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# DISCIPLINARY AND GRIEVANCE PROCEDURES

## GRIEVANCE PROCEDURES

We recognize that from time to time you may wish to raise issues relating to your employment, or discuss matters that are causing personal concern. It is our policy to encourage free communication between employees and their managers to ensure that any problem or issue arising during the course of employment can be resolved as fairly and as quickly as possible.

### 1. INTRODUCTION

1.1. This procedure applies to all employees of the Council.

1.2. The objectives of the procedure are:

- To foster good relationships between the Council and its employees by discouraging the harbouring of grievances;
- To settle grievances as near as possible to their point of origin;
- To ensure the Council treats grievances seriously and resolves them as quickly as possible; and
- To ensure that employees are treated fairly and consistently throughout the Council.

1.3 Matters included for these procedures and this list is not exhaustive:

- Discrimination
- Victimisation
- Harassment
- Bullying
- Unacceptable Behaviour

1.4. Matters excluded from this procedure are as follows:

- Appeals against salary or gradings;
- Appeals against disciplinary actions;
- Income tax, national insurance matters, rates of pay collectively agreed at the national or local level;
- Rules of pension schemes; and
- A grievance about a matter over which the Council has no control.

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## **2. INFORMAL GRIEVANCE PROCEDURE**

Having an informal discussion can quite often solve the problem. In the interest of maintaining good working relations the employee is encouraged to first discuss any grievance with his/her Line Manager with a view to resolving the matter informally if appropriate. If the employee feels that this is not appropriate, should your grievance concern your Line Manager or he/she wishes to pursue a formal grievance they should follow the procedure detailed below.

A mediation meeting facilitated by a neutral mediator might be an option at this or a later stage of the process. Either party can request that the matter is subject to mediation, including the use of external third-party mediators in an attempt to reach a mutually agreeable outcome.

## **3. FORMAL GRIEVANCE PROCEDURE**

- 3.1. The employee must set out his/her grievance in writing ('Statement of Grievance') and provide a copy to his/her Line Manager within 14 days. You should try to explain fully the nature of your complaint.
- 3.2. Once the Council has had a reasonable opportunity to consider its response to the information provided in the Statement of Grievance the employee will be invited to attend a grievance meeting to discuss the matter.
  - 3.2.1. The employee must take all reasonable steps to attend the meeting.
  - 3.2.2. Grievance meetings will normally be convened within 14 days of the Council receiving the Statement of Grievance.
  - 3.2.3. The employee has the right to be accompanied to a grievance meeting by a fellow employee or by a Trade Union representative.
  - 3.2.4. If the meeting is inconvenient for either the employee or his or her companion, the employee has the right to postpone the meeting by up to 10 working days.
- 3.3. A grievance meeting may be adjourned to allow matters raised during the course of the meeting to be investigated, or to afford the employee's Line Manager time to consider the decision.
- 3.4. After the meeting the employee will be informed of the Council's decision within five working days. (The meeting may be reconvened for this purpose.) The council's decision will be confirmed to the employee in writing.
- 3.5. If the employee wishes to appeal against the Council's decision, he or she must inform the Council in writing within five working days of receiving the decision.
- 3.6. If the employee notifies the Council that they wish to appeal, the employee will be invited to attend a grievance appeal meeting before the Council's Appeals Panel. The employee has the right to be accompanied to a grievance appeal meeting by a fellow employee or a Trade Union representative.
- 3.7. A grievance appeal meeting will normally be convened within 7 working days of the Council receiving notice that the employee wishes to appeal pursuant to 3.5 above. If the meeting time is inconvenient for the employee or his or her companion, the employee may ask to postpone the meeting by up to 10 working days.
- 3.8. After the grievance appeal meeting the employee will be informed of the Council's final decision in writing within 5 working days. (The meeting may be reconvened for this purpose.) The decision of the person dealing with the appeal is final.

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#### **4. MODIFIED COUNCIL GRIEVANCE PROCEDURE FOR FORMER EMPLOYEES**

- 4.1. If an ex-employee wishes to raise a grievance, he or she must set out their grievance and the basis for that grievance, or to ask for the ex-employee's agreement to the Council responding to the grievance in writing.
- 4.2. Following receipt of a Statement of Grievance pursuant to 4.1 above, the Council will either write to the ex-employee inviting him or her to attend a meeting to discuss the grievance, or to ask for the ex-employee's agreement to the council responding to the grievance in writing.
- 4.2.1. If the ex-employee does not agree to the matter being dealt with by correspondence within 7 working days of the Council writing to them pursuant to 4.2 above steps 3.1 to 3.4 of the standard Council grievance procedure will be followed. The meeting will be conducted by the Council's Grievance Working Group.
- 4.2.2. If the ex-employee does agree to the matter being dealt with by correspondence, the Council's Grievance Working Group will consider his or her grievance and will respond to the ex-employee in writing within 14 days of the receipt of such confirmation setting out the basis for the council's decision.

