

Disciplinary Procedure

1. Application

This procedure applies to all employees of the Council.

The procedure does not apply to termination of employment on the grounds of redundancy or permanent ill-health (to which separate procedures apply), to the termination of a temporary Contract of Employment by completion, the expiry of a fixed term contract or where probationary employees do not reach required standard of performance within their probationary period.

2. Principles

Due regard will be given to the following principles:-

- a. no disciplinary action will be taken against any employee until the case has been fully investigated;
- b. after the appropriate investigation is complete, at every stage in the disciplinary procedure, the employee concerned will be advised of the nature of the complaint and will be given the opportunity to state their case before any decision is made and will have the right to be accompanied by a trade union representative or friend during the disciplinary interview, this trade union representative or friend will be able to speak and ask questions on the employee's behalf but will not be able to answer questions put to the employee;
- c. no employee will be dismissed for a first breach of discipline except in the case of gross misconduct when the penalty may be dismissal without notice or payment in lieu of notice;
- d. an employee will have the right to appeal against any disciplinary penalty imposed;
- e. the procedure may be implemented at any stage if the employee's alleged misconduct warrants such action;
- f. the responsibility for disciplinary action is delegated to the Human Resources Committee with rights of appeal to the Disciplinary and Grievance Appeal Panel.

3. Scope of Disciplinary Action

In determining the appropriate disciplinary action which is to be taken, the following range of options will normally be available, depending on the seriousness of the cases:-

- formal oral warning;
- formal written warning;
- final written warning;
- dismissal with notice;
- summary dismissal.

In exceptional circumstances, it may be appropriate to apply other sanctions in conjunction with the formal warning if the nature of the conduct so warrants or, as an alternative to dismissal. These may include:-

- demotion to a lower grade;
- transfer;
- suspension with or without pay.

4. The Procedure

- 4.1 The day-to-day managerial supervision and guidance of employees is a constant task and is largely outside the scope of this procedure. There will be occasions when it is appropriate for an employee's deficiencies to be explained through counselling without recourse to disciplinary procedures. Where, after counselling, improvement does not take place or a matter is of a more serious nature, then the formal disciplinary process will be implemented.
- 4.2 Where the deficiencies of the employee relate to capability or competence, particular emphasis is placed on the counselling function and, if appropriate, offers of relevant training or transfer to other suitable work should be considered.
- 4.3 Following the collection of the facts, the investigating officer, who will be appointed, shall decide whether there are grounds for holding a disciplinary hearing. If there are sufficient grounds to invoke disciplinary proceedings employees will be notified in writing inviting them to attend a disciplinary meeting to discuss the matter.
- 4.4 The time and place of the hearing will be notified and agreed with adequate time to prepare and attend. The venue of the meeting will be accessible. The employee must take all reasonable steps to attend this meeting.
- 4.5 Disciplinary meetings will normally be convened within 5 working days of the Council sending the employee the written statement referred to in 4.3 above. At any disciplinary hearing the employee will be invited to attend and will have the right to be accompanied by a trade union representative or a friend. No disciplinary action will be taken until the employee has been given the opportunity to explain their actions or omissions. If, following the hearing, it is decided to take disciplinary action, depending upon the nature of the case, the following action may be taken:-

- a. **Formal Oral Warning**

If the offence is considered to be minor or counselling has not led to any improvement in conduct or performance, a formal oral warning may be given by the Town Clerk. The employee concerned should be advised that this warning constitutes the first formal stage of the procedure and a record should be kept for reference purpose, shown to the employee who should sign the record. Under normal circumstances, a formal oral warning will be disregarded for disciplinary purposes after 6 months, subject to satisfactory conduct and performance.

The formal oral warning stage of the procedure may be omitted if the offence is of a serious nature.

- b. **Written Warning**

If the offence is a serious one, or counselling has not led to any improvements in conduct, a written warning may be given by the Town Clerk. This will give details of the complaint, the improvement required and any timescale specified during which that improvement must be achieved.

It will also inform the employee that if satisfactory improvement is not achieved and maintained, further disciplinary action will be taken which may ultimately result in their dismissal. The letter will advise the employee of the right of appeal. Under normal circumstances, a written warning will be disregarded for disciplinary purposes after 6 months, subject to satisfactory conduct and performance.

The written warning stage of the procedure may be omitted if the offence is of a sufficiently serious nature.

c. **Final Warning**

If there is a failure to improve and conduct or performance is still unsatisfactory or if the misconduct is sufficiently serious to warrant only one written warning but not sufficiently serious to justify dismissal (a first and final warning) a final written warning will be issued by the Town Clerk. This will give details of the complaint and warn that dismissal will result if there is no satisfactory improvement in 2 months. The letter will advise the employee of the right of appeal.

The Mayor and Chairman of Human Resources Committee will be informed, in confidence, of the issue of a final written warning.

Under normal circumstances, a final written warning will be disregarded for disciplinary purposes after 18 months, subject to satisfactory conduct and performance. If this period is to be varied in exceptional circumstances, the employee will be informed of this in the disciplinary letter.

d. **Dismissal (with notice)**

If the conduct or performance is still unsatisfactory and the employee still fails to reach the required standards, dismissal will normally result. All dismissals shall be dealt with by the Human Resources Committee. The employee will be provided with written details of the reasons for dismissal, the date on which employment will terminate and advised of the right of appeal.

- 4.6 In considering the level of disciplinary action to be taken due regard shall be given to the range of options available as listed in Section 3.
- 4.7 The Human Resources Committee shall be responsible where disciplinary action is to be taken against the Town Clerk.

5. Confidential Reporting

Any frivolous or malicious allegations, or an allegation made for personal gain, will be regarded as a serious disciplinary matter which could lead to dismissal.

6. Gross Misconduct

Gross misconduct is behaviour of such a nature that the Council cannot allow the continued presence at work of an employee. If a complaint is of so serious a nature that it may amount to gross misconduct, the matter shall be referred to the Human Resources Committee. In cases where there are grounds for doubt as to the suitability of an employee to continue to work or where suspension may assist in the completion of the investigations, the individual concerned may be suspended whilst investigations are being made or pending the outcome of a disciplinary hearing in accordance with the appropriate conditions of service.

7. Right of Appeal

Employees have the right of appeal against disciplinary action at each stage of the procedure. Letters confirming disciplinary action must include details of the employee's appeal rights. The appeal will be heard by the Disciplinary and Grievance Appeals Panel.