



BASSETLAW

DISTRICT COUNCIL
NORTH NOTTINGHAMSHIRE

JOINT EMPLOYEE COUNCIL

AGENDA

Meeting to be held in
the Ceres Suite,
Town Hall, Worksop

on

Tuesday, 9th March 2010

at

2.30 p.m.

PLEASE NOTE PRE-MEETING WILL COMMENCE

AT 2.00 P.M.

(Please note later start time of meeting)

(Please note time and venue)

(Please turn off mobile telephones during meetings - In case of emergency Members can be contacted on the Council's mobile telephone)

Bassetlaw - Serving North Nottinghamshire

District Council Offices, Potter Street, Worksop, Notts. S80 2AH.

JOINT EMPLOYEE COUNCIL

Membership 2009/2010

Councillors Mrs. V. A. Bowles, J H Clayton, C. Entwistle, J. W. Holland,
Mrs. S. Isard, G. A. N. Oxby, J. B. Rickells, Mrs. V. Wanless

Substitute Members: In the event of any member of either side being unable to attend any meeting, another representative may be appointed to attend in his/her place, provided that the substitute is drawn from the same area of representation as the member unable to attend

Quorum: 2 Members

Lead Officer for this Meeting

Mr. L. Hull - Ext. 4136

Administrator for this Meeting

Linda Dore - Ext. 3249

JOINT EMPLOYEE COUNCIL

Tuesday, 9th March 2010

AGENDA

1. APOLOGIES FOR ABSENCE
2. DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS
(Members' and Officers' attention is drawn to the attached notes and form)
 - (a) Members
 - (b) Officers
3. MINUTES OF MEETING HELD ON 8TH DECEMBER 2009* (pages 1-4)
4. MINUTES FOR ACTION * (page 5)
5. OUTSTANDING MINUTES LIST * (page 7)
6. ACKNOWLEDGEMENT OF UNISON AWARD OF EAST MIDLAND REGION
BRANCH OF THE YEAR 2009

SECTION A – ITEMS FOR DISCUSSION IN PUBLIC

Key Decisions

None

Other Decisions

7. REPORT(S) OF THE EMPLOYER'S REPRESENTATIVES *
 - (a) Disciplinary Procedure (pages 9-22)

Exempt Information Items

The press and public are likely to be excluded from the meeting during the consideration of the following items in accordance with Section 100A(4) of the Local Government Act 1972.

SECTION B - ITEMS FOR DISCUSSION IN PRIVATE

Key Decisions

None

Other Decisions

8. REPORT(S) OF THE EMPLOYERS REPRESENTATIVES
 - (a) Review of Agency Workers (pages 23-32)

9. ANY OTHER BUSINESS WHICH THE CHAIRMAN CONSIDERS TO BE URGENT

* Report attached

NOTES:

1. The papers enclosed with this Agenda are available in large print if required.
 2. Copies can be requested by contacting us on 01909 533249 or by email:
linda.dore@bassetlaw.gov.uk
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DECLARATION OF INTERESTS

HOW TO USE THIS FORM

There are now only two types of Declaration of Interest:

Level 1 – Personal)	Details can be found in the Councillors Code of Conduct which is contained in
)	the Council's Constitution (a summary is
Level 2 – Personal and Prejudicial)	printed below)

Upon receipt of the attached form you will need to enter the name and date of the Committee and your own name. By looking at the Agenda you will no doubt know immediately which Agenda Items will require you to make a Declaration of Interest.

Fill in the Agenda Item number in the first column of the form.

Enter the subject matter and any explanations you may wish to add in the second column.

In the third column you will need to enter **either** level 1 if you are declaring a personal interest, **or** level 2 if you are declaring a personal and prejudicial interest.

The form must then be signed and dated. Please remember that if during the actual meeting you realise that you need to declare an interest on an additional Agenda Item number please simply amend the form during the meeting.

The form must be handed into the Committee Administrator at the end of the meeting.

NB. The following is a summary prepared to assist Members in deciding at the actual meetings their position on INTERESTS it is not a substitute for studying the full explanation regarding INTERESTS, which is contained in the Council's Constitution and the Code of Conduct for Councillors, which is legally binding.

Members and Officers are welcome to seek, PREFERABLY WELL IN ADVANCE of a meeting advice from the Council's Monitoring Officer on INTERESTS.

