



GRAIG COMMUNITY COUNCIL
DISCIPLINARY POLICY & PROCEDURES FOR EMPLOYEES

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1.0 Policy statement

Graig Community Council recognises that good management can prevent the development of potential disciplinary problems and that employees need clearly defined standards within which to undertake their duties and conduct themselves at work. This enables them to function most effectively in contributing to the provision of quality services and in their relationships with managers, colleagues, members of the public and

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others. On those occasions where the specified standards of conduct are not being met and there is a need to consider disciplinary action, the prime aim will be to help employees correct their inappropriate conduct within a procedural framework that ensures fair treatment for all and that is consistent in approach in accordance with the agreed procedure.

The Clerk must be involved and Members consulted if dismissal is being considered. Suspension on normal pay pending an investigation is permitted, but the Council must first be consulted. The investigation should ordinarily be completed within 10-20 working days. Depending on the circumstances of the case, as an alternative to dismissal an employee may be demoted (if such a vacancy exists) or suspended without pay and privileges for up to 5 days. Such a decision may only be made at a disciplinary or appeal hearing.

Where the facts of the case appear to call for disciplinary action, the Clerk will decide whether the misdemeanour amounts to misconduct or gross misconduct. The matter will be given a high priority and action taken in accordance with procedures that are based on the following principles:

- No disciplinary action will be taken against an employee until the case has been fully investigated.
- At every stage in the procedures the employee will be advised of the nature of the complaint against him/her, provided with any supporting evidence and be given the opportunity to state his/her case before a decision is made.
- At all formal stages the employee will have the right to be accompanied by a union official, professional association representative or work colleague during a disciplinary hearing.
- The employee will be heard in good faith and there will be no pre-judgement of the issue.
- No employee will be dismissed for a first breach of discipline, except in the case of gross misconduct when the penalty may be dismissal without notice or payment in lieu of notice.
- The procedure may be implemented at any stage if the employee's alleged misconduct warrants such action.
- An employee will have the right to appeal against any formal disciplinary action taken.
- Where an alleged offence results in police or other external investigations, the internal procedure and related time scales will ordinarily continue to apply.

This policy is supported by the following procedures, **which must be followed**:

2.0 Procedures

2.1 Introduction

Disciplinary procedures are an aid to the effective management of people, and should not be viewed primarily as a means of imposing sanctions or as leading to dismissal.

The use of the formal disciplinary procedures should be considered a “last resort” rather than the first option. Many problems can be sorted out through informal dialogue between managers and staff – a “quiet word” is often all that is needed.



2.2 Rules and disciplinary procedures

Clear rules benefit employees and employers. Rules set standards of conduct and performance at work and make clear to employees what is expected of them. A good disciplinary procedure helps employees keep to the rules, and helps employers deal fairly with those who do not.

Rules will normally cover issues such as absence, timekeeping and holiday arrangements, health and safety, use of the Council's facilities and equipment, misconduct/gross misconduct, sub-standard performance, and discrimination, bullying and harassment.

This disciplinary procedure is the means by which rules are observed and standards are maintained. It provides a method of dealing with any shortcomings in conduct or performance and can help an employee become effective again. The procedure must be applied fairly, effectively and consistently.

These procedures apply to all Council employees, irrespective of their length of service, status or number of hours worked.

2.3 General requirements

Current Employment Acts/Regulations in force lay down disciplinary and dismissal procedures that provide a framework for discussing problems at work including a new 3-step process for resolving disputes in the workplace any later statutory amendment or re-enactment of this Act will be taken into account should this procedure be invoked. Attempts should still be made initially to resolve workplace problems informally, by talking about them as and when they happen. When that does not resolve the issue, however, the new 3-step process needs to be followed (except in certain cases of gross misconduct dismissals, when a 2-step process can be used – see section 2.4 below).

