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| DISCIPLINARY PROCEDURE |
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1. **Purpose and Scope**

This procedure is designed to help and encourage all employees to achieve and maintain high standards of conduct whilst at work. The aim is to ensure consistent and fair treatment for all. This procedure is prepared in accordance with the statutory dismissal and dispute resolution procedures as set out in the Employment Act 2002 and the Employment Act 2002 (Dispute Resolution) Regulations.

2. **Principles**

- (i) No disciplinary action will be taken against an employee until the facts have been established.
- (ii) At every stage in the procedure the employee will be advised of the nature of the complaint against him or her and will be given the opportunity to state his or her case before any decision is made.
- (iii) At all formal stages the employee will have the right to be accompanied by a trade union representative or work colleague during the disciplinary interview.
- (iv) No employee will be dismissed for a first breach of discipline except in the case of gross misconduct when the penalty of dismissal without notice or payment in lieu of notice may be applied.
- (v) An employee will have the right to appeal against any disciplinary penalty imposed.
- (vi) The procedure may be implemented at any stage if the employee's alleged misconduct warrants such action.

3. **The Procedure for Misconduct and Gross Misconduct**

- 3.1.1 The following list provides examples of **misconduct** which will normally give rise to formal disciplinary action:

- unauthorised absence from work
- persistent short-term and/or frequent absences from work without a medical reason
- lateness for work or poor timekeeping *where fixed hours are specified*
- inappropriate standard of dress in public situations
- minor breaches of Health and Safety or other Council rules or procedures
- time wasting
- disruptive behaviour
- misuse of Council facilities (e.g. telephones, computers, email or the internet)
- refusal to carry out reasonable requests or instructions
- smoking in unauthorised areas
- failure to follow Council Procedures

This list is not exhaustive and offences of a similar nature will result in disciplinary action being instigated.

3.1.2 The following list provides examples of offences which are normally regarded as **gross misconduct**.

- theft, fraud, deliberate falsification of records, or other acts of dishonesty
- fighting, assault on another person
- deliberate damage to property of the Council
- gross incompetence in the conduct of work
- gross negligence which results in the Council or employees being put at risk
- being under the influence of illegal drugs or excessive alcohol
- acts of incitement towards or actual acts of discrimination, harassment or victimisation including on the grounds of sex, race, colour, ethnic origin, disability, sexual orientation, age, religion or belief
- serious acts of insubordination
- serious breach of duty to keep information of the Council, its service providers and its customers confidential
- unauthorised entry to computer records
- serious breach of the Council's Health & Safety Policy, confidentiality or e-mail and internet policy
- any action, whether committed on or off the premises, that is likely to or does bring the Council into disrepute
- serious negligence which causes or might cause significant loss, damage or injury
- accepting bribes or incentive payments from suppliers

This list is not exhaustive and other offences of a similar gravity will result in disciplinary action being instigated at Gross Misconduct level which carries a potential penalty of dismissal.

3.2 Informal Action

Minor misconduct will be dealt with informally usually in a confidential one-to-one meeting (or telephone conversation) between the employee and line manager. However, where the matter is more serious or informal action has not brought about the necessary improvement the following procedure will be used:

3.3 Formal Action

- 3.3.1 The level of warning you may receive for misconduct/gross misconduct will depend on how serious the Council considers the alleged actions to be and your previous conduct in all the circumstances. In the event of alleged gross misconduct the formal process may commence at Stage 4- see 3.4 below.

Disciplinary Letters

- 3.3.2 If there is a concern about an employee's conduct or behaviour then a letter will be given to the employee advising him/her of the allegation(s) and reasons why this is unacceptable. The letter should invite the employee to discuss the alleged misconduct, either in a telephone conversation or a formal meeting. The letter will specify at which stage the disciplinary procedure is being invoked (see 4 stages below) and if invoked at Stage 4 for Gross Misconduct, the letter will outline arrangements for a meeting, advise of the right to be accompanied and warn that a potential outcome could be dismissal. Any documents to be produced at the meeting will also be provided (these may be sent by e-mail).

3.3.3 Disciplinary Discussions

The practicalities of arranging a meeting at each stage of the disciplinary process will be taken into consideration and in the interests of speed and efficiency a telephone conversation may be substituted for a face-to-face meeting with the employee's consent. Stage 4 of the process will normally give rise to a face-to-face meeting, however.

The time and location of a disciplinary discussion should be agreed with the employee and it should be held in private and with no interruptions.