Personal Interests

May relate to employment or business interests
May relate to property interests
May relate to contents
May relate to interests in other bodies
OR if a decision on the matter to be discussed:
MIGHT REASONABLY BE REGARDED AS AFFECTING (A MEMBER OR OFFICER) TO A GREATER EXTENT THAN OTHER COUNCIL TAX PAYERS, RATEPAYERS OR INHABITANTS OF THE AUTHORITY'S AREA, the well being or financial position of himself, a relative or a friend or any employment, business, interest, etc. of such a person.

Prejudicial Interests

A Member with a personal interest **ALSO** has a prejudicial interest if a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Members judgement of the public interest.
(Note – there are special provisions which may exclude the above provisions in certain circumstances.)

Action to be Taken – Personal Interests

Must disclose to the meeting
- existence of the interest
- the nature of the interest

Action to be Taken – Personal and Prejudicial Interests

Must:-
- declare existence and nature
- withdraw from the room
- not seek improperly to influence a decision on the matter.
(Note – there are some exceptions when acting in a scrutiny capacity.)

DRAFT

JOINT EMPLOYEE COUNCIL

Minutes of the meeting held at the Town Hall, Retford on Tuesday 8th December 2009

Present:

Employer's Representatives

Councillor J W Holland (Chairman)

Councillors F Hart, Mrs S Isard, J B Rickells and Miss M Stokes.

Employee Representatives

K Circuit, R Parr, J Rose, T Walstow.

Officers in attendance: K Childs, L Dore, L Hull, M Ladyman.

ACTION BY:

23. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Mrs V A Bowles, C Entwistle, G A N Oxby and Mrs V Wanless. Also from Employee Representatives D Harwood, M Fisher and A McLoughlin.

24. DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

(a) Members

There were no declarations of interest by Members.

(b) Officers

There were no declarations of interest by Officers.

25. MINUTES OF MEETING HELD ON 13TH OCTOBER 2009

RESOLVED that the Minutes of the meeting held on 13th October 2009 be approved.

26. MINUTES FOR ACTION

RESOLVED that the Minutes for Action be received.

27. OUTSTANDING MINUTES LIST

RESOLVED that the Outstanding Minutes List be approved.

28. CHANGE OF AGENDA ORDER

The Chairman proposed a change of order to items on the Agenda so that item 12(a) would be presented next.

29. LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

RESOLVED that, in accordance with Part 1 of Schedule 12A of the Local Government Act 1972, and after considering the public interest test as set out by the officer in the body of the report, Members agree that the following items of business involve the likely disclosure of exempt information as defined in Paragraph 4, and, therefore, in accordance with Section 100A of the Act, the press and public be excluded from the meeting:

Agenda item 8(a) – Review of Agency Workers – Paragraph 4

SECTION B – ITEMS FOR DISCUSSION IN PRIVATE

Key Decisions

None.

Other Decisions

30. REPORT(S) OF THE EMPLOYERS REPRESENTATIVES

(a) Review of Agency Workers

Members of the Joint Employee Council were provided with an update on the use of agency workers for the period 1st July to 30th September 2009. It was noted that the street cleaning, grounds maintenance and refuse collection units again showed the highest usage of agency staff.

The Chairman explained the long-standing concerns of the Joint Employee Council regarding the high usage of agency staff in Environment Services to the Director of Community Services who was present at the meeting.

The Director of Community Services agreed there had been a long-term dependency on agency staff to undertake front-line roles and that this was a difficult legacy to overcome. Ideally, the Council would wish to directly employ the agency workers, however, the employing agency had requested a large levy as they had been providing some of these staff for the past four or five years. The Council is seeking external legal advice in order to resolve the matter.

In response to a question from an Employee Representative regarding the vacant Housing Grants Manager post, the Joint Employee Council were advised that it would be advertised in the New Year.

RESOLVED that

- (1) The information provided by the Director of Community Services and the report be noted.
- (2) The Director of Community Services to be invited to a future meeting of the Joint Employee Council to provide an update on the use of agency workers in Environment Services.

SECTION A – ITEMS FOR DISCUSSION IN PUBLIC

Key Decisions

None.

Other Decisions

31. REPORT(S) OF THE EMPLOYER'S REPRESENTATIVES

(a) Probationary Procedure

The JEC were presented with the draft Probationary Procedure for consideration and agreement. It sets out a clear and transparent process for managing the probationary period and will provide a framework within which support and guidance can be offered consistently. The draft Procedure was appended to the report.

