



SOUTH LANARKSHIRE
Leisure & Culture

Conditions of Service

Section Six - Employee Relations and Involvement

Section six - employee relations and involvement

Partnership working with Trade Unions

Under the Service Level Agreement that South Lanarkshire Leisure and Culture has with South Lanarkshire Council we agree to national discussions and negotiations, where appropriate, by SLC on behalf of the Trust. With this in mind this section is mostly written in local authority terminology but should be read as guidelines for employees of SLLC.

Partnership agreement

25.1 The Trust supports the system of collective bargaining and believes in the principle of solving employee relations problems by discussion and agreement. For practical purposes this can only be conducted by representatives of the employers and of the employees. If collective bargaining of this kind is to continue and improve for the benefit of both, it is essential that the employees' organisations should be fully representative. The Trust in partnership with SLC is, in association with other Local Authorities, represented on Scottish negotiating bodies dealing with Local Authorities' Services. Employees are therefore encouraged to be in membership of a Trade Union representing them on the appropriate negotiating body.

25.2 Details of the Trade Unions are shown in the following table:-

Local Government Employees	Teachers	Craft
<p>UNISON 23 Beckford Street Hamilton T: 01698 454690 W: http://www.unison.org.uk</p> <p>T&G 290 Bath Street Glasgow G2 4LD T: 0141 332 7321 W: http://tgwu.org.uk</p> <p>GMB Fountain House 1/3 Woodside Crescent Charing Cross Glasgow G3 7UJ T: 0141 332 8641 W: http://www.gmb.org.uk</p>	<p>EIS 6 Clairemont Gardens Glasgow G3 7LW T: 0141 353 3595 W: http://www.eis.org.uk</p> <p>NAS/UWT 6 Waterloo Place Edinburgh EH1 3BG T: 0131 523 1110 W: http://teachersunion.org.uk</p> <p>SSTA 15 Dundas Street Edinburgh EH3 6QG T: 0131 556 5919 W: http://www.ssta.org.uk</p>	<p>UCATT 53 Morrison Street Glasgow G5 8LB T: 0141 420 2880 W: http://www.ucatt.org.uk</p> <p>AMICUS John Smith House 145-146 West Regent Street Glasgow G2 4LD T: 0141 248 7131 W: http://www.amicustheunion.org</p> <p>T&G 290 Bath Street Glasgow G2 4LD T: 0141 332 7321 W: http://tgwu.org.uk</p> <p>GMB</p>

		Fountain House 1/3 Woodside Crescent Charing Cross Glasgow G3 7UJ T: 0141 332 8641 W: http://www.gmb.org.uk
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Principles

- 25.3 The Trust and the Trade Unions agree that it is vital that we deliver quality, value for money services to the people of South Lanarkshire. The Trust recognises that this is only possible if we have a committed, valued and trained workforce and this can be best achieved by developing partnership working arrangements.
- 25.4 We will work together as partners, recognising that true partnership working will benefit both the Trust and the workforce.
- 25.5 The partnership arrangements are based on four fundamental principles, which are: -
- Common goals;
 - Understanding;
 - Transparency;
 - Honesty;
- 25.6 Partnership working will operate in all areas and at all levels in the organisation and will as far as possible aim to produce agreed strategies and solutions by consensus rather than adversarial collective bargaining.
- 25.7 We recognise that, in many areas, this approach will require a change to the culture of the organisation. To assist in this process we will provide appropriate support to managers and Trade Union representatives to ensure that they are able to make a full and meaningful contribution.

Benefits of working in partnership

- 25.8 We will work together to protect and promote the interests of the people of South Lanarkshire by: -
- Working in partnership towards jointly agreed aims to provide quality services to the people of South Lanarkshire;
 - Improving trust through more effective communication;
 - Recognising the rights, responsibilities and contributions of all parties;
 - Involving Trade Unions at all levels of the decision making process;
 - A more pro-active and joint approach to problem solving at local and Trust wide levels;
 - Developing a culture of shared learning, effort and information;
 - Providing a balanced environment leading to a more successful organisation;
 - Providing greater flexibility and innovation in anticipating and responding to change.

25.9 To achieve successful partnership working, commitment is required on both sides.

Practical implications

25.10 The Trust will brief the relevant Trade Unions prior to each meeting on items and reports of interest.

25.11 Trade Union representatives will be invited to participate in Trust wide working groups e.g. Health & Safety Group, HR Working Group etc.

25.12 Trade Union representatives will participate in discussion on the budget process within the Trust.

25.13 Bi-annual meetings will take place between SLC's Corporate Management Team and JTUC Executive to discuss areas of common interest.

25.14 Trade Union representative will be invited to attend Management Forum meetings within the Trust.

25.15 A commitment has been made to extend time off agreements for Trade Union representatives to participate in partnership activities.

Committees/forums

Joint Consultative Committees

25.16 The Joint Consultative Committee (JCC) is held in order that Trade Unions and management can share information on relevant local issues. The Trust holds a JCC every 6 weeks and the main aim is to resolve any issues raised by management or Trade Unions at a local level.

Constitution of JCC

25.17 Each JCC has standing items on the agenda, including, Quarterly Workforce Monitoring, health and safety, equal opportunities, employee communications and development.

25.18 Each JCC may have a Health and Safety Sub Committee at Resource level.

SLC's Joint Trade Union Council

25.19 The Joint Trade Union Council (JTUC) is made up of Trade Union Representatives and has a programmed timetable of meetings that occur on a four to six weekly basis.

25.20 This Committee discusses strategic issues relating to SLC e.g. employment legislation, School Modernisation Program, Housing Stock Options as well as local issues dealt with at Trust level.

SLC's JTUC Executive

- 25.21 The JTUC Executive is comprised of nine members representing the JTUC. A meeting is held within one week of the JTUC between the JTUC Executive and SLC's Head of Personnel Services to discuss issues that are raised at the JTUC or that require further investigation/clarification.
- 25.22 Issues which cannot be resolved at the meeting between SLC's Head of Personnel and the JTUC Executive can be referred to the Joint Consultative Forum.

SLC's Joint Consultative Forum

- 25.23 The JCF consists of five Elected Members of SLC and 15 members of the Trade Unions. Full Time Officers of the Trade Unions and Officers of SLC may attend in an advisory capacity.
- 25.24 The Chair alternates annually between the Trade Union and Elected Members.
- 25.25 Joint Secretaries are appointed from Trade Union and management.
- 25.26 The JCF serves as a formal interface between Elected Members and the Trade Unions and is held on a quarterly basis. The role of the JCF is: -
- To facilitate regular consultation between SLC (and its partners, eg SLLC) and the Trade Unions representing employees of SLC on general policy matters, which are not specifically determined by the Scottish Council or its Committees;
 - To secure the greatest possible measure of joint action between SLC and Trade Unions for the development and improvement of the work of SLC;
 - To consider any reference from SLC or the Trade Unions on matters affecting the mutual interest of SLC and its' employees and to make recommendations thereon to the appropriate Committee of SLC;
 - To encourage the training and development of SLC's employees;
 - To consider measures to promote equality of opportunity and equal treatment amongst SLC's workforce;
 - To consider measures for safeguarding the health, safety and welfare of SLC's employees.
- 25.27 In terms of partnership working, Management and Trade Unions agree a programme of topics of strategic interest to be discussed at the meeting each year.
- 25.28 In addition, there is a facility for members of the JTUC Executive to meet with the Chair and Vice Chairs of SLC's Corporate Resources Committee on both a planned and ad hoc basis, to discuss issues as appropriate.

Disputes

- 25.29 Where no agreement is reached at the JCF, the issue at the instigation of either side will be referred to the appropriate SLC Committee or referred back to the Scottish Joint Council.

Provision for undertaking Trade Union duties, training and activities

Trade Union representatives

- 25.30 The Trust recognises that Trade Union representatives are entitled to reasonable time/leave to carry out Trade Union duties, training and activities.

Notification and accreditation

- 25.31 A list of all SLC Trade Union representatives and their roles is maintained and held centrally by SLC's Corporate Personnel Services. The appropriate Trade Unions should inform both SLC's Corporate Personnel Services and the Trust's HR Department, in writing, of any changes to the names and details of their representatives.
- 25.32 This will include appointment or resignation, any new roles or responsibilities undertaken, and any changes to the roles of Trade Union representatives, where they carry out special duties or functions. SLC's Corporate Personnel Services will issue lists of representatives annually to the appropriate Trade Unions for verification.

Induction

- 25.33 In consultation with SLC's Corporate Personnel Section, the Trust's HR Department will provide new Trade Union representatives with a joint and agreed induction programme within one month of appointment. This will include information on notification and protocols for requesting time off; details of the Trust's structure; and policies such as Maximising Attendance and Discipline and Grievance.

