



Derby City Council

# Disciplinary and Dismissals Policy

## Purpose

The Disciplinary and Dismissals Policy sets out the framework of the process for managers to follow when dealing with employees' alleged misconduct.

It is intended to help and encourage employees to achieve and maintain satisfactory standards of conduct and behaviour at work in line with Council policies, rather than as a way of imposing punishment.

The policy aims to make sure employees are aware of the consequences of failure to meet the required standards of conduct.

By providing for disciplinary issues to be dealt with promptly, thoroughly, fairly, consistently and reasonably, the Disciplinary and Dismissals Policy also aims to give the Council protection should an employee make a claim to an Employment Tribunal.

## Document Control

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Author	Tina Holmes
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Handbook/master list updated	
Revised/updated	





## Policy application

- 1.1 This policy applies to all Council employees except:
- the Chief Executive and Chief Officers for whom there are separate provisions.
  - Governing bodies of Community, Voluntary Controlled and Trust Schools, are strongly urged to adopt this policy for non-teaching staff within their delegated powers.
- 1.2 The policy applies to conduct issues and where dismissal is being considered for 'some other substantial reason' or because of a statutory restriction.

## Principles

- 2.1 The Disciplinary and Dismissals Policy complies with the statutory ACAS code of Practice on Disciplinary and Grievance procedures, the non statutory ACAS guidance, as well as equalities legislation and statutory equality duty.
- 2.2 Where dismissal is being considered for 'some other substantial reason' or because of statutory restriction managers should follow the formal process as outline in point 2.12.2. The right to appeal, Section 3, will also apply.
- 2.3 Managers will carry out the disciplinary process without unreasonable delay and all parties have a responsibility to observe and co-operate fully with any specified timeframes.
- 2.4 Where there are allegations that appear to involve criminal responsibility or financial irregularities affecting Council resources, the Strategic Director of Resources must be notified, who will decide whether to refer the matter to the police or take other action in accordance with the Council's Financial Procedure rules. The exception to this is in allegations involving Safeguarding Children and Safeguarding Adults, where separate procedures apply.
- 2.5 Employees will be notified of any allegations at the earliest appropriate stage.
- 2.6 All parties are expected to attend investigation meetings or disciplinary hearings as arranged. Where an employee is repeatedly unable or unwilling to attend these, the manager will come to a reasonable decision on how to proceed, and may conclude that a decision will be made on the evidence available.
- 2.7 The disciplinary and dismissals process must be confidential. A breach of confidentiality may result in the disciplinary process being used in respect of the breach.

- 2.8 At the formal stage of the disciplinary and dismissals process, employees:
- will have the right to be accompanied by another employee of the Council or a trade union representative plus any support as required under the Equality Act 2010 at hearings
  - will be given a minimum of 10 normal working days notice of the hearing
  - should make every effort to attend hearings as arranged. They may offer a reasonable alternative time within five normal working days of the original date if their companion cannot attend.

Please note that 'normal working days' refers to the normal working pattern for that role.

2.9 Disciplinary action will not be taken until full information and facts relating to the case have been gathered and considered. Any action must be reasonable in all circumstances.

2.10 When an employee raises a grievance during any stage of the disciplinary process and this relates to the disciplinary matter in question, they must present their grievance as part of their case under the Disciplinary and Dismissals Policy. Raising a grievance in this way will not delay applying the disciplinary process in any way.

2.11 The Council's Disciplinary Rules are attached at Appendix 1.

2.12 A summary of the disciplinary and dismissals framework and process is . . .

#### 2.12.1 **Informal process**

Minor instances of misconduct should normally be dealt with informally by the line manager.

#### 2.12.2 **Formal process**

Where issues cannot be resolved informally or where there is no improvement through informal processes, the following stages apply

##### Stage 1

Preliminary fact-finding to decide whether and how to proceed with the issue. If the decision is to proceed . . .

##### Stage 2

Carry out investigation

Suspension may be appropriate at any point during Stages 1 or 2.

