

Appendix A: With Track Changes

Human Resources Management Rules

Senior Managers

1. The Council's organisational management structure comprises the Chief Executive, Strategic Directors and Assistant Director posts.
2. The Council's Management Board comprises (two) Strategic Directors and the (6) Assistant Directors. The Senior Management posts are the Chief Executive and the (two) Strategic Directors.

Approval of Staffing Structures

3. The Senior Management Structure, any revisions to it, and designation of Monitoring Officer and Chief Finance Officer, shall be approved by the full Council.
4. The Chief Executive and all other officers authorised by him may agree all other staffing structure changes including approval/deletion of posts, changes in reporting arrangements and variations to terms and conditions in accordance with local and national policies and financial procedure rules.
5. Any proposed changes to the number of posts (approval of new posts, deletion of posts) shall be reported to the Management Board who shall decide whether or not the proposed changes shall be recommended for approval to the District Executive. Changes to the Senior Management Structure shall be referred for approval to full Council.
6. Any permanent changes to the grades of posts may only be made in accordance with the Council's scheme of job evaluation.

Appointment of Chief Executive, Senior Managers, Chief Finance Officer and Monitoring Officer

7. Rules 7-13 apply to the appointment of the Chief Executive and the Strategic Directors; Rules 7-11 and 13 apply to the appointment of the Monitoring Officer (Assistant Director Legal & Corporate Services) and Chief Finance Officer (Assistant Director Finance & Corporate Services).
8. For all such appointments the Human Resources Manager or his/her nominee shall:
 - a) draw up a statement specifying:
 - (i) the duties of the post; and
 - (ii) any qualifications or qualities required;
 - (b) make suitable arrangements for the post to be externally advertised to bring it to the attention of suitably qualified persons (unless applicants are to be sought only from among the Council's existing staff); and
 - (c) make arrangements for the statement in paragraph (a) above to be sent to any person on request.

9. In all cases either all qualified applicants or a selected short-list will be interviewed as set out in the table below:

Post	Appointing Body	Adviser
Chief Executive	Appointments Committee shall agree 8 (a) and (b) above, shortlist and interview and make recommendation to full Council.	As agreed by the Appointments Committee
Strategic Directors	Appointments Committee shall agree 8 (a) and (b) above, shortlist and interview and make appointment	Chief Executive and as agreed by the Appointments Committee
Monitoring Officer and Chief Finance Officer (if not Senior Management Positions)	Appointments Committee shall agree 8 (a) and (b) above, shortlist and interview and make appointment	Chief Executive and as agreed by the Appointments Committee

10. The Appointments Committee when considering any appointment must include a member of the District Executive as a voting member.
11. Where no suitably qualified person has applied, the post shall be re-advertised.
12. When a Strategic Director ceases to hold that post or is likely to be absent for any length of time, the Chief Executive, after consultation with the political group leaders, may appoint someone to act temporarily in that capacity and determine the salary to be paid.
13. No offer of an appointment as Chief Executive, a Strategic Director, Monitoring Officer or Chief Finance Officer may be made until:
- (a) all members of the District Executive have been notified of the name of the person to whom the offer is to be made and informed of the date and time by which any objection to the making of the offer can be made by any member of the Executive.
 - (b) in the case of the Chief Executive, the Council has confirmed the appointment after consideration of any such objection and resolving that it is not material or not well-founded; or
 - (c) in all other cases, no such objection has been made or the appointing body has considered any such objection and has resolved or decided that the objection is not material or not well-founded.
14. The Chairman of the Standards Committee shall be consulted before a new or existing officer is appointed or designated as Monitoring Officer.