This will normally be within 5 days of the letter being sent, where practically possible. During the discussion the line manager will state the complaint against the employee and go through the facts which have been gathered. The employee will also be allowed to ask questions, present evidence and witnesses' statements.

If the employee is unable to undertake the discussion due to unforeseeable reasons out of their control (e.g. illness) then the discussion will be rearranged within a reasonable time. However, if the employee fails to undertake the discussion without good reason, the disciplinary discussion can be held in the employee's absence.

3.4 **Outcomes and Penalties**

Stage 1 – Oral Warning

In the instance of a first complaint that conduct does not meet acceptable standards, the employee will normally be given a formal ORAL WARNING. He or she will be advised of:

- the reason for the warning
- that it is the first stage of the disciplinary procedure
- the improvement that is required and the timescales for achieving this improvement
- together with a review date and any support available (where applicable) and
- his or her right of appeal

A brief note of the oral warning will be kept but it will be spent after 6 months, subject to satisfactory conduct.

Stage 2 – Written Warning

If the offence is a serious one, or if further to previous formal disciplinary action, a WRITTEN WARNING will be given to the employee by the Line Manager. This will give details of the complaint, the improvement required and the timescale. It will warn that action under Stage 3 will be considered if there is no satisfactory improvement and will advise of the right of appeal. A copy of this written warning will be kept on file but it will be disregarded for disciplinary purposes after 12 months subject to satisfactory conduct.

Stage 3 – Final Written Warning

If there is still a failure to improve and conduct or performance is still unsatisfactory, or the misconduct is sufficiently serious, a FINAL WRITTEN WARNING will normally be given to the employee. This will give details of the complaint, will warn that dismissal will result if there is no satisfactory improvement and will advise of the right of appeal. A copy of this final written warning will be kept by the Line Manager but it will be spent after 12 months (in exceptional cases the period may be longer) subject to satisfactory conduct.

Stage 4 – Dismissal

If conduct is still unsatisfactory and the employee still fails to reach the prescribed standards, OR where the Town Clerk reasonably believes Gross Misconduct has occurred, DISMISSAL may result. Only the Town Clerk can take the decision to dismiss an employee. The employee will be given a written statement of allegations against him/her, invited to a meeting, advised of his or her right to be accompanied and then be notified in writing of the reasons for the decision taken at the hearing. Penalties at this stage will include dismissal with notice or summary dismissal (i.e. without any notice). The employee will be advised of the date on which employment will terminate. In all cases the employee has a right to appeal.

Very exceptionally, if an offence of Gross Misconduct is extremely serious, an employee can be dismissed immediately without a meeting. In this situation a letter setting out reasons for dismissal would be sent to the employee offering the opportunity for an appeal hearing.

3.5 Suspension

If you are accused of an act of gross misconduct, you may be suspended from work on full pay while an alleged offence is investigated. Only the Town Clerk has the power to suspend. This enables a swift and thorough investigation to occur. Whilst suspended pending disciplinary investigation, regular contact with a nominated person at the Council will be maintained although access to premises, equipment or systems may be denied.

3.6 Appeals

The Appeals stage of the disciplinary process is part of the statutory procedure to which an employee has a legal right. It can be exercised after any of the stages of disciplinary action for Misconduct or Gross Misconduct.

An employee who wishes to appeal against a disciplinary decision should inform the Town Clerk within five working days, in writing and giving reasons for the appeal. An Appeal may only be raised if:

- the employee thinks the finding or penalty is unfair;
- new evidence has come to light;
- the employee thinks that the procedure was not applied properly.

The Appeal will be heard by the Staffing Sub-Committee who will not have been involved in the original disciplinary hearing and will view the evidence with impartiality. The employee will have the right to be accompanied by a colleague at the appeal hearing. The outcome of the appeal and reasons for it will be advised to the employee as soon as possible after the meeting and be confirmed in writing.

At the Appeal hearing, any disciplinary penalty imposed will be reviewed but it cannot be increased. The decision taken at the Appeal hearing will be final.

In the event of a dismissal, the date of dismissal will not be delayed pending the outcome of an appeal.

In the case of a dismissal the termination of employment will not be delayed until the appeal hearing has been undertaken.

3.7 The Right to be Accompanied

At each formal stage of a disciplinary interview, an employee has the right to be accompanied. An employee can ask any other employee or a trade union representative to accompany them, to give support and help them prepare for the disciplinary discussion. As this is an internal process, there is no provision to have any external person accompany or represent an employee e.g. partner, parent, solicitor etc.

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