Members of the JEC were informed of two amendments which had been agreed by the Head of Human Resources and the Branch Secretary of Unison: in the third paragraph at 3.2.3. of the Procedure, a right of appeal letter should be forwarded to the Head of Human Resources and not to the appropriate Director; at 4, sexual orientation and religion had been added to the list of possible discrimination issues.

RESOLVED that

- (1) The report be noted.
- (2) The draft Probationary Procedure be recommended to Cabinet for approval.

Head of Human Resources

(b) Employee Health and Well-Being

The JEC were presented with a report which recommended that the Council implements an employee assistance programme. In general, this will comprise a 24 hours / 7 days per week service that provides employees with professional health advice should they be unwell. It will also provide managers with data such as notification of absence, expected return date, next contact date and recommendations.

A Joint Working Group was set up and received presentations from three external providers. Following an evaluation process in accordance with the Council's Procurement Agreement, FirstCare have been appointed on a one year contract to provide the service commencing 1st March 2010.

The Head of Human Resources advised that the Joint Working Group is currently exploring further options with organisations such as Westfield Health to support employee' health and well-being, e.g. telephone counselling, health promotion clinics and medical treatments such as physiotherapy.

RESOLVED that

- (1) The report be noted.
- (2) Approval be given to the implementation of an employee assistance programme as outlined in the report.

32. REPORT(S) OF THE EMPLOYEE REPRESENTATIVES

(a) Programme/Timetable for Review of Council Policies

The Branch Secretary of Unison informed the JEC that he had hoped to table a timetable to review Council policies to ensure that they comply with all current legislation. However, the final programme had not yet been agreed with the Head of Human Resources. It is anticipated that work will commence on the review with agreed programme information being presented to the next meeting.

RESOLVED that the information be noted.

33. ANY OTHER BUSINESS WHICH THE CHAIRMAN CONSIDERS TO BE URGENT

As there was no other urgent business to discuss, the Chairman closed the meeting.

MINUTES FOR ACTION AND IMPLEMENTATION SHEET

JOINT EMPLOYEE COUNCIL

08/12/09

FROM: Senior Democratic Services Officer TO: Head of Human Resources

The following decisions are brought to your attention for action by the appropriate Officers within your Service.

30. REPORT(S) OF THE EMPLOYER'S REPRESENTATIVES

a) Review of Agency Workers

RESOLVED that

- (2) The Director of Community services be invited to a future meeting of the Joint Employee Council to provide an update on the use of agency workers in Environment Services.

Head of Human Resources

19. REPORT(S) OF THE EMPLOYEES REPRESENTATIVES

(a) Probationary Procedure

RESOLVED that

- (2) The draft Probationary Procedure be recommended to Cabinet for approval.

Senior Democratic Services Officer

JOINT EMPLOYEE COUNCILTuesday, 9th March 2010OUTSTANDING MINUTES LIST

Members please note that the updated positions are shown in bold type following each item. (HHR = Head of Human Resources, BSU = Branch Secretary of Unison, HRBM = Human Resources Business Manager, ESM = Environmental Services Manager)

<u>Min. No.</u>	<u>Date</u>	<u>Subject</u>	<u>Decision</u>	<u>Officer Responsible</u>
21(a)	13.10.09	Review of Agency Workers	(3) A benchmarking exercise be undertaken to compare the Council's use of agency workers in refuse collection, street cleaning and grounds maintenance with other similar authorities and reported back to JEC.	HHR
		See Agenda Item No 8(a)		
30(a)	08.12.09	Review of Agency Workers	(2) The Director of Community services be invited to a future meeting of the JEC to provide an update on the use of agency workers in Environment Services.	HHR
		See Agenda Item No 8(a)		

BASSETLAW DISTRICT COUNCIL

JOINT EMPLOYEE COUNCIL

9 MARCH 2010

REPORT OF THE HEAD OF HUMAN RESOURCES

DISCIPLINARY PROCEDURE

Cabinet: Policy
Contact: Len Hull
Ext. 4136

1. Public Interest Test

1.1 The author of this report Len Hull has determined that the report is not confidential.

2. Purpose of the Report

2.1 To present the new draft Disciplinary Procedure for consideration and agreement by members of the Joint Employee Council.

3. Background and Discussion

3.1 The Council's Disciplinary Procedure has been revised to incorporate current practice and to reflect the provisions of the Employment Act 2008 and the ACAS Code of Practice which were implemented in 2009.