Having to discipline or dismiss an employee is never a comfortable process. This process can be eased by talking things through informally. Where that does not work, using the new laws for resolving disputes will ensure everything is clear and unhidden, providing a fair process for all concerned. It is necessary to act reasonably at all times.

It should be noted that in the event of disciplinary action against the Clerk, the word “Clerk” should be replaced by “Chairman of the Council” in the following procedures.

The Clerk is responsible for specifying the expected standards of behaviour, the enforcement of rules and ensuring that any breaches are tackled promptly. Any complaint or allegation regarding the conduct of an employee should, in the first instance, be referred to the Clerk who would normally deal with a first and relatively minor infringement informally.

2.4 Handling discipline: an overview

2.4.1 Encourage improvement

The main purpose of operating a disciplinary procedure is to encourage improvement in an employee whose conduct or performance are below acceptable standards.

2.4.2 Act promptly

Problems dealt with early enough can be “nipped in the bud”, whereas delay can make things worse as the employee may not realise that they are below standard unless they are told.



2.4.3 Gather the facts

By acting promptly the relevant supervisor or manager can clarify what the problem is and gather information before memories fade, including anything the employee has to say. Where necessary, statements should be obtained from witnesses at the earliest opportunity. Keep records of what is said – copies may be need to be given to the individual if the matter progresses any further. Relevant personal details such as previous performance, length of service and any current warnings will need to be obtained before the meeting, as well as any appropriate records and documents.

2.4.4 Be firm and fair

Whilst maintaining satisfactory standards and dealing with disciplinary issues requires firmness on the part of the manager, it also requires fairness. The manager needs to be as fair as possible, keep an open mind, and not prejudge the issues.

2.4.5 Suspension with pay

Where there appears to be serious misconduct, or risk to property or other people, a period of suspension with pay should be considered while the case is being investigated. This allows tempers to cool and hasty action to be avoided. Any suspension should be with pay, and any period of suspension should be as short as possible. The employees should be told why they are being suspended, and that they will be called in for a disciplinary meeting as soon as possible. Suspension should not be used as a sanction before the disciplinary meeting and decision, and employees should be treated fairly and consistently.

2.4.6 Stay calm

Enquiries, investigations and proceedings should be conducted with thought and care. The discipline of an employee is a serious matter and should never be regarded lightly or dealt with casually.

2.4.7 Be consistent

The attitude and conduct of employees may be seriously affected if management fails to apply the same rules and considerations to each case. All employees should be aware of the Council's normal practice for dealing with misconduct or unsatisfactory performance. All staff will be given a copy of this Code.

2.4.8 Consider each case on its merits

While consistency is important, it is also essential to take account of the circumstances and people involved. Personal details such as length of service, past disciplinary history and any current warnings will be relevant to such considerations. Any provocation or other mitigation also needs to be taken into account. Any decision to discipline an employee must be reasonable in all the circumstances and must not discriminate on grounds of age, race, sex, disability, sexual orientation, religion or belief.

2.4.9 Follow the disciplinary procedure

The disciplinary procedure must be followed and the supervisor or manager should never exceed the limits of their authority. If the employee is dismissed or suffers a disciplinary penalty short of dismissal (such as suspension) the statutory minimum procedures must have been followed. If they have not been followed and the employee make a claim to an employment tribunal the dismissal will automatically be ruled unfair. To make a claim to an employment tribunal, employees will normally have to have one year's service.

2.4.10 Is disciplinary action necessary?

Having gathered the facts, the manager or supervisor should decide whether to:

- Drop the matter – there may be no case to answer or the matter may be regarded as trivial.



