



**Disciplinary Policy
(draft)
Issued by HR
October 2013**

If you require this policy in another format please go the end of this document for details.

PURPOSE

KCC recognises the shared responsibility between managers and staff for maintaining acceptable standards of behaviour and conduct at work. This policy and the Disciplinary Procedure provide a fair and structured means of addressing issues relating to behaviour and conduct at work. The intention of this policy is to enable the identification of conduct or behaviours that are an issue and to enable the employee to improve those to a satisfactory standard. The Disciplinary Policy and Procedure are reviewed on a regular basis and any changes are made in agreement with KCC's recognised trade unions.

There is a separate policy and procedure for dealing with performance issues (Performance and Capability Procedure).

AIMS

Through the Disciplinary Policy KCC aims to:

- Ensure consistency and fairness of treatment
- Assist employees to achieve and maintain required standards of behaviour and conduct
- Enable issues to be managed via a swift and effective process
- Manage individual issues confidentially, whilst ensuring that there is a transparent process.

EMPLOYEE ENTITLEMENTS

Under the Disciplinary Policy, employees are entitled to:

- Have the opportunity to give their version of events
- Be told if their behaviour or conduct is unsatisfactory
- Be accompanied at formal meetings/hearings by a workplace colleague or trade union representative
- Not be dismissed for the first incident of misconduct except in cases of gross misconduct
- Challenge any sanction by appeal.

Under this policy, we expect employees:

- To ensure they maintain appropriate standards of conduct at all times and support the management of such standards
- To co-operate with any action taken in accordance with this policy.

KCC STANDARDS

- HR advice should be sought by managers at all stages of the disciplinary process in advance of any action being taken
- Managers may give a management warning as part of day to day line management without recourse to formal disciplinary action.
- No formal disciplinary sanction will be given to an employee without a hearing, preceded by an appropriate investigation in consultation with HR and, where appropriate, Internal Audit.
- The same conduct standards apply to all employees including trade union representatives. Any proposed action against a trade union representative should be raised and discussed in advance with a more senior representative or full time official of the relevant trade union.

PARTNERSHIP WORKING

It could be the case that a behaviour or conduct issue impacts on more than one employer. Every effort will be made to agree an approach that reflects best practice across the agencies concerned.

Managers from partner organisations will be expected to implement KCC policies and procedures where they are managing KCC employees with support from KCC management or KCC HR.

MINOR MISCONDUCT

Minor breaches of discipline or misconduct, such as poor time-keeping, may initially result in an informal discussion with the employee's immediate manager. This may result in a managerial warning being issued. Although a managerial warning does not form part of the formal disciplinary procedure, it will be recorded locally by the manager, for example: within the employee's

supervision notes. There is no right to be accompanied at such a meeting and no right of appeal against a managerial warning.

It is expected that in most cases an informal discussion will resolve most difficulties. Where an employee commits a more serious act of misconduct or fails to improve their conduct or behaviour and/or maintain that improvement, the formal steps detailed in KCC's Disciplinary Procedure may be taken.

MISCONDUCT

What constitutes misconduct will depend on the context. However, some examples of misconduct that may lead to action under KCC's Disciplinary Procedure include, but are not limited to:

- breach of KCC's rules, policies and procedures, including The Kent Code
- breach of Health & Safety rules and obligations
- refusal or deliberate failure to follow a reasonable management instruction
- unauthorised absence from work
- poor time keeping
- use of abusive language or behaviour
- intentional misrepresentation or inaccuracy, written or verbal, in the course of KCC's business
- failure to maintain up to date professional registration (where required)
- acts of harassment or bullying
- smoking in non-designated areas of KCC's premises as defined in KCC's Smoking Policy
- contravention of KCC's Electronic Communications Policy.

GROSS MISCONDUCT

Gross misconduct is where the behaviour/conduct is so serious in itself or has such serious consequences that it is fundamental to the contractual relationship between the employee and KCC and therefore may lead to dismissal without notice for a first offence.