##### Stage 3

Decide whether to proceed to disciplinary hearing.

#### Stage 4

If appropriate, hold disciplinary hearing and decide whether or not disciplinary action is required.

### 2.12.3 Categories of formal disciplinary action

Where disciplinary action is required, a number of sanctions are available:

- formal verbal warning
- first written warning
- final written warning
- action short of dismissal including final written warning
- dismissal.

All formal warnings will be recorded on employees' personal files and then disregarded for the purposes of further disciplinary action after these periods:

- formal verbal warning – six months
- written warnings – 12 months
- final written warning – 18 months

### Appeal

3.1 Employees will have the right of appeal against the outcome of the disciplinary and dismissals hearing. Further details on the appeals process can be found on the intranet under Human Resources: [Appeals](#)

3.2 This is the final stage of the internal disciplinary and dismissals process

### Support and guidance

4 A full description of the process including guidance, supportive information and documentation is on the intranet under Human Resources: [Disciplinary and Dismissals](#)

### Roles and responsibilities

5 The roles and responsibilities of key stakeholders are summarised in Appendix 2

## Disciplinary Rules

### Introduction

As a public sector employer, the Council must maintain, and is entitled to expect, the highest standards of conduct from its employees.

It is unlikely that any set of rules will cover all possible disciplinary issues, but the information in this appendix contains guidance on the categories of misconduct and examples of acts that we will normally treat as gross misconduct.

Gross misconduct is defined as conduct so serious that it justifies dismissal. This is because the significance of the act affects the contractual relationship between Derby City Council and the employee.

The categories are neither exclusive nor exhaustive, and dismissal on the grounds of gross misconduct could therefore occur for acts of a similar level of seriousness that are not referred to below, where the contractual relationship between Derby City Council and the employee has broken down.

### 1 Personal conduct and responsibility

All employees must carry out their duties on the basis of mutual trust, honesty and respect and show courtesy and consideration to everyone they come into contact with.

Employees who compromise this by their behaviour, and who bring the Council or themselves into disrepute, will be subject to disciplinary proceedings.

This includes complying with the reasonable and lawful instructions of managers, and repeated or serious failure to follow instruction, including insubordination.

Covert recordings of meetings will be considered to be a breach of trust.

All employees must carry out their duties and responsibilities in accordance with the following policies:

- Code of Conduct
- Equality and Diversity Policy
- Bullying, Harassment Victimisation and Discrimination Policy Statement

The Council may treat any serious breaches of these policies as gross misconduct. This includes:

- bringing the Council into serious disrepute
- physical violence or bullying
- unlawful discrimination or harassment

- serious insubordination.

## **2 Health and Safety**

Employers have a duty of care to their employees and to anyone that might be affected by their activities. Employees are under a legal obligation not to endanger themselves or other people. This is particularly important in local government, which, by its nature, provides services to many people, some of whom are vulnerable.

The Council regards breaches of health and safety legislation and associated Council policies seriously and employees must be constantly aware of the need to make sure they observe safe working practices.

When the Council issues personal protective equipment, employees must wear it except when otherwise agreed by management, or in line with legislation. Refusing to wear personal protective equipment will be considered a disciplinary matter.

Breaches of the Council's Protocol on Consumption of Alcohol will be considered a disciplinary matter.

The consumption of, or being under the influence of illegal drugs or substance abuse while at work will be considered a disciplinary matter.

Any breaches of the Council's Smoking Policy will be considered a disciplinary matter.

Employees are expected to take care of the Council's property, plant and equipment. Deliberate, negligent or malicious conduct resulting in the loss, damage or misuse of property, plant or equipment will be considered a disciplinary matter.

The Council may treat serious breaches of any health and safety rules and associated policies as gross misconduct. This includes:

- deliberate acts endangering health and safety
- taking or being under the influence of alcohol or illegal drugs, or other substance abuse
- causing loss, damage or injury through serious negligence.