15. In terms of appointment to other posts:

Post	Appointing Body	Adviser
Assistant Director	Chief Executive and Strategic Directors shall undertake all elements of the appointments process.	Human Resources Manager
All Other Posts	Assistant Director or appointed representative and other officers in line with policy on recruitment.	Human Resources Manager

Disciplinary Action – Senior Managers

16. Disciplinary action or suspension during investigation of allegations of misconduct in relation to Senior Manager (as defined in para. 2 above) may only be taken as provided in the table below:

	Suspension	Investigation	Disciplinary Action/ Dismissal/Appeal
Chief Executive (Head of Paid Service)	Appointments Committee on advice of the Human Resources Manager.	Designated independent person appointed by the Appointments Committee. Report to Appointments Committee or Council	Council
Chief Finance Officer and Monitoring Officer	Appointments Committee on advice from the Chief Executive or Chief Executive if Committee cannot be convened	Designated independent person* appointed by the Appointments Committee. Report to Appointments Committee	Appointments Committee Appeal to a Committee appointed by the Council
Other Strategic Directors	Appointments Committee on advice from the Chief Executive or Chief Executive if Committee cannot be convened	Other Officer or independent person appointed by the Appointments Committee.	Appointments Committee Appeal to a Committee appointed by the Council

The designated independent person is defined in the Local Authorities (Standing Orders) (England) Regulations 2001 paragraph 7(2) as such a person as may be agreed by the authority and the relevant officer or, in default of such agreement, nominated by the Secretary of State.

17. No disciplinary action, other than suspension as provided for above, may be taken in respect of the Head of Paid Service, Chief Finance Officer or Monitoring Officer other than in accordance with a recommendation in a report made by a designated independent person under regulation 7 of the Local Authorities (Standing Orders) (England) Regulations 2001.
18. All suspended officers shall be on full pay during the investigation of the alleged misconduct (**see appendix for guidance on what may constitute misconduct**), which must be completed no later than two months after the suspension takes effect (subject to any direction by the designated independent person in the case of the Head of Paid Service, Chief Finance Officer or Monitoring Officer).
19. The Chairman of the Standards Committee shall be consulted after any investigation of an allegation of misconduct by the Monitoring Officer; and his/her advice shall be presented to the Appointments Committee.

Dismissal of a Senior Manager, Chief Finance Officer or Monitoring Officer

20. No decision to dismiss a Senior Manager (as defined in para. 2 above), Chief Finance Officer or Monitoring Officer shall take effect until:
 - (a) the Monitoring Officer has recorded the name of the person to be dismissed and any other particulars the Appointments Committee (or other responsible body or person) considers relevant to the dismissal;
 - (b) that information has been sent by the Monitoring Officer to the Leader and all members of the District Executive with a date and time by which any objection to the dismissal can be made;
 - (c) the Monitoring Officer has confirmed that the date and time for objection has elapsed and either the Council (in the case of the Head of Paid Service) or the responsible body (in all other cases) has considered any such objection and has resolved or decided that the objection is not material or not well-founded;

Provided always that should the decision relate to the Monitoring Officer then the requirements contained in paragraphs (a) –(c) above shall be undertaken by the Chief Executive Officer

Appeals by a Senior Manager, Chief Finance Officer or Monitoring Officer

21. Any appeal must be lodged with the Monitoring Officer (or the Chief Executive where the appeal is made by the Monitoring Officer) within 10 working days of written confirmation to the officer of the disciplinary action and must include a written statement of the grounds on which the appeal is made.
22. Subject to these rules, all disciplinary procedures, including hearings and appeals, shall be conducted as far as possible in accordance with the provisions of the South Somerset Scheme of Conditions of Service.
23. Appeal hearings shall not include Members involved in the decision to take disciplinary action.

Other Officers

24. Members may not take part in the appointment of any other officers (except assistants for political groups) nor in any disciplinary or dismissal action, except as provided for above or as a member of an appeal panel.

Staff Appeals

25. Unresolved employee grievances and appeals by employees of the Council against dismissal, transfer or downgrading are determined in accordance with the District Council's Disciplinary Procedures. Members, appointed by the Council and having received the appropriate training, may only be involved in an appeal against dismissal.

Delegations to Officers

26. Officers at the level stated and above are empowered to take the decisions about staff set out in the table below.
27. Managers are also authorised to make other day to day operational decisions on the management of their staff in accordance with the relevant procedures and conditions of employment. A list of these authorisations is held by the Human Resources Manager and may be altered by the Chief Executive.

