

**CYNGOR CYMUNED  
MANORDEIFI  
COMMUNITY COUNCIL**

**DISCIPLINARY & GRIEVANCE POLICIES AND PROCEDURES**

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## **INTRODUCTION**

These policies provide information and processes to enable the council to deal with disciplinary matters regarding the misconduct or poor performance of employees and also for employees to raise work-related concerns with the council.

The policies are based on and comply with the 2015 ACAS Code of Practice.

They also take account of the ACAS guide on discipline and grievances at work.

The policies aim to encourage and maintain good relationships between the council and its employees by treating discipline matters and grievances seriously and resolving them as quickly as possible.

The Disciplinary Policy sets out the arrangements for the council to deal with unsatisfactory performance or conduct of employees.

The policy is designed to help council employees improve unsatisfactory conduct and performance in their job. Wherever possible, the council will try to resolve its concerns about employees' behaviour informally, without starting the formal procedure set out below.

The Grievance Policy enables employees to raise their concerns, problems or complaints about their employment with the council in a fair and consistent manner.

Information about disciplinary or grievance matters will be restricted to those involved in the process. Any disciplinary action or grievance outcome will remain confidential. The employee's disciplinary and grievance records will be held by a council in accordance with the Data Protection Act 2018.

The policies will be applied fairly, consistently and in accordance with the Equality Act 2010.

Mediation may be appropriate at any stage of the disciplinary or grievance procedure (for example where there have been communication breakdowns or allegations of bullying and harassment). Mediation is a confidential dispute resolution process that will require the council and employee's consent. The mediator is an independent person who helps individuals or groups try to find a solution. Mediators do not make judgments or determine outcomes - they ask questions that help to uncover underlying problems, assist the parties to understand the issues and clarify the options for resolving their difference or dispute.

## **DISCIPLINARY POLICY**

This policy confirms:

- the council will fully investigate the facts of each case
- the council recognises that misconduct and unsatisfactory work performance are different issues. The disciplinary policy will also apply to work performance issues to ensure that all alleged instances of employees' underperformance are dealt with fairly and in a way that is consistent with required standards. However, the disciplinary policy will only be used when performance management proves ineffective
- employees will be informed in writing about the nature of the complaint against them and given the opportunity to state their case
- employees will be provided, where appropriate, with written copies of evidence and relevant witness statements in advance of a disciplinary hearing
- employees may be accompanied or represented by a companion – a workplace colleague, a trade union representative or a trade union official - at any investigatory, disciplinary or appeal meeting. The companion is permitted to address such meetings, to put the employee's case and confer with the employee. The companion cannot answer questions put to the employee, address the meeting against the employee's wishes or prevent the employee from explaining his/her case
- the council will give employees reasonable notice of any meetings in this procedure. Employee must make all reasonable efforts to attend. Failure to attend any meeting may result in it going ahead and a decision being taken. An employee who does not attend a meeting will be given the opportunity to be represented and to make written submissions
- if the employee's companion is not available for the proposed date of the meeting, the employee can request a postponement and can propose an alternative date that is within 7 days of the original meeting date unless it is unreasonable not to propose a later date
- any changes to specified time limits in the council's procedure must be agreed by the employee and the council
- information about an employee's disciplinary matter will be restricted to those involved in the disciplinary process. A record of the reason for disciplinary action and the action taken by the council is confidential to the employee. The employee's disciplinary records will be held by the council in accordance with the General Data Protection Regulation (GDPR)
- audio or video recordings of the proceedings at any stage of the disciplinary procedure are prohibited, unless agreed by all affected parties as a reasonable adjustment that takes account of an employee's medical condition

- employees have the right to appeal against any disciplinary decision. The appeal decision is final
- if an employee who is already subject to the council's disciplinary procedure raises a grievance, the grievance will normally be heard after the completion of the disciplinary procedure
- disciplinary action taken by the council can include a verbal warning, written warning, final written warning or dismissal
- except for gross misconduct when an employee may be dismissed without notice, the council will not dismiss an employee on the first occasion that it decides there has been misconduct
- if an employee is suspended following allegations of misconduct, it will be on full pay and only for such time as is necessary. Suspension is not a disciplinary sanction. The council will write to the employee to confirm any period of suspension and the reasons for it
- the council may consider mediation at any stage of the disciplinary procedure where appropriate (for example where there have been communication breakdowns or allegations of bullying or harassment). Mediation is a dispute resolution process that requires the consent of affected parties

### **Examples of misconduct**

Misconduct is employee behaviour that can lead to the employer taking disciplinary action. The following list contains some examples of misconduct: The list is not exhaustive.

