

# Disciplinary Procedure

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## DISCIPLINARY PROCEDURE

### 1. Rules and Procedures

Any breaches in rules and procedures are viewed with particular seriousness. The Town Council always fully investigates any breach of rules and procedures and the police may be called in to investigate the situation, where necessary. The Town Clerk (or if the matter relates to that post the Town Council Chairman), however, will decide whether disciplinary action should be taken once all the information is available to him or her and will be responsible for implementing such action.

### 2. Suspension

You may be suspended on full pay or asked to undertake alternative duties whilst investigation into any allegation made against you is carried out.

Suspension in itself is not a disciplinary measure.

### 3. Why have Disciplinary Rules and Procedures?

Disciplinary rules and procedures are necessary for promoting orderly employment relations as well as fairness and consistency in the treatment of individuals. They enable the Town Council to influence the conduct of employees thereby assisting the Town Council to operate effectively. Rules set standards of conduct and performance at work; procedures help ensure that the standards are adhered to and also provide a fair method of dealing with alleged failures to observe them.

### 4. Background to the Disciplinary Procedure

The following procedure is brought to the attention of all employees so that everyone knows the rules and understands that a failure to act in the best interests of the Town Council as a whole may result, after due warning where appropriate, in the dismissal of an offending employee.

This procedure will apply in cases of poor/unsatisfactory performance or conduct and/or when the Town Council rules are breached. The gravity of an employee's acts or omissions, together with a consideration of any mitigating circumstances as well as any previous disciplinary record, will determine the action to be taken under the procedure.

It may not be a satisfactory defence for you as an employee to claim that you were instructed by a senior member of staff to take an unreasonable action, which you knew was in contravention of rules and procedures. If instructed to take such an action you should point out that it is a contravention of our rules and procedures and **refuse to act**. If instructed again, you should report the matter immediately to the Town Clerk or Town Council Chairman.

Any disciplinary matters will be handled without undue delay.

Any disciplinary action will only be taken after the case has been fully investigated.

Where following an interview it is then decided **not** to proceed with the allegation to a formal disciplinary hearing, you will be informed in writing.

If following the initial interview the allegation proceeds to a formal disciplinary hearing, you will be informed in advance of the allegations that are being made against you with the supporting evidence. You will be given the opportunity of challenging the allegations and evidence before decisions are reached.

All employees are entitled to be accompanied either by a fellow worker or a trade union representative (a "companion") and be represented by them if they wish. Whilst the chosen companion has a statutory right to address the hearing, no statutory right exists for them to answer questions on your behalf. You should inform the Town Clerk that you wish to be accompanied and by whom.

Where the companion cannot attend on the date proposed, you may suggest an alternative time and date so long as it is reasonable and falls before the end of five working days, beginning with the first working day after the day proposed by the employer.

The proceedings, witness statements and records will be kept confidential.

Any penalty imposed will be clearly explained.

You will have a right of appeal against any decisions taken.

### **STAGES OF THE DISCIPLINARY PROCEDURE**

Normally the procedure will start at Stage 1; however, the employer reserves the right to start at any stage, depending on the seriousness of the offence.

#### **Stage 1: Oral Warning**

If your conduct or performance does not meet acceptable standards, the Chairman (and/or the Town Clerk) will discuss this with you and, if necessary, issue an oral warning for the purpose of improving your conduct or performance. You will be advised of:

- a. The reason for the warning
- b. that it constitutes the first step of the disciplinary procedure
- c. your right to appeal against the decision
- d. the improvement needed and, where appropriate, the assistance that will be provided to you
- e. the timescale for reaching the required standard, if appropriate
- f. the consequences of your failure to improve.

A brief note of the warning will be kept on your personal file and will be deleted from your employment record after six months if no further similar misconduct has occurred.

Examples of events that may call for this type of warning are: -

- poor timekeeping
- poor standard of work
- poor standard of appearance

However, it is stressed that the examples given above **are for guidance only** and that the **list is not exhaustive**. It is the responsibility of the Chairman / Town Clerk to decide on the most appropriate disciplinary measure in the circumstances.

### **Stage 2: Written Warning**

If your conduct or performance continues to be unsatisfactory or if a more serious offence occurs, the Chairman / Town Clerk will inform you, in writing, of the issue and will arrange a disciplinary interview with you within 14 days. This may result in a written warning being issued and this will be given to you outlining:

- a. the details of the complaint
- b. the improvement needed and, where appropriate, the assistance that will be provided to you
- c. the timescale
- d. the action that will be taken should you subsequently fail to reach the required standard, and
- e. your right to appeal against the decision.

You should acknowledge receipt of this letter in writing. A record of the written warning will be kept in your employment record for up to a period of nine months. If a similar case of misconduct has not occurred, it will be removed.

Examples of events that may call for this type of warning are: -

- breach of the Town Council's Equality Policy
- persistent lateness without satisfactory explanation
- breach of the non-smoking policy
- breach of rules and procedures e.g. health and safety *and* security
- unauthorised absenteeism (not illness)
- repeated minor misconduct following final warning
- refusal to carry out a management instruction.

