for all staff to follow.

9 Trade Unions

All Employees must respect arrangements between the Council and trade unions that relate to their recognition and involvement in consultation and negotiation on employee matters.

10 Use of Council Resources

'Council resources' includes all land and buildings, property equipment and systems of the Council and the work and results of effort of another employee. In particular the expression includes stationery, telephones, photocopiers, fax machines, computers and computer software, cameras, buildings, offices, car parks, materials and supplies, machinery, tools, intellectual property and copyright.

Employees must only use Council resources for the purposes of the Council (or for the purposes of a body or person to which Council resources have been allocated by permission or agreement) and must not use Council resources for their own personal purposes or for the purposes of any other person without permission.

Permission must be obtained in writing for the specific personal use of any Council resources from an employee's Strategic Director or Assistant Director.

Employees attention is drawn to the fact that telephone call and e-mail / internet logging systems are in operation in the Council and may be used to identify improper use. Any communications using Council systems may be monitored.

Employees using Council resources must familiarise themselves with all instructions and any relevant safety information.

Employees must take reasonable care in using Council resources and must report any loss, damage, defect or failure as soon as practicable.

Employees must provide adequate arrangements for the security for Council resources for which they are responsible or have possession of, and take reasonable and practical precautions to prevent loss or damage.

Employees must at all times and under all circumstances use public funds in a responsible and lawful manner. They should strive to ensure value for money to the local community, avoid legal challenge to the Authority and comply with the Council's Anti-fraud Strategy Statement, Standing Orders and Financial Regulations.

Employees should follow the rules on ownership of intellectual property and copyright created during their employment with the Council.

Employees must comply with council rules when disposing of any assets, property or otherwise including those of nil value.

11 Gross Misconduct

- (a) Gross misconduct is generally seen as misconduct serious enough to destroy the employment relationship between the employer and the employee and make any further trust, confidence and future working relationship impossible.
- (b) Gross misconduct will normally lead to summary dismissal (i.e. dismissal without the normal period of notice or pay in lieu of notice) following a Formal Disciplinary Hearing.
- (c) The following list is not exhaustive nor in any order of priority but are examples of circumstances which will normally amount to gross misconduct and may result in summary dismissal. It is the responsibility of employees to be aware of other circumstances within their particular workplace or duties which would amount to Gross Misconduct:-

Failure to comply with a reasonable management instruction. In the case of less serious/less urgent instructions repeated and wilful failure would be required for it to constitute gross misconduct.

Improper use of an official position for private gain or the private gain of some other person, including soliciting or accepting bribes.

Fighting or physical assault on clients, members of the public or other employees, including maltreatment of persons in the Council's care.

Deliberate misrepresentation as to personal information required by the Council, e.g. date of birth, status, qualifications, experience and health, where that information has been relied upon by the Council.

Deliberate falsification of time sheets, claim forms, letters etc.

Theft, misappropriation, unauthorised possession or malicious damage to property, materials or equipment of the Council, its clients or other employees.

Negligence or non-compliance with any Health and Safety requirements such as to endanger life or cause unacceptable damage or injury.

Unauthorised use of Council materials, equipment, vehicles or Council facilities whether during or outside the working day.

Unauthorised use of Council labour for private purposes.

Conduct prejudicial to the Council's interest or conduct of a criminal nature, whether Committed at work or,

Committed outside working hours.

Which, having regard to the nature of the offence and the duties of the employee's post, may damage the reputation, integrity and credibility of the Authority.

Doing private work during hours when contracted to work for the Authority - this includes unpaid voluntary work.

Breaches of Council procedures and policies which result in discrimination in terms of service provision or employment including promotion or training. Such discrimination may be direct (i.e. applying a condition or requirement to one group which would not

be applied to another) or indirect (i.e. applying a condition or requirement universally which cannot be justified and which is more easily met by one group than another).

Personal harassment of a serious nature, including, for example: -

- Verbal abuse - which includes derogatory language relating to a person's gender, race, disability, culture, religious beliefs, age, sexuality, class, economic or other disadvantage.
- Unwelcome and intentional touching of another person's intimate body areas or clothing.
- Threatening to take action against a person over whom the harasser may appear to have power. This could include, for example, threatening to withhold Council services if sexual advances are rejected or implying that promotion will be denied because of a person's race.
- Behaviour which cannot be justified; is in conflict with the Council's equal rights policy or equal rights employment policy; is found to be offensive by the recipient; is perceived by the recipient to be harassment

and

which persists despite the recipient making it clear to the harasser that they object to the behaviour in question;

or

continues despite the offence caused being apparent to any reasonable person.

This type of behaviour need not involve direct abuse but could include general remarks about gender, race etc. which are offensive, including the use of patronising terminology, 'jokes', or other words or actions detrimental to a good working environment.

GLOSSARY

Rules:

The ACAS Guide on Discipline & Grievances at Work (March 2011) states that

“Clear rules benefit employees and set standards of conduct. They also help employers to act fairly and consistently. Employers should also set standards of performance so that employees know what is expected of them.

This is usually done as part of an organisation's performance management which will involve agreeing objectives and reviewing performance on a regular basis.”

Acceptable:

Meeting and maintaining a level of performance and conduct to a standard that is acceptable to the Council.

Reasonable:

The reasonableness of an instruction must be judged with consideration given to all of the circumstances in the case. Each case must be dealt with on its own merits and the outcome appropriate and proportionate to those circumstances.

Appendix 1 - General Principles of Conduct as laid out in the Council's Constitution

Expectation

- The public is entitled to expect the highest standards of conduct and behaviour from employees of the Council. These general principles reflect that expectation. These general principles are part of the conditions of employment of employees.

Conduct and Behaviour

- Employees must undertake their work with care, act in good faith and comply with all relevant instructions, rules, procedures, standards and other requirements.
- Employees must be honest, polite, reliable and conscientious in carrying out their work.

Law and Trust

- Employees must uphold the law and act in a way that reflects the trust the public places in them.

Neutrality

- Employees must comply with decisions of the Council and must not allow their own opinion to interfere with their work.
- Employees must make decisions on behalf of the Council objectively and on their merit, having regard only to relevant information.
- Employees must act impartially and not allow their neutrality to be put in question by accepting inappropriate gifts or hospitality.

Personal Interests

- Employees must not allow their personal interests to conflict with the Council's interests nor make use of their employment to further their private interests.

Relationships with Others

- Employees must relate to the public, councillors, contractors and each other fairly, sympathetically, with respect, and without bias, discrimination or abuse.

Public Resources

- Employees must use public funds and resources responsibly and lawfully and must not use them for unauthorised personal use.
- Employees must act as guardians of public funds and resources and make all reasonable arrangements for their security.

Information and Confidentiality

- Employees must readily provide available information to the public and councillors that they are entitled to, and must comply with restrictions placed on confidential information.

Duty to Report

- Employees must report activity they believe to be unlawful or improper.