- unauthorised absence
- poor timekeeping
- misuse of the council's resources and facilities including telephone, email and internet
- inappropriate behaviour
- refusal to follow reasonable instructions
- breach of health and safety rules

### **Examples of gross misconduct**

Gross misconduct is misconduct that is so serious that it is likely to lead to dismissal without notice. The following list contains some examples of gross misconduct: The list is not exhaustive.

- bullying, discrimination and harassment
- incapacity at work because of alcohol or drugs
- violent behaviour
- fraud or theft
- gross negligence
- gross insubordination

- serious breaches of council policies and procedures e.g. the Health and Safety Policy, Equality and Diversity Policy, Data Protection Policy and any policies regarding the use of information technology
- serious and deliberate damage to property
- use of the internet or email to access pornographic, obscene or offensive material
- disclosure of confidential information

## **Suspension**

If allegations of gross misconduct or serious misconduct are made, the council may suspend the employee while further investigations are carried out. Suspension will be on full pay. Suspension does not imply any determination of guilt or innocence, as it is merely a measure to enable further investigation.

While on suspension, the employee is required to be available during normal hours of work in the event that the council needs to make contact. The employee must not contact or attempt to contact or influence anyone connected with the investigation in any way or to discuss this matter with any other employee or councillor.

The employee must not attend work. The council will make arrangements for the employee to access any information or documents required to respond to any allegations

## **Examples of unsatisfactory work performance**

The following list contains some examples of unsatisfactory work performance: The list is not exhaustive.

- inadequate application of management instructions/office procedures
- inadequate IT skills
- unsatisfactory management of staff
- unsatisfactory communication skills

## **DISCIPLINARY PROCEDURES**

### **1. PRELIMINARY ENQUIRIES**

The council may make preliminary enquiries to establish the basic facts of what has happened in order to understand whether there may be a case to answer under the disciplinary procedure.

### **2. INFORMAL PROCEDURES**

Where minor concerns about conduct become apparent, it is the responsibility of the line manager (the Chair of the Council) to raise this with the employee and clarify the improvements required.

The employer should try solving the issue with their employee by:

- privately talking with them and any other staff involved
- listening to their point of view
- agreeing improvements to be made
- setting up a training or development plan, if it's a performance issue

A file note will be made and kept by the Chair. The informal discussions are not part of the formal disciplinary procedure.

If the conduct fails to improve, or if further matters of conduct become apparent, the Chair may decide to formalise the discussions and invite the employee to a first stage disciplinary hearing.

If the Chair of the Council believes there may be a disciplinary case to answer, the council may initiate a more detailed investigation undertaken to establish the facts of a situation or to establish the perspective of others who may have witnessed misconduct.

### **3. FORMAL PROCEDURES**

A formal disciplinary investigation may sometimes be required to establish the facts and whether there is a disciplinary case to answer.

#### ***a) Appointing an investigator***

If a formal disciplinary investigation is required, the council will appoint an investigator who will be responsible for undertaking a fact-finding exercise to collect all relevant information. The investigator will be independent and will normally be a councillor. If the council considers that there are no councillors who are independent (for example, because they all have direct involvement in the allegations about the employee), it will appoint someone from outside the council. The investigator will be appointed as soon as possible after the allegations have been made. The council will inform the investigator of the terms of reference of the investigation. The terms of reference should specify:

- what the investigation is required to examine
- whether a recommendation is required
- how the findings should be presented. For example, an investigator will often be required to present the findings in the form of a written report
- who the findings should be reported to and who to contact for further direction if unexpected issues arise or advice is needed.

The investigator will be asked to submit their findings within 21 days of appointment where possible. In cases of alleged unsatisfactory performance or of allegations of minor misconduct, the appointment of an investigator may not be necessary and the council may decide to commence disciplinary proceedings at the next stage - the disciplinary meeting.

