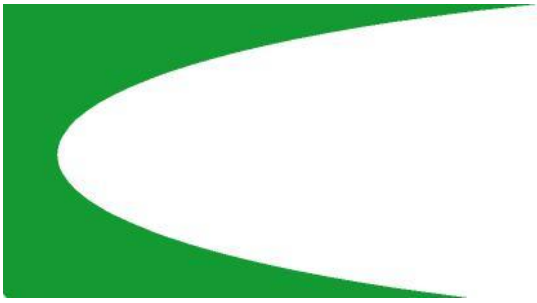




DISCIPLINARY POLICY RULES & PROCEDURE

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TENDRING DISTRICT COUNCIL

DISCIPLINARY POLICY, RULES AND PROCEDURE

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TENDRING DISTRICT COUNCIL

DISCIPLINARY POLICY, RULES AND PROCEDURE

1. INTRODUCTION

- 1.1. Tendring District Council expects the employee to conduct themselves in a manner that reflects well on the organisation, and high standards of professional behaviour are required at all times. Wherever possible, the procedure is designed to encourage improvements in an individual's behaviour and not to reprimand. The Council prefers whenever possible to resolve problems informally, such as through the use of performance management, one-to-one meetings, mediation and/or training. Although it is recognised that circumstances may require formal steps to be taken.
- 1.2. Managers are expected to manage employees effectively to prevent matters from escalating, and the disciplinary procedures will only be used as a last resort.
- 1.3. Tendring District Council is committed to ensuring that its disciplinary procedures comply with all relevant legislation and guidance as appropriate, including the ACAS Code of Practice on Disciplinary and Grievance Procedures.
- 1.4. This Policy is in accordance with the Tendring District Council Constitution and all subsequent amendments.

2. SCOPE OF PROCEDURE

- 2.1. The Council aims to have a fair, consistent and systematic approach to the enforcement of standards of conduct for all employees. The purpose of the disciplinary procedure is to deal with unsatisfactory behaviour. The procedures will normally be followed if, in the view of Tendring District Council, the employee acts in a manner that is contrary to normal acceptable standards of conduct/behaviour or to the terms and conditions of their employment.
- 2.2. The procedure applies to all employees of Tendring District Council, with the exception of the Council's Statutory and Non-Statutory Chief Officers (as defined within the Council's Pay Policy Statement) and their Deputies. The statement defines "Chief Officers" as those Officers who serve as the Management Team for the authority. These officers are dealt with by alternative procedures, in accordance with the Handbooks and Conditions of Service applicable to these posts at the relevant time.
- 2.3. Cases where an employee's ability to undertake the job they are employed to do is in question will normally be dealt with under the Capability Procedure. Human Resources will advise on the best course of action to take in these circumstances.
- 2.4. Where employees are subject to a probationary period, matters of capability, competence and general suitability for the job will be assessed in accordance with the Probationary Procedure.

3. APPLICATION OF THE PROCEDURE

- 3.1 No disciplinary action will be taken until the matter has been fully investigated. The investigation will be conducted promptly and thoroughly to ensure fairness and transparency. The employee will have an opportunity to hear the case against them and respond within a specified timeframe. The employee will also have the opportunity to be represented, by either a Trade Union official or a work colleague at any disciplinary investigatory meeting or hearing. The employee will also be informed of the anticipated timeframe for the conclusion of the investigation.
- 3.2 It is not possible to specify all forms of behaviour which may result in disciplinary action. Each case will be judged on its merits, taking into consideration the circumstances surrounding it.
- 3.3 All records relating to a disciplinary case will be treated as confidential and kept in accordance with current Data Protection Legislation. Confidentiality will be maintained throughout the investigation, hearing, and any subsequent processes. Measures will be taken to ensure that all information is securely stored and only accessible to those directly involved in the process.
- 3.4 Managers will be aware that these procedures must be followed, and advice and guidance sought from Human Resources if a disciplinary matter arises. There are substantial financial and legal risks to the Council if these procedures are not correctly followed.

