

SPENNYMOOR TOWN COUNCIL



DISCIPLINARY POLICY

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1. Introduction

- 1.1 Disciplinary rules and procedures are necessary for promoting fairness and order in the treatment of individuals and in the conduct of industrial relations. They also assist an organisation to operate effectively. Rules set standards of conduct at work. A procedure helps to ensure that the standards are adhered to and also provides a fair method of dealing with alleged failures to observe them.
- 1.2 Managers are responsible for maintaining discipline within any organisation and for ensuring that there are adequate disciplinary rules and procedures. The Council, therefore, as the employer, has formulated this document on this basis. Both the Council and the Trade Unions representing the workforce recognise that, to be fully effective, disciplinary rules and procedures need to be accepted as reasonable, both by those who are to be covered by them and those who operate them. This document, therefore, is agreed by both the Council, as an employer, and the appropriate Trade Unions as a reasonable and effective disciplinary procedure.
- 1.3 The procedure provides a framework for all employees and managers to work to. It is not possible to set out precise details to cover all eventualities. Rather it is intended to ensure fairness and objectivity as well as outlining the means by which disciplinary procedures will be applied.
- 1.4. It should be born in mind that counselling may often be a more satisfactory method of resolving problems than formal disciplinary action. Efforts should, therefore, be made by Managers where deterioration of performance standards/attitudes to work are encountered, to counsel the employee concerned before embarking on potential disciplinary action.

2. Basic Principles

- 2.1 No disciplinary action will be taken against an employee until the case has been fully investigated. It is the responsibility of managers to ensure, as far as is practicable, that an investigation into the allegations is carried out in a fair and thorough manner and all relevant detail is recorded.
- 2.2 At every stage of the procedure the employee will be advised of the nature of the complaint against him/her and will be given the opportunity to state his/her case before any decision is made.

- 2.3 Before any action a meeting will be arranged between the employee(s) concerned and the appropriate manager to discuss the situation. The employee shall be given the opportunity if he/she so wishes, of being accompanied by a Trade Union Representative or a colleague of his / her choice.
- 2.4 The employee concerned will be given a minimum of 48 hours' notice of such a meeting, together with details of the allegations.
- 2.5 These disciplinary procedures shall not apply in the case of employees whose employment is terminated because of unsatisfactory conduct or performance during a period of probation. Similarly, these procedures shall not apply to dismissal on the grounds of redundancy or the normal expiry of a fixed term contract.
- 2.6 Although disciplinary standards also apply to the conduct of Trade Union Officials as employees, no disciplinary action will commence against a Trade Union Official until the circumstances of the case have been discussed by the Town Clerk and with a more senior Trade Union representative or full time official.
- 2.7 Any disciplinary action involving a manager will be dealt with by the Town Clerk.

3. Procedure

- 3.1 Where an employee's work, conduct or omission, is such as to warrant disciplinary action, the appropriate manager should give the warning to the employee. The circumstances may be such that this could be a final warning.
- 3.2 This may be done orally, or in writing, depending upon the circumstances. In any case the warning will state the nature of the complaint. The Manager will inform the Town Clerk who will then confirm the warning in writing to the employee within 7 days that the warning has been recorded. Such notification will inform the employee of his/her rights of appeal.
- 3.3 The further commission of a similar act, or of a subsequent or different offence, may result in a further warning, which may be a final warning according to the circumstances. Any further warning will be confirmed in writing within seven days except in exceptional circumstances and will leave the employee in no doubt that the further commission of similar acts or omissions could result in dismissal. Such notification will inform the employee of his/her rights of appeal.

- 3.4 When the stage is reached, following investigation, that dismissal of the employee is a possible outcome of the disciplinary action being considered, the matter will be dealt with by the Town Clerk. Before taking any decision to dismiss an employee the Town Clerk shall carry out a full investigation. Upon completion of this investigation where the Town Clerk considers, on the balance of probability, a complaint, of misconduct is justified and may require serious disciplinary action, a disciplinary hearing will be arranged. The employee will be given a minimum of 48 hours advance notice of the hearing, told the purpose of it, with the nature of the alleged misconduct being outlined and invited to attend with a trade union representative or a colleague of his/her choice. Where statements have been obtained from witnesses, a summary of their contents will also be provided.
- 3.5 Any decision by the Town Clerk to dismiss an employee shall be notified in writing to the employee within seven days by the Town Clerk, and such notification will inform the employee of his/her rights of appeal.
- 3.6 Certain types of misconduct may lead to summary dismissal without previous warnings or notice. Any dismissal on the grounds of gross misconduct shall be made by the Town Clerk only after allowing the procedure set out in paragraph 3.4 above. In such cases the decision will be made after determining whether, in all circumstances, the conduct in question is such that the Council cannot reasonably allow the continued presence of the employee at the place of work.
- 3.7 Gross misconduct is misconduct of such a nature that the Council is justified in no longer tolerating the continued presence at the place of work of the employee concerned. Examples of offences of gross misconduct which can lead to dismissal include:-

Unauthorised removal/use of Council property

Acts of dishonesty

Sexual offences

Sexual misconduct at work

Harassment

Fighting

Physical assault

Falsification of time sheets, subsistence and
expenses claims, fraud and theft etc.

Malicious damage to Council property

- 3.8 This list is, neither exclusive nor exhaustive, there may be other offences of a similar gravity which would constitute gross misconduct.
- 3.9 In some cases where the nature of allegations and the potential consequences are serious some action may be necessary before a full investigation can be undertaken. In such cases the employee will be suspended from duty in order to allow time for a full investigation of all the circumstances. Whilst suspended employees will be paid an allowance which is not less than that under the appropriate National Agreement. The necessary investigation will then be completed as quickly as possible.
- 3.10 Where suspension is on less than full pay, in the event of the Town Clerk adjudging that the employee was not blameworthy, the suspension shall be terminated and the employee shall receive all monies to which he/she would have been entitled but for the suspension. If the employee is adjudged blameworthy but is allowed to continue in employment, the Town Clerk shall have discretion to reimburse monies lost during suspension. If the employee is dismissed he/she shall not be entitled to payment other than the sum due up to the date of suspension but shall be allowed to retain any sum already paid as suspension allowance during the period of suspension.

4. Alternative Dismissal

- 4