



**ONCHAN
DISTRICT
COMMISSIONERS**

Disciplinary Policy & Procedure

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Policy Review - History:

History or Most Recent Policy Changes – MUST BE COMPLETED		
Version:	Date:	Change:
1	2006	Updated – Disciplinary Procedure and Rules (Conduct)
2	2021	Updated and approved by ODC 23/08/21
3	2023	New Policy drafted

1. INTRODUCTION

Onchan District Commissioners (“the Authority”) uses this procedure to:

- 1.1 Let Employees know what is expected of them in terms of standards of conduct;
- 1.2 Provide Line Managers with a framework and guidance to improve poor conduct and/or behaviours; and
- 1.3 Support the Employee to achieve the expected standards of conduct and/or behaviours.

This procedure applies to all employees of the Authority. The aim is to ensure consistent and fair treatment for all employees of the Authority. A copy of the Authority’s Disciplinary Procedure is available from your Line Manager, the Office of the Chief Executive/Clerk the Authority’s website or People HR.

A disciplinary process can be stressful for everyone involved. Different people may respond differently to stressful situations. The Authority understands the prospect of disciplinary action might cause distress and affect your wellbeing.

The Authority will support you throughout and help avoid this happening to you. Please talk to your Line Manager or Exceed Outsourcing the Authority’s HR Adviser (“HR”) about how the Authority can assist/support your wellbeing.

HR may also be consulted and invited to attend meetings to advise on procedural matters and employment legislation. Line Manager and Employees may seek advice from HR at any stage of the procedure.

Any advice provided by HR will be independent with no bias shown to either the Line Manager or the employee.

Courts and Tribunals may order disclosure of documents, irrespective of whether or not they are confidential. These documents will be redacted where permitted.

2. PRINCIPLES

The Authority will consider informal action where appropriate, to resolve problems.

The Authority will not take disciplinary action against you until the case has been fully investigated.

In relation to formal action you will be advised of the nature of the complaint made against you and you will be given the opportunity to state your case before any decision is made at a disciplinary hearing.

You will be provided where appropriate with written copies of the evidence and relevant witness statements before the disciplinary hearing.

You will not be dismissed for a first breach of discipline, except in the case of gross misconduct, when the penalty is dismissal without notice and without payment in lieu of notice.

You have the right to appeal against any disciplinary action.

3. YOUR RIGHT TO BE ACCOMPANIED

You have the right to be accompanied by a companion where a disciplinary hearing could result in:

- a formal warning;
- some other disciplinary action; or
- confirmation of a formal warning or other disciplinary action (for example at an appeal hearing).

You may be accompanied by:

- a work colleague;
- a trade union representative; or
- a McKenzie friend.

You should advise your Line Manager as soon as possible if you would like a companion and who they will be so that the Authority can make arrangements.

If you require any reasonable adjustments, for example a disability, please speak to your Line Manager.

4. PROCEDURE

4.1 Information Resolution:

Line Managers are responsible for addressing conduct and behaviour issues as early as possible and for taking appropriate action. Where appropriate, steps will be taken to resolve issues on an informal basis without recourse to the formal procedure. If informal action does not bring about an improvement, or the misconduct is considered too serious to be classed as minor, the formal procedure should be followed.

A record of the Informal action will be kept but will be disregarded for Disciplinary purposes after 12 months.

4.2 First Stage of Formal Procedure:

This will normally be either:

- A written, improvement note for unsatisfactory performance if performance does not meet acceptable standards.

The written improvement note will advise you of the following:

- the performance problem;
- the improvement which is required and the timescale;
- any assistance/support which may be given;

- the right of appeal; and
- a record of that note will be kept on the Employee's personnel file.

OR

- A first warning for misconduct, if conduct does not meet acceptable standards.