#### **5. GENERAL PROCEDURAL INFORMATION**

- 5.1. Grievances raised under the standard Council grievance procedure will normally be investigated in the first instance by the employee's Line Manager. Any grievance meeting will be conducted by the Disciplinary and Grievance Working Group. Any grievance appeal meeting will be conducted by three members of the Council who do not sit on the Employment Group or the Disciplinary and Grievance Working Group.
- 5.2 A copy of the Statement of Grievance, a note of the decision taken at the first stage of the procedure, any notice of appeal and appeal decision will be placed on the employee's/ex-employees personnel file, together with any notes or evidence taken or compiled during the course of the procedure.

### **DISCIPLINARY PROCEDURES AND SANCTIONS**

These procedures are designed to help and encourage all employees to achieve and maintain the required standards of conduct, attendance and job performance. The aim is to ensure consistent and fair treatment for all in the organization. It is important that you understand the following principles and corrective procedures, as they constitute an important part of your terms and conditions of employment. We believe that the following disciplinary procedures should be followed in order to resolve any problems relating to conduct or performance fairly. Disciplinary action will normally follow the procedure below but may vary depending on the seriousness of the allegations of misconduct/capability to be addressed. We reserve the right to vary the disciplinary procedure to take account of your length of service or other circumstances.

#### **6. PRINCIPLES**

- Informal action will be considered, where appropriate, to resolve problems.
- No disciplinary action will be taken against an employee until a reasonable investigation of the allegations has been undertaken.
- You will be notified in writing of the allegations and no hearing will take place until a minimum of 24 hours has elapsed. Employees will be provided, where appropriate, with written copies of evidence and relevant

witness statements in advance of a disciplinary meeting. Witness statements may be, in appropriate circumstances, anonymized.

- At all stages of the procedure the employee will have the right to be accompanied by a trade union representative, or work colleague of your choice. You or your representative may ask questions or make statements; the representative cannot answer questions on behalf of the employee.
- No employee with over 24 months service will be dismissed for a first breach of discipline except in the case of gross misconduct, when the penalty will be dismissal without notice or payment in lieu of notice.
- Any decision made will be based on a reasonable belief, the balance of probability and on the evidence presented. The result of any disciplinary hearing will be confirmed in writing.
- You have the right to appeal any decision by applying in writing within 7 days of the decision stating your reasons for appealing.

## 6.2 TERMS OF MISCONDUCT

### Misconduct

This covers minor or less serious breaches of Company rules and procedures such as:

- Persistent lateness
- Minor breaches of procedure
- Verbal abuse or verbal aggression.

This list is only a guide and is not exhaustive.

### Serious Misconduct

This includes acts that fall short of gross misconduct, but which are so serious that they would justify the Council moving straight to a written warning. For example:

- Insubordination ie when openly refuse to follow an instruction but only agree when faced with sanctions.
- Failure to report damage to Council property.
- Rudeness towards others.
- Persistent or serious breaches of Council procedures.
- Neglect of duty.
- Actions which result in the loss of faith in Council or integrity of the individual ie gossip about colleagues or Council management on social media.

This list is not exhaustive.

### Gross misconduct

The following list provides some examples of offences which are normally regarded as gross misconduct which entitles the Town Council to dismiss without notice:

- Theft, dishonesty, falsification of documents or fraud
- physical violence/intimidation/aggressive behaviour or bullying
- grossly indecent or immoral behaviour or being found in possession of obscene material at work
- deliberate/wilful negligent damage to property
- serious misuse of an organisation's property or name
- serious breach of the Computer IT communications policy including abuse of email and internet facilities.
- serious insubordination or failing to follow a reasonable management instruction
- unauthorised absence
- carrying out additional work for your own personal gains in Council time.

- unlawful discrimination or harassment
- adverse publicity or actions bringing the Council's name into serious disrepute
- serious incapability at work brought on by alcohol or illegal drugs or being found in possession of unsealed alcohol or illegal drugs.
- causing loss, damage or injury through serious negligence
- a serious breach of health and safety rules
- a breach of confidentiality or trust.
- Requesting, accepting or receiving a bribe.

This list is not exhaustive.

