

Disciplinary Procedure in relation to Relevant Officers

Introduction

1. The Chairmen of the Policy and Resources, Establishment and Finance Committees (the Commissioning Chairmen), will be responsible for the management and overview of complaints or concerns regarding the Head of Paid Service (Town Clerk and Chief Executive); the Monitoring Officer (Comptroller and City Solicitor); and the Section 151 Officer (Chamberlain) including action which may result in formal disciplinary action up to and including dismissal.
2. The Court of Common Council is responsible for approving the dismissal of the Town Clerk, Comptroller and City Solicitor or Chamberlain (The Relevant Officers) by way of a vote at a meeting of the Authority provided it takes into account:
 - any advice, views or recommendations of a Panel (see paragraph 17 - 19)
 - the conclusions of any investigation (see paragraph 11 -13)
 - any representations from the Relevant Officer concerned
3. The City of London Corporation expects the conduct and integrity of employees to be of the highest standard. The Director of Human Resources will be responsible for providing advice on the administration, application and overview in relation to the disciplinary procedure for the Relevant Officers. Where the Director of Human Resources considers that there is a conflict of interest, an external senior human resources and/or legal adviser will be sourced to support the process as appropriate.
4. The objectives of this procedure are to:
 - Ensure that Relevant Officers are treated fairly and consistently and are clear about the process that will be followed if there are concerns or complaints about them.
 - Comply with the Local Authorities (Standing Orders) (England) (Amendments) Regulations 2015.
5. In the interests of natural justice, fairness and prompt resolution to work place issues, Relevant Officers are required to cooperate with the disciplinary process including investigations and attending meetings etc. in a timely fashion. Relevant Officers must appear in person when requested to do so

and answer questions asked of them as part of any investigation, meeting or hearing. Relevant Officers under investigation or interviewed as witnesses must maintain an appropriate level of confidentiality about matters being considered.

Scope

6. This procedure applies to the Head of Paid Service (Town Clerk), the Section 151 Officer (Chamberlain) and the Monitoring Officer (Comptroller and City Solicitor) (“the Relevant Officers”).
7. This procedure is applicable to matters of concern and complaints in relation to conduct, behaviour, performance and capability of the Relevant Officer.

Dealing with concerns and complaints – Role of the Commissioning Chairmen

8. The Commissioning Chairmen with advice from the Director of Human Resources will:
 - receive any complaints and concerns about the Relevant Officer.
 - determine whether the matter has substance; can be dealt with informally; or that a formal investigation should be undertaken to determine if there is a case to be answered. This will usually include having an initial discussion about the matter with the Relevant Officer and take into consideration their initial response.
 - request that an appropriate investigator is commissioned to undertake a formal investigation on their behalf.
 - review the findings of the investigation and determine the appropriate way forward.
 - arrange a formal disciplinary hearing to consider the matter as set out at paragraph 15 below where it is considered that formal action short of dismissal may be a possible outcome.
 - request that the matter is referred to the Statutory Officer Review Panel for its views where dismissal is recommended as a potential outcome.
 - present own findings and recommendation for dismissal; the conclusions of the investigation; advice views or recommendations of the Statutory Officer Review Panel and any representations from the Relevant Officer to a meeting of the Court of Common Council as the appropriate decision making body.

- Approve or lift precautionary suspension at any stage throughout the process of investigation.
9. In the event that there is a conflict of interest for any of the Chairmen, then alternative Committee Chairmen and/or Deputy Chairmen will take on this role.
 10. Any previous informal approach or resolution can be taken into account when deciding whether to commence formal disciplinary action but will not normally be taken into account when deciding on any subsequent formal disciplinary penalty.

Purpose of the investigation

11. The role of the investigator is to conduct a fact finding investigation into the complaint/concern, which will include examining documents and other evidence available and to interview the Relevant Officer and other witnesses. The Investigator will be required to attend meetings and/or hearings as required to present findings and recommendations.
12. The Director of Human Resources will source a suitably qualified investigator/s depending on the nature of the complaint/concern on behalf of the Chairmen. In the case of possible fraud, theft, corruption or bribery the Head of Internal Audit will also be informed.
13. The investigation may indicate:
 - there is no case to be answered
 - there are no grounds for formal disciplinary action
 - there is a case to be answered but that the matter can be dealt with informally
 - there are grounds for taking formal action up to and including the possibility of a final warning
 - there are grounds for taking formal action which could result in dismissal

Outcome of the Investigation

14. The Relevant Officer will be advised by the Commissioning Chairmen of the outcome of the investigation. Where the Commissioning Chairmen consider that there might be a formal case to be answered, the Relevant Officer will be invited to make representations to the Commissioning Chairmen about the allegations made before a decision is taken.

Disciplinary Cases -where the possible penalty could be up to final warning

15. For disciplinary cases that could warrant a disciplinary penalty up to a final warning, the Commissioning Chairmen will convene as a Disciplinary Hearing Panel advised by the Director of Human Resources. In some circumstances it may be necessary to have a specialist professional technical adviser present to provide advice at the Hearing on complex technical matters but only in an advisory capacity. The Investigating Officer will present the disciplinary case. The hearing format will be as outlined in Appendix 1.

Disciplinary Cases (where the possible penalty could be dismissal)

16. Where the Commissioning Chairmen consider that there is a case to be answered that could result in dismissal, a meeting of the Statutory Officer Review Panel will be convened.

Role of the Statutory Officer Review Panel

17. The terms of reference for the Statutory Officer Review Panel are set out in Standing Order 63.
18. The Statutory Officer Review Panel will, save for exceptional circumstances, be in place 20 working days before the meeting at which the authority decides whether or not to approve a proposal to dismiss
19. The Statutory Officer Review Panel will review the findings of the investigator and report of the Commissioning Chairmen including any representations made by the Relevant Officer before providing advice, views or recommendations to the Commissioning Chairmen.

Recommendation to the Court of Common Council

20. The Commissioning Chairmen will review the report of the Statutory Officer Review Panel before deciding whether to recommend dismissal of the Relevant Officer to a meeting of the Court of Common Council. The Commissioning Chairmen will present the findings of the investigation and the Statutory Officer Review Panel to the Court of Common Council.
21. The Court of Common Council, will invite the Relevant Officer to make representations in person or in writing to its meeting where dismissal may be confirmed. The Commissioning Chairmen will present the case for dismissal to the Court of Common Council.
22. The Commissioning Chairmen will progress alternative approaches for dealing with the matter, if following receipt of the Statutory Officer Review

Panel's report, they do not wish to recommend dismissal to the Court of Common Council. The Commissioning Chairmen will progress any alternative decision/penalty agreed by the Court of Common Council in relation to the Relevant Officer.

Notification of disciplinary hearing

23. The Relevant Officer will be given 7 working days' written notice of a Disciplinary Hearing. However the Relevant Officer may agree to a shorter period of notice. The notification will include:
 - the date, time and venue;
 - The allegations and the possible outcome;
 - A copy of the Commissioning Chairmen's report and the investigator's report.
 - Any other supporting documents and information;
24. The Relevant Officer may offer a reasonable alternative time within five days of the original date of the Disciplinary Hearing if their chosen companion is unable to attend.
25. The Relevant Officer must submit any documentation or names of witnesses they wish to call and the name of their companion at least 3 working days before the date of the Disciplinary Hearing. It is the Relevant Officer's responsibility to arrange for any witnesses to attend who have not been interviewed by the Investigating Officer or to request the attendance of any additional witnesses who have been interviewed by the Investigating Officer.

Meeting of the Court of Common Council where dismissal is being considered

26. The Relevant Officer will be notified of the date and time of the meeting of the Court of Common Council.

Right to representation during the formal stages

27. The Relevant Officer under investigation has the right to be accompanied by a trade union representative or a co-worker of their choice during all stages of the formal process. In exceptional circumstances the Commissioning Chairmen in consultation with the Director of Human Resources may be prepared to consider an external representative who is not legally qualified. The Relevant Officer will need to submit any such request giving full reasons why an exception should be made to the Chairmen whose decision, in consultation with Human Resources, will be final.

Determining the outcome of the Disciplinary Hearing or meeting of the Court of Common Council

28. The purpose of the Disciplinary Hearing/meeting of the Court of Common Council is to ensure that it is satisfied that it has allowed the Relevant Officer to respond to the allegations; considered the evidence and case put by both sides; and if necessary called for additional information. The Disciplinary Hearing Chairmen /meeting of the Court of Common Council will weigh up all of the evidence and decide on the balance of probability whether the allegations are upheld in full, partially or not at all.
29. The penalty imposed will depend on the seriousness of the case, known mitigating factors, and relevant employment history (the Relevant Officer's disciplinary record including current warnings, general work record, work experience, position and length of service). In the case of a serious offence, a Relevant Officer may be given a final written warning even if it is a first offence. Similarly a Relevant Officer may be dismissed for gross misconduct even if it is a first offence.
30. Disciplinary decisions will not be based on an expired warning but where a pattern emerges, the fact that there is an expired warning may explain why a lesser sanction was not given. In the case of gross misconduct, an employee will usually be dismissed without notice. A non-exhaustive list of examples of conduct which are regarded as gross misconduct is provided at paragraph 33 of this procedure. Should the offence involve financial irregularities then the City Corporation will aim to recover assets and take appropriate action including notifying the police.
31. The outcome of the Disciplinary Hearing/meeting of the Court of Common Council will either be notified at the end of the hearing/meeting or if adjourned, will follow in writing as soon as practicable usually within 5 working days of the Disciplinary Hearing/meeting of the Court of Common Council. Where there is no case to be answered this will also be confirmed in writing.

Penalties and other sanctions

32. If the case is proven on the balance of probabilities, then one or more of the following penalties may be imposed:
 - A written warning
 - A final written warning
 - Dismissal with notice
 - Dismissal without notice

Examples of Gross Misconduct

33. The following non-exclusive list provides examples of offences which are generally regarded as gross misconduct:

- theft, fraud, deliberate falsification of records, corruption or bribery
- fighting, serious abuse towards or assault on another person
- deliberate damage to property
- serious incapability through alcohol or being under the influence of drugs
- serious negligence or dereliction of duty which risks or causes unacceptable loss, damage or injury
- a serious act of insubordination
- unlawful discrimination or harassment of a fellow co-worker or customer
- misuse of information technology, computers and other electronic devices provided for or used for work purposes
- serious contravention of statutory regulations, including those relating to health and safety, that would render the City Corporation or its employees liable to legal action or bring the City Corporation into disrepute
- a breach or omission relating to safeguarding of a pupil, client or young or vulnerable person
- serious breach of confidentiality
- offences or actions within or outside the City Corporation employment which by their nature either:
 - a. prevent the employee from continuing to do the job for which they were employed; or
 - b. seriously call into question the employee's fitness to continue in the job which s/he was employed to do; or
 - c. have or could have a damaging effect on the reputation and integrity of the City Corporation or its partners; or
 - d. considered to be a wilful breach of the trust and confidence that is implicit between the employer, employee and work colleagues.

Administration and other matters

Postponements and non-attendance at formal disciplinary investigations, meetings or hearings

34. A meeting may be re-arranged if the Relevant Officer fails to attend through circumstances outside their control, such as illness. Thereafter and depending on the circumstances, where a Relevant Officer continues to be unavailable to attend a meeting or fails to make contact, they may be advised that the investigation, meeting or hearing will be concluded based on the evidence

available. Alternatives such as telephone interviews and Skype may be considered where agreed between parties. In appropriate cases the Occupational Health Adviser may be consulted about a Relevant Officer's fitness to attend a meeting or hearing.

Precautionary Suspension

35. At any stage before the investigation has begun, or whilst it is being carried out, the Relevant Officer may be suspended from attending work by the Commissioning Chairmen if it is considered necessary or expedient to enable investigations to be made, or if it is considered inappropriate for the Relevant Officer to continue at work during the investigation. The suspension is a precautionary act and not a disciplinary sanction in itself and will be kept under review. Generally a Relevant Officer is suspended only in more serious cases and will continue to receive normal pay only. Excluded from normal pay are; non- contractual overtime payments, reimbursement of expenses, and abnormal or occasional payments.
36. In exceptional circumstances such as serious allegations of fraud or theft or in circumstances where the Relevant Officer has breached the terms of their suspension or has otherwise hampered the investigation, suspension may be on nil or reduced pay as determined by the Chairmen.

Records and notes

37. The Relevant Officer and each witness will be provided with a record of their interview. The record will usually be a note of key points and not a verbatim record of the meeting. In some exceptional circumstances, it may be considered appropriate to record disciplinary interviews or hearings and in such circumstances the employee will be advised of the reason for doing so and will be provided with a copy of the recording and the transcript where one is produced. The Relevant Officer and/or their representatives may take their own notes of meetings but cannot record any meetings or hearings using electronic devices e.g. mobile phones.

Accepting a disciplinary penalty without a hearing

38. Where the decision is that there are grounds for taking formal action short of dismissal, or at the point when the Relevant Officer has received the outcome of the investigation from the Commissioning Chairmen, if the Relevant Officer accepts the allegations made against them, they may request that the Commissioning Chairmen reviews the case on paper and indicates the likely penalty and any standard setting. The Relevant Officer may agree to accept the penalty, which will be confirmed in writing without the need for a formal

hearing or recourse to an appeal against the decision. In all other circumstances a hearing will be arranged. Where the outcome may result in dismissal, this will always necessitate a formal meeting of the Court of Common Council to consider the case in full.

Grievances

39. Where a grievance is raised during the course of a disciplinary process, in some circumstances it may be appropriate to suspend the formal disciplinary action in order to deal with the grievance. In other circumstances where they are related it may be appropriate to deal with the matters concurrently as one investigation but with clear outcomes under each procedure. The Director of Human Resources will determine the appropriate way forward if this arises.

Time limits for warnings

40. All formal written warnings will usually be effective for a specified period, which will be communicated at the time the decision is taken. Generally, final warnings will be effective for 12 months and other warnings for 6 months from the date of the disciplinary decision. They could be longer in certain circumstances. If there is no further misconduct in this period, warnings will usually be disregarded for disciplinary purposes.
41. There may be occasions where a Relevant Officer's conduct, behaviour performance or capability is satisfactory throughout the period the warning is in force, only to lapse very soon thereafter. Where a pattern emerges and/or there is evidence of abuse of the disciplinary process, the Relevant Officer's disciplinary record should be borne in mind in deciding how long any warning should last.
42. Exceptionally, there may be circumstances where the misconduct is so serious that it cannot realistically be disregarded for future disciplinary purposes. In such circumstances it will be noted in the disciplinary decision.

List of appendices

Appendix 1 – Disciplinary Hearing Format

Links / Other resources

[Managing People Policy](#)

[Employee Assistance Programme](#)

ACAS Code of Practice 1 - Disciplinary and Grievance Procedures