4. WHO CAN TAKE DISCIPLINARY ACTION

- 4.1. Where misconduct is reported, a decision is made by Human Resources in conjunction with the Corporate Director as to whether a Disciplinary Investigation is required. Human Resources will appoint an Investigating Officer (if appropriate), who will then be supported by a Human Resources representative.
- 4.2. The decision to suspend staff rests with the Corporate Director in conjunction with the Assistant Director - People. Suspension is a neutral act and will be used only when necessary, typically in cases of gross misconduct or where further investigation is required.
- 4.3. Human Resources may appoint an external Investigating Officer and/or Human Resources representative if there is a lack of internal resources to ensure a swift disciplinary investigation.

5. ROLE OF HUMAN RESOURCES IN THE DISCIPLINARY PROCEDURE

- 5.1. The role of Human Resources is as follows:

- To advise the Corporate Director to ensure that each case is dealt with fairly and consistently;
- To ensure all disciplinary cases are investigated swiftly, this may involve seeking external Investigating Officers and/or additional Human Resources representatives;
- To attend all formal Disciplinary and Appeal Hearings;

- Co-ordinate and send all correspondence to the employee in relation to the disciplinary case to be answered;
- Compiling, with the relevant managers, the disciplinary file;
- To ensure accurate records are kept about each disciplinary case, including actions and reasons for any actions taken;
- To ensure that warnings are expunged at the correct times and that employees are then informed;
- To keep the Disciplinary Policy Rules and Procedure under regular review; and
- To advise the Corporate Director on recommendations relating to all areas of disciplinary policy including suspensions or dismissals.

6. ROLE OF THE INVESTIGATING OFFICER IN THE DISCIPLINARY PROCEDURE

6.1. The Investigating Officer or Manager will:

- Be a suitable senior officer with suitable experience;
- Plan the investigation to ensure the matter is dealt with promptly before memories of events fade;
- Ensure sufficient time is set aside for a thorough investigation to take place;
- Co-operate with and take advice from Human Resources throughout the investigation;
- Keep under review whether the case warrants a brief period of suspension to allow unhindered investigation;
- Investigate, collect evidence and take any witness statements as soon as possible;
- Keep evidence securely and confidentially;
- Maintain confidentiality, this includes any discussions with employees and witnesses;
- Seek advice immediately from the Council's Communications Team if there are any media enquiries in relation to a disciplinary matter. It is the policy of Tendring District Council not to comment on staffing issues;
- Take stock of all the facts and evidence collected and produce an investigation report outlining if:
 - There is a case to answer;
 - The matter can be dealt with informally;
 - The matter should be referred to a formal hearing.
- If needed, prepare a written statement of the case for later submission to the hearing;
- Keep accurate records of any action/s taken and reasons for any action/s.

7. THE ROLE OF THE EMPLOYEE IN THE DISCIPLINARY PROCEDURE

7.1. All employees are required to co-operate fully with any investigation. This includes attendance at any meetings or hearings, providing full and honest answers to questions asked by the Investigating Officer and giving details of any potential witnesses, if appropriate. Any attempt to interfere with, delay or disrupt an

investigation process will be treated very seriously by the Council and may warrant, in itself, disciplinary action.

7.2. The employee is entitled to:

- Be told of the purpose of meetings, questioning, interviews or hearings;
- Confidentiality, this includes discussions with employees and witnesses. The employee is also expected to maintain confidentiality throughout any investigation;
- Be told in writing of the allegations against them (see Table 1);
- Where there is a case to answer, be provided with a copy of the investigation report, including all appendices;
- Be given the opportunity to attend an investigatory meeting to discuss the allegations (see Table 1);
- Be given the opportunity to be represented by either a trade union official or work colleague;
- Give an explanation, produce supporting evidence and put their side of the matter forward;
- Be told in writing if they are to be suspended from work and the reason for this;
- Be told in writing if there is no case to answer;
- An appeal hearing at which the employee has the right to either be represented by a recognised trade union official or work colleague (see Table 1).