3.2 In summary, the revised policy:

- Offers more flexibility to resolve problems at an earlier stage with the introduction of an Informal Process, including the option of mediation;
- Clarifies the process of suspension and how this should be applied;
- Clarifies how investigations will be conducted and in particular what should happen in the event of a harassment/bullying complaint running concurrent with any formal disciplinary proceedings;
- Outlines an employee's right to be accompanied, who can accompany them and when this can be exercised, together with how they make a reasonable request for this representation;
- Details how the Council will deal with any stress in disciplinary situations and what support will be offered to employees.

3.3 The draft Policy, which is attached at Appendix 1, also includes an updated example of unacceptable standards of misconduct and gross misconduct.

4. **Implications**

a) For service users

None

b) Strategic & Policy

As contained within the report.

c) Financial – Ref: 10/333

None.

d) Legal – 53/3/10

None.

e) Human Resources

As contained within the report.

f) Community Safety, Equal Opportunity, Environmental

An Equality Impact Assessment will be carried out on the draft procedure following recommendation to Cabinet.

g) Whether this is a key decision, and if so the reference number.

Not applicable.

5. **Options, Risks and Reasons for Recommendations**

5.1 **Option 1**

To agree to recommend to Cabinet the draft Disciplinary Procedure as appended. This will ensure the Council's current Policy reflects the current practice and legislation, and provides a mechanism for managers to ensure that the standards of conduct of employees are adhered to fairly and consistently.

5.2 **Option 2**

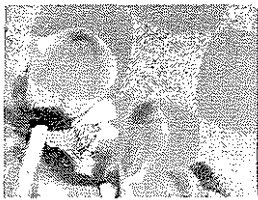
To suggest amendments to the attached draft document.

6. **Recommendations**

6.1 To consider the attached draft document and determine the appropriate approach from the options given above.

Background Papers

Location



DISCIPLINARY PROCEDURE

1. Purpose and Scope of the Procedure
 - 1.1 This policy explains the way in which disciplinary issues will be dealt with by Bassetlaw District Council.
 - 1.2 The purpose of this Procedure is to ensure that the standards of conduct of an individual employee are adhered to.
 - 1.3 The Council may need to change the policy from time to time for example to meet new eventualities or to comply with changes in the law. Employees will be informed of any such changes.
 - 1.4 This policy is non-contractual and applies to all employees; subject to the following exclusions:-
 - ✚ Any employee on JNC conditions of service for Chief Officers
 - ✚ Any employee within probationary period where dismissal arises from unsuitability of appointment
 - ✚ A Casual worker.
 - 1.5 This policy applies to Trade Union Representatives, and an appropriate full time official will be notified of cases involving such representatives.
2. Principles
 - 2.1 The main objective of this policy is to deal with minor or serious issues promptly and efficiently.
 - 2.2 It will ensure that lawful, non-discriminatory, and effective arrangements exist for dealing with disciplinary matters.
 - 2.3 No disciplinary action will be taken until the matter has been fully investigated.
 - 2.4 No employee will be dismissed for a first breach of discipline, except in the case of gross misconduct.
 - 2.5 The proceedings at a disciplinary hearing will remain confidential; any breach of confidentiality may result in disciplinary proceedings being used to deal with the breach.

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2.6 Disciplinary action will normally relate to behaviour at work but may relate to behaviour outside of work where this has a direct bearing on an employee's suitability for employment. Each case will be considered according to the circumstances.

2.7 An employee has the right to appeal against any disciplinary penalty.

3. Informal Process

- ✦ Minor acts of misconduct may be dealt with informally by managers counselling the employee outside of the disciplinary policy.
- ✦ In some instances the use of mediation to resolve a conflict may be an effective alternative to formal action.
- ✦ Notes of informal action should be kept for reference purposes and any agreements reached must be confirmed in writing to the employee as soon as practicable
- ✦ At this informal stage the employee is not entitled to trade union representation

3.1 Following this discussion, if the issue is considered to be of a more serious nature and it is considered not appropriate to deal with the matter under the informal stage the manager will ensure that the employee is informed as soon as possible that there is a matter of concern and that an investigation will be carried out in order to ascertain the facts.

4. Formal Procedure

Suspension

4.1 Where there is an allegation of serious misconduct or performance (whether or not this amounts to gross misconduct) the employee may be suspended on full (contractual) pay.