Training

- 25.34 As part of the induction process, training required for new/existing representatives would be identified and reasonable leave with pay will be provided in line with service needs.

Planned meetings & activities

- 25.35 Trade Unions should submit a list of planned meetings and activities to SLC's Corporate Personnel Services including scheduled Trade Unions meetings, activities and training arranged for the forthcoming year, internal meetings, Committees, Trade Unions conferences, branch meetings etc. These should include the names and dates/times of such meetings/training required for representatives requested to attend. SLC's Corporate Personnel Services will advise the Trust's HR Department accordingly.
- 25.36 SLC's Corporate Personnel Services should be notified of any non-scheduled meetings as soon as possible so that the necessary arrangements can be made and the Trust's HR Department notified.

Agreed Trade Union duties

25.37 Trade Union representatives will be allowed reasonable time to carry out duties that are concerned with negotiations or functions on behalf of the employees such as terms and conditions of employment, engagement or termination of employment, allocation of duties or matters of discipline or grievance.

Standard duties: -

- 25.38 To attend meetings of the JTUC, JTUC Executive, JCF, JCC, sub Committees and joint working groups including pre-meeting of Trade Union side.
- 25.39 Acting on behalf of members in disciplinary or grievance hearings, and Employment Tribunals including reasonable preparation and de-briefing time.
- 25.40 Meetings with management out-with those above and including ad-hoc meetings relating to collective bargaining or employee relations matters affecting members, including reasonable preparation and de-briefing time.
- 25.41 Consequential meetings with members to obtain or relay information on collective bargaining or employee relations matters.
- 25.42 Meetings with full time Trade Union representatives or lay representatives concerning employment relations between South Lanarkshire Council/South Lanarkshire Leisure and Culture and its' employees, who are the representatives' members.
- 25.43 To make initial contact with new employees to explain the role of the Trade Union(s) in the work place and the employment relations structure.
- 25.44 Attendance at meetings of recognised national negotiating forums.
- 25.45 To attend Annual Conferences and other meetings where Local Government issues are being addressed including STUC and TUC.
- 25.46 To attend Branch or District meetings of the Trade Union convened during normal working hours and dealing predominantly with Local Authority matters.
- 25.47 To deal with matters relating to Health and Safety issues.

Provision for union learning representatives and health and safety representatives duties

- 25.48 Union Learning Representatives and Health and Safety Representatives (who are accredited and nominated) are entitled to reasonable leave with pay to undertake their duties. Health and Safety Representatives are entitled to leave with pay to undertake their statutory duties.
- 25.49 Union Learning Representative duties include: -
- Analysing learning or training needs;
 - Providing information and advice about learning or training matters;
 - Arranging learning or training;
 - Promoting the values of learning or training;

- Consulting the employer about carrying out any such activities;
- Preparation to carry out any of the above activities.

25.50 Union Learning Representatives should liaise with the SLC to ensure that duplication of the respective training activities is minimised.

25.51 To undertake the role of Learning Representative, the Trade Union member must be sufficiently trained to carry out their duties.

This should take place within 6 months of them being appointed and will allow them to carry out the Learning Representative standard duties. Reasonable leave with pay will be granted to allow this training to take place.

Provision for Trade Union activities

25.52 Reasonable leave without pay will be given to Trade Union representatives to take part in Trade Union activities as under noted: -

- To attend Annual Conferences or meetings of Trade Unions where Local Government issues are not specifically being addressed;
- Other specifically convened conferences or meetings of the policy making body of the Union which do not directly concern Local Government issues;
- Branch or District meetings of the Trade Union convened during normal working hours but not dealing predominantly with Local Government matters.

Approval for Trade Unions representatives carrying out duties, training or activities

25.53 Consideration should be given to the reasonableness of the request for the Trade Unions representative to participate in union business. The following will be taken into account when requests are submitted: -

- Whether the request is received within a reasonable notification period in the circumstances;
- What agreed leave has already been taken or planned;
- Whether the leave will affect the working of the service concerned. The needs of the service will be taken into account when considering requests;
- Whether other appropriate Trade Unions representatives are already attending;
- The appropriateness of the purpose of the request, e.g. a training course that is not relevant to the role of the representative would not be authorised.

Procedures for requesting time to undertake Trade Union duties

25.54 Union representatives undertaking day to day business such as representing members at disciplinary hearings should arrange this via their Line Manager and the HR Department. Each area will maintain a record of leave and the purpose of leave requested. A card for requesting and recording leave within each facility is available from the facility manager.

25.55 Provision for duties and activities out-with the Trust should be made via SLC's Corporate Personnel Services and must include the purpose of the leave, location, timing, duration and a copy of the agenda. All requests should be submitted with a

minimum of 4 weeks notice. SLC's Corporate Personnel Services will then consider whether the leave requested is appropriate and within the time-scales, and whether it should be authorised with or without pay.

- 25.56 Once authorised, SLC's Corporate Personnel Services will advise the HR Department who will consider any operational requirements.

Appeals process

- 25.57 When a dispute results in relation to requests for representatives to undertake Trade Union duties, activities or training; these should be progressed through the Trust's Grievance Procedures as outlined in Section Seven.

26. **Disciplinary procedures**

- 26.1 These disciplinary procedures have been prepared using the ACAS Guidance on Discipline and Grievances at Work and to comply with the provisions of the Revised ACAS Code of Practice on Disciplinary and Grievance Procedures. Every Trust employee who participates in applying the Trust's Discipline procedures will attend the appropriate training course provided by SLC's Training Department.
- 26.2 Where an employee is registered with an external body the Trust is required to make a formal report in instances such as:
- Dismissal
 - Resignation during a disciplinary investigation
 - Removal from the workplace during an investigation
 - When the Trust is made aware of any criminal conviction against such a worker
 - Any other circumstances which the Trust thinks might have a bearing on the worker's registration.
- 26.3 In such events, the employee and their Trade Union representative will be advised.
- 26.4 Clear rules and procedures benefit both the Trust as an employer and employees. Rules set standards of conduct and performance at work; procedures help to ensure that the standards are adhered to and also provide a fair method of dealing with any alleged failure to observe them. The aim of these procedures is to ensure consistent and fair treatment for all employees involved in their operation.
- 26.5 Within the limitations of power delegated to him/her, the General Manager will be responsible for the management of the Trust and will have the power to apply all forms of disciplinary sanction as described in these procedures including that of dismissal, subject to the employee's right of appeal against such disciplinary action. The General Manager can delegate this responsibility as appropriate to other nominated managers within the Trust.
- 26.5 Advice on the operation of these procedures will be available at any time from the HR Department. The General Manager is responsible for ensuring that all employees in the Trust are made aware of the standards of conduct and performance expected of them, particularly of what might constitute gross misconduct.
- 26.6 Before the formal disciplinary process is instigated all problems involving minor misconduct and poor performance should be dealt with, at least in the early stages, through the use of informal advice, guidance and counselling. It is essential that all problems of this nature are fully discussed and support will be provided with the objective of encouraging and helping employees to improve. For minor breaches of discipline, misconduct or poor performance, informal action may be taken and confirmed in writing for record purposes. The employee will be advised of the reason and grounds for the informal action, what standards are expected along with timescales, and that any further breach may leave them open to formal disciplinary action.

- 26.8 The General Manager will ensure that employees are aware that support and counselling are available at all times, even where it has been necessary to take disciplinary action under these procedures. Where an employee is suspected of, or seeks help for, an addiction problem, support will be offered through the Trust's Addiction Policy by referral to SLC's Personnel Adviser - Corporate Resources.

Principles

- 26.9 The procedures set out in this document reflect the under noted principles:-
- 26.10 Where appropriate, the initiation of any disciplinary actions/sanctions will be accompanied by the offer of support and counselling accessed through SLC's Employee Support Team in Corporate Resources.
- 26.11 No disciplinary action will be taken until the matter has been fully investigated (see 26.26) and any decision thereafter to impose disciplinary action will not be taken by the same person who conducted the investigation.
- 26.12 An employee removed from the workplace pending investigation, will be entitled to full pay and maintenance of conditions.
- 26.13 Disciplinary action (i.e. issuing of a warning, action short of dismissal, dismissal etc) will not be taken against an employee until they have attended a properly convened hearing accompanied by a companion (See 26.22), been provided with all relevant documentation and been given the opportunity to respond to the allegations. The employee must be advised, in writing, of the date and time of the hearing and reasonable time given to allow the employee to arrange to be accompanied, if wished. *It is the responsibility of the employee to ensure that their companion is present at any stage of the procedure.*
- Employees and their companions should be afforded appropriate time in order to prepare for any hearings. This includes interviewing of witnesses, etc.
- 26.14 Depending on the seriousness of the misconduct, disciplinary sanctions may be initiated at any stage and do not need to start at the Formal Warning stage. Apart from gross misconduct, no employee will be dismissed for a first breach of discipline.
- 26.15 Disciplinary action will not take account of previously expired warnings except in the circumstances detailed in 26.61.

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- 26.16 An employee will be informed, in writing, of any disciplinary action taken, the reason for it, consequences of further misdemeanour and the procedure to be followed to submit an appeal.
- 26.17 An employee will have the right of appeal against any disciplinary action. Appeals will not be heard by the manager who initiated the original disciplinary action. All appeals against warnings except a warning signed by the General Manager, dismissal or punitive action will end at Trust level.
- 26.18 Following an appeal, should any disciplinary action be reconsidered and revised, the employee will be notified accordingly and records amended. Should any disciplinary action be reconsidered and withdrawn, the employee will be notified accordingly, and no further reference will be made to it.
- 26.19 Normally, no action in terms of these procedures will be taken against a trade union representative until the matter has been discussed with a full time official of the union concerned after obtaining the employee's agreement.
- 26.20 Advice and assistance on the implementation of these procedures are available at any time from the HR Department.

Mediation

- 26.21 An independent third party or mediator can sometimes help resolve misconduct issues before they are escalated into the formal disciplinary procedure. Mediation is a voluntary process where the mediator helps two or more people to attempt to reach a compromise for example to rebuild relationships, personality clashes, communication problems or address minor work issues. Mediation can be arranged through the HR Department.

The right to be accompanied

- 26.22 Employees have a right to be accompanied by a companion at any stage of the disciplinary hearing process.
- 26.23 A companion is either a fellow worker, accredited trade union representative or an official employed by a trade union.
- 26.24 To exercise the statutory right to be accompanied, employees must ensure their request is reasonable. What is reasonable will depend on the circumstances of each individual case. For example, it would not be reasonable for employees to insist on being accompanied by a companion whose presence would prejudice the hearing.
- 26.25 The companion will be allowed to address the hearing, to outline and sum up the employee's case, respond on behalf of the employee to any views expressed at the hearing and confer with the employee during the hearing. The companion does not, however, have the right to answer questions posed to the employee, address the hearing if the employee does not wish it or prevent the employer from explaining their case.
- 26.26 Where the potential outcome of a disciplinary hearing is dismissal, and where the dismissal could result in a detriment of an employee's right to practice their profession, employees will have a right to request legal representation at disciplinary hearings and appeals.

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The investigatory stage

- 26.27 Prior to any employee being required to attend a disciplinary hearing, all relevant facts must be collected to enable a decision to be taken as to whether the matter should be dealt with under these Disciplinary Procedures.
- 26.28 Not all instances will require a formal investigation. Where the matter is straightforward, the manager will gather the necessary information to enable a view to be reached as to the next step e.g. timekeeping.
- 26.29 Where a formal investigation is required, for example where an employee is suspected of serious misconduct, it will be undertaken in accordance with the Revised Handbook for Managers on Handling Disciplinary Matters. The appropriate nominated manager will appoint an investigating officer who will collect all available evidence, interview all of the parties involved, including the employee in question, and where appropriate prepare signed statements. The investigating officer will then prepare a report which will be considered by the nominated manager who will decide whether there are grounds to convene a disciplinary hearing.
- 26.30 Where an incident/situation occurs involving the suspected or actual misappropriation or embezzlement of cash, monies etc, placed in a person's charge, the matter will be investigated in accordance with the Trust's Procedures on suspected fraud as set out in 26.109.
- 26.31 Any investigation will be conducted as speedily as possible. A timescale will be set in advance based on the complexity of the investigation and the number of witnesses. The investigating officer will notify the nominated manager if, for any reason the set timescale requires to be revised and the employee and their companion will be advised accordingly.
- 26.32 The employee involved will be advised by their line manager at an early stage of the reasons for, and the scope of, the investigation, as well as the right to be accompanied at any meeting. On conclusion of the investigation, a meeting will be arranged with the investigating officer and nominated manager to inform the employee of the outcome.
- 26.33 If it is decided there is a disciplinary case to answer, the employee should be notified of this in writing. This notification should contain sufficient information about the alleged misconduct or poor performance and its possible consequences to enable the employee to prepare to answer the case at a disciplinary hearing. It is also appropriate to provide copies of any written evidence, which will include any witness statements with the notification. In certain circumstances (for example to protect a witness) the employer might withhold some information.
- 26.34 Where there is no case to answer unsubstantiated allegations should be removed from file unless there are exceptional reasons for maintaining a record. If informal action is to be taken a note should be kept in the employee's file located within the HR Department.

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Removal from the workplace

As a precautionary measure

- 26.35 An immediate supervisor/manager, will have the necessary delegated powers to remove from the workplace any employee who is considered to be creating a situation where the employee is in personal danger or a danger to others (e.g. under the influence of alcohol etc).
- 26.36 This will entail the employee leaving or being sent from the workplace, and arrangements made to report to the line manager/nominated manager immediately where possible, but usually no later than the next working day at midday.
- 26.37 Following investigation and consideration of the matter, the nominated manager will decide whether or not to proceed to a disciplinary hearing.
- 26.38 As removal from the workplace does not constitute disciplinary action, there is no right of appeal.

During an investigation

- 26.39 Where considered absolutely necessary, the General Manager/Senior Manager or nominated manager, may remove an employee from the workplace on full pay whilst an investigation is under way. This is one of the options available to management and will only be applied where the nature of the incident/allegation involving an employee requires the total removal of that employee from duty. This action is not to be associated with any presumption of guilt.
- 26.40 Where the total removal of an employee from duty is not necessary, other options such as redeployment to other duties or relocation on the same or alternative duties should be considered. The decision to remove from the workplace on full pay or to redeploy and/or relocate will be confirmed in writing to the employee and the General Manager advised. The relevant professional bodies must be notified if an employee is removed from the workplace during an investigation.
- 26.41 The decision will be reviewed every 14 days and the employee and the companion advised where appropriate. The Line Manager must also keep in regular contact with the employee in order to keep them up to date on progress. This can also be arranged through the relevant companion if requested.
- 26.42 The nominated manager will ensure that the employee is offered support during the period of the investigation through SLC's Employee Support Team in Corporate Resources.

The disciplinary hearing

- 26.43 Where an incident occurs which may be due to an employee's misconduct and which may lead to some form of disciplinary action being taken, the supervisor/manager should report the matter to a nominated manager whilst at the same time ensuring that the employee is advised of their intention. The "Incident Report Form" should be completed in respect of the employee's details, previous disciplinary record and details of the incident.

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- 26.44 The nominated manager should then examine the Incident Report Form and assess the information provided, giving careful consideration to the seriousness and circumstances surrounding the incident, and the previous record of the employee concerned. A decision should then be taken as to whether a disciplinary hearing should be convened, a further investigation is required, or the matter dismissed.
- 26.45 To ensure independence and objectivity, the decision to proceed with a disciplinary hearing will not be taken by the officer who conducts any investigation. It will be taken by the nominated manager.
- 26.46 Once a decision has been taken to proceed with a disciplinary hearing, the employee should be advised in writing of the arrangements and grounds for the hearing, including the right to be accompanied. Reasonable notice should be given, to allow for preparation by the employee's companion and also reasonable facility time allowed. It is the responsibility of the employee to ensure representation and that their companion is present at any stage of the procedure.
- 26.47 At the same time, the employee will be provided with a copy of the evidence that will be used at the hearing including any investigatory report, notes of meetings, witness statements and details of any witnesses who will be called. The employee should also provide the Trust with similar evidence that will be led in their defence in reasonable time before the hearing.
- 26.48 The employee will be given the opportunity at the hearing to present their case, call witnesses and explain their views on the circumstances. The hearing will be conducted in line with the procedures applying at the Board Appeals Panel as set out in 26.92.
- 26.49 If new evidence comes to light during the hearing, it is the responsibility of the disciplining officer to suspend or adjourn the hearing to enable the points raised to be investigated by the Trust. On completion of any further investigation, the hearing will be reconvened and all parties advised of the findings.
- 26.50 In the event of an employee or their companion refraining from offering an explanation or contesting any allegation, the disciplining officer will draw their own conclusions from the information available and reach a decision on the appropriate action to be taken.
- 26.51 On conclusion of the hearing, and having considered all the evidence, where practicable, the disciplining officer should reconvene the hearing and advise the employee and their companion of the decision reached. Written confirmation of disciplinary action being taken will be issued within 7 days of conclusion of the hearing and will contain advice as to the employee's right of appeal, to whom any appeal should be submitted and the designated time limit. All relevant paperwork will be filed in the employee's personal file.
- 26.52 All relevant paperwork will be filed in the employee's personal file.

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- 26.53 Where there is no case to answer, all references to the investigation will be removed from file unless there are exceptional reasons for retaining. If informal action is to be taken a note should be kept in the employee's file located within the HR Department.

Types of disciplinary action
Formal Warning

- 26.54 For minor breaches of discipline, misconduct or poor performance, a Formal Warning may be given and confirmed in writing for record purposes. The employee will be advised of the reason and grounds for the letter of concern, its duration, and that any further breach may leave him/her open to further disciplinary action. They will also be notified of their right to appeal.

Written warning

- 26.55 For more serious breaches of discipline, misconduct or continued poor performance, or a failure to improve conduct or performance following receipt of a Formal Warning, a Written Warning may be given. The employee will be advised of the reason and grounds for the Written Warning, its duration, and that a further breach may result in further disciplinary action being taken. They will also be notified of their right to appeal.

Final written warning

- 26.56 For serious breaches of discipline, misconduct or continued poor performance or a failure to improve conduct or performance following receipt of a Written Warning, a Final Written Warning may be given. The employee will be advised of the reason and grounds for the Final Written Warning, its duration, and that a further breach may result in further disciplinary action being taken which may be punitive action or dismissal. They will also be notified of their right to appeal.
- 26.57 The employee's Trade Union will be notified, where appropriate at all warning stages.

Punitive disciplinary action

- 26.58 As an alternative to dismissal, punitive disciplinary action may be imposed against an employee who has previously received a Final Warning or where the gravity of an incident/misconduct warrants this level of sanction, even in the absence of any previous disciplinary history. Punitive disciplinary action comprises the imposition of a Final Written Warning in conjunction with one of the following:
- Suspension without pay not exceeding 14 days.
 - The withholding of an annual increment – (in matters of performance only)
 - Reduction in grade
 - Demotion
- 26.59 The General Manager will be formally notified and in such cases where appropriate, the employee's trade union.

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Dismissal

- 26.60 An employee may be dismissed for serious repeated misconduct or poor performance during the currency of a Final Written Warning, or for gross misconduct for which no previous warning exists. The employee will be advised of the grounds for the dismissal, its effective date and whether it is summary dismissal or with notice (26.88 and 26.89). They will also be notified of their right to appeal.
- 26.61 The General Manager and the employee's trade union, where appropriate will be formally notified.

Some examples of gross misconduct may include:

- Serious offences against the interests of the Trust, including wilful injury to others and wilful damage to Trust property.
- Theft and fraud including fraudulent salary/wage claims and falsification of official documents.
- Falsification of particulars to secure employment.
- Criminal convictions having a material bearing on employment for example any which might result in an employee in a child care position being placed on a sex offenders list.
- Misconduct with regard to service users including serious breach of the Trust's child protection policies.
- Neglect of duty resulting in serious consequences.
- Abusive behaviour towards fellow employees, service users or members of the public including bullying, victimisation or harassment of a racial or sexual nature.
- Fighting in the workplace.
- Serious breach of safety rules.
- Incapacity on duty due to the effect of alcohol or drugs.
- Misuse of Trust vehicles.
- Inappropriate use of the internet or e-mail which includes downloading or sending inappropriate non work related documents.
- Breach of the Equal Opportunities Policies.
- Refusal to obey reasonable instructions.

This list is not exhaustive.

Time limits for disciplinary action

- 26.62 Disciplinary action will be recorded and be admissible against further breaches of discipline, misconduct or poor performance for the under-noted periods of time: -

Disciplinary action will be recorded and be admissible against further breaches of discipline, misconduct or poor performance for the undernoted periods of time:

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Level of Action	Time Limit*
Formal Warning	6 Months
Written Warning	6 Months
Final Written Warning & Punitive Action (demotion, reduction in grade, withholding of an increment, suspension without pay)	12 Months

- 26.63 *This period is calculated from the date of the letter confirming the outcome of a disciplinary hearing.
- 26.64 All disciplinary action will be recorded in writing and remain in the employee's personal file during the period of the currency of the warning together with any relevant records which relate to the disciplinary hearing.
- 26.65 After the appropriate period of time, the warning will normally not be held against an employee in any further incident except in the following circumstances.
- 26.66 Where the employee's conduct is satisfactory for the period that the action is in force only to become unsatisfactory shortly thereafter, or where a pattern of behaviour like this emerged and there is evidence of abuse, the employee's disciplinary record should be borne in mind in deciding the level of any future action.
- Administrative note:** Where a Final Written Warning is issued as a result of misconduct which was so serious that it verged on gross misconduct, the employee will be advised that should there be any repetition of the misconduct, the previous action may be taken into account at any future hearing. This does not mean that an employee has been issued with a Final Written Warning without any time limit but that the previous action can be taken into consideration in these circumstances.
- 26.67 For other purposes e.g. appointments, references etc. the action should be held on the file without time limit and used as is felt appropriate in the particular circumstances.
- 26.68 Employees will be advised in writing of the disciplinary sanction and the reason for it, any improvements expected, the availability of appropriate support to achieve and maintain the improvement and the consequences of further misdemeanour. The letter will also advise the employee of the procedure to submit an appeal.

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Appeals

Right of appeal

- 26.68 Employees will be advised in writing of their right of appeal against all levels of disciplinary action imposed and the procedure and timescales to be followed to submit an appeal. Appeals against disciplinary action will not be heard by the same person who implemented the action in the first place and any appeal should be heard where possible by a more senior manager who has not been previously involved.
- 26.69 The following table outlines as an example the appropriate level at which appeals may be heard:

Level of Warning	Imposed by	Appeal Heard by
Formal Warning	Supervisor/Manager	Manager/Senior Manager previously not involved
Written warning	Supervisor/Manager	Manager/Senior Manager previously not involved
Final Written Warning	Manager/Senior Manager	Manager/Senior Manager previously not involved
Punitive Action (demotion, reduction in grade, withholding of an increment, suspension without pay)	Manager/Senior Manager	Appeals Panel
Dismissal	Manager/Senior Manager	Appeals Panel

- 26.71 In exceptional circumstances, where a warning has been issued by the General Manager any appeal will be heard by the Board Appeals Panel.

Time limits for submitting an appeal

- 26.72 If an employee considers the disciplinary action taken to be unfair, an appeal may be submitted in writing, using form STAF'77, in person or through a trade union within 14 days of receipt of notification of the decision of the disciplinary hearing. All sections of the forms should be fully completed.

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- 26.73 Appeals being heard within the Trust should be submitted to the Senior Manager and scheduled but not heard within 14 days after receipt unless prevented by exceptional circumstances.
- 26.74 Appeals against Punitive Disciplinary Action/Dismissal should be submitted to the company Secretary for hearing by the Board Appeals Panel within 14 days of receipt of the letter.

Arrangements for an appeal hearing within the Trust

- 26.75 Appeals will not be heard by the same manager who implemented the disciplinary action and any appeal should be heard where possible by a more senior manager who has not been previously involved in the case.
- 26.76 Arrangements for the appeal will be undertaken in accordance with those set out for a disciplinary hearing and the procedure followed will be the same as for the Board Appeals Panel (see 26.92).
- 26.77 On conclusion of the hearing, and having considered all the evidence, where practicable, the officer hearing the appeal should reconvene the hearing and advise the employee and their representative of the decision reached.
- 26.78 The officer hearing the appeal may uphold, reject or reduce the disciplinary action previously taken. Under no circumstances can the previous disciplinary action imposed be increased.
- 26.79 Written confirmation of the decision will be issued within 3 working days of conclusion of the appeal hearing.
- 26.80 Following an appeal should any disciplinary action be revised, the employee will be notified accordingly and records amended. If an appeal is successful and the original disciplinary sanction is withdrawn, the employee will be notified accordingly and all references to the case will be kept in the employee's personal file.
- 26.81 At this stage the internal appeals process will have been exhausted.

The Board Appeals Panel

- 26.82 Appeals against Punitive Disciplinary Action or against a Warning issued by the General Manager should be submitted in writing and preferably through a trade union (using form STAF'77), to the Company Secretary for hearing by the Board Appeals Panel which has delegated powers to decide appeals in the interests of a speedy resolution.
- 26.83 Appeals will be considered only if they are lodged using the appropriate form and it is completed in full stating the grounds of the appeal, either individually or through a trade union, within 14 days of the employee receiving written notification of the punitive disciplinary action.
- 26.84 The Board Appeals Panel will be held in accordance with the terms of reference. Its decisions will be reported to the full Board for information.

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- 26.85 Details of the procedures adopted by the Board Appeals Panel will be supplied to the appellant(s) and their companion and are set out in 26.92.
- 26.86 Appeals will be dealt with as soon as possible and normally within 28 days of receipt of the application. Notice will be given in writing at least 7 days in advance, unless otherwise mutually agreed, of the date, time and location for the appeal hearing including the right to be represented at the hearing.
- 26.87 Should the appellant fail to appear on the set date, the Appeals Panel will dismiss the appeal unless, within 14 days of the date of the hearing, the appellant has provided, in writing, an acceptable reason why the Panel should not do so.

Witnesses

- 26.88 Whilst the necessary time off with pay etc will be granted to witnesses at an appeal hearing, it is the responsibility of the appellant and the companion to liaise with the relevant manager in to make the necessary arrangements for witnesses for the employee's side to attend.

Notice Periods

Dismissal without notice

- 26.89 When an employee is summarily dismissed without notice on the grounds of gross misconduct, no payment will be made in lieu of notice. Gross misconduct is generally seen as misconduct serious enough to invalidate the employment contract between the employer and the employee and make any further working relationship and trust impossible. It is normally restricted to very serious offences e.g. physical violence, theft or fraud.

Dismissal with notice

- 26.90 An employee dismissed for misconduct, as opposed to summary dismissal on the grounds of gross misconduct, will be entitled to notice. Before deciding to make a payment in lieu of notice, consideration should be given to the circumstances since it may be appropriate for the employee to work the period of notice.

Capability

- 26.91 If the grounds for dismissal are other than misconduct, e.g. lack of capability and it is considered inappropriate for the employee to remain and work the period of notice, it will be appropriate to make a payment in lieu of notice.
- 26.92 In any of the above cases, advice may be sought from the General Manager.

Procedure to be followed at hearing of an appeal against punitive disciplinary action

- 26.93 There may be present at all times, the appellant, their companion and the Management representative.

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- 26.94 A person or persons acting in an advisory capacity only to the appellant, their companion or to the management representative, may also be allowed to be present at the hearing provided such persons are made known to the Board Appeals Panel prior to the case commencing.
- 26.95 The Management representative will put forward its case in the presence of the appellant and their companion, and call such witness(es) as may be required.
- 26.96 The appellant's companion or the appellant (if not represented) will have the opportunity to ask questions of witnesses called by the Trust.
- 26.97 The members of the Board Appeals Panel will then have the opportunity to ask questions of the witness.
- 26.98 The Management representative will have the opportunity to ask further questions to clarify points arising from questions from the appellant's companion and members of the Board Appeals Panel.
- 26.99 The appellant or their companion will put their case in the presence of the Management representative and may call any witnesses required.
- 26.100 The Management representative will have the opportunity to ask questions of any witnesses called by the appellant or their companion.
- 26.101 The members of the Board Appeals Panel will then have the opportunity to ask questions of the appellant's companion the appellant or any witnesses called.
- 26.102 The appellant or their companion will have the opportunity to ask further questions of the witness, to make points of clarification arising from questions from the Management representative and members of the Board Appeals Panel.
- 26.103 The Management representative followed by the appellant or their companion will have the opportunity, if they wish, to sum up their case introducing no new material.
- 26.104 The Management representative, the appellant and their companion and any advisers if present, will then withdraw.
- 26.105 The Appeals Panel in the presence of the officer(s) appointed to assist the Panel, will then deliberate in private, only recalling if necessary the Resource representative, the appellant and their companion to clarify points of uncertainty on evidence already given. If recall is necessary, **both** parties have to return even if only one of the parties is required to clarify any point.
- 26.106 The Board Appeals Panel will recall the Management representative, the appellant and their companion and announce its decision on the appeal which will be confirmed in writing.
- 26.107 Under the Trust's Scheme of Delegations, the Board Appeals Panel is authorised to uphold or reject appeals against disciplinary action or to order the varying of the disciplinary action taken. The form of the decision to be announced by the Board Appeals Panel will be one of the following as appropriate.

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- (1) That the grounds of the appeal have been substantiated and the appeal be upheld.
- (2) That the grounds of the appeal have been substantiated in part and the appeal is upheld to the extent that
- (3) That the grounds of the appeal have not been substantiated and the appeal is rejected.

26.108 Where the decision of the Board Appeals Panel is to vary the disciplinary action to a period of unpaid suspension, the duration of the suspension will be a matter for the determination of the Board Appeals Panel at its complete discretion having due regard to the circumstances of the case.

26.109 Where the grounds of an appeal against dismissal have been substantiated in part and the Board Appeals Panel varies the disciplinary action previously taken to action other than dismissal, the appellant shall be deemed to have been reinstated to the employ of the Trust with effect from the date of the dismissal.

Special investigation procedures

26.110 In certain cases, where it is considered that the circumstances relating to an incident/situation warrant special investigation prior to punitive disciplinary action being considered, such investigations shall be carried out in accordance with the procedures listed below.

26.111 Following investigation and consideration of action, a decision will be taken as to whether or not the employee should be disciplined.

26.112 If an employee is removed from the workplace during a Special Investigation, this will be with pay.

26.113 Removal from the workplace with pay should be notified to General Manager.

Fraud Response Plan

26.114 In line with the Service Level Agreement with SLC the Trust follows SLC's Anti-Fraud and Corruption Strategy, the procedures to be followed where fraud is uncovered or suspected are set out below. The term fraud is used to describe acts such as deception, bribery, forgery, extortion, theft, conspiracy, embezzlement, misappropriation, false representation, concealment of material facts, computer fraud and collusion. Fraud may occur internally or be perpetrated against the Trust from outside.

If an employee wishes to report a fraud then they should contact their line manager or Senior Manager. If they do not feel this is appropriate they may contact the Company Secretary, Trade Union Representative, HR department or the General Manager

NB:A separate strategy and response exists for Housing and Council Tax Benefits Fraud.

Fraud Notification

- 26.115 Senior Managers must ensure that all matters regarding fraud within their areas of responsibility are reported to them.
- 26.116 Fraud should be reported to SLC's Internal Audit within 24 hours of an incident occurring or being suspected. Benefits fraud should be reported to SLC's Support Services in Housing and Technical Resources.
- 26.117 The completed fraud notification form should be sent to SLC's Audit Advisor.

Immediate Management of the Situation

- 26.118 When an incident is uncovered or suspected it should be reported to the Senior Manager who should immediately contact SLC's Internal Audit. Alternatively, the HR Manager may be contacted directly where the Senior Manager is not available who will in turn inform SLC's Internal Audit.
- 26.119 Fraud is a complex area, and it is important that the correct action is taken as failure to do so may compromise a later investigation and invalidate evidence. Line managers should not carry out their own investigations before informing SLC's Internal Audit, through their Senior Manager or relevant other Senior Manager.
- 26.120 Where it is suspected that a theft has occurred and it is believed that the stolen item may still be on the premises it may be necessary to carry out searches. If searches are to be conducted in areas where employees may hold personal belongings, for example desk drawers or cabinets which are also used for business purposes, the employee must be advised that a search is about to be undertaken and asked to remove personal belongings prior to the search taking place. The employee may also be asked to show the contents of other personal belongings, for example, a handbag or brief case, however, searches of this kind can only be undertaken with the full consent of the employee and should be avoided where possible.

In addition, employees may be requested to remain in the office until searches have been carried out, however you cannot retain an employee without their full and prior consent.

- 26.121 All searches should be sanctioned by the Senior Manager and should be carried out jointly by SLC's Internal Audit and either the Senior Manager or a relevant other manager provided this does not prejudice the investigation.
- 26.122 Immediate action, such as removal of a person from the workplace by the Senior Manager or nominated manager, should only be taken where an employee or a third party is caught red handed committing an offence, or there is a risk that evidence will be destroyed e.g. something illegal on a computer. Nevertheless, SLC's Internal Audit through the Senior Manager must be contacted as soon as possible thereafter. Skills needed to preserve evidence may sometimes be specialisms which only trained officers or the Police can apply.

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- 26.123 Where an employee is suspected of committing fraud, the Senior Manager may remove that person from the workplace or redeploy that person. The General Manager and SLC's Internal Audit must be advised of the action taken.
- 26.124 Internal Audit's approved investigative protocols and procedures must then be followed.

Investigative procedure

- 26.125 Having been informed of a suspected or actual fraud, SLC's Risk and Audit Manager, will decide on the scope of and the responsibility for any investigation. The options will be to take no action, to immediately inform the police, to appoint an auditor to determine the facts of the allegation or to refer the matter to Trust management for further investigation. Depending on circumstances, it may be necessary to involve officers or external professionals with relevant technical expertise to assist.

N.B. SLC's Internal Audit is entitled to access files and make enquiries of individuals to initially establish the facts of any incident. This entitlement is enshrined within the Terms of Reference for Internal Audit and is not part of the disciplinary process. Individual's rights will however be respected.

- 26.126 The level of investigation will be proportionate to the perceived level of risk or concern. The objective, scope and expected outcomes will be laid out in an audit remit to be approved by SLC's Risk and Audit Manager, regardless of whether the responsibility lies with Internal Audit or the Trust.
- 26.127 On completion of an assigned investigation, the Trust will formally report back to SLC's Internal Audit on the outcomes. This may indicate that the Senior Manager has decided to commence disciplinary procedures where employees are suspected of involvement in the fraud. In this case a further formal intimation to SLC's Internal Audit is required to notify the outcome of the disciplinary process when completed.
- 26.128 Where the Trust is not instigating disciplinary procedures, SLC's Internal Audit reserves the right, on receipt of the Trust report, to undertake or request further work or to refer the matter to the police at this stage. The investigation may be closed at this stage if the allegation is unsubstantiated or evidence is weak. The General Manager may be consulted at this stage.
- 26.129 SLC's Internal Audit does not take decisions on disciplinary action but reserves the right to recommend that the process is invoked.
- 26.130 Where SLC's Internal Audit is investigating, auditors may conclude their work after only preliminary investigation. At this point a report, memo or letter outlining findings and providing an audit opinion will be supplied to the Senior Manager.
- 26.131 Where more in depth investigative work is undertaken by SLC's Internal Audit, a formal audit report will be produced, on completion of all work, for the Trust outlining findings and providing an audit opinion.

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- 26.132 Internal Audit has a right of access to any personnel with the purpose of establishing whether or not any breach or loss has occurred and to explore processes, procedures and seek explanations. Informal enquiries in person, by telephone or email which seek to understand a process or system are not classed as interviews.
- 26.133 Where further information is required initial interviews with employees will be "immediate access". Employees will be informed of the area under review and their entitlement to representation. Representation is allowed provided this can be arranged within a "reasonable" timescale.
- 26.134 The purpose of such interviews is to gather information about controls, structures etc but may also look for explanations and motivations.
- 26.135 During the investigation it may be necessary to speak to the suspect. This may be done at the initial information gathering stages of the investigation. However, if the query relates to the specific fraud allegation the suspect will be informed of this and the interview will be carried out on a more formal basis. These interviews, if necessary, will be arranged by direct notification or through local management giving 3 days notice. Employees are encouraged to bring representation to these interviews.
- 26.136 These interviews are part of the Internal Audit investigation and, although the results of the investigation may lead to disciplinary proceedings, they are **not** part of the disciplinary process.

Procedures for dealing with addiction problems

- 26.137 The following procedures outlined apply equally to alcohol related problems, drug related problems, solvent abuse, gambling and other recognised addictions which interfere with an employee's health and/or work capability.
- 26.138 Employees who suspect or know they have such a problem will be encouraged to seek help and treatment voluntarily through the Trust's voluntary procedures.
- 26.139 Employees who come to notice through normal disciplinary procedures or as the result of a decision by the Board Appeals Panel as possibly having an addiction problem will be offered the opportunity to seek diagnosis and treatment, if necessary, from the appropriate agencies approved by the Trust.

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- 26.140 Those employees who:
- ◆ decline to accept the offer of referral for diagnosis and/or help and treatment and/or
 - ◆ discontinue a course of treatment before its satisfactory completion and/or
 - ◆ continue to return unsatisfactory levels of work performance and attendance
- 26.141 Where an employee has work capability problems, the cause of which is known or suspected to be addiction related and where disciplinary measures have been applied or are indicated, the following procedures will apply:
- ◆ The nominated manager will interview the employee in the normal course of endeavouring to rectify work performance difficulty, in the presence of a trade union representative or companion, if the employee so wishes.
 - ◆ The nominated manager will offer referral to the Occupational Nurse/SLC's Personnel Adviser (Employee Support).

Referral

- 26.142 This can be carried out as an alternative to taking disciplinary action OR, dependant on the nature of the misconduct, after disciplinary action has been applied.
- 26.143 If the employee accepts the offer of referral, the nominated manager will arrange an immediate meeting, for the employee, with the Occupational Health Nurse (Employee Support) through SLC's Personnel Adviser (Employee Support).
- 26.144 If an employee rejects the offer of referral, the next stage of the disciplinary procedures will be applied.
- 26.145 When the referral has been received the Occupational Nurse (Employee Support) will meet the employee and arrange an urgent appointment with the Employee Counselling Service. The Occupational Nurse (Employee Support) may encourage the employee to seek support from their GP. The Trust also reserves the right to refer the employee for a medical examination with the Trust's Medical Adviser (Employee Support).
- 26.146 The Employee Counselling Service will assess the nature and extent of the problem and arrange a suitable programme of counselling.
- 26.147 The Employee Counselling Service will also notify the Occupational Nurse (Employee Support) whether or not an addiction problem is confirmed. The Occupational Nurse (Employee Support) will then obtain the co-operation and agreement of the Trust regarding any necessary absence from work and any other assistance required.
- 26.148 If the employee co-operates and accepts the programme of support, and returns to an acceptable level of conduct, attendance and work performance, then the problem is resolved.

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- 26.149 However if the employee does not co-operate and rejects the programme of support, the Occupational Nurse (Employee Support) will refer the employee back to the nominated manager.
- 26.150 If the Employee Counselling Service concludes there is not an addiction problem, the Occupational Nurse (Employee Support) will refer the employee back to the nominated manager and the next appropriate stage of the disciplinary procedures will be applied.
- 26.151 The nominated manager will then apply the disciplinary procedures.
- 26.152 If work performance problems continue or recur, a decision will be taken as to whether the employee should be sent for further treatment or if the next stage of the disciplinary procedures should be applied.

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27. Grievance Procedures

- 27.1 These procedures have been prepared to take account of all forms of grievance which may be raised by employees within South Lanarkshire Leisure and Culture. Its aim is to ensure that any grievances relating to employment are settled fairly, speedily, and as near to the point of origin as possible.
- 27.2 Grievances are concerns, problems or complaints that employees raise. Where possible employees should try to settle grievances with their line manager. If this isn't possible, the formal grievance procedures should be followed in order that grievances can be dealt with fairly, consistently and speedily.
- 27.3 The procedure will apply to individuals or to a group of employees who share a common Grievance.
- 27.4 By mutual consent, the time limits referred to may be modified.
- 27.5 Every manager and supervisor who participates in applying the Trust's grievance procedures will attend the appropriate corporate training course offered by SLC's Training Department.

Exceptions

- 27.6 The following matters are excluded from these procedures:-
- ◆ matters of discipline, which are covered separately;
 - ◆ matters of administration such as the method/frequency of the payment of salaries;
 - ◆ operation of the Sick Pay or Superannuation Schemes;
 - ◆ matters concerning national agreements (other than local interpretation), local agreements, income tax; national Insurance;
 - ◆ matters concerning the grading of posts, which are covered separately.
- 27.7 Queries about the calculation of pay should be raised with the immediate supervisor who should deal with the matter promptly to avoid hardship.
- 27.8 If an employee is dissatisfied with the result and/or remedy suggested, then they may pursue the matter through the grievance procedures.
- 27.9 In terms of South Lanarkshire Leisure and Culture's Equal Opportunities Policy, separate procedures have been prepared to deal with complaints about:-
- ◆ Discrimination, harassment or victimisation against an employee;
 - ◆ The operation of the Trust's recruitment and selection procedures.

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Mediation

- 27.10 An independent third party or mediator can sometimes help resolve grievances. Mediation is a voluntary process where the mediator helps two or more people to attempt to reach a compromise. Any agreement comes from those in dispute, not from the mediator. The mediator is not there to judge, to say one person is right and the other wrong, or to tell those involved in the mediation what they should do. The mediator is in charge of the process of seeking to resolve the problem but not the outcome. Mediators will be employees trained and accredited by an external mediation service who act as internal mediators in addition to their day jobs. They can work individually or in pairs as co-mediators.
- 27.11 There are no hard-and-fast rules for when mediation is appropriate but it can be used:
- at any stage in the conflict as an alternative or addition to formal procedures,
 - to rebuild relationships after a formal grievance has been resolved;
 - to address a range of issues, including relationship breakdown, personality clashes, communication problems, bullying and harassment.
- 27.12 The grievance procedure can be suspended if mediation is deemed to be an appropriate method of resolving the issue.

Cases unsuitable for mediation

- 27.13 Mediation may not be suitable if:
- used as a first resort – because people should be encouraged to speak to each other and talk to their manager before they seek a solution via mediation;
 - a decision about right or wrong is needed;
 - the individual bringing a discrimination or harassment case wants it to be investigated;
 - the parties do not have the power to settle the issue;
 - one side is completely intransigent and using mediation will only raise unrealistic expectations of a positive outcome.
- 27.14 Mediation can be arranged through the HR Department.

The right to be accompanied

- 27.15 Employees have a right to be accompanied by a companion during the grievance hearing which deals with a complaint.
- 27.16 A companion is either a fellow worker, accredited trade union representative or an official employed by a trade union.
- 27.17 To exercise the statutory right to be accompanied, employees must ensure their request is reasonable. What is reasonable will depend on the circumstances of each individual case. However, it would not normally be reasonable for employees to insist on being accompanied by a companion whose presence would prejudice the hearing.

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STAGE 1 of the Grievance Procedure - Informal

- 27.18 Any employee feeling aggrieved on any matter relating to working conditions, should bring the grievance to the attention of their immediate supervisor, and advise of the remedy sought. The supervisor will discuss the nature of the grievance with the employee concerned.
- 27.19 If the supervisor cannot accept the legitimacy of the complaint, or provide a remedy, they should reply orally as soon as possible and in any event within 2 working days, advise the aggrieved employee of the next step available and keep a written record on file.

STAGE 2 of the Grievance Procedure - Formal

- 27.20 If the supervisor has been unable to suggest a remedy, or the employee is dissatisfied with the reply and wishes to pursue the grievance further, the matter should be reported to the local representative of the trade union of which the employee is a member. The representative will then raise the matter with the Senior Manager in the presence of the aggrieved employee. Where an employee is not a member of a trade union, the employee will be allowed to make representations personally to the Senior Manager and bring a companion.
- 27.21 The matter will be put in writing at this stage on the grievance form (STAF'80) and the employee and trade union representative should keep a copy.
- 27.22 The Senior Manager or nominated officer should arrange a meeting with the parties concerned and if requested, the appropriate official of the trade union as determined by the trade union themselves.
- 27.23 The meeting will be arranged (but not necessarily take place) within 5 working days, and a written reply will be made as soon as possible, but in any event, within 5 working days of such a meeting taking place.

STAGE 3 of the Grievance Procedure – Final Stage

- 27.24 Where an employee remains dissatisfied, a written appeal may be submitted to the Company Secretary through the trade union within 14 days of the date of the letter, requesting that the matter be heard by the Board Appeals Panel. The Board Appeals Panel will be held in accordance with the terms of reference.
- 27.25 Prior to submission to Stage 3, it is imperative that both stages 1 and 2 have been heard.
- 27.27 Where an employee is not a member of a trade union they may submit an appeal to the Company Secretary. All appeals must be submitted within the 14 days of receipt of the Trust's decision.
- 27.28 The Board Appeals Panel hearing the grievance will normally be convened within 28 days and the employee should normally be accompanied by a trade union representative or companion. At the hearing the employee will be asked to state their grievance to the Panel.

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- 27.29 The employee's Senior Manager or nominated officer will also attend and having heard both sides, the Panel will decide on a course of action which will be advised in writing to all parties, as soon as possible.
- 27.30 This is the end of the internal procedure.
- 27.31 Prior to the appeal being heard by the Board Appeals Panel, a meeting of the parties concerned will be convened in an attempt to resolve the matter. This will be co-ordinated by the HR Department. If it is not within the Appeal panel's powers to grant the resolution sought, or is contrary to existing Trust policies and/or agreements, this will be deemed as the end of the internal process.

Formal Disputes

- 27.32 In the event of a formal dispute being declared by either the Trust or the trade union(s) involved, the conditions which prevailed prior to the introduction of the circumstances causing dispute, will continue to apply until the matter is finally resolved.
- 27.33 No trade union involved in a dispute arising from these procedures will cause, or take part in, or authorise its members to take part in any form of industrial action against the Trust unless and until the above procedures have been followed and exhausted. Similarly, no action will be taken by the Trust against any employee or trade union(s) involved.
- 27.34 Both parties to any dispute should, wherever possible, reach agreement on interim agreements to allow work to continue while the procedures are being followed.

Procedure to be followed at Hearing of a Board Appeals Panel

- 27.35 All appeals will be heard by the Board Appeals Panel and on hearing both sides of the matter, the Panel will decide on an appropriate course of action.
- 27.36 Where an employee appeals, such appeal should preferably be through a recognised trade union. This however does not preclude an employee appealing in person, or through a companion.
- 27.37 A paper should be drawn up by the trade union or the appellant if not represented, which outlines the basis of the appellant's case and this should be forwarded to the HR Department for inclusion in a brief report to the Panel. The department may submit a copy of its response which will also be included in the report for the Panel.
- 27.38 The appellant and their companion will be given notice in writing at least 7 days in advance, unless otherwise mutually agreed, of the time and place of the hearing.
- 27.39 At the appeal there may be present at all times, the appellant, their companion and the Management representative(s). A person or persons, acting in an advisory capacity to the appellant, their companion, or to the Management representative, may also be present at the hearing, provided such persons are made known to the Board Appeals Panel prior to the case commencing.

- 27.40 The appellant's companion, or the appellant (if not represented) will put forward their case, based on the submission already prepared for the Panel, in the presence of the Board Appeals Panel.
- 27.41 The Management representative(s) will have the opportunity to ask questions of the appellant's companion and the employee.
- 27.42 The members of the Panel will then have the opportunity to ask questions of the appellant's companion and the employee.
- 27.43 A Management representative will then present the Trust's case, based on the submission already prepared for the Panel, in the presence of the appellant and their companion.
- 27.44 The appellant and their companion will have the opportunity to ask questions of the Management representative.
- 27.45 The members of the Panel will then have the opportunity to ask questions of the Management representative.
- 27.46 The Management representative and thereafter the appellant's companion, any advisers present and any individual formally involved in the case will then withdraw.
- 27.47 The Panel, in the presence of the HR Officer appointed to assist the Panel, will then deliberate in private, only recalling, if necessary, the Management representative, the appellant and their companion, to clarify points of uncertainty on evidence already given. If recall is necessary, both parties are to return notwithstanding only one is concerned with the point giving rise to doubt.
- 27.48 The Panel will recall the Management representative, the appellant and their companion and announce their findings and recommendations which will be confirmed in writing to both sides in the case.

Recruitment and Selection Complaints Procedure

- 27.49 South Lanarkshire Leisure and Culture's Equal Opportunity Policy aims to ensure that the terms of the Sex Discrimination Act, Race Relations Act and Disability Discrimination Act are properly applied and that the terms and recommendations of their associated Codes of Practice are positively implemented during recruitment and selection to the Trust's service.
- 27.50 This procedure is not intended to detract from an individual's right to pursue an application to an Industrial Tribunal or to a Court of Law.

Stage1

- 27.51 The General Manager should be notified of any complaint of less favourable treatment as soon as possible, but certainly within 14 days of notification of the outcome of an application for employment.

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27.52 The General Manager or other nominated Senior Manager, will assess the relevance of the complaint and will:-

- Acknowledge receipt of the complaint and enclose a copy of the formal complaints procedure;
- Forward the complaint to the appropriate Senior Manager for investigation or, if appropriate;
- Reply direct to the complainant within three working days of receipt of their complaint.

Stage 2

27.53 The General Manager or nominated Senior Manager will arrange for the complaint to be properly investigated within 10 working days of receipt.

27.54 The person who chaired the selection panel will be required to co-operate fully with the Investigating Officer as will any other person involved in the recruitment and selection process for the post.

27.55 Where, following the investigation, the General Manager or nominated Senior Manager considers it necessary, a meeting will be arranged with the parties concerned and if requested, an appropriate representative of the complainant.

27.56 Prior to such a meeting, the nominated Senior Manager will discuss the findings of the investigation with the General Manager.

27.57 The meeting will be arranged but not necessarily take place within 10 working days of the General Manager receiving the complaint.

27.58 The nominated Senior Manager will prepare a written report on the investigation and the outcome of the meeting including reference to agreements reached and where appropriate, details of remedial action and pass these to the General Manager within three working days of the meeting (or the completion of the investigation if there is no meeting).

27.59 The General Manager will then formally reply to the complainant regarding the findings of the investigation within three working days of receipt of the report.

27.60 A decision to “hold” the selection/appointment procedures for a post in abeyance following the receipt of a complaint may be taken by the General Manager, or nominated Senior Manager, normally at Stage 2. In taking this decision, the General Manager will normally consider:-

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- The gravity of the allegation and the evidence that suggests its substantiation;
- Where it is practicable to “hold” the procedures (e.g. has the post been offered and accepted by another candidate?);
- The consequences to the operation of the Service of “holding” the vacancy pending investigation of the complaint.

27.61 The General Manager, or nominated Senior Manager, will have discretion to determine the duration that any selection process should be “held in abeyance”, subject to the extent of an investigation.

Stage 3

27.62 If, having received the notification of the decision, the applicant still remains dissatisfied, an appeal, in writing, may be submitted to the Company Secretary, for hearing by the Board Appeals Panel, within 14 days.

External Applicants

27.63 Applicants who are not already employed by South Lanarkshire Leisure and Culture may submit an appeal, in writing to the General Manager or nominated Senior Manager who will then convene a meeting with both parties to try and resolve the matter. The General Manager will, following the meeting, formally write to the complainant confirming the outcome of the meeting.

27.64 At this point, the complaints procedure for persons not employed by South Lanarkshire Leisure and Culture at the time of application for the post in question becomes exhausted and further recourse may only be through an external agency such as an Employment Tribunal or Court of Law.

Internal Applicants

27.65 Applicants currently employed by South Lanarkshire Leisure and Culture may pursue their complaint as a formal grievance commencing the Trust’s Grievance Procedures at Stage 3. In such instances, the complainant should report the matter to their Trade Union in order to obtain formal representation.

27.66 In the case of an employee who is not a member of a Trade Union, the representation may be made personally.

Remedial Action

27.67 The remedial action that may be taken following the recognition of a legitimate complaint will vary according to all the circumstances of a complaint. It should be noted that the objective of these procedures is primarily to resolve complaints and to ensure the appointment of the most suitable applicant(s) to the employment of the Trust. Financial compensation will not be considered.

Appointment by Elected Members

- 27.68 In the case of appointments made by a panel of SLLC Board members where a complaint is received the General Manager or the Company Secretary will notify the Chair of the SLLC Board.
- 27.69 Where the post in question is the General Manager, or Company Secretary, then SLC's Executive Director (Corporate Resources) will respond at Stage 2 of the procedure.

Dignity at Work

- 27.70 A core value of South Lanarkshire Leisure and Culture is to provide a supportive working environment, which creates openness, mutual respect, dignity and trust. The aim of the Dignity at Work Policy, which was developed with the Trade Unions, is to prevent behaviours and actions that could be viewed as harassment, bullying, discrimination and/or victimisation in the work place. The policy will ensure that appropriate and effective action is taken if this occurs. To achieve this aim, everyone involved the workplace, including employees, supervisor, managers and Trade Union representatives, must be aware of and challenge any of these forms of unacceptable behaviour. Inaction is not an option.
- 27.71 The Policy, in addition to outlining procedures to achieve its aim of preventing unacceptable behaviour, also provides a framework to ensure that complaints are handled promptly, sensitively and if requested confidentially.

Informal Procedure

- 27.72 An employee who feels that they have been subject to any form of bullying, harassment, discrimination or victimisation should advise the perpetrator that it is unacceptable and ask that it stop immediately. This may be done verbally or in writing. The employee should keep a note of the date, time and details of the request for future reference, if needed. If the offender has not been aware that their behaviour is causing a problem this may be sufficient to resolve the problem.
- 27.73 If the employee wishes support in raising the matter, this can be sought from a range of sources for example: -
- The HR Department
 - SLC's Personnel Adviser (Employee Services) in Corporate Resources
 - SLC's Employee Support Team (Corporate Resources)
 - Employee Forums
 - A Trade Union representative
 - A co-worker

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- 27.74 Should the behaviour persist, or if the process outlined above is unsuitable, the employee should contact the HR Department or SLC's Personnel Advisor (Employee Support) who will provide confidential advice. Where requested, an Officer of the same gender as the complainant will be made available. A member of the HR department or SLC's Personnel Advisor (Employee Support) will meet the employee to assess the situation and will discuss with the employee a suitable course of action, which may include: -
- Contacting the person the complaint is against (the alleged offender) and outlining the complaint
 - Advising the employee to keep a record of each incident should the unacceptable behaviour continue, informing the offender that this is being done
 - Offer of mediation (if appropriate)
 - Advising the perpetrator's Senior Manager of the complaint
 - The employee to instigate a formal grievance
 - The employee reporting the incident to the Police (in the case of assault, indecent assault etc.)
- 27.75 At any meeting to discuss the complaint, the employee may be accompanied by a companion.
- 27.76 Any employee who considers that they have been bullied, harassed or victimised by a customer should report the matter immediately to their supervisor. Support will be available from the HR Department or SLC's Personnel Advisor (Employee Support) in such instances.

Formal Procedure

- 27.77 If the procedures outlined above are not successful or if the matter is so serious that the employee wishes to make a formal complaint, they should put this in writing to the Senior Manager for their area using the Trust's grievance procedures at stage 2. Receipt of the complaint will be acknowledged in writing.
- 27.78 The Senior Manager, or nominated manager, will arrange for the matter to be investigated. As disciplinary action may result, consideration may be given as to whether it is appropriate for the alleged perpetrator to continue to undertake their current job/responsibilities.
- 27.79 Any investigatory Officer(s) appointed should not have had previous involvement in the case, for example at the informal stage. If requested, and if available, an employee of the same gender/race as the complainant will be involved in the investigation. A timescale should be set for the conclusion of the investigation and if this is not met, an interim report submitted outlining progress to date and estimated date of completion.
- 27.80 The alleged perpetrator should be advised of the nature of the complaint, the procedure being followed including the timescale for any investigation, and of their right to be accompanied when interviewed.

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- 27.81 The complainant's Senior Manager, or nominated manager, will ensure that the complainant receives adequate support throughout the process. If the employees work together or regularly come into contact, an assessment will be made as to whether alternative arrangements have to be put in place until completion of the investigation.
- 27.82 On conclusion of the investigation, a written report will be prepared for consideration by the Senior Manager or nominated manager. At this point a range of appropriate options might include:-
- Action short of convening a disciplinary hearing for example counselling, transferring the employee etc;
 - Convening a disciplinary hearing.
 - Offer of counselling and/or mediation
- 27.83 The findings of the investigation will be confirmed in writing to both parties.
- 27.84 Should the investigation conclude that the allegation was malicious, the Senior Manager or nominated manager will consider whether any action should be taken which could include convening a disciplinary hearing.
- 27.85 If the complainant remains dissatisfied with the outcome of the investigation, they can submit a complaint to the HR Manager for consideration at Stage 3 by the Board Appeals Panel.
- 27.86 Where an incident has occurred, every effort will be made to prevent further bullying, harassment, discrimination or victimisation.
- 27.87 Where options such as contacting the police (if the complaint is about assault or indecent assault) are considered this would obviously indicate that the complaint is serious and would be immediately dealt with by formal investigation.

Competence Initiative and Grading Appeals

- 27.88 As agreed under the Service Level Agreement with South Lanarkshire Council, appeals relating to Competence Initiative and Grading issues should be progressed via SLC's Joint Competence Initiative Appeals procedure as outlined below:-
- There may be present at all times, the employee, their representative and the Trust's representative;
 - The employee's representative or the employee (if not represented) will put forward the case, (no more than 10 minutes) in the presence of the Trust's representative;
 - The Trust's representative will then have the opportunity to clarify any information provided by the employee's representative (or employee);
 - The members of the appeals panel will then have the opportunity to ask questions of the employee's representative (or employee);
 - The Trust's representative will put forward the case for the Trust (no more than 10 minutes) in the presence of the employee and his/her representative;
 - The employee's representative (or employee) will then have the opportunity to clarify any information provided by the Trust's representative;

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- The members of the appeals panel will then have the opportunity to ask questions of the Trust's representative;
- The employee's representative followed by the Trust's representative will have the opportunity, if they wish, to sum up their case introducing no new evidence;
- The Trust's representative, the employee and his/her representative will then withdraw;
- The appeals panel will then deliberate, only recalling if necessary the Trust's representative, the employee and their representative to clarify points of uncertainty on information already given. The appeals panel may at any time adjourn to investigate or obtain/clarify information if appropriate. If recall is necessary, both parties have to return even if only one of the parties is required to clarify any point;
- The appeals panel will recall the Trust's representative, the employee and their representative and give their decision, which will be confirmed in writing.

The appeals panel can give one of the following decisions: -

- Appeal upheld;
- Appeal not upheld;
- Appeal upheld in part.

Travel and Subsistence Appeals

- 27.89 Appeals relating to car user status should be progressed via the Board Appeals Panel.
- If there is disagreement with the user status, the employee should submit in writing the reasons for the disagreement. This should be sent to their manager within 14 days of receipt of car user status;
 - **Stage 1 of appeal process** – a meeting should be arranged, but may not necessarily take place, within 5 working days of receiving the submission with the manager, the employee and any representatives;
 - If the employee is dissatisfied with the outcome they should outline in writing to the Senior Manager or Nominated Manager, within 14 days of the outcome of stage 1, the reasons for their continued dissatisfaction;
 - **Stage 2 of the appeal process** – a meeting should be arranged, but may not necessarily take place within 5 working days of receiving the submission with the Senior Manager or Nominated Manager, the employee and any representatives;
 - If the employee is dissatisfied with the outcome they should outline in writing to the Company Secretary, within 14 days of the outcome of stage 2, the reason for their continued dissatisfaction;

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- **Stage 3 of the appeal process** – A meeting will be arranged, but may not necessarily take place, within 5 days of receiving the written submission of dissatisfaction. This will be with the Board Appeals Panel. The Appeal Panel can give one of the following decisions;
 - Appeal upheld;
 - Appeal not upheld;
 - Appeal upheld in part;

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