7.3. TABLE 1

7.4. Employees Rights, in accordance with the ACAS Code of Practice on Disciplinary Procedures.

- Step 1: a written note to the employee setting out the allegation and the basis for it;
- Step 2: a meeting to consider and discuss the allegation;
- Step 3: a right of appeal including an appeal meeting.

8. SUSPENSION IS A NEUTRAL ACT

8.1. As above, suspension is considered a neutral act and will be used only when absolutely necessary, typically in cases of gross misconduct or where further investigation is required. The suspension will also be reviewed regularly, at least every two weeks, to ensure it remains justified.

8.2. Any decision to suspend will be made by the relevant Corporate Director in conjunction with the Assistant Director – People.

8.3. Before an employee is suspended, the checklist in Appendix B will be considered to ensure that suspension is the most reasonable and appropriate action in the given situation.

8.4. Any member of staff suspended will be notified orally at the time by the relevant Corporate Director, or the Assistant Director – People, and a member of Human Resources. The employee must be told the reason for the suspension and any special conditions that apply to the suspension. During the suspension, the

employee must not visit any Council premises or be involved in any Council business. All contact will be directed through Human Resources. The suspension will be confirmed in writing within 7 working days.

- 8.5. Suspension will be at full pay pending investigation and actions. Full pay is defined as the pay which would otherwise have been earned during the period of suspension.
- 8.6. Suspension is not a disciplinary penalty; the employer will regard it as a 'neutral' act. As above, it is expected that it will be regularly reviewed, and if an investigation lasts two weeks or more, then contact will be made with the suspended employee giving an update on progress and potential timescales. It is good practice for the Investigating Officer to remain in regular contact with the suspended employee.
- 8.7. The Council requires all employees to co-operate fully with any investigation, and the Council reserves the right to withhold pay at any stage during a period of suspension, if it is deemed that the employee is unreasonably delaying the investigation or disciplinary process.

9. INVESTIGATION

- 9.1. Where it is considered that an employee's conduct may justify disciplinary action, a formal investigation must be undertaken without unreasonable delay. If there is a financial or other serious irregularity, Internal Audit must be consulted immediately. Human Resources will then work closely with Internal Audit to avoid, wherever possible, duplication of investigation. Where necessary, an employee's access to financial, IT or other Council systems may be temporarily withdrawn pending the outcome of an investigation.
- 9.2. An investigation is essential to ensure the disciplinary matters have been handled fully and fairly. An investigation must include:
 - Thorough investigation into the circumstances surrounding the suspected or alleged misconduct;
 - Gathering of all related evidence, including witness statement/s;
 - Giving the employee a chance to offer an explanation at an interview as part of the investigation;
 - Taking a balanced view of the information that emerges; and
 - Reaching a decision whether or not there are sufficient grounds for an allegation and, if so, whether it will be dealt with informally or under the disciplinary procedure.
- 9.3. If there is concern over the misuse of email, intranet or internet as detailed in Tendring District Council's ICT Policies, the ICT Manager will be informed, and a representative of ICT will be involved in any investigation process to provide expert technical advice. Again, the Service and Human Resources will work closely together to avoid, wherever possible, duplication of investigation.
- 9.4. If there is a concern relating to the abuse of children or adults at risk in line with the Safeguarding Policy, the authority's designated Safeguarding Lead, must be notified immediately and action taken in line with Section 17 below.