4.2 Where issues requiring suspension arise outside the course of the normal working day/week, the employee may be sent home and asked to return on the next normal working day so that the appropriate officer may consider the issue of suspension.

4.3 Suspension is not an assumption of guilt and is not considered a disciplinary sanction and as such does not attract the right to be accompanied.

4.4 An employee may be suspended from work for one or more of the following reasons:

- ✦ To safeguard the personal welfare of employees, clients or members of the public

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- ✦ To safeguard the assets of the Authority
- ✦ To allow investigations to take place without possible interference into the circumstances of a potentially serious disciplinary offence
- ✦ Because the allegation is so serious that it is deemed to be potential gross misconduct

4.5 Temporary redeployment may be considered as an alternative to suspension.

4.6 All suspensions should be confirmed in writing to the employee(s) concerned.

4.7 Periods of suspension will be kept as short as possible and the suspension should be kept under review. If at any time it becomes apparent that the reason(s) for suspension no longer apply, then the employee should be informed that their suspension is revoked and this should be confirmed to them in writing, together with an explanation of whether or not the disciplinary investigation is continuing.

5. Investigation

5.1 Where an employee is alleged to have committed an act of misconduct, a full investigation will be carried out in order to ascertain the facts. The relevant Director/Head of Service will nominate an investigation officer. In misconduct cases the line manager would usually be the appropriate person to undertake the investigation unless this is deemed by the Director/Head of Service not to be appropriate.

5.2 An investigatory officer should normally have no prior involvement with the issues being investigated and other than misconduct cases, should not be from the same management line. In such circumstances, the Director/Head of Service may nominate another investigatory officer.

5.3 The purpose of the investigation is to collect all relevant evidence. The subject of the investigation may be invited to attend an investigatory interview and will have the right to be accompanied at that meeting by either a Trade Union Representative or employee of their choice. Where necessary, statements should be obtained from witnesses at the earliest opportunity.

5.4 Once the investigation has been completed, if there are reasonable grounds to believe that the employee has committed an act of misconduct, the matter will be referred to a disciplinary hearing.

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5.5 Where an employee is being investigated under the formal procedure for a complaint related to harassment/bullying, these investigations will continue and any related grievance will not delay the process.

6. Disciplinary Hearing

6.1 If after carrying out a full investigation management is satisfied that there is a disciplinary case to answer, a disciplinary hearing will be held with a HR representative being present.

6.2 It is the responsibility of the officer who is to chair the disciplinary hearing to arrange the hearing and to write to the employee stating:

- ✦ The date, venue and time of the disciplinary hearing allowing the employee a minimum of 10 working days from the date of notification to prepare their case

- ✦ A clear statement of the allegations against the employee and the potential outcome should those allegations be deemed proven

- ✦ The employee's right to be accompanied

- ✦ The right of the employee to request an adjournment of up to 5 working days of the arranged hearing date if the Trade Union Representative or work colleague of their choice is unavailable.

6.3 Within 5 working days of the date of the hearing, any documentary evidence which is to be presented at the hearing should be provided to the HR Team by both parties. The HR Service will facilitate the exchange of documents normally by the next working day. If the documents are not exchanged as a minimum at least 2 working days prior to the hearing, the documents cannot be referred to in the disciplinary hearing unless all parties at the hearing agree that they can be used. If either party wishes to call witnesses to the hearing, at least 2 working days notice prior to the hearing should be given to the other party.

6.4 In any event where an employee or their representative fails to attend a hearing, the Council reserves the right to proceed to hear the case in their absence. Where a representative, but not the employee, is present, the representative may present the employee's case either orally or in writing. Should neither representative nor employee attend the hearing, the investigatory report together with any papers already submitted by the employee or their representative will be used to establish the facts of the case, in order that the disciplinary matter may be expedited.

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7. Possible Outcomes

7.1 The Disciplinary Procedure allows for the following penalties to be applied depending on the seriousness of the offence and may be invoked at any level including summary dismissal:

- **No Further Action**

There is no case for the employee to answer, or the case has not been proven on the balance of probabilities

- **Management Action**

The alleged offence is proven but an informal reprimand is an appropriate outcome.

- **Formal Verbal Warning**

A Formal Verbal Warning may be issued :-

Where the conduct of the employee has fallen below acceptable standards and informal guidance has not resulted in sufficient improvements, or;

Where the offence is sufficiently serious to justify an immediate formal sanction.

This is the first stage of the formal procedure and will be regarded as live on the employee's file for no less than 6 months.