Issue	Decision	Minimum Level of Decision
Recruitment and Appointment of Staff	Agree the recruitment and appointment of all staff below Assistant Director level	Assistant Director
Assistance with Employee Relocation Costs	Application of Relocation Scheme within scheme limits.	Assistant Director
Acting Up Arrangements	Agree Acting Up arrangement and determine appropriate payment where an employee is required to undertake the duties of a higher graded post on a temporary basis.	Assistant Director (in consultation with their Strategic Director)
Extending service beyond the age of 65 years.	Approval to extend the service of an employee beyond the normal retirement age of 65 and the employment of a pensioner, subject to the guidelines and Conditions of Employment manual, the Local Government Pension Scheme Regulations and insurance provision.	Strategic Director (in consultation with Human Resources and Pensions Department)

Issue	Decision	Minimum Level of Decision
Termination of Employment	Termination of employment on redundancy, early retirement, <u>efficiency of service</u> , incapacity and disciplinary grounds in accordance with Council's severance policy.	<p>Decisions on redundancies and early retirements for senior managers to be taken by the Chief Executive following consultation with the Leader of the Council.</p> <p>All other redundancies, <u>efficiency of service</u> and early retirements (other than on ill health grounds) to be jointly agreed by the Director and the Human Resources Manager. All details of early retirements to be circulated to all members for information.</p> <p>All other terminations of employment to be agreed by Director (or Assistant Director to whom this power has been delegated by the Strategic Director) in all cases in accordance with the Disciplinary and Capability Procedures.</p>
Use of Ex Employees as Consultants	Approval to use ex-employees as consultants on a "contract for service" basis with reference to the Financial Procedure Rules, pension restrictions and Contract Standing Orders.	Strategic Director (in consultation with Human Resources and Pensions Department, if applicable)
Changes to National Joint Council (NJC) Pay and Conditions	Agree the implementation of NJC pay awards and changes to conditions of service in accordance with NJC agreements.	Human Resources Manager
Advances of Salary	Agree payment of an advance of salary, in exceptional circumstances.	Strategic Director (in conjunction with Human Resources)

Issue	Decision	Minimum Level of Decision
Dealing with salaries and pay progression outside of the normal procedures	Agreement of starting salaries and subsequent pay movement for staff. Withholding of increments in accordance with the provisions of the staff handbook.	Chief Executive Assistant Director
Extension of Sick Pay	Agree conversion of any period of sick pay entitlement from half to full pay. Agree extension of sick pay beyond the aggregate of full and half pay.	Strategic Director Chief Executive
Recovery of Sick Pay	Agree recovery of sick pay where employees have been off sick due to their own misconduct.	Human Resources Manager and Assistant Director
Payment of Honoraria to National Joint Council (NJC) Staff	Approval to pay honoraria to NJC staff	Assistant Director
Standby Allowances	Approve updating of Standby allowance rates under the JNC Scheme.	Strategic Director
Annual Leave Buyout	Agree, for exceptional reasons, to buy-out an employee's annual leave to a maximum of 5 days in any one leave year.	Strategic Director (in consultation with Human Resources)
Leave for Extraneous Duties, e.g. JPs, Local Authority Members, School Governors	Grant an employee up to 18 days paid leave per year for undertaking extraneous duties.	Assistant Director
Special Leave for Trade Union Conferences	Approval for representatives nominated by a recognised Trade Union to be granted up to 5 days paid leave to attend annual/biennial conferences	Assistant Director

Special Leave for Retained Fire Fighters	Approval for retained fire fighters to be granted up to 2 weeks additional paid leave to attend recognised courses concerning their fire service duties.	Assistant Director
Special Leave for Election Duties	Grant paid leave to employees acting as Presiding Officers and Poll Clerks at Parliamentary, European Parliament, County Council, District, <u>Police and Crime Commissioner</u> or Parish Council elections <u>and any National Referendum</u> .	Chief Executive
Special Leave for Service in Non-Regular Forces	Grant volunteer members of the non-regular forces up to two weeks additional paid leave per year to attend camp <u>as per the Reservist Policy</u> .	Assistant Director
Participation in the Reserve Armed Forces	Where appropriate grant approval for an employee to enter an agreement to become a reservist in the regular reserve forces or the volunteer reserves as appropriate <u>as per the Reservist Policy?</u> .	Assistant Director
Compassionate Leave beyond normal provisions	In exceptional circumstances grant paid compassionate leave beyond the normal provisions as in the staff handbook.	Chief Executive
Unpaid Leave	Approval for employees to be granted up to and including <u>7-12</u> days unpaid leave. Approvals for employees to be granted between <u>8-13</u> days and 3 months unpaid leave.	<u>Assistant Director</u> <u>Service Manger</u> Strategic Director (in consultation with Human Resources Manager)
Additional Paid Leave	Approval in exceptional circumstances for additional paid leave up to a maximum of ten days per year.	Chief Executive