- 9.5. If an employee is arrested on any charge, or served with a summons on a criminal charge, whether arising out of employment or not, the status of the employee must be considered immediately. The Corporate Director, in consultation with Human Resources, will consider whether the alleged offence has any implications to the duties of the individual at work. The decision to take disciplinary action will depend on the risk and/or perceived risk to the employment relationship or the Council's image and reputation based on the nature of any charge or conviction against the employee. The Council is under no obligation to wait for the outcome of any criminal proceedings and may take appropriate action following a full and proper investigation.
- 9.6. Any decision to suspend will be taken in accordance with the procedure outlined in Section 8.
- 9.7. If the allegation relates to a Trade Union representative, Human Resources must be informed immediately so that the Union's full-time Regional Officer can be notified. No further action, with the possible exception of suspension (if appropriate), must be taken until the allegations have been discussed, after obtaining the employee's agreement, with the Regional Trade Union Officer.
- 9.8. The purpose of the investigation is not to decide on disciplinary action but to establish whether there is a case to answer. If the Investigating Officer decides there is a case to answer, the allegations will be considered at a Disciplinary Hearing.
- 9.9. As part of the investigation, the Investigating Officer, with a member of Human Resources, will interview the people involved and consider any relevant records or other written information. The Investigating Officer will interview the employee about their conduct, explaining the allegation(s) and questioning the employee in detail.
- 9.10. The Investigating Officer, in conjunction with Human Resources, will inform the employee they may be accompanied to any disciplinary meeting, by a Trade union official or work colleague. They will explain that the purpose of the interview is to obtain information, which will help the Investigating Officer decide whether there is a case to answer.
- 9.11. The employee may ask the Investigating Officer to consider other relevant evidence or, within reason, to interview people who have not yet been seen. As a matter of good practice, employees under investigation and (potential) witnesses will be asked to read and sign statements to the effect that they represent a fair record of any information given. This is not an opportunity to change answers but to confirm that a true statement of the meeting has been taken.
- 9.12. After the investigation is completed, the Investigating Officer will provide a report, with recommendations, to the Assistant Director – People. The employee will then be informed, in writing, by Human Resources immediately of the outcome of the investigation. If there is a case to answer, Human Resources will arrange a hearing.

10. ALLEGED CRIMINAL ACTIVITY

An employment investigation may run in parallel to a:

- Police
- Audit
- Child protection
- Adult abuse investigation
- Other enforcement bodies

A investigation should not be held up by any such external investigations unless considered prejudicial to those investigations to proceed. The Council may decide on disciplinary action before the outcome of any court hearing.

All employees have the right not to be dismissed or victimised for speaking out. For further details, Officers are directed to the Council's Whistleblowing Policy.

11. FORMAL ACTION

11.1 Where, following the investigation, the Assistant Director – People, in consultation with the Corporate Director, decides there is a case to answer, Human Resources will write to the employee outlining the proposed action. This will include:

- Details of misconduct, omission or failure to perform;
- The date, time and location of the hearing, allowing at least 10 working days' notice;
- The name of the Investigating Officer who will present the management case;
- The right to produce written statements. Employees must give Human Resources four copies of any written statements for circulation to the panel officers. Any written statements produced by either party shall be circulated to the other party and to the person hearing the case at least 5 working days in advance of the hearing; and
- The right to state their case, to produce witnesses and to be represented or accompanied at all stages by a recognised Trade Union Official or work colleague. Employees are required to co-operate fully with any disciplinary investigations and meetings and must attend any meetings or hearings arranged by the Council. If in very exceptional circumstances the employee is unable to attend the hearing, he or she may be invited to decide whether to allow their representative to put the case on his or her behalf on written submissions;
- Any witnesses that are employed by the Council must inform Human Resources, in writing, that they will be party to the investigation process and formally request time off work to attend any disciplinary meetings/hearings. Employees will be granted paid time from the workplace to attend a hearing in the capacity as a witness, should their attendance be required during their usual working time;
- If the employee is absent through sickness or any other reason on the date of the hearing, good practice is to allow at least one postponement. Each case will be considered on an individual basis; however, the employee will be aware that a hearing could take place in their absence.