**6.3 SANCTIONS** - The following sanctions will apply when an employee needs to be disciplined:

**6.3.1 Stage one – first minor issue or misconduct – verbal warning**

In the case of conduct, performance or attendance not reaching the required standard, the problem will be discussed with you and you will be given the opportunity to provide a satisfactory explanation at a disciplinary hearing. If you are unable to provide a reasonable explanation and the hearing concludes reasonably that you are at fault, a verbal warning will be issued by the Chair of the Disciplinary Procedures Working Group. A written copy will be given to you and retained on your personnel file for a period of up to 6 months. You will have the opportunity to appeal this decision. If the matter is performance related an Improvement Note for unsatisfactory performance will be issued. This will set out the performance problem, the improvement that is required, the timescale, any help that may be given and the right of appeal. The individual will be advised that it constitutes the first stage of the formal procedure. A record of the Improvement Note will be kept for 12 months, but will then be considered spent – subject to achieving and sustaining satisfactory performance through regular monitoring and the appraisal process.

**6.3.2 Stage two – written warning**

In the case where insufficient improvement has been made following a verbal warning or Improvement Note, or the conduct is potentially sufficiently serious to warrant bypassing the verbal warning stage or is an additional minor misconduct matter whilst the verbal warning is still active a disciplinary hearing will be held. As a result of this, if your explanation for your conduct is unsatisfactory and the hearing concludes that your performance or conduct was at fault, you will be issued with a written warning from the Chair of the Disciplinary Procedures Working Group\* detailing the complaint and the required improvement or change in behaviour. Again, you will have the right to appeal against the disciplinary decision. A copy of the written warning will be kept on your personnel file for a period of 12 months. The warning will also inform the employee that a final written warning may be considered if there is no sustained satisfactory improvement or change.

\*Where the Council needs to give a written warning to the Town Clerk it will be given on behalf of the Council by the Chair. Where the Council needs to give written warning to any other employee it will be given on behalf of the Council by the Line Manager.

**6.3.3 Stage three – final written warning**

If there is still insufficient improvement, further misconduct or change in behaviour during the term of a prior warning or where the conduct is potentially sufficiently serious to warrant bypassing stages one and two of the disciplinary procedure, a disciplinary hearing will be held. If there is no satisfactory explanation for the conduct or poor performance at the hearing, a final written warning will be issued. The final written warning

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will give details of the complaint and warn you that failure to improve or modify your behaviour may lead to your dismissal, or to some other action short of dismissal. Again, you will have the right to appeal against the decision. The final written warning will normally remain on your file for 12 months.

#### 6.3.4 Stage four – Dismissal

If you still fail to meet the necessary standard of conduct or performance required by the Company, or you commit another act of misconduct or your conduct is potentially so serious as to warrant bypassing the first three stages of the disciplinary procedure, a final disciplinary hearing will be held. You will be given every opportunity to offer an explanation for your failure to meet the required standards at the final disciplinary hearing. The council will ensure that fair and reasonable notice of the time and date of the hearing is given and wherever possible the disciplinary hearing will be held during your normal hours of work. You will be given as much information as possible regarding the allegations of misconduct as well as any documentation detailing the shortfall in performance or conduct that will form the basis of the disciplinary hearing. If there is no satisfactory explanation for the conduct or performance then you may be dismissed with notice, or in appropriate cases, some other action short of dismissal such as demotion or disciplinary suspension with no pay. Dismissal decisions can only be taken by the appropriate manager and the employee will be provided in writing an outline of the reasons for dismissal, the date on which the employment will terminate, and the right of appeal unless it is gross misconduct where you will be dismissed summarily.

#### 6.3.5 Gross misconduct

If you are accused of an act of gross misconduct you will be suspended from work on full pay while further investigations are carried out. This does not imply any determination of guilt or innocence, as it is merely a holding measure pending further investigation. If, on completion of the investigation and the full disciplinary procedure, the Council is reasonably satisfied that gross misconduct has occurred, the result will normally be summary dismissal without notice or payment in lieu of notice.

### 7. **APPEALS**

The purpose of an appeal hearing is to review any penalty imposed at a disciplinary hearing. It cannot increase the penalty but gives the employee the opportunity to appeal against a disciplinary decision. At each stage of the disciplinary procedure you will have the right to appeal. If you wish to do so you should inform the specified person within seven days of your receipt of the written confirmation of the disciplinary decision taken against you. Ideally, your appeal should be in writing and include the reason/s why you feel the decision is unfair or inappropriate in relation to the misconduct addressed at the disciplinary hearing. You should also detail any new information or evidence that will support your appeal, including the names of any witnesses. This is to ensure there is sufficient time to investigate any new information before the appeal meeting. You will have the right to be accompanied by a fellow worker or an accredited Trade Union representative at the appeal stage. The decision of the person dealing with your appeal is final.

## **REVIEW**

The effectiveness of this policy and associated arrangements will be reviewed every two years. Next review January 2023.