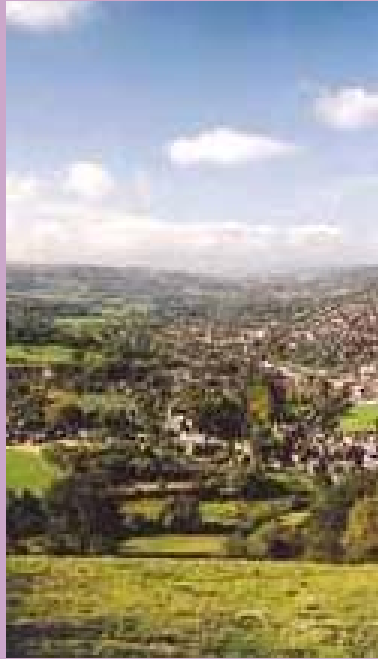


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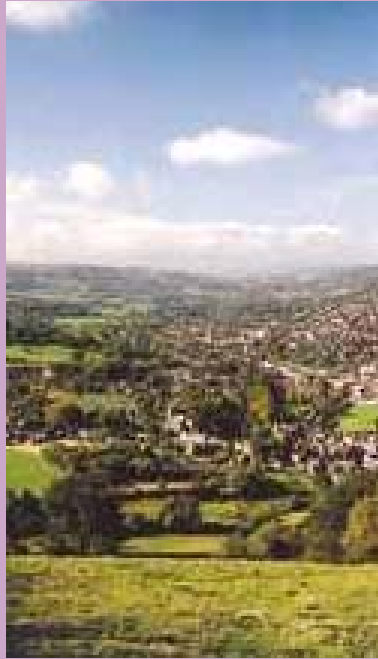


DISCIPLINARY TRAINING FOR MANAGERS



AIMS AND OBJECTIVES

- Define a disciplinary matter
- Familiarity with DCC disciplinary procedure
- Understand management and HR responsibilities
- Understand when to suspend
- Understand investigation process.
- Guidance in putting together statement of case
- Familiarity with how disciplinary hearing works



Disciplinary Procedure

Aim of the Disciplinary Procedure

- Consistent approach
- Ensure disciplinary issues handled promptly and fairly
- Make managers aware of key roles
- Ensure all issues confirmed in writing to employee
- Not primarily a means of imposing sanctions but a way of encouraging improvement



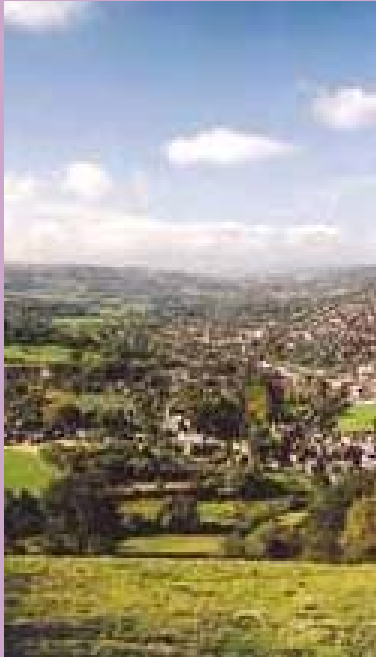
Group Exercise A - What is a Disciplinary Issue?

- Group exercise – chart issues which would be considered a disciplinary matter



What is a Disciplinary Issue?

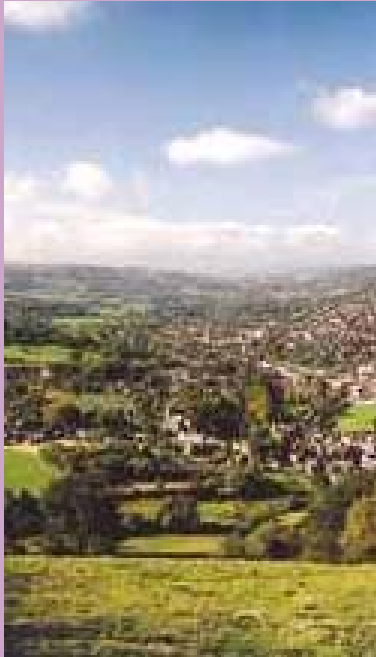
- An employee's standard of conduct fails to meet expectations after previous management action
- Following a specific allegation of misconduct when, after a thorough investigation of the circumstances, an investigating officer believes there is substance to the allegation



What is a Capability Issue?

Employee's standard of performance falls below expected standard – because of lack of ability rather than lack of effort e.g.

- Inability to follow instructions accurately
- Inability to complete work in a reasonable time
- Poor memory



Disciplinary or Capability issue?

Poor conduct or poor performance?