12. THE DISCIPLINARY HEARING

12.1 The disciplinary hearing panel will consist of an Assistant Director, a representative from Human Resources, and another Independent Manager, all of whom must be impartial and have had no prior involvement in the case. In exceptional circumstances, external panel members may be appointed to ensure impartiality.

12.2 A written record of the hearing will be taken; this may be an audio recording and transcribed into a paper record.

12.3 The Chairperson hearing the case will:

- Conduct the meeting as a fact-finding process, ensuring good order and natural justice;
- Decide any disputes about procedure;
- Consider and evaluate the evidence presented by both parties;
- Judge the facts of the case on the balance of probabilities;
- Consider how serious an offence is;
- Take into account any advice given by Human Resources or a technical adviser;
- Consider what action (if any) to take to improve conduct;
- Apply any appropriate disciplinary sanction and explain any conditions that apply to it;
- Ensure that adequate notes are taken and records kept;
- Confirm the decision in writing and set out any rights of appeal within 3 working days following the conclusion of the hearing. Where the Panel feel further information or evidence should be gathered prior to a formal decision being made, an extension to the outcome deadline can be agreed with the employee.

12.4 The employee is entitled to:

- The opportunity to be represented, by a recognised Trade Union official or work colleague;
- Hear the case against them;
- Explain their side of events;
- Bring witnesses to give evidence relevant to the case. Witnesses will be kept to a minimum;
- Question the evidence of witnesses;
- A letter confirming the Panel's decision, the key issues considered in reaching the decision and any rights of appeal;
- Appeal against any sanction in accordance with the Appeal Policy.

13. TYPES OF DISCIPLINARY ACTION

13.1 Informal action

Mediation

Mediation may be deemed appropriate in the following circumstances:

- For conflict involving colleagues of a similar job or grade, or between a line manager and their team;
- To rebuild relationships;
- To address issues, such as relationship breakdown, personality clashes, communication problems, bullying and harassment.

Training

Where an allegation is identified as a lack of awareness, then additional training can be offered. This is particularly relevant in instances of bullying, harassment, and any form of discrimination.

Application of Performance Management arrangements (see Capability Procedure).

Letter of Expectation

- Purpose is to counsel, communicate, and to identify or clarify expected behaviour in performance of job duties;
- Support is offered by way of training and/or other resources;
- Develops, with the employee's input, mutual goals to encourage employee's commitment to change;
- Assumes behaviour will change in the future, when an employee understands what is expected and is supported in an effort to change;
- A review period is set to give feedback on progress of change;
- Remains on the employee's personnel file indefinitely.

13.2 Written Warning

A first written warning may be issued for a more serious offence, if it does not justify a final warning or dismissal, or if there is a repetition of minor offences. The Disciplinary Panel will make a decision as to any disciplinary action, which Human Resources will inform the employee of in writing:

- What disciplinary action has been decided;
- Why the disciplinary action is being taken;
- What conduct or improvement will be expected in future and how this will be monitored;
- What further disciplinary action will be taken if there is no improvement or if there is a further breach of discipline;
- The duration of the warning; and
- The right to appeal against the warning.

Employees will be required to sign and return a copy of the warning, which will be held on their personnel file.

A WRITTEN WARNING WILL BE EXPUNGED AFTER UP TO 9 MONTHS.

13.3 Final Written Warning

A final written warning may be issued where the employee's misconduct, omission, or, in certain circumstances, failure in performance gives further cause for concern or where, initially, the matter is of a more serious nature but falls short of gross misconduct.

Reference will be made to any current or previous warnings, and the employee must understand that any further breach of conduct could result in dismissal.

Human Resources will confirm all these details in writing.

A FINAL WRITTEN WARNING WILL BE EXPUNGED AFTER UP TO 18 MONTHS

13.4 Dismissal with and without Notice

Where a final warning does not bring about any stated improvements, the employee will be required to attend a further disciplinary hearing and, following any necessary investigations, unless there are exceptional circumstances, the employee will be dismissed subject to the appropriate notice period. Details of the reasons for dismissal and appeal rights will be included in the employee's dismissal letter, which will be issued by Human Resources following the same procedure as the warning letters.

An employee may be dismissed if they commit an act of serious misconduct, omission, or, in certain situations, a significant failure in performance. If, following an investigation and based on the balance of probabilities, it is determined that the necessary trust between the employer and employee has been irreparably broken, the Corporate Director, in consultation with Human Resources, may decide that continued employment is untenable. In such cases, dismissal with notice may occur.

Under delegated powers, as outlined in Part 3 of the Constitution, the dismissal of staff up to Deputy Chief Officer level is delegated to the Corporate Director (within their areas of responsibility) in consultation with the Assistant Director – People.

Where, after investigation and on the balance of probabilities, gross misconduct is established, the employee may be dismissed without notice.

14. OTHER OPTIONS FOR DISCIPLINARY ACTION

- Demotion or forced transfer of an employee to a lower graded post;
- The withholding of an annual increment;
- Allowing employees to resign;
- Removal of Acting Up Benefits;
- Removal of Flexi Time;
- Change of working pattern;
- Change of work location;
- Deduction of Pay;
- In addition to disciplinary action, as outlined above, Tendring District Council may seek recovery of monies or property legitimately due to it from employees.

15. INFORMING THE EMPLOYEE

15.1 All disciplinary actions from a hearing will be confirmed in writing from the Chair of the Disciplinary Panel and will state:

- The nature of the misconduct, omission or, in certain situations, failure in performance, some other substantial reason;
- The stage reached in the procedure, i.e., written warning;

- What is expected for the future concerning both management and employees, the period over which improvement must take place, including any review dates, and whom employees will contact if they need assistance:
 - What might happen if the matter proceeds to the next stage; and
 - The appeal rights: the time limit thereon and how the appeal will be made.
- 15.2 All disciplinary papers, including those of the employees, witnesses and panel members, will be kept confidential during the disciplinary processes and then be returned to Human Resources following the conclusion of any disciplinary action.
- 15.3 Except in the case of established gross misconduct or where a final written warning has been unsuccessful, the procedures provide for employees to try to improve their conduct and/or performance. Where there are mitigating circumstances, or if the employee's conduct is caused by something beyond the employee's control, the manager will offer reasonable assistance.
- 15.4 Where an investigation results in no disciplinary action being taken, all details of such action will be expunged from the employee's personal file, and the employee will be informed accordingly.
- 15.5 A final written warning will be disregarded after a period of 12 - 24 months from the date of the Chairperson's decision. However, exceptionally, the Chairperson may wish at the onset to stipulate a longer maximum review period because of the circumstances of the case, e.g., if the case relates to repeated breaches of the same or similar disciplinary rules.

16. APPEALS PROCEDURE

- 16.1 Refer to the Appeals Procedure.

17. DISCIPLINARY RECORDS

- 17.1 Accurate records must be kept about each disciplinary case, including actions and reasons for any actions taken. These records will be retained in accordance with current Data Protection Legislation and will be expunged from the employee's file in line with these requirements.
- 17.2 Access to personnel records will be in accordance with the Corporate Data Protection Policy.

18. ALLEGATIONS CONCERNING SAFEGUARDING

- 18.1. When an allegation against an employee relates to the abuse of a child or adult at risk as outlined in the Safeguarding Policy, the Lead Safeguarding Officer/Local Authority Designated Officer (LADO) should be informed immediately. They will make recommendations on whether it is necessary to suspend the employee.
- 18.2. The Lead Safeguarding Officer will advise the Investigating Officer throughout the investigation, to ensure the wellbeing of the child or adult at risk is taken into account at all times. The Lead Safeguarding Officer will also provide expert advice to the Disciplinary Hearing panel, as necessary.