The council will notify the employee in writing of the alleged misconduct and ask them to attend a meeting with the investigator. The employee will be given at least 7 days notice of the meeting with the investigator so that they have reasonable time to prepare for it. The letter will explain the investigatory process and that the meeting is part of that process. The employee will be provided with a copy of the council's disciplinary procedure. The council will also inform the employee that when they meet with the investigator, they will have the opportunity to comment on the allegations of misconduct.

Employees may be accompanied or represented by a workplace colleague, a trade union representative or a trade union official at any investigatory meeting.

If there are other persons (e.g. employees, councillors, members of the public or the council's contractors) who can provide relevant information, the Investigator should try to obtain it from them in advance of the meeting with the employee.

The investigator has no authority to take disciplinary action. Their role is to establish the facts of the case as quickly as possible and prepare a report that recommends to the council whether or not disciplinary action should be considered under the policy.

The investigator's report will contain their recommendations and the findings on which they were based. They will recommend either:

- the employee has no case to answer and there should be no further action under the council's disciplinary procedure
- the matter is not serious enough to justify further use of the disciplinary procedure and can be dealt with informally or
- the employee has a case to answer and a formal hearing should be convened under the council's disciplinary procedure.

The investigator will submit the report to the council which will decide whether further action will be taken.

If the council decides that it will not take disciplinary action, it may consider whether mediation would be appropriate in the circumstances.

### ***b) Arranging the Disciplinary Meeting***

If the council decides that there is a case to answer, it will appoint a staffing committee of three councillors. The staffing committee will appoint a Chairperson from one of its members. The investigator shall not sit on the committee. No councillor with direct involvement in the matter shall be appointed to the committee.

The employee will be invited, in writing, to attend a disciplinary meeting.

The committee's letter will confirm the following:

- the names of its Chairperson and other two members
- details of the alleged misconduct, its possible consequences and the employee's statutory right to be accompanied at the meeting
- a copy of the investigation report, all the supporting evidence and a copy of the council's disciplinary procedure
- the time and place for the meeting. The employee will be given reasonable notice of the hearing (at least 14 days) so that they have sufficient time to prepare for it
- that witnesses may attend on the employee's and the council's behalf and that both parties should inform each other of their witnesses' names at least 5 days before the meeting
- that the employee and the council will provide each other with all supporting evidence at least 5 days before the meeting. If witnesses are not attending the meeting, witness statements will be submitted to the other side at least 5 days before the hearing
- that the employee may be accompanied by a companion - a workplace colleague, a trade union representative or a trade union official

### ***c) Conduct of the Disciplinary Meeting***

The purpose of the disciplinary meeting hearing is for the allegations to be put to the employee and then for the employee to give their perspective. It will be conducted as follows:

- the Chairperson will introduce the members of the committee to the employee and explain the arrangements for the hearing
- The investigator will present the findings of the investigation report
- the Chairperson will set out the council's case and present supporting evidence (including any witnesses and/or witness statements)
- the employee (or the companion) will set out their case and present evidence (including any witnesses and/or witness statements)
- any member of the committee and the employee (or the companion) may question the investigator and any witnesses
- the employee (or companion) will have the opportunity to sum up their case
- The disciplinary meeting may be adjourned to allow matters that were raised during the meeting to be further investigated by the committee.

### ***d) Following the meeting***

The Chairperson will provide the employee with the committee's decision with reasons, in writing, within 7 days of the meeting. The Chairperson will also notify the employee of the right to appeal the decision.

## **4. DISCIPLINARY ACTION**

If the committee decides that there should be disciplinary action, it may be any of the following:

### ***a) Verbal warning***

A verbal warning is issued for most first instances of minor misconduct. The council will notify the employee:

- the reason for the warning, the improvement required (if appropriate) and the time period for improvement
- that further misconduct/failure to improve will result in more serious disciplinary action
- how to exercise their right to appeal
- that a note confirming the verbal warning will be placed on the employee's personnel file, that a copy will be provided to the employee and that the warning will remain in force for six months.

#### ***b) Written warning***

If there is a repetition of earlier misconduct which resulted in a verbal warning, or for different and more serious misconduct, the employee will normally be given a written warning. A written warning will set out:

- the reason for the written warning, the improvement required (if appropriate) and the time period for improvement
- that further misconduct/failure to improve will result in more serious disciplinary action
- the employee's right of appeal
- that a note confirming the written warning will be placed on the employee's personnel file, that a copy will be provided to the employee and that the warning will remain in force for 6 months.