<p>Reimbursement for Meals and Subsistence payments</p>	<p>Agree the payment levels for reimbursement of expenditure on meals and other subsistence expenses.</p> <p>Authorise the reimbursement of expenditure on meals and other subsistence expenses (excluding alcohol) in line with the agreed scheme of payments on production of receipts.</p>	<p>Chief Executive</p> <p>Assistant Director <u>Service Manager</u></p>
<p>Travelling Allowances</p>	<p>Allocation of car user status (casual, essential) in accordance with established procedures <u>Local Agreement on Car Allowances</u> to posts where use of a motor vehicle is required in order to perform the duties.</p> <p>Exceptionally grant essential car user status on criteria other than that set out in the Procedures and Conditions of Employment manual, and allocation of lease car user status.</p> <p>Use of Council vehicles in exceptional circumstances and subject to insurance clearance.</p>	<p>Assistant Director (in consultation with Human Resources Manager)</p> <p>Strategic Director</p> <p>Assistant Director</p>
<p>Payment of Travelling Expenses at work</p>	<p>In exceptional circumstances agree the payment of travelling expenses to and from work.</p>	<p>Assistant Director</p>

Car Loans	<p>Setting the maximum amount that can be granted for a car loan. Setting the rate of interest for car loans.</p> <p>Approval of payment of car loans in accordance with Assisted Car Purchase Scheme.</p>	<p>Assistant Director Finance & Corporate Services</p> <p>Assistant Director (in consultation with Human Resources Manager).</p>
Benchmark Lease Car	Setting the benchmark cars for the lease car scheme.	Chief Executive
Secondments	<p>Agree secondments outside of SSDC.</p> <p>Agree secondments within the Council.</p> <p>Agree secondments to SSDC from other employers.</p>	<p>Strategic Director (in consultation with Human Resources Manager).</p> <p>Assistant Director</p> <p>Assistant Director (in consultation with Human Resources Manager).</p>
Changes to the delegations and authorisations to Line Managers	<p>Agree changes to the Officer delegations. Such changes to be variations to the existing scheme in terms of the officers responsible for exercising the delegated power only. Changes to the powers delegated to officers require the approval of Council.</p>	Chief Executive
<u>Disciplinary Policy</u>	<u>Agree minor updates to Disciplinary Policy</u>	<u>Portfolio Holder for HR in consultation with HR Manager in consultation with the Portfolio Holder for HR.</u>

Policy Group: Disputes Resolution Disciplinary Procedure

1. Purpose

1. The purpose of this Procedure is to:
 - Outline the disciplinary rules relating to the conduct of SSDC employees.
 - Outline the steps to be taken when there is a breach of these rules by an individual
 - Ensure that SSDC complies with the law relating to handling disciplinary matters and that employees' rights are protected
2. The ACAS Discipline and Grievances at Work Handbook and guidance available on the ACAS website should be used as a reference guide by managers and employees should further information be required. The website address is www.acas.org.uk
3. This procedure applies to all employees of SSDC except: the Head of Paid Service, Strategic Directors, the Monitoring Officer and the Section 151 Officer. For these exceptions, similar principles will apply, but as modified by the Council's 'Human Resources Management Rules' in relation to suspension, investigation, disciplinary action and appeals. Any disciplinary action against staff during their probationary period will follow the Standard Statutory Dismissal and Disciplinary Procedure detailed in section 10 below.
4. A separate procedure deals with matters of capability i.e. inability to perform the requirements of the role, either due to illness or lack of competence.

2. Core Principles

1. All employees have a duty to act reasonably and with due regard to defined and reasonable standards of conduct and should expect to be held accountable for their behaviour and actions.
2. Managers at every level have a responsibility to uphold standards of discipline of the employees reporting to them.
3. Managers will use this Procedure primarily to obtain an improvement in behaviour and conduct and not see it as simply a means to impose sanctions. In particular, other than for gross misconduct, no employee will normally be dismissed for a first disciplinary breach. (During probationary period modified procedure in section 10 maybe applied).
4. Formal disciplinary action will only be taken after:
 - a thorough investigation of the facts
 - an employee has been informed in writing of the complaint against them and formally advised of their right to be accompanied at any subsequent meetings
 - a meeting with the employee has been held
5. Employees will be informed in writing of the outcome of any disciplinary meeting(s) and will have the right to appeal any action taken to a more senior manager who was not involved in the earlier meeting or the investigation.
6. Employees have the right to be accompanied at all disciplinary and appeal meetings by a fellow employee or a trade union officer. Disciplinary proceedings affecting a lay trade union officer will only take place after consultation with the paid union officer.

7. Each instance will be dealt with as speedily as possible, taking account of the seriousness and complexity of the matter in hand.

3. Disciplinary Rules

1. It is not possible in this document to define all acts of misconduct that could lead to the Procedure being used.
2. Misconduct is a breach of the express or implied terms of an employee's contract of employment and is essentially behaviour which does not meet defined standards or standards which any person would accept as reasonable.
3. A distinction is made between:
 - Minor misconduct – such cases will be dealt with informally and the full Procedure will not be used
 - Misconduct – this may be repeated minor misconduct or allegations of misconduct which require formal investigation and possible action. This Procedure will be invoked in such cases.
 - Gross misconduct – this is alleged misconduct so serious that, if substantiated, represents a fundamental repudiation of the contract of employment by an employee and which would justify summary dismissal i.e. dismissal without notice. While there may be some conduct that will always be classified as 'gross', the distinction between 'misconduct' and 'gross misconduct' may be a question of seriousness.

Examples of conduct which will normally be regarded as gross misconduct include:-

- theft or fraud;
- physical violence or purposeful bullying;
- deliberate and serious damage to property;
- serious misuse of the Council's property or name;
- deliberately accessing and/or disseminating internet sites or electronic material containing pornographic, offensive or obscene material; serious insubordination;
- unlawful discrimination or harassment;
- bringing the Council into serious disrepute;
- serious incapability at work brought on by alcohol or illegal drugs;
- causing loss, damage or injury through serious negligence;
- a serious breach of health and safety rules;
- a serious breach of confidence; and
- breaches of the Code of Conduct.

4. Minor Misconduct

1. For a first minor breach of discipline, a manager may issue an informal warning without the need to follow any set procedure. A note that such a warning has been given will be kept on the employee's personal file and a copy given to the employee. Although no right of appeal is available against such informal action an employee may raise a grievance if the issue of such the warning was unreasonable and/or the note made was inaccurate and the matter cannot be resolved informally.
2. The period for retaining any such note on the personal file will be set down on the note however, this period will not exceed 4 months in normal circumstances. Once

the period is 'spent' the note (and any copies whether 'hard' or 'soft') will be removed from the file and securely destroyed.

5. Misconduct

For more serious suspicions or allegations of misconduct the following formal procedure will apply:

1. The employee's Manager will verbally advise the employee of the allegation(s) against them and that these will be investigated. In some cases it may be appropriate and reasonable to seek the employee's version of events immediately as part of that investigation, but in many instances it will be more appropriate to interview the employee later as part of the investigation. In any event, the employee will be advised that this meeting is to investigate the facts of the matter and is not a disciplinary hearing.

The allegations, and that there will be an investigation, will be confirmed in writing, as will the possible outcomes of the investigation and the right of employees to be accompanied at any subsequent meetings to discuss the allegations.

2. The Manager will institute an investigation, which will involve collection of relevant documents if applicable and, where appropriate, interviews with witnesses and the employee concerned. The facts ascertained will be documented.

The manager must ask for an independent ~~manager~~ person to conduct the investigations etc where s/he considers that they have been too closely involved in the incident in question or have not been able to keep a sufficiently open mind to ensure that fairness and natural justice are maintained. They may also opt for an independent investigation where they consider it advisable for maintaining future good relations within the team or where there are allegations of bias against them.