- Poor conduct leads to disciplinary procedure
- Poor performance leads to capability procedure

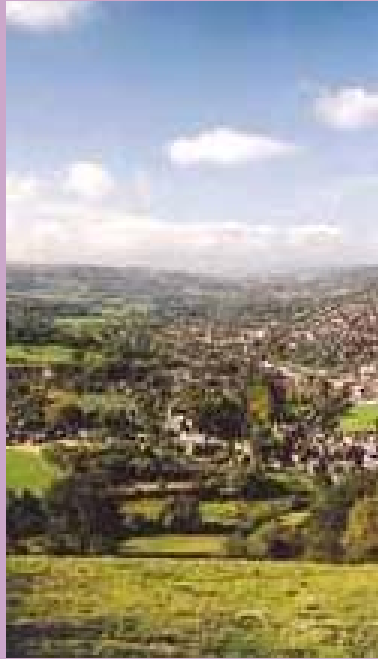
What lies behind the behaviour is important – i.e. is there an element of choice?

- Not completing all tasks to deadlines
- Using inappropriate language
- Use of the telephone for personal matters
- Turning up for duty late
- Poor attendance record



Types of misconduct/gross misconduct

- Abuse of Council policies or position or service user
- Behaviour
- Bullying / Harassment
- Criminal Offences
- Damage to Property
- Disclosure of Information
- Dishonesty
- Falsification of records
- Fraud
- Incapability through alcohol or drugs
- Insubordination
- Negligence
- Theft



Difference between misconduct and gross misconduct

- No absolute answer
- Key issue – is the misconduct serious enough to overturn the contract between employer and employee?
- Lots of issues can be both misconduct and gross misconduct depending on severity



Management Responsibilities

Investigating Officer

- Conducts investigation by gaining facts and circumstances
- Conducts interviews – employee and witnesses and collects signed statements
- Reaches decision about how to proceed (whether to proceed to a hearing or not)
- Compiles statement of case
- Arranges disciplinary hearing
- Presents case at disciplinary hearing (DOES NOT ADVISE ON OUTCOME)



HR Responsibilities

- Advise senior managers on suspensions
- Provide support to investigating officer
- Give final clearance to statement of case
- Assist in coordination of disciplinary hearing
- Support hearing officer at disciplinary hearing



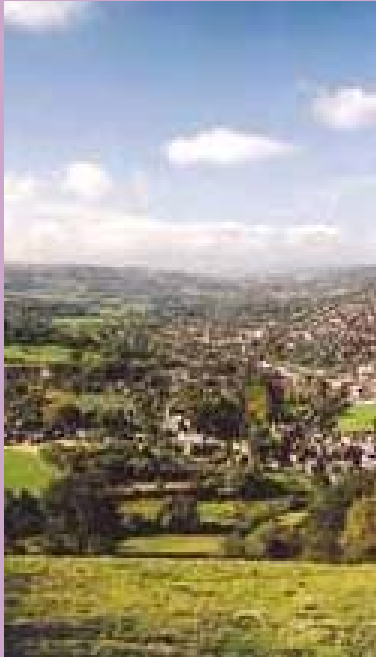
Disciplinary case – how might it end?

- No case to answer
- Some substantiation but not enough for disciplinary – informal improvement process
- Some substantiation but not enough for disciplinary - formal improvement process
- Misconduct – proceed to hearing
- Gross misconduct – proceed to hearing with officer authorised to dismiss



Improvement Process

- Not part of disciplinary procedure
- May be a more satisfactory method of resolving a problem
- Usually done by line manager
- Private location
- Two way discussion



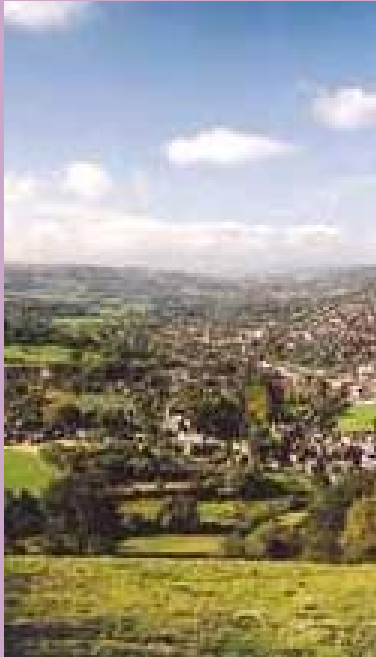
Informal Improvement Process

- Express concerns
- Encourage improvement
- Agree action needed and set review date
- Offer training if appropriate
- Note on employee's Personal file



Formal Improvement Process

- Next stage after informal counselling or first stage in more serious situation
- Employee invited in writing and able to be accompanied
- Identify any underlying causes for below standard conduct and agree what action is needed and set review date
- Confirm in writing outcome and follow up
- Template letters provided



Suspension

What and When

- Not part of disciplinary procedure
- Normal pay
- If Investigation might suffer if employee at work
- If you suspect employee is guilty of gross misconduct
- If you suspect employee may seriously damage documents, property or systems or presents a potential risk/danger to the Council and its reputation, service users, other employees or him/herself



Suspension

How

Who Authorises it?

- Senior manager - (consultation with HR)
- Inform employee orally and confirm in writing with conditions
- Give reason for suspension & emphasise neutral act
- Investigation will be carried out
- Assistant Director / Director must approve

Alternatives to suspension

- Relocation to different work base
- Alternative types of work

Review of Suspension

- HR will track and remind managers to review suspension every four weeks
- Employee must follow absence reporting procedure if they are sick



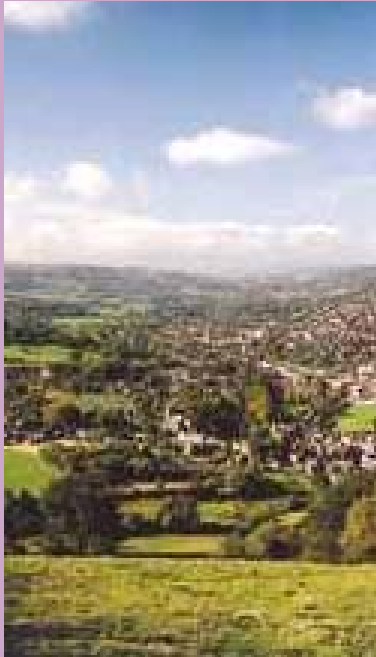
Group Exercise B – Suspension

- Cases for the group to consider - what action they should take.



Disciplinary Investigation Key Points

- Does not imply guilt of employee
- Not part of formal disciplinary procedure
- Must be done promptly
- Must be adequate – plan thoroughly
- Concentrate on facts
- Take a balanced view
- Ask yourself :–
‘Are there sufficient grounds for an allegation of misconduct and if so whether the matter should be dealt with through the formal disciplinary procedure or through counselling’.



Disciplinary Investigation

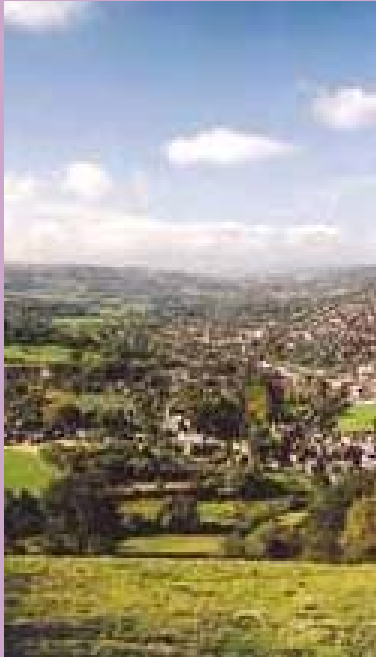
Where to gain evidence

- Investigatory meeting with employee
- Colleagues
- Witnesses
- Complainants
- Other employees who might have relevant information relevant to investigation, members of the public or service users
- Records:- HR, payroll, supervision notes, telephone conversations,



The Investigatory meeting

- Sometimes have immediate preliminary interview
- Conducted by investigating officer
- Invite employee in writing
- Opportunity for employee to admit / deny allegation and put forward explanation
- Employee able to be accompanied by trade union representative or workplace companion
- Sensible to have another manager present for notes and corroboration



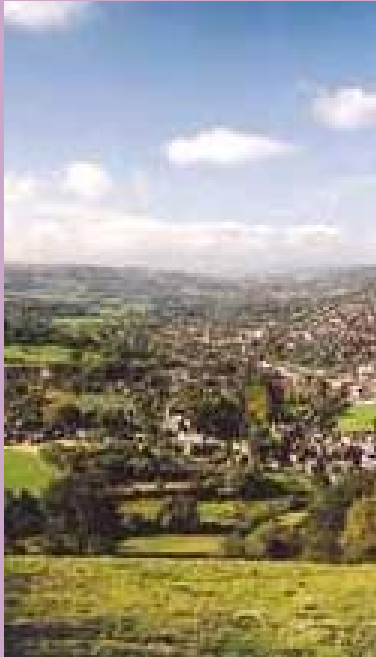
Interviewing

- Gather all relevant material
- Know what you are trying to establish
- Prepare an outline of issues and questions
- Ascertain facts / reasons surrounding allegation
- Ask open and closed questions - what, when, where, how
- Can adjourn interview to make further enquiries
- Able to re interview if required