The written first warning will advise you of the following:

- the nature of the misconduct;
- the change in performance/behaviour required;
- the right of appeal;
- that a final warning may be considered if there is no sustained satisfactory improvement or change; and
- a record of the warning will be kept, but will be disregarded for disciplinary purposes after 12 months.

4.3 Final Written Warning

You may receive a final written warning if:

- the offence is sufficiently serious;
- there is further misconduct not related to a previous matter dealt with under the first stage of the Formal Procedure; and
- there is failure to improve your performance whilst you are still under a prior warning.

The final written warning will confirm the following:

- full details of the complaint;
- the improvement required and the timescale;
- warn that failure to improve may lead to dismissal (or some other action short of dismissal);
- the right of appeal; and
- a record of the warning will be kept, but will be disregarded for disciplinary purposes after 12 months.

4.4 Dismissal or Other Action

If there is still further misconduct or failure to improve performance the final step in the procedure may be dismissal or some other action short of dismissal such as demotion or transfer (as allowed in the contract of employment).

Dismissal decisions can only be authorized by the Authority's Chief Executive/Clerk. You will be advised of the following in writing:

- the reason(s) for dismissal;
- the date when your employment will end;
- confirmation of all final payments you are owed, including holiday pay and notice pay; and
- the right of appeal.

If an action short of dismissal has been decided on, you will be advised of the following:

- the full details of the complaint;
- warned that dismissal could result if there is no satisfactory improvement;
- the right of appeal; and
- that a copy of the written warning will be kept on your file but it will be disregarded for disciplinary purposes after (12 months) as long as you achieve and maintain satisfactory conduct or performance.

4.5 Gross Misconduct

The following list provides some but not exhaustive examples of offences which are normally regarded as gross misconduct:

- theft or fraud;
- physical violence;
- bullying;
- deliberate and serious damage to property;
- serious misuse of the Authority's property or name;
- deliberately accessing internet sites containing pornographic, offensive or obscene material;
- serious insubordination;
- discrimination, harassment or victimisation;
- bringing the Authority into serious disrepute;
- causing loss, damage or injury through serious negligence;
- a serious breach of health and safety rules;
- a serious breach of confidence.

The Authority may consider suspending an employee whilst carrying out a disciplinary investigation. Suspension is when the Authority advises the employee to temporarily stop working. The employee will receive full pay throughout any suspension period.

The Authority understands that being suspended might be stressful and the Authority will:

- only suspend an employee if there is a potential risk to the Employee or other Employees; and
- support the employee throughout the suspension period, always considering your mental health and wellbeing.

5. RIGHT OF APPEAL

You have the right to appeal a disciplinary decision and you must do so in writing within **5 working days from the date of the decision to your Head of Department, or Senior Manager if applicable.**

The Head of Department decision is final. At the appeal any disciplinary penalty imposed will be reviewed.

6. CONFIDENTIALITY

All parties involved in these procedures must ensure that they maintain, as appropriate, the confidentiality of the process within and outside the Authority.

Any breaches, by any party may in themselves constitute a disciplinary offence.

7. DATA PROTECTION

7.1 the Authority's privacy notice describes how personal information about an employee is collected and used during and after their working relationship within the Authority and what legal basis there is for gathering and retaining that information in accordance with the Data Protection Act 2018 including the General Data Protection Regulations ("GDPR"). Further details in relation to the information collected and retention periods can be obtained from the Office of the Chief Executive/Clerk.

7.2 Information generated and collated during the application of these procedures maybe disclosed (appropriately redacted) as part of a Subject Access Request.

7.3 Courts and Tribunals may order disclosure of documents, irrespective of whether or not they are confidential. These will be redacted where permitted.

7.4 In order to apply with GDPR legislations, employees who wish their personal data to be shared with their union representative are required to provide written consent to the Chief Executive/Clerk.

8. RETENTION OF DOCUMENTATION

Confidential records of any disciplinary procedures and the outcomes will be kept in accordance with the Authority's Document Retention Policy.