- **First Written Warning**

A First Written Warning may be issued where the offence is more serious, or if there has been insufficient improvement following a first stage warning.

This is the second stage of the formal procedure and will be regarded as live on the employee's file for no less than 9 months.

- **Final Written Warning**

A Final Written Warning may be issued where the conduct of the employee continues to be significantly below acceptable standards, and previous live warning(s) have not resulted in sufficient improvement, or;

Where the offence is so serious that a first and final warning is appropriate, or;

Where dismissal is a clear possibility, but significant mitigating circumstances are accepted.

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This warning will be regarded as live on the employee's file for no less than 12 months.

The Chairman of the Disciplinary Panel will make the final decision on the actual timescale of any warning issued.

All warnings will be confirmed in writing within 5 working days of the date of the hearing, and will include:

- ✦ A clear statement of the unsatisfactory conduct or behaviour
- ✦ The level of the warning
- ✦ The length of time it will remain live
- ✦ The required level of improvement (in measurable terms)
- ✦ The consequences of no improvement in conduct or behaviour
- ✦ The right to appeal

After expiration of the period stated, the warning will be reviewed and, provided that the employee's conduct has been satisfactory, the warning will be classed as spent, with the following two exceptions where expired warnings may be considered:

- ✦ In cases where an employee's conduct is satisfactory throughout the period of the warning but lapses soon afterwards. Where there is a pattern which suggests abuse of the procedure, the employee's disciplinary record will be taken into account in deciding any future warnings
- ✦ Where misconduct is considered by the Authority to be very serious but falls short of gross misconduct, eg offences related to sexual, racial or financial misconduct, these will not be disregarded for future disciplinary purposes.

The issue of warnings under the Formal Procedure will be accumulative and any further breach of misconduct which follows the issue of a Final Written Warning will lead to dismissal.

- **Dismissal with contractual notice**

In cases where, despite one or more previous warnings, there is a further act of misconduct, other than gross misconduct, an employee will be liable to dismissal with notice or pay in lieu of notice after following the recognised disciplinary procedure.

All warnings should be confirmed by letter signed by the Chair of the Disciplinary Panel. This letter must state the grounds for the action taken and confirm the individual's right to appeal.

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- **Summary Dismissal – Gross Misconduct**

Gross misconduct is misconduct of such a serious and fundamental nature that it breaches the relationship between the employee and the Authority. In the event that an employee's misconduct is judged to be gross misconduct, the Authority will terminate the employee's employment without notice or pay in lieu of notice.

Examples of acts of gross misconduct, justifying summary dismissal, are given in Appendix 1.

All dismissal notices will normally be issued within 2 working days of the date of the decision, and will include:

- ✚ The reasons for the dismissal
- ✚ The date on which the employment will terminate
- ✚ The right of appeal

8. Appeals

The employee will have the right of appeal against any formal action taken against them under the disciplinary procedure and if they wish to appeal they should refer to the Appeals Procedure.

9. The Right To Be Accompanied

9.1 The employee has a statutory right to be accompanied where the disciplinary meeting could result in:-

- ✚ a formal warning being issued; or
- ✚ the taking of some other disciplinary action; or
- ✚ the confirmation of a warning or some other disciplinary action (appeal hearings)

and the employee reasonably requests to exercise their right.

(NB: A full explanation of what constitutes a "reasonable request" can be found in the ACAS Guide)

9.2 The chosen companion may be:-

- ✚ a fellow worker
- ✚ an employed official of a Trade Union
- ✚ a union official whom the union has reasonably certified in writing as having experience of, or having received training in acting as a worker's companion at disciplinary or grievance proceedings

9.3 If a fellow worker is accompanying the employee they will be allowed paid time off to attend the hearing.

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- 9.4 The companion will be allowed reasonable paid time off for preparation.
- 9.5 At any investigatory interview the role of the Companion is to support the employee – they should not speak for the employee or answer questions on the employee's behalf.
- 9.6 At a formal hearing the role of the companion includes the following:
- ✦ to advise the employee
 - ✦ put the employee's case
 - ✦ sum up the employee's case
 - ✦ respond on the employee's behalf to any view expressed at the hearing
 - ✦ not to answer questions on the employee's behalf
- 9.7 It is the responsibility of the employee to contact their companion should they wish to be represented at any disciplinary hearing, and to make a request to the officer conducting the meeting for that companion to accompany them. The officer has the right to decline the request where it is not considered reasonable, for example if the companion is personally involved in the case. In such circumstances the employee may request an alternative appropriate companion.