- 18.3. Where an employee undertakes 'regulated activity' as part of their role, as defined by the Disclosure and Barring Service (DBS), the Council has an obligation to notify the DBS of any alleged abuse of children or vulnerable adults.
- 18.4. However, a referral will not be made until the investigation and evidence gathering has been concluded by the Investigating Officer in co-operation with the LADO, unless a formal disclosure is made by the Police.
- 18.5. A decision will also be made by the Assistant Director – People in conjunction with LADO, as to whether the matter should be referred to the Police.

19. SUPPORT FOR EMPLOYEES THROUGHOUT THE DISCIPLINARY PROCEDURE

- 19.1. The Council recognises the stress of disciplinary processes and offers an Employee Assistance Programme. Employees will be informed of their rights and provided with consistent support throughout the process, including access to recognised trade union representatives and other support services.
- 19.2. The Council will ensure that reasonable adjustments are made to the processes to ensure that all employees are treated fairly and consistently. Employees are encouraged to advise the Human Resources team or Investigating Officer if their individual needs or requirements are not being met to ensure their full participation in the process.
- 19.3. If an employee's chosen supporter will not be available at the time proposed for the hearing, the Council will postpone the hearing to a time proposed by the employee provided that the alternative time is both reasonable and not more than five working days after the date originally proposed.
- 19.4. The employee's chosen supporter should be allowed to address the hearing to put and sum up the employee's case, respond on behalf of the employee to any views expressed at the meeting and confer with the employee during the hearing. The supporter does not, however, have the right to answer questions on the employee's behalf, address the hearing if the employee does not wish it or prevent the Investigating Officer from explaining their case.

20. WHAT HAPPENS IF AN EMPLOYEE RESIGNS DURING THE INVESTIGATION OR BEFORE THE HEARING

- 20.1. If an employee chooses to resign part way through the investigation process, the Investigating Officer will conclude the investigation process, and if deemed necessary, the employee/ex-employee will be invited to a Disciplinary Hearing if they are still in post at that time. If the employee/ex-employee chooses not to attend, the hearing may be held in their absence, and if heard, they will be informed of the outcome.

21. INTERPRETATION

- 21.1 Any questions regarding the interpretation of this policy should be directed to Human Resources.

APPENDIX A

EXAMPLES OF MISCONDUCT

Please note these examples are neither exclusive nor exhaustive.

Minor or Serious Misconduct (depending upon the circumstances or persistence)

- Poor timekeeping;
- Unjustifiable absence from work failure to comply with procedures covering the notification of sickness absence;
- Where an employee without reasonable and sufficient cause, disobeys, omits or neglects to carry out reasonable orders whether given orally or in writing;
- Failure to disclose involvement in a criminal or civil case (including County Court judgements);
- Poor standards of personal hygiene;
- Acts of minor insubordination;
- Neglect of duty;
- Non-compliance with the Corporate Information Security Policy (including excessive personal use of any means of electronic communication);
- Neglect of health and safety requirements at work;
- Non-compliance with financial regulations or standing orders;
- Smoking/vaping on Council premises; and
- Use of paid working hours for purposes unrelated to the job;
- Failure to follow Council procedures, including financial procedures and Human Resource procedures;
- Failure to follow reasonable management instructions;
- Non-compliance with the No Smoking Policy.
- Bringing the Council's reputation into disrepute including through the use of social media.