It is stressed that the examples given above are **for guidance only** and that the **list is not exhaustive**. It is the responsibility of the Chairman / Town Clerk to decide on the most appropriate disciplinary measure in the circumstances.

### **Stage 3: Final Written Warning**

This stage will occur if there is failure to improve or change behaviour during the currency of a prior warning, or where the infringement is sufficiently serious (but insufficiently serious to justify dismissal). The Chairman / Town Clerk will inform you, in writing, of the issue and will arrange a disciplinary interview with you within 14 days. This may result in a final written warning being issued.

The final written warning will include:

- a. a clear statement of the reasons for such action including rights of appeal
- b. a statement as to the expected standard of conduct or performance in future and details of

management support available

- c. the consequences following further use of this procedure for failing to meet the standard expected
- d. An explanation that this warning will be entered on the employee's record for a period of twelve months and that repetition of such conduct within that period will result in dismissal.

Failure to achieve satisfactory improvement at this stage will lead to your dismissal.

You should acknowledge receipt of this letter in writing

#### **Stage 4: Dismissal**

##### **i) Dismissal Without Notice - Gross Misconduct**

In certain circumstances, in the absence of mitigating circumstances, you may be liable to instant dismissal, without notice. In such cases where it appears that you have committed an act that would justify instant dismissal, you may be suspended from work on full pay until the circumstances have been fully investigated and a disciplinary interview held. You will be provided, as soon as reasonably practicable, with

- a. clear, written confirmation of your dismissal. A copy will be sent to your representative (if applicable) and a further copy filed in your employment record
- b. the effective date of termination
- c. your right to appeal against the decision.

Examples of events that may call for this type of warning are: -

- persistent, unreasonable refusal to carry out a management instruction
- serious infringement of health and safety rules
- deliberate damage to property
- theft, fraud, forgery/falsification of records
- acceptance of bribes
- physical violence
- serious incapability whilst on duty brought on by alcohol or illegal drugs
- serious negligence which causes or might cause unacceptable loss, damage or injury
- serious bullying or harassment
- misuse of the Town Council's property or name
- serious breach of confidence (subject to the Public Interest (Disclosure) Act 1998)
- bringing the Town Council into serious disrepute
- serious breach of IT protocol

It is stressed that the examples given above are for guidance only and that the list is not exhaustive. It is the responsibility of the employer to decide on the most appropriate disciplinary measure in the circumstances.

### **ii) Dismissal with Notice**

You may be dismissed with notice if after having failed to improve following a final written warning. You will be provided, as soon as reasonably practicable, with

- a. written confirmation of your dismissal
- b. the effective date of your termination
- c. any payment due to you
- d. your right to appeal against the decision.

An example of an event that may call for this type of warning is repeated failure to reach required standard of conduct or performance following appropriate warnings.

## **RIGHT OF APPEAL IN THE DISCIPLINARY PROCEDURE**

### **1. Appeals Panel**

The Appeals Panel will consist of the Chairman and Vice-Chairman of the Town Council and the Chairs of the Committees of the Town Council. If any of these are unable to be present then the Chairman of the Town Council will arrange for the attendance of other elected Town Councillors and ensuring that not less than 3 and not more than 5 members are present.

Where it transpires that a member of the Panel is involved (whether directly or indirectly) he/she is excluded from having any dealings with the matter.

### **2. The Process**

If you are dissatisfied with any disciplinary action taken against you by the Chairman / Town Clerk then the Panel will convene to hear the disciplinary appeal.

### **3. Appeals in the Disciplinary Procedure**

You have the right of appeal against a disciplinary decision taken by the Chairman / Town Clerk. This must be done within 10 working days of a decision being issued.

The grounds for raising such an appeal may include: -

- the perceived unfairness of the judgement
- the severity of the penalty
- new evidence coming to light - or
- procedural irregularities

Any appeal must be in writing and clearly detail the grounds for instigating such an appeal.

On considering the grounds, the Panel may:

- confirm a decision of a disciplinary hearing
  - order a new investigation - or
  - re-hear the matter in order to remedy previous defects in the disciplinary process.
- Within ten working days of receiving an appeal, the Panel will respond by stating the course of action it will take.

When convening an appeal hearing, those members comprising the Appeals Panel (minimum of three, maximum of 5) will act impartially.

Any Panel will preclude an individual previously involved in the disciplinary procedure.

You will be informed of the arrangements for the appeal hearing and of your statutory right to be accompanied by a fellow worker or trade union official. You must state your intention to do so when initiating your appeal.

Where new evidence arises during the appeal, you or your representative will be given the opportunity to comment before any action is taken. As soon as possible after the hearing, you will be informed in writing of the results of the appeal and the reasons for the decision. Any decision issued by the Appeals Panel is final.

### **RECORDS FOR THE DISCIPLINARY PROCEDURE**

A record will be kept of all warnings, detailing the circumstances of any breach of the disciplinary rules, any action taken and the reasons for it, whether an appeal was lodged and its outcome. This record will be private and confidential and kept on your personal file for the designated period of time. It will be retained in accordance with the Data Protection Act 1998, which requires the release of certain data to individuals on their request. Copies of any meeting records will be given to the individual concerned, although in certain circumstances some information may be withheld, for example to protect a witness.