3. On the basis of an investigation the Manager will decide if there is a 'case to answer'. If not, the employee will be advised accordingly, both verbally and in writing. Where there is, the Manager will organise a formal disciplinary meeting which will include:
 - Setting out in writing the basis of the allegation and an explanation of the 'case to answer', including providing a copy of all the documented evidence ascertained in the investigation
 - Arranging a date, time and venue for a meeting with the employee. This must provide a reasonable time for the employee to prepare and consult with whoever might be accompanying them. Reasonable and genuine requests to postpone the meeting will be considered sympathetically and the statutory grounds for postponing the meeting are set out ACAS handbook.
 - Confirming in writing to the employee the date, time and venue for the meeting and re-confirming their right to be accompanied
4. A disciplinary meeting will be held between the Manager and the employee with their accompanying representative if appropriate. The Manager should be accompanied too and, depending on the nature of the case (its seriousness and complexity), others may also attend e.g. a note-taker and/or witnesses.
5. The Manager will have due regard to the following matters before deciding whether any action should be taken: -
 - the facts identified in the investigation report;
 - the employee's explanation (including any relevant mitigating circumstances),
 - their length of service and employment record

- the decisions made in other cases
- any general considerations of fairness, reasonableness and consistency

The outcome will be advised both verbally and in writing.

6. Appeals

1. Employees have the right to appeal to a more senior manager against any disciplinary sanctions imposed. Any such appeal should be submitted as soon as practicable, but generally no later than five working days after receiving written confirmation of the action being taken. The employee will again be advised of their statutory right to be accompanied to the meeting and their right to postpone the meeting.
2. Appeals will be considered at a meeting within a reasonable timescale by an independent Manager who where practical is more senior to the one chairing the original meeting and normally within the same management reporting line providing that they were not involved in the earlier investigation. For sanctions other than dismissal the appeal will normally review the specific grounds of appeal and, where these were not clear from the appeal letter, the employee will be encouraged to provide details of the grounds of the appeal to allow a review to take place.
3. Where, exceptionally, a rehearing of the whole case may be needed the HR Manager will make this decision after consultation with the employee and the relevant Union or workplace representative. Where it is decided that a rehearing is required the implications of a rehearing, particularly in relation to a possible increase in sanction, must be explained to the employee and confirmed in writing by the HR Manager. The employee must then be allowed a reasonable amount of time to consider whether they wish to pursue their appeal or withdraw it.
4. Where an employee feels that the HR Manager's decision to hold a rehearing rather than a review is unreasonable, they may lodge a grievance.
5. Appeal meetings about a dismissal will always represent a full re-hearing of the case and will be heard by a panel made up of at least two Directors/Chief Executive and 2 two elected Council Members
6. Where the appeal is a rehearing of the case, the decision of the Appeals Panel may include confirmation of the original decision, the quashing of the original decision or a ~~greater or~~ lesser sanction being substituted (including a decision to dismiss) for the original decision.
7. The outcome of any appeal will be confirmed in writing. This outcome will be final, ~~except where, exceptionally, the appeal decision substitutes dismissal for any action short of dismissal, in which case there will be a further right of appeal to a panel made up of at least 2 different Directors/Chief Executive and 2 different elected Council Members~~

7. Gross Misconduct

Where the allegations could amount to gross misconduct, the following Procedure will apply:

1. As soon as the employee's Manager is aware of the allegations which (s)he considers could amount to gross misconduct, (s)he should discuss the matter with the HR Manager, their Assistant Director or their Strategic Director. If they agree,

then they can authorise immediate suspension which should be confirmed verbally and in writing to the employee.

2. Suspension will be on full pay pending investigation and is not to be regarded as a disciplinary sanction in its own right. It is to be for the minimum period necessary and should be regularly reviewed to confirm it is still necessary.
3. Thereafter the Procedure follows that listed from step 1 in the Misconduct section of the Procedure, except that in all cases an independent ~~manager person~~ will conduct the investigation and make a recommendation on whether there is a case to answer and the employee's Assistant Director or Strategic Director will normally chair the disciplinary meeting.

8. Suspension

~~Other than for alleged gross misconduct (section 7 above), an employee may be suspended on full pay. Suspension won't be necessary in all cases, however an employee may be suspended on full pay in cases of serious misconduct or other instances whilst an investigation is conducted if:~~

- (a) such a suspension would facilitate the investigation
- (b) there is a risk to the Authority's property or to other people

9. Disciplinary outcomes/sanctions

A disciplinary meeting can have a variety of outcomes as shown in the table below.

Outcome	Used in these circumstances	Applied by
No action	Where Manager chairing the meeting considers that there is no real substance to the allegations, or Where, although the allegations have substance, there are strong mitigating factors which means that it would be unreasonable to impose a warning	Any level of Manager
Informal verbal warning	Where allegations have substance but it is a first breach or discipline and the Manager chairing the meeting concludes that the misconduct is of a minor nature, or Where, although allegations have substance, there are strong mitigating factors which means that it would be unreasonable to impose stronger warning.	Any level of Manager
Written warning	Where allegations of misconduct have substance, there are no mitigating factors justifying lesser sanction but, taking past record into account, it would be unreasonable to impose a stronger sanction	Any level of Manager

Outcome	Used in these circumstances	Applied by
Final written warning (i.e. dismissal could result from any further misconduct)	Following a failure to heed previous warnings (in which case another hearing is necessary), or A substantiated serious disciplinary offence, even though no warnings have previously been given	3 rd tier manager and above
Dismissal with contractual notice	Following a failure to heed a final warning, or A substantiated serious disciplinary offence where formal warnings of any kind have been given <u>Dismissal for a reason other than Gross Misconduct</u>	Assistant Director and above
Dismissal without notice	Substantiated Gross Misconduct	Assistant Director and above
Demotion and/or transfer	Only as an alternative to dismissal and with employee's formal written agreement	Assistant Director and above

Appeal meetings can: quash the original decision entirely; or substitute a lesser sanction; or substitute a greater sanction, but only if the appeal is a full rehearing of the case. In most cases the appeal will be a review of the earlier decision and the employee will be encouraged to identify the specific point(s) of the appeal so that the appeal panel can address this issue(s). In these cases no greater sanction may be substituted.

If written warnings are issued, the employee will also be advised of the improvement required and the consequences of failure to improve. All warnings will be kept on file for the period specified on the warning. This period would normally be:-

- 4 months for informal warnings
- 6 months for a formal verbal warning
- 12 months for a written warning
- 24 months for a final written warning

Once the period is 'spent' the warnings will be removed from the personal file.

Even when a warning is 'spent' and documents removed from the personal file, in order that the Council can meet any possible obligations under the TUPE regulations, all documentation in relation to formal disciplinary proceedings will be retained for a total of two years before being destroyed. In such cases, the records will be securely stored and kept separate from any personal file that may be available to managers generally. Information relating to 'spent' warnings will not be made available to those involved in selection decisions.

10. Probationary Periods

An employee ~~with less than 11 months' service and still~~ in their probationary period can be dismissed using a modified procedure as follows.

Step 1: The manager must set out the reasons in writing detailing the issues of concern or alleged conduct or other circumstances which lead them to contemplate dismissing or taking disciplinary action against the employee.

The manager will send a copy to the employee inviting the employee to attend a meeting advising them of their right to be accompanied at the meeting.

Step 2: The meeting must take place before action is taken except where a decision is taken to suspend the employee. The employee should be given reasonable time to have considered their response to the information in the letter. The employee must take reasonable steps to attend the meeting and will have an opportunity at the meeting to put their point of view.

After the meeting the manager will inform the employee in writing of their decision and, if applicable, advise them of their right of appeal against the decision.

Step 3: If the employee wishes to appeal they must put the request in writing and they will be invited to a further meeting at which they can be accompanied. A more senior manager than at the first meeting (usually a Assistant Director or Strategic Director) should hear the appeal. After the appeal meeting the manager must inform the employee of their decision in writing

~~If this modified procedure is used and may result in dismissal, step 2 (including the written confirmation) MUST be completed before the employee has 51 weeks' continuous service i.e. any dismissal is effective (including the statutory entitlement to a minimum of one week's notice) before the employee has 52 weeks' service.~~

**South Somerset District Council
Disciplinary Procedure – Outline Flow Chart**