## **3 Theft, fraud and misappropriation**

Employees are expected to act with honesty and integrity. The Council will treat any misconduct of this type seriously.

Deliberately withholding information or falsifying records or documentation will be considered a disciplinary offence. This includes time sheets, working hours records, expenses claims, sickness documentation and documentation associated with job applications. This also extends to fraudulent benefit claims as referred to in section 5.

The Council may treat as gross misconduct:

- theft or misappropriation of Council or other property
- fraud
- deliberate provision of false information for personal gain.

#### **4 Time keeping, attendance and abuse of sickness scheme**

All employees must attend work regularly and punctually during their normal working hours, and accurately complete all timesheets and other records of working hours as required. Poor timekeeping and absence without permission or valid reason will be considered a disciplinary matter.

When an employee is unable to attend through illness, or for any other reason, they must report this promptly and comply with the sickness notification requirements in the Attendance Management Procedure.

The Council takes abuse of the sickness scheme seriously, and will treat it as a disciplinary matter. This includes false sickness claims, undertaking activities prejudicial to recovery and prolonging absences by failing to seek, or neglecting, medical advice.

The Council may treat as gross misconduct:

- deliberately submitting false sickness claims,
- persistent poor timekeeping or attendance.

#### **5 Criminal Offences**

Any relevant criminal proceedings that impact on the employee's contract of employment will be considered a disciplinary matter. This includes deliberate fraudulent benefit claims.

Dependent upon the seriousness and circumstances of the issue, the Council may treat it as gross misconduct.

#### **6 Use of e-mail, internet and related technology**

The Council expects employees to use e-mail, the internet, intranet and other technology responsibly at all times. Unauthorised use or misuse of technology will be considered a disciplinary matter.

Employees must comply with standards of use required by the:

- Network Email and Internet User Policy
- E-mail and Internet Monitoring Policy
- Information Security Policy
- Software Licensing Policy

- Anti-Virus Policy.

The Council may treat breaches of these policies as gross misconduct. This includes:

- serious misuse of Council technology and equipment
- deliberately accessing or circulating inappropriate material.

## **7 Unauthorised disclosure of, or access to information, breaches of confidence and abuse of authority**

Employees have a position of trust and responsibility and must not communicate work related information. All employees must comply with the requirements of data protection legislation and carry out their duties and responsibilities in accordance with the

- Data Protection Policy
- Information Security Policy.

Knowingly or recklessly accessing, disclosing or otherwise using personal or confidential information without the Council's consent will normally be treated as a disciplinary offence. Any such actions in relation to personal information may also be a criminal offence under the Data Protection Act 1998. This is subject to the provisions of the Public Interest Disclosure Act 1998.

Any communications or requests for information from the media must be referred to the Head of Communications. Employees communicating with the media as private individuals are responsible for making it absolutely clear that they are not speaking on behalf of the Council.

Employees must not use their official position for private advantage of themselves or someone else. This includes unauthorised use of work time for non-Council business.

Soliciting or accepting favours or financial gain are also disciplinary offences. This includes soliciting or accepting anything that affects, or could be seen to affect the integrity of employees, or may place them in a position of having a conflict of interests.

The Council may treat as gross misconduct:

- serious breaches of confidence
- unauthorised access, disclosure or other use of confidential or personal information
- significant abuses of official position.

**DISCIPLINARY AND DISMISSALS POLICY ROLES AND RESPONSIBILITIES OF KEY STAKEHOLDERS**

<b>Chief Executive and Chief Officers Tiers 1 and 2</b>	<b>Head of Service Tier 3</b>	<b>Managers</b>	<b>Investigating Officer</b>	<b>Employees</b>	<b>Human Resources</b>
<b>Every employee must use the procedure and guidance on iDerby</b>					
<b>Fairness and equality</b>					
To ensure this policy is implemented in a fair, consistent and non-discriminatory manner.	To provide reasonable adjustments as required.	To notify managers of reasonable adjustments required.	Provide advice and guidance to managers and employees.	To ensure this policy is implemented in a fair, consistent and non-discriminatory manner.	To ensure this policy is implemented in a fair, consistent and non-discriminatory manner.
<b>General Operation of the Scheme</b>					
Ensure this policy is implemented in a fair, consistent and non-discriminatory manner  Ensure managers carry out their roles and responsibilities					Provide advice to managers and employees
Become aware of alleged misconduct and decide if informal or formal process is necessary	Become aware of alleged misconduct and decide if informal or formal process is necessary	Become aware of alleged misconduct and decide if informal or formal process is necessary			Provide advice to managers as required

<b>Chief Executive and Chief Officers Tiers 1 and 2</b>	<b>Head of Service Tier 3</b>	<b>Managers</b>	<b>Investigating Officer</b>	<b>Employees</b>	<b>Human Resources</b>
<b>Informal process</b>					
Arrange to meet employee to discuss alleged misconduct. Keep a record of the meeting	Arrange to meet employee to discuss alleged misconduct. Keep a record of the meeting	Arrange to meet employee to discuss alleged misconduct. Keep a record of the meeting		Attend meeting	Provide advice to managers as required
<b>Formal process</b>					
<b>Stage 1 Preliminary Fact finding</b>					
Decide on what basis to proceed Decide whether suspension is required during stages 1 or 2  Notify of allegations  Carry out suspension at stages 1 or 2	Decide on what basis to proceed Decide whether suspension is required during stages 1 or 2  Notify of allegations  Carry out suspension at stages 1 or 2	Decide on what basis to proceed Notify of allegations  Decide on precautionary suspension and carry out pending Tier 3 sanction  Carry out suspension at stages 1 or 2		Adhere to suspension conditions	Provide advice to managers  Advise managers on suspension issues
<b>Stage 2 Investigation</b>					
Appoint investigating Officer and Support Contact  Decide on ending suspension	Appoint investigating Officer and Support Contact  Decide on ending suspension	Appoint Investigating Officer and Support contact	Conduct investigation  Review suspension	Attend investigation meetings as required	Provide advice to managers

<b>Chief Executive and Chief Officers Tiers 1 and 2</b>	<b>Head of Service Tier 3</b>	<b>Managers</b>	<b>Investigating Officer</b>	<b>Employees</b>	<b>Human Resources</b>
<b>Stage 3 Proceed to disciplinary hearing</b>					
			<p>Conclude investigation</p> <p>Decide if case to answer</p> <p>If case to answer, prepare statement of case</p>		Provide advice to managers
<b>Stage 4 Disciplinary hearing</b>					
<p>Hold the hearing</p> <p>Follow the disciplinary hearing process</p> <p>Participate in hearing if directed</p>	<p>Hold the hearing</p> <p>Follow the disciplinary hearing process</p> <p>Participate in hearing if directed</p>	<p>Hold the hearing</p> <p>Follow the disciplinary hearing process</p> <p>Participate in hearing if directed</p>	<p>Present management statement of case at hearing.</p> <p>Conduct supplementary investigation if required</p>	<p>Attends hearing and arranges for companion and any witnesses to be present</p> <p>Participate in hearing and respond to allegations</p>	Provide advice and attend hearing
<b>Document Retention</b>					
Ensure documents are treated in confidence and in line with the Council's data protection and IT policies	Ensure documents are treated in confidence and in line with the Council's data protection and IT policies	Ensure documents are treated in confidence and in line with the Council's data protection and IT policies	Ensure documents are treated in confidence and in line with the Council's data protection and IT policies	Keep a copy of documents and decision letters	Ensure documents are treated in confidence and in line with the Council's data protection and IT policies

Chief Executive and Chief Officers Tiers 1 and 2	Head of Service Tier 3	Managers	Investigating Officer	Employees	Human Resources
					<p>Ensure information is processed through VISION and that key documents are placed on the employee's personal file</p> <p>Keep a copy of documents and decision letter in case file.</p>