Examples of actions that are likely to be treated as gross misconduct include but are not limited to:

- theft
- corrupt practices, fraud or deliberate falsification of records, expense claims, accounts, reports, etc.
- offering or accepting bribes in an attempt to influence the behaviour of third parties
- persistent or substantial failure to follow KCC's rules, policies, procedures, including The Kent Code

- serious and intentional breach of KCC's statutory provisions
- serious breach of health and safety rules
- serious and unlawful breach of confidence, with the exception of those covered by the Public Information Disclosure Act.
- serious or persistent acts of bullying or harassment
- failure to act to prevent, or to incite any form of discrimination
- submission of false references, false information or failure to disclose relevant information in recruitment process that KCC should and could have been made aware of
- disorderly or indecent conduct, fighting at work or threatening physical violence
- working whilst under the influence of illegal drugs or alcohol
- deliberate damage to KCC property, that of other agencies or other employees
- serious misuse of KCC's Electronic Communications systems

SUSPENSION

It may be necessary to suspend an employee for the duration of the investigation. Suspension is not a disciplinary sanction in itself; its purpose is to remove the individual from the workplace whilst the investigation is undertaken. Further information is available within KCC's Disciplinary Procedure.

OTHER PROCEDURES

- a. Certain acts of misconduct or allegations may lead to an employee being investigated under a different procedure such as Child Protection, Adult Protection or a criminal investigation. In these circumstances an investigation under the Disciplinary Procedure may take place simultaneously, unless KCC is otherwise instructed by other agencies.
- b. Any disciplinary hearing held will be independent of the timing or outcome of other procedures.
- c. KCC may still take disciplinary action where the Police do not pursue the matter further following the conclusion of their investigation or where a case is not proved in court. Disciplinary action may be taken relating to criminal charges whether the employee committed a criminal act on or off duty. The decision to pursue a case will not be determined automatically by the outcome of the Police investigation or the timing or judgement of a court. A Corporate Director or delegated senior manager, in consultation with HR, will determine whether the matter

should be considered under KCC's Disciplinary Procedure, and notify the Head of Internal Audit as necessary.

- d. In cases of potential theft, fraud, corruption or other financial irregularity a Corporate Director, or delegated officer, must inform the Head of Internal Audit of the allegations. In accordance with the Anti-Fraud and Corruption Strategy the Head of Internal Audit will decide on the appropriate course of action ensuring that any subsequent investigation is undertaken by appropriately qualified staff, is compliant with KCC policy and relevant investigation legislation, and does not jeopardise any subsequent disciplinary, civil or criminal action.
- e. In such cases described above in paragraph (d), an investigation may be conducted by a member of the Internal Audit team - this process may also include investigation into potential criminal activity in parallel with KCC's internal Disciplinary Procedure. In such cases, interviews may be conducted under caution and the Internal Audit findings may form the basis of the management case presented at a disciplinary hearing. Any decision made will be in line with KCC's Disciplinary Policy.

RETENTION OF RECORDS (Lapsed Warnings)

1. Warnings that have been issued as part of the Disciplinary Procedure are held on an individual's personal file for as long as the warning is valid. Details of the warning may be included in a reference to a potential employer if it is still live when the information is sought. Employees will have access to this record.
2. At the expiry of the warning period, unless the Disciplinary Procedure has been re-invoked within this period, all relevant documentation will be removed from the employee's personal file.
3. Previous warnings will be disregarded in the future application of the Disciplinary Procedure but may be referred to should a related conduct issue arise, to counter an employee's claim that they were unaware of the standards required.

Alternative Formats

This document is available in other formats and languages; call 01622 694778 or email Employment Policy Team for further details.

For alternative languages call 08458 247 247 - this service can provide information about KCC services or publications in your language. An English-speaking operator will take details of your requirements and arrange a translation or interpreting service. You may need an English-speaking friend or a family member to help you with this.

For Text Relay please call 18001 08458 247247.