Gross Misconduct

- General misconduct (e.g., insolent, aggressive, drug related or drunken behaviour, bullying, harassment, excessive foul language, rudeness, explicit sexual, racial or other discriminatory behaviour);
- Deliberate failure to disclose any personal interest which may be incompatible with the satisfactory discharge of the duties and responsibilities of the job;
- Behaviour of a serious or criminal nature either inside or outside the employment of the Council, the nature of which, in the opinion of the Corporate Director, makes continued employment impossible;
- Committal to prison for an offence the nature of which, or the length of sentence imposed, in the opinion of the Corporate Director, makes continued employment impossible;
- Serious professional or similar negligence, misconduct, omission or, in certain situations, failure in performance and/or behaviour to a reasonable and acceptable standard;
- Theft or misappropriation of cash, data or property belonging to Tendring District Council, fellow employees or persons receiving a service from Tendring District Council;

- Deliberate and wrongful disclosure of security passwords or illegal actions in connection with the e-mail, Intranet or internet;
- Serious failure to disclose interest in Council contracts;
- Misuse of employee's office for personal gain;
- Abuse against children or adults at risk, or any other breach as outlined in the Council's Safeguarding Policy and Procedures;
- Fraudulent falsification of timesheets, bonus sheets, financial claims for reimbursement, flexible working hours time or similar documents to which the employee is not entitled;
- Dealing or wrongful possession of illegal drugs;
- Threatened or actual physical assault;
- Fighting or riotous behaviour and similar actions;
- Breaches of confidence and trust so serious as to destroy the employment contract and make any further working relationship and trust impossible;
- Serious breaches of safety regulations in contravention of the Health and Safety at Work Act and/or relevant codes of practice and safe methods of work;
- Malicious damage to Council property;
- False statements made in applications for employment designed to ensure appointment;
- The contravention of the Asylum and Immigration Act, e.g. by producing fraudulent documentation;
- Deliberate failure to disclose unspent criminal convictions or, in respect of employment, exempt under the terms of the Rehabilitation of Offenders Acts, failure to disclose any conviction (including caution or bind over) at any time before or during employment with Tendring District Council;
- Being under the influence of alcohol or other stimulant substances during working time.
- Aiding and/or abetting the commission of an act of gross misconduct.

APPENDIX B

MAKING A DECISION TO SUSPEND

Before making the decision to suspend, the following should be considered:

- What has been established so far (including, giving the employee the opportunity to provide an initial response to the allegation(s));
- The wellbeing of the person under investigation, and how their mental health might be affected if they are suspended;
- The risks if the employee is not suspended – this might be a risk to others at work, the Council or the investigation;
- How serious those risks are; and
- Any alternatives to suspension that could be used.

The Council will only suspend someone if it is felt that it is a reasonable and appropriate way of dealing with the situation.

APPENDIX C

DISCIPLINARY HEARING PROCEDURES

INTRODUCTION	The Chairperson of the hearing will introduce the parties and explain the process of the hearing.
THE CASE FOR THE EMPLOYER	• An opening statement will be made by the Investigating Officer and as part of the presentation, witnesses may be called. Witnesses shall only be present while giving their own evidence and may be recalled if necessary; • The employee may ask questions after each witness has given evidence; • The employee has the opportunity of asking questions of the Investigating Officer; • The Chairperson and adviser(s) may ask questions at any time.
THE CASE FOR THE EMPLOYEE	• An opening statement may be made as part of the presentation of the case, witnesses may be called. Witnesses shall only be present while giving their own evidence and may be recalled if necessary; • The employee will be asked to share any mitigating circumstances; • The Investigating Officer may ask questions after each witness has given evidence; • The Investigating Officer has the opportunity to ask the employee questions. • The Chairperson and adviser(s) may also ask questions at any time.
FINAL STATEMENTS	Both the Investigating Officer and the Employee may make a final statement with the employee speaking last. No new evidence may be put forward at this stage.
CONSIDERATION OF THE CASE DECISION	Closure of the Hearing All parties and their representatives will then withdraw. The Panel, assisted by the adviser(s) will then deliberate. The decision will be communicated to both parties as soon as possible and within three working days. All decisions will be confirmed in writing by Human Resources within 3 working days of the decision being made. If the case is a first hearing the employees will have the right to appeal against any disciplinary action. The appeal will be heard by individuals who were not involved in the original decision to ensure impartiality and fairness If the hearing is an Appeal the decision of the Panel is final.