#### ***c) Final written warning***

If there is further misconduct during the period of a written warning or if the misconduct is sufficiently serious, the employee will be given a final written warning. A final written warning will set out:

- the reason for the final written warning, the improvement required (if appropriate) and the time period for improvement
- that further misconduct/failure to improve will result in more serious disciplinary action up to and including dismissal
- the employee's right of appeal that a note confirming the final written warning will be placed on the employee's personnel file, that a copy will be provided to the employee and that the warning will remain in force for 12 months.

#### ***d) Dismissal***

The council may dismiss:

- for gross misconduct
- if there is no improvement within the specified time period in the conduct which has been the subject of a final written warning
- if another instance of misconduct has occurred and a final written warning has already been issued and remains in force.

The council will consider very carefully a decision to dismiss. If an employee is dismissed, they will receive a written statement of the reasons for their dismissal, the date on which the employment will end and details of their right of appeal.

If the council decides to take no disciplinary action, no record of the matter will be retained on the employee's personnel file. Action imposed as a result of the disciplinary meeting will remain in force unless and until it is modified as a result of an appeal.

## 5. THE APPEAL

An employee who is the subject of disciplinary action will be notified of the right of appeal. His/her written notice of appeal must be received by the council within 7 days of the employee receiving written notice of the disciplinary action and must specify the grounds for appeal.

- a failure by the council to follow its disciplinary policy
- the committee's decision was not supported by the evidence
- the disciplinary action was too severe in the circumstances of the case
- new evidence has come to light since the disciplinary meeting .

The appeal will be heard by a panel of three members of the council who have not previously been involved in the case (including the investigator). There may be insufficient members of the council who have not previously been involved. If so, the appeal panel will be a committee of three members of the council who may include members of the staff committee. The appeal panel will appoint a Chairperson from one of its members.

The employee will be notified, in writing, within 14 days of receipt of the notice of appeal of the time, date and place of the appeal meeting.

The employee will be advised that he/she may be accompanied by a companion - a workplace colleague, a trade union representative or a trade union official.

At the appeal meeting, the Chairperson will:

- introduce the panel members to the employee
- explain the purpose of the meeting, which is to hear the employee's reasons for appealing against the decision of the staffing committee
- explain the action that the appeal panel may take.

The employee (or his companion) will be asked to explain the grounds for appeal.

The Chairperson will inform the employee that he/she will receive the decision and the panel's reasons, in writing, within 7 days of the appeal hearing.

The appeal panel may decide to uphold the decision of the staffing committee, substitute a less serious sanction or decide that no disciplinary action is necessary. If it decides to take no disciplinary action, no record of the matter will be retained on the employee's personnel file.

If an appeal against dismissal is upheld, the employee will be paid in full for the period from the date of dismissal and continuity of service will be preserved.

The appeal panel's decision is final.

## **GRIEVANCE POLICY**

Many problems can be raised and settled during the course of everyday working relationships. Employees should aim to settle most grievances informally with their line manager.

This policy confirms:

- employees have the right to be accompanied or represented at a grievance meeting or appeal by a workplace colleague, a trade union representative or a trade union official. The companion will be permitted to address the grievance/appeal meetings, to present the employee's case for his /her grievance/appeal and to confer with the employee. The companion cannot answer questions put to the employee, address the meeting against the employee's wishes or prevent the employee from explaining his/her case
- the council will give employees reasonable notice of the date of the grievance/appeal meetings. Employees and their companions must make all reasonable efforts to attend. If the employee's companion is not available for the date of the meeting, the employee can request a postponement and can propose an alternative date that is within 7 days of the original meeting date
- any changes to specified time limits must be agreed by the employee and the council
- an employee has the right to appeal against the decision about his/her grievance. The appeal decision is final
- information about an employee's grievance will be restricted to those involved in the grievance process. A record of the reason for the grievance, its outcome and action taken is confidential to the employee. The employee's grievance records will be held by the council in accordance with the Data Protection Act 2018
- recordings of the proceedings at any stage of the grievance procedure are prohibited, unless agreed as a reasonable adjustment that takes account of an employee's medical condition
- if an employee who is already subject to a disciplinary process raises a grievance, the grievance will normally be heard after completion of the disciplinary procedure
- if a grievance is not upheld, no disciplinary action will be taken against an employee if he/she raised the grievance in good faith
- the council may consider mediation at any stage of the grievance procedure where appropriate, (for example where there have been communication breakdowns or allegations of bullying or harassment). Mediation is a dispute resolution process which requires the council's and the employee's consent.