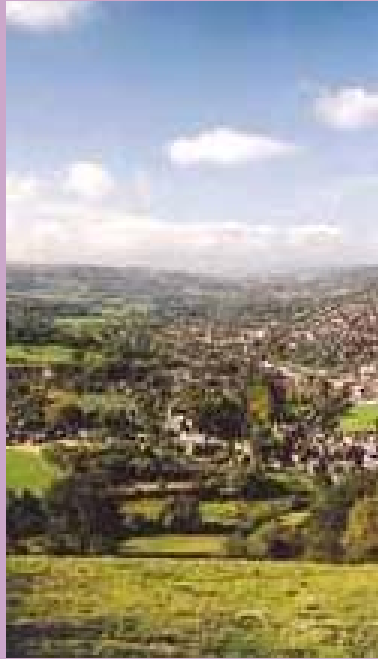
Conducting the Interview

- Approach formal and courteous
- Make introductions
- Outline purpose and matters to be discussed
- Try to put employee / witnesses at ease
- Remain calm
- Draw out as much information as possible
- At end say how long it will be before a decision is made about whether disciplinary hearing will follow.
- Advise witnesses that they may be called to attend a disciplinary hearing.



Concluding the Investigation

- Decide on next step i.e. no further action, improvement process or to invoke the disciplinary procedure
- If disciplinary case put paperwork together
- Police / audit may be involved in doing their own investigation which can run parallel to ours



Group Exercise C - Investigation

- Split into groups
- Each group take either case 1 or 2 from exercise B
- List questions for the investigatory meeting
- List other persons whom you would interview
- List questions you would ask other people



Statement of Case Layout

- Personal details and hearing details
- Allegations of misconduct
- Process followed and findings
How allegation came to light
Suspension / Interviews / Witnesses
- Summary, conclusions and recommendation
- Appendices



Statement of Case Contents

Findings

- Main part of report
- Facts & cross reference evidence
- Highlight employee's response

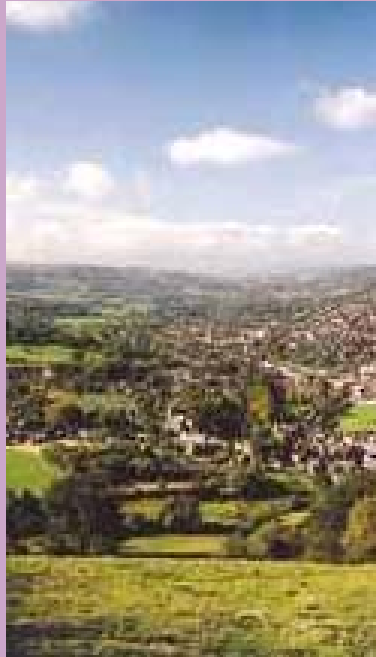
Summary, Conclusion and Recommendation

- Main points including mitigation
- Overall conclusion
- Recommendation of further action



Submission Process

- Investigating officer checks statement of case with HR
- Cases heard by senior operational managers (Grade 15 and above)
- Misconduct cases can lead to warning
- Gross misconduct cases can lead to dismissal



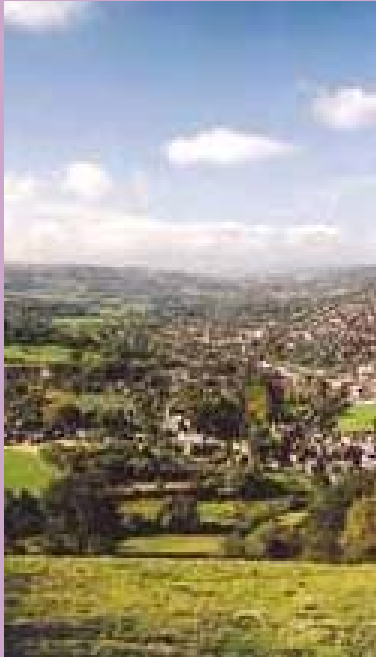
The Disciplinary Hearing Organisation

Organisation of Hearing

- Investigating officer makes arrangements - HR can assist
- Standard letter to employee with copy of Disciplinary Procedure
- 14 calendar days notice

Roles

- Hearing Officer (Chair) – Operational manager Grade 15 or above
- Investigating officer to present Case
- HR representative to assist Hearing officer
- Employee with representative
- Witnesses will be attend during course of hearing



Disciplinary Hearing Format

During the hearing

- Hearing process
- Hearing decision
 - Case dismissed
 - Written warning
 - Final written warning
 - Dismissal or alternative to dismissal

What happens after the hearing

- Senior management with HR advice will confirm decision in writing
- Line Manager must inform SSC(HR) if dismissal
- If relevant inform registered bodies e.g. GSCC or ISA
- Employee must register intention to appeal within 7 days



Group Exercise D

- Open floor exercise for group to share experience of disciplinary hearings
- Consider what makes a good disciplinary hearing
- Consider where can it go wrong
- Look at how best to present a case