10. Allegations of Financial Irregularity

In all cases when fraud, corruption or impropriety are suspected or detected these will be reported to the Authority's Head of Finance and Property Services, who may at their discretion commission an audit investigation.

11. Cases Of Alleged Criminal Activity

- 11.1 A disciplinary investigation may run in parallel to a police investigation if necessary, but should not be delayed unless it is prejudicial to those investigations to proceed. Case law clearly indicates that it is not always necessary to await the outcome of any court hearing before deciding on disciplinary action.
- 11.2 Note: The Council accepts and supports the principles of the Public Interest Disclosure Act 1998. For example, an employee who provides information on criminal acts, breaches of legal obligations, health and safety dangers, environmental risks and related cover ups will have the right not to be dismissed or victimised for speaking out on such malpractice.

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12. Stress in disciplinary situations

- ✚ Any form of disciplinary action may have the consequence of causing an employee to genuinely feel concerned and anxious when faced with disciplinary charges or poor performance issues.
- ✚ The Council's position is to be supportive to employees; however where the formal action is the cause of stress, then the sooner the matter is dealt with, then the sooner the stress reaction will be resolved
- ✚ The provision of a medical certificate (MED 3) for a stress related illness, will not be a satisfactory reason for preventing an employee from attending formal meetings in the disciplinary process, to include investigatory interviews and disciplinary hearings. The Council can require an employee to attend the Occupational Health Service for assessment of their fitness to attend as contained within the National Conditions of Service for all employees.

13. Disability & Access

In accordance with the Disability Discrimination Act reasonable adjustments should be made for employees with disabilities. They should be given the opportunity, time and support to request any reasonable facilities they need to participate fully in every stage of the Disciplinary procedure. Appropriate support could include a Sign Language facilitator, provision of information in a larger font or Braille; or in some circumstances an employee may be supported by a carer. It is the employee's responsibility to inform management of any adjustments required to conduct a disciplinary hearing.

14. Retention of Records

Disciplinary records shall be kept in a secure and confidential manner by the Human Resource Service and in accordance with the Data Protection Act 1998.

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Examples of Misconduct and Gross Misconduct

No set of rules can cover all disciplinary matters and this list is therefore illustrative and not exhaustive. The unacceptable standards are given as examples of misconduct and in some cases could amount to examples of gross misconduct.

Examples of Misconduct include:

- ✚ Unauthorised absence from work
- ✚ Lateness
- ✚ Time wasting
- ✚ Contravention of minor safety offences
- ✚ Inappropriate standards of dress
- ✚ Disruptive behaviour
- ✚ Failure to follow Council procedures or reasonable instructions
- ✚ Unauthorised use of, or misuse of, Council facilities, vehicles or equipment
- ✚ Failure to follow absence notification procedures

The procedures to be used for dealing with misconduct are different from those to be used when dealing with work performance and capability. In cases of work performance and capability the Capability Procedure should be used, this will include situations where employees are failing in a significant or in a satisfactory manner.

Examples of Gross Misconduct include:

- ✚ Serious incapacity at work, due to the effects of alcohol or non-prescribed drugs
- ✚ Fighting or physical violence
- ✚ Unlawful discrimination or harassment/ bullying
- ✚ Sexual misconduct whilst at work
- ✚ Malicious damage to the property of colleagues, the Council or members of the public
- ✚ serious misuse of the Council's property or name
- ✚ deliberately accessing internet sites containing pornographic, offensive or obscene material
- ✚ serious insubordination
- ✚ Serious breach of health and safety regulations
- ✚ Corrupt practice
- ✚ Smoking on Council property
- ✚ Conviction of a serious criminal offence
- ✚ bringing the Council into serious disrepute
- ✚ causing loss, damage or injury through serious negligence
- ✚ Persistent refusal to attend for Occupational Health referral if reasonably required to do so

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- ✦ Serious misuse or abuse of the Council's electronic communications systems or computers/ contravention of the IT Policy
- ✦ Falsification of qualifications which are a stated requirement of employment of which result in employment or financial gain
- ✦ Accepting a gift which could be construed as a bribe
- ✦ Misuse of an organisation's property or name
- ✦ Serious breaches of confidence or the Data Protection Act 1988 (subject to the Public Interest Disclosure Act 1988)

This list is neither exclusive nor exhaustive

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