## **GRIEVANCE PROCEDURES**

### **1. INFORMAL PROCEDURE**

The council and its employees benefit if grievances are resolved informally and as quickly as possible.

As soon as a problem arises, the employee should raise it with the Chairperson to see if an informal solution is possible. Both should try to resolve the matter at this stage.

If the employee does not want to discuss the grievance with the Chairperson (for example, because it concerns the Chairperson), the employee should contact another member of the council.

### **2. FORMAL PROCEDURE**

If it is not possible to resolve the grievance informally, the employee may submit a formal grievance. It should be submitted in writing to the Chairperson of the council.

#### ***a) Formation of Grievance Committee***

The council will appoint a committee of three members to investigate the grievance.

The committee will appoint a Chairperson from one of its members. No councillor with direct involvement in the matter shall be appointed to the committee.

#### ***b) Investigation***

The committee will investigate the matter before the grievance meeting which may include interviewing others (e.g. employees, councillors or members of the public).

#### ***c) Arranging the Grievance Meeting***

Within 14 days of the council receiving the employee's grievance, the employee will be asked, in writing, to attend a grievance meeting. The committee's letter will include the following:

- the names of its Chairperson and other members
- a summary of the employee's grievance based on his/her written submission
- the date, time and place for the meeting. The employee will be given reasonable notice of the meeting which will be within 28 days of when the council received the grievance
- the employee's right to be accompanied by a workplace colleague, a trade union representative or a trade union official
- a copy of the council's Grievance Policy
- confirmation that, if necessary, witnesses may attend on the employee's behalf and that the employee should provide the names of his/her witnesses at least 5 days before the meeting
- confirmation that the employee will provide the council with any supporting evidence at least 5 days before the meeting.

#### ***d) The grievance meeting***

At the grievance meeting:

- the Chairperson will introduce the members of the committee to the employee
- the employee (or companion) will set out the grievance and present the evidence

- the Chairperson will ask the employee what action does he/she wants the council to take
- any member of the committee and the employee (or the companion) may question any witness
- the employee (or companion) will have the opportunity to sum up the case
- a grievance meeting may be adjourned to allow matters that were raised during the meeting to be investigated by the committee.

#### ***e) Following the meeting***

The Chairperson will provide the employee with the committee's decision, in writing, within 7 days of the meeting. The letter will notify the employee of the action, if any, that the council will take and of the employee's right to appeal.

### **3. THE APPEAL**

If an employee decides that his/her grievance has not been satisfactorily resolved by the committee, he/she may submit a written appeal to the Chair of the Council. An appeal must be received by the council within 7 days of the employee receiving the committee's decision and must specify the grounds of appeal.

Appeals may be raised on a number of grounds, eg:

- a failure by the council to follow its grievance policy
- the decision was not supported by the evidence
- the action proposed by the committee was inadequate/inappropriate
- new evidence has come to light since the grievance meeting.

The Appeal will be heard by a panel of three members of the council who have not previously been involved in the case. The appeal panel will appoint a Chairperson from one of its members.

The employee will be notified, in writing, within 14 days of receipt of the appeal of the time, date and place of the appeal meeting.

The meeting will take place within 28 days of the council's receipt of the appeal. The employee will be advised that he/she may be accompanied by a workplace colleague, a trade union representative or a trade union official.

At the appeal meeting, the Chairperson will:

- introduce the panel members to the employee
- explain the purpose of the meeting, which is to hear the employee's reasons for appealing against the decision of the council.
- explain the action that the appeal panel may take.

The employee (or his/her companion) will be asked to explain the grounds of his/her appeal.

The Chairperson will inform the employee that he/she will receive the decision and the panel's reasons, in writing, within 7 days of the appeal meeting.

The appeal panel may decide to uphold the original decision of the council or substitute its own decision.

The decision of the appeal panel is final.