- Arrange counselling/take informal action – this is an attempt to correct a situation and prevent it from getting worse without using the disciplinary procedure (see section 2.5)
- Consider using an independent mediator, who will not take sides or judge who is right but who can help the parties reach their own agreement (see section 2.6)
- Arrange a disciplinary meeting – this will be necessary when the matter is considered serious enough to require disciplinary action (see section 2.7)

2.5 Informal procedure

When an employee is not performing satisfactorily or is misbehaving at work the first priority should be to help them improve. Informal action may often be a more satisfactory method of resolving problems than a disciplinary meeting. Minor breaches of conduct will be dealt with by an informal discussion which will point out any shortcomings and encourage improvement and may result in the giving of an informal warning. A note summarising the issues and outcome, which the employee should fully understand, will be retained on the employee's personal file.

If there continued to be problems relating to the minor breaches of conduct or performance following discussions with the Clerk, the employee should be invited to a meeting with the Clerk to have a formal discussion about the matter. The employee has the right to be accompanied by a colleague or trade union official.

After careful consideration (even adjourning the meeting where necessary to allow full consideration of the matters raised), if the employee's explanation is not satisfactory, the Clerk will write a letter to the employee setting out the problem, what the employee is expected to do about it, when an improvement is expected to be seen, and what will be done if there is no improvement.

Informal warnings do not constitute action under the formal procedure but there will be recourse to the formal procedure for persistent breaches of conduct, if there is no improvement, or if any improvement fails to be maintained.

If the situation still does not improve, and further action against the employee is necessary, the Council will start the standard formal procedure as set out in section 2.7 below.

2.6 Mediation

In some cases, where formal disciplinary action is not appropriate, an independent mediator may help solve disagreements over disciplinary issues. A mediator will not take sides or judge who is right but can help the parties reach their own agreement where the employer and employee are unable to solve a disagreement alone. A mediator may also recommend a way forward if both parties agree that they want this.

2.7 Formal procedure

For more serious matters or if, following informal action, the employee fails to meet the required standard then formal action will follow.

Before any meeting sufficient investigation will need to be carried out to enable a clear view of the facts to emerge and be available at the meeting. The employee should be advised in writing what is being alleged, and his or her rights under the disciplinary procedure, including the right to be accompanied by a colleague or trade union official. The employee should have time to prepare, and proper opportunity to state their case.



When deciding whether a disciplinary penalty is appropriate and what form it should take, consideration should be given to:

- Whether the rules of the Council indicate what the likely penalty will be as a result of the particular misconduct.
- The penalty imposed in similar cases in the past.
- The employee's disciplinary record, general work record, work experience, position and length of service.
- Any special circumstances which might make it appropriate to adjust the severity of the penalty.
- Whether the imposed penalty is reasonable in view of all the circumstances.

Where the employee's poor performance or misconduct is sufficiently serious, for example because it is having a serious harmful effect on business, it may be appropriate to issue a final written warning.

A final written warning should give details of and the grounds for the complaint. It should warn the employee that further misconduct or unsatisfactory performance may warrant dismissal, and it should refer to the right of appeal. A tribunal is unlikely to find a dismissal to be fair unless a final written warning is given (except in cases of gross misconduct).

2.7.1 Standard dismissal with notice and disciplinary procedure (the 3-step process)

Employees should only be dismissed if, despite warnings, conduct or performance does not improve to the required level within the specified time period. Dismissal must be reasonable in all circumstances of the case.

Unless the employee is being dismissed for reasons of gross misconduct, they should receive the appropriate period of notice or payment in lieu of notice. Such payment should include payments to cover pension contributions and holiday pay. Minimum periods of notice are laid down by law. Employees are entitled to at least one week's notice if they have worked for a month but less than two years. This increases by one week (up to a maximum of 12) for each year of service completed. Where the contract of employment gives the right to more notice than the statutory minimum, then the longer period of notice applies.

If the Council is considering dismissing an employee the standard 3-step disciplinary procedures apply to all dismissals except:

- "Collective" or constructive dismissals and dismissals where employment cannot continue for reasons beyond anyone's control (details in Appendix A).
- A very small subset of gross misconduct dismissals.
- All disciplinary action, such as demotion or reduction in pay, except action which is part of workplace procedure i.e. warnings (oral or written) and suspension on full pay.

Note that the standard procedure applies to the case of an employee who was on a fixed term contract of a year or more which is not renewed. It also applies when someone is dismissed on the grounds of age and has not reached the age of 65 or whatever is the normal retirement age in the company or when someone is dismissed for health reasons. Part-time employees must be treated in the same way as full-time ones. The standard procedure applies when an employee is being made redundant. Failure to use the standard procedure in such cases may result in the loss of a tribunal case.



The three steps are:

- **The written statement**
- **The hearing**
- **The appeal meeting**

Step 1 – The written statement

The Clerk will send the employee a written statement setting out in full what the employee has done, or failed to do in terms of performance or conduct that may result in disciplinary action or dismissal and set out the basis of the allegations. In the case of redundancy, retirement on health grounds or the end of a fixed term contract the statement should set out the circumstances which led to the decision to end the person's employment. A copy of this statement must be sent to the employee and a meeting arranged to discuss the matter.

Step 2 – The hearing

The Chair of the Council will instruct the Clerk to convene a meeting of the Finance & Admin Sub-Committee within **seven working days wherever possible** at a reasonable time and in a convenient location, subject also to the availability of the employee's representative. The employee has a duty to take all reasonable steps to attend the hearing.

Any employee of the Council attending such a hearing has the right to be accompanied by a representative of the trade union to which they belong (who may or may not be a work colleague), or by a work colleague, friend or advisor not acting in a legal capacity. The employee should advise the Council who their representative is going to be. Whilst the representative can speak at the meeting and ask questions, they cannot answer questions for the employee. If the colleague or persons accompanying the employee has an impairment, this must be taken into account and reasonable provision made to ensure they can participate fully.

A thorough investigation of the relevant circumstances of the case should be carried out and the details communicated to the employee at the hearing.

Following the recognised agenda for such hearings (see Appendix B), the Finance & Admin Sub-Committee will hear the case of both the employee and the person who has sought to resolve the matter informally, if applicable, and question them. The Committee will seek to reach a decision "in camera" and communicate the decision to the parties concerned verbally after the close of the meeting if the parties so wish.

In the event that the Committee is unable to make the decision, for example because of the need to seek further advice or information, the reason for not reaching the decision will be conveyed to all parties concerned.

In any event the decision will be conveyed in writing **within seven working days**. Employees will be advised of their right to appeal against the decision made by the Committee.

Step 3 – The appeal meeting

If the employee wishes to appeal against the decision of the Committee they must do so in writing to the Chairman of the Council within **five working days of receipt of the decision**. On receipt of such notice of appeal the Chairman of the Council will instruct the Clerk to convene an extraordinary meeting of the full Council within **seven working days**. The



Council will hear the case according to their procedures (see Appendix C) and review all previous information concerning the disciplinary matter.

Any employee of the Council attending such a hearing has the right to be accompanied by a representative of the trade union to which they belong (who may or may not be a colleague), or by a work colleague, friend or advisor not acting in a legal capacity. The employee should advise the Council who their representative is going to be. If the colleague or persons accompanying the employee has an impairment, this must be taken into account and reasonable provision made to ensure they can participate fully.

The Council will communicate their decision in writing within **five working days** of the hearing to the parties concerned, explaining the decision and, as appropriate, the timescale involved.

The decision of the full Council is final except where it is agreed between the parties that an important matter of principle has arisen, which could be considered through the appropriate Local Government Consultative machinery.

2.7.2 Dealing with delays

If an employee fails to attend a first meeting through circumstances outside their control, such as illness, the Clerk must arrange another suitable date for the meeting. However, if there is no good reason for failing to attend, the Council can treat the statutory procedure as being at an end.

If the person the employee has chosen to accompany him cannot make the date offered in the meeting, the employee must propose another date and time which should be no more than **five days** later than the original date.

If this second meeting is missed by the employee for whatever reason, the law considers the procedure to be at an end and the Council can proceed with the dismissal or disciplinary action without going through any more steps. In those circumstances, employees' compensation may be reduced if they bring a successful complaint before an employment tribunal.

2.8 Dismissal without notice

Gross misconduct is generally regarded as misconduct serious enough to destroy the trust within the employment contract, thus making any further working relationship impossible. Appendix D gives examples of offences that are normally regarded as gross misconduct with comparative examples of misconduct that are not in themselves as serious. Gross misconduct is conduct that warrants dismissal without the normal period of notice or payment in lieu of notice.

While the alleged gross misconduct is being investigated the employee may be suspended from work on full pay, **normally for no more than five working days**. If, on completion of the investigation and the full disciplinary procedure, the Council is satisfied that gross misconduct has occurred, the result will normally be summary dismissal without notice or payment in lieu of notice.

No dismissal should be instant. The full three step standard statutory procedure should generally be used before deciding whether to dismiss, so a dismissal for gross misconduct should only take place after the normal investigation and disciplinary meeting to establish the facts. The employee



should be told of the complaint and be given the opportunity to state his or her case as in any other disciplinary meeting. The employee has the right to be accompanied at any such meeting.

It is almost always unfair to dismiss an employee without first making an investigation of the circumstances. However in very rare cases it has been known for tribunals to rule that an instant dismissal was fair because the circumstances made an investigation unnecessary. For example, an employee who engaged in serious misconduct in front of witnesses and there was no likely explanation or mitigating circumstances. In these rare circumstances, the Regulations allow an employer to move directly from the written statement to the appeal without having to hold a hearing. So it is a two-step procedure. These two steps must be followed or the dismissal is automatically unfair.

Step 1 – Written reasons for dismissal

Employees with one year's service or more have the right to request a "written statement of reasons for dismissal", setting out what the employee has done, or failed to do that resulted in their dismissal. It should also mention that the employee has the right to appeal against this dismissal. A copy of this statement must be sent to the employee. Employers are required by law to comply within **14 days** of the request being made, unless it is not reasonably practicable.

A woman who is dismissed during pregnancy or maternity leave is automatically entitled to receive a written statement without having to request it and irrespective of length of service. The written statement can be used in evidence in any subsequent proceedings e.g. in relation to a complaint of unfair dismissal.

Step 2 – The appeal meeting

If the employee wants to appeal he or she must inform the Clerk within **5 working days**. The Clerk should then arrange a meeting to hear the appeal.

Any employee of the Council attending such a hearing has the right to be accompanied by a representative of the trade union to which they belong (who may or may not be a colleague), or by a work colleague, friend or advisor not acting in a legal capacity. The employee should advise the Council who their representative is going to be. If the colleague or persons accompanying the employee has an impairment, this must be taken into account and reasonable provision made to ensure they can participate fully.

Following the appeal meeting the employee must be informed of the decision, making it clear that it is final.

2.9 Employment Tribunals

Employees who feel they have been unfairly dismissed (and meet the qualifying conditions) or wish to claim compensation within the prescribed limit for being dismissed in breach of contract, have a legal right to make a complaint to an employment tribunal. Such complaints must normally be received by the tribunal **within three months** counting from and including the individual's last day of employment. A breach of contract claim of wrongful dismissal may alternatively be made in a County Court or High Court, in which case the time limit is **six years** from the termination of employment.



In most cases, internal appeal decisions are reached well within the time frames, but exceptional cases may take longer to be heard. If the disciplinary process is in progress then employment tribunals have discretion to extend the time limit for presenting a case in the light of all the circumstances.

If the disciplinary or dismissal procedures are not completed when the case goes to a tribunal the tribunal will decide whether that is the fault of the employee or the Council. If it is the fault of the Council the compensation will be increased by at least 10% and possibly up to 50%. If it is the fault of the employee, compensation will be decreased in the same way. If there is no award, there is no additional penalty.

An employment tribunal will automatically find a dismissal unfair if the statutory procedure has not been followed where it applies. The tribunal will also, except in exceptional circumstances, increase compensation for the employee by between 10% and 50%. Equally, if the employment tribunal finds that the employee has been dismissed unfairly but has failed to participate in the procedure (for instance they have failed to attend the disciplinary meeting without good cause), compensation may be reduced by usually 10% and 50%.

A tribunal can rule that a dismissal is unfair even though the procedures have been followed exactly. The tribunal must be satisfied that the Council has acted responsibly in the circumstances.

2.10 The law on dismissal

If disciplinary action could end in dismissing an employee, the Council must ensure the dismissal **is fair**. Fairness involves 2 key points:

- The reason for the dismissal must be one allowed by the law:
 - a. Capability or qualifications of the employee.
 - b. Conduct of the employee.
 - c. Redundancy.
 - d. Contravention of a duty or restriction or
 - e. Some other substantial reason.
- The Council must act fairly. This means following the key principles set out below (taken from the 'Principles of Reasonable Behaviour' from the ACAS Code of Practice on Disciplinary and Grievance Procedures)
 - a. Procedures should be used to encourage employees to improve where possible, rather than just a way of imposing punishment.
 - b. The Council must inform the employee about the complaint against him or her; the employee should be given an opportunity to state his or her case before decisions are reached.
 - c. The employee is entitled to be accompanied at disciplinary meetings.
 - d. Disciplinary action should not be taken until the facts of the case have been established.
 - e. An employee should never be dismissed for a first disciplinary offence, unless it is a case of gross misconduct.
 - f. The employee should always be given an explanation for any disciplinary action taken and should know what improvement is expected.
 - g. The employee must have the opportunity to appeal.



An employee cannot take a case of unfair dismissal against the Council until he or she has been employed by the Council for a year or more. There are some important exceptions to this rule. Some dismissals are automatically unfair whenever they occur e.g. the Council cannot fairly dismiss a woman for becoming pregnant, or a trade union official or health and safety officer for carrying out legitimate duties.

2.11 Criminal charges or convictions

An employee should not be dismissed or otherwise disciplined merely because he or she has been charged with or convicted of a criminal offence. The question to be asked in such cases is whether the employee's conduct merits action because of its employment implications.

Where it is thought the conduct warrants disciplinary action the following guidance should be borne in mind:

- The Council should investigate the facts as far as possible, come to a view about them and consider whether the conduct is sufficiently serious to warrant instituting the disciplinary procedure.
- Where the conduct requires prompt attention, the Council need not await the outcome of the prosecution before taking fair and reasonable action.
- Where the police are called in they should not be asked to conduct any investigation on behalf of the Council, nor should they be present at any meeting or disciplinary meeting.

In some cases the nature of the alleged offence may not justify disciplinary action, e.g. off-duty conduct which has no bearing on employment, but the employee may not be available for work because he or she is in custody or on remand. In these cases the Council should decide whether, in the light of the needs of the organisation, the employee's job can be held open. Where a criminal conviction leads, for example, to the loss of a licence so that continued employment in a particular job would be illegal, the Council should consider whether suitable alternative work is available.

Where an employee, charged with or convicted of a criminal offence, refuses to co-operate with the Council's disciplinary investigations and proceedings, this should not deter the Council from taking action. The employee should be advised in writing that unless further information is provided a disciplinary decision will be taken on the basis of the information available and could result in dismissal.

3.0 Retention of documentation relating to disciplinary action

Consistent handling of disciplinary matters will be difficult unless simple records of earlier decisions are kept. These records should be confidential, detailing the nature of any breach of disciplinary rules, the action taken and the reasons for it, the date the action was taken, whether an appeal was lodged, its outcome and any subsequent developments.

All documentation relating to any disciplinary action taken by the Council will be dealt with in accordance with the Data Protection legislation in force at the time. The Data Protection Act 1998 governs the keeping of manual and computer records, and allows the "data subjects" access to personal and personnel records about them. In each particular case copies of the relevant records should be given to the employee concerned, although in certain circumstances some information may be withheld e.g. to protect a witness.



4.0 Time limits for warnings

Disciplinary action will not count against an individual indefinitely except in exceptional circumstances, such as where misconduct verges on gross misconduct. In such circumstances, it should be made very clear that the final written warning can never be removed and that any recurrence will lead to dismissal. Such instances should be very rare, as it is not good practice to keep someone permanently under threat of dismissal.

Records of warnings should be kept, but should generally be disregarded after six months for first written warnings, but after twelve months for a final written warning (or more in such circumstances as detailed above).

Warnings should cease to be “live” following the specified period of satisfactory conduct and thus should be disregarded for future disciplinary purposes.

There may be occasions where an employee’s conduct is satisfactory throughout the period the warning is in force, only to lapse very soon thereafter. Where a pattern emerges and there is evidence of abuse of the system, the employee’s record should be borne in mind in deciding how long any warning should last.

5.0 Training

Proper training and supervision are essential to the achievement of satisfactory performance. Regular discussion with employees about performance, either formally or informally, will help identify any problem areas and allow remedial action to be taken promptly. Inadequate performance, particularly during a probation period, should be identified as quickly as possible so that appropriate remedial action can be taken. Performance will also be discussed during an employee’s annual appraisal.

Those responsible for using and operating the disciplinary rules and procedures will be trained in the task. Ignoring or circumventing the procedures when dismissing an employee is likely to have a bearing on the outcome of any subsequent tribunal complaint. Good training helps managers achieve positive outcomes, reducing the need for further disciplinary action.

6.0 Review

This policy will be reviewed at least every 3 years or more frequently if there are changes to legislation or situations demand it.

The Council embraces a culture where employees are consulted and problems discussed, which is less likely to need to proceed down the formal disciplinary process.



Appendix A

When the 3-step disciplinary and dismissal procedures do not apply

There are some circumstances where the law recognises it is not practical to expect an employer to go through the procedures before dismissing employees or taking disciplinary action. These are:

- Collective issues, where discussion between management and employee representatives is the appropriate way of taking matters forward. For example, when an employer dismisses a whole group of staff and immediately offers them re-employment on different terms.
- When employees are dismissed for taking industrial action (in the case of lawful, officially-organised action, special arrangements apply).
- When it is not possible for employment to continue, for example when a factory burns down.
- When one party behaves in such a violent or unreasonable manner that the other party could not be expected to sit down with them and go through the procedures. This exemption is to cover cases in which people have real reason to fear violence, harassment or vandalism if the procedures are gone through.



Appendix B

Graig Community Council

Procedure for Hearings by the Finance & Admin Sub-Committee

1. Introduction

The Council's Finance & Admin Sub-Committee has delegated authority to determine matters in relation to the formal stage of the Disciplinary Policy.

At such a hearing the Sub-Committee is acting in a quasi-judicial capacity and must observe the principle of natural justice. This does not require the formality of a Court of Law but:-

- There needs to be a proper procedure (see below).
- The member of staff must be able to present their case and to question the employer either directly or through their representative.
- Members of the Sub-Committee should be present throughout the hearing and remain until a decision is reached.

2. Role of the Parties

The member of staff has the right to present their case in person to the Sub-Committee members, with or without Union representation. The officer representing the Council should be the person who took the decision which gives rise to the hearing. Another person may also be required to act as the Sub-Committee's advisor on procedural matters.

3. Procedure

A written submission will be prepared and made available to the Sub-Committee members prior to the hearing. Other relevant documentation relating to the hearing will be supplied by the Council representative.

The general principles applying to the procedure are as follows:-

- The Council's representative should state their case first.
- The member of staff or their representative should then be able to put any questions they may have to the Council's representative.
- The Sub-Committee should then be able to put any questions they have to the Council's representative.
- The member of staff or their representative should then put their case.
- The Council's representative should then be able to put any questions they have to the member of staff or their representative.
- The Sub-Committee can then ask any questions of the member of staff or their representative.
- The Council's representative then sums up the Council's case.
- The member of staff or their representative sums up their case.
- The parties withdraw and the Sub-Committee reaches its decision.
- The Sub-Committee may confirm, amend or reject the original decision.



Appendix C

Graig Community Council

Procedure for Appeal Hearings by Council

4. Introduction

The full Council has authority to determine appeals in relation to dismissals under the disciplinary procedure.

When the Council is hearing an appeal, it is acting in a quasi-judicial capacity and must observe the principle of natural justice. This does not require the formality of a Court of Law but:-

- There needs to be a proper procedure (see below).
- The member of staff must be able to present their case and to question the employer either directly or through their representative.
- Members of the Council should be present throughout the hearing and remain until a decision is reached.

5. Role of the Parties

The member of staff has the right to present their case in person to the Council, with or without Union representation. The officer representing the Council should be the person who took the decision which gives rise to the hearing. Another person may also be required to act as the Council's advisor on procedural matters.

6. Procedure

A written submission will be prepared and made available to the Council members prior to the hearing. Other relevant documentation relating to the hearing will be supplied by the Council representative.

The general principles applying to the procedure are as follows:-

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- The member of staff or their representative should then be able to put any questions they may have to the Council's representative.
- The Council should then be able to put any questions they have to the Council's representative.
- The member of staff or their representative should then put their case.
- The Council's representative should then be able to put any questions they have to the member of staff or their representative.
- The Council can then ask any questions of the member of staff or their representative.
- The Council's representative then sums up the Council's case.
- The member of staff or their representative sums up their case.
- The parties withdraw and the Council reaches its decision.
- The Council may confirm, amend or reject the original decision.



Appendix D

Examples of Misconduct

Serious Misconduct	Gross Misconduct
<ul style="list-style-type: none"> • Unsatisfactory attendance and/or timekeeping. • Failure to use safe and hygienic work practices and observe safety regulations. • Unauthorised absence from the workplace. • Unwillingness to carry out reasonable duties. • Minor infringements of the Council’s policies relating to equality, diversity and code of conduct. • Unwarranted angry response or behaviour. • Negligence in the use of equipment or property. • Failings in preserving of the dignity, respect and privacy of others. • Failure to file securely confidential information about a service user. • Offences against the law of the land that impact on the employee’s ability to perform their duties. 	<ul style="list-style-type: none"> • Theft or fraud e.g. deliberate falsification of timesheets. • Serious negligence or blatant disregard of safety regulations that causes or threatens to cause injury to others. • Breaches of computer security. • Serious acts of insubordination and repeated or blatant refusal to obey reasonable instructions. • Serious acts contrary to the Council’s equality policy, e.g. harassment or discrimination on the grounds of sex, race, religion or age. • Fighting or threatened physical assault on another person. • Wilful damage to the Council’s or other people’s property. • Serious acts of abuse, mistreatment or neglect of a service user. • Unauthorised disclosure of confidential information. • Conviction in a court of law of an offence which seriously undermines the employment relationship. • Being under the influence of alcohol or drugs whilst on duty. • Smoking within the confines of Council buildings or vehicles

These examples are intended to demonstrate the difference between those acts:

- that are generally recognised as constituting gross misconduct and
- that are regarded as serious enough to warrant disciplinary action but not sufficiently so to be considered as gross misconduct.
- They are examples only and are not intended to compromise an exhaustive list of all situations that may arise when considering whether or not a matter is gross misconduct.

Approval Date: 28th March 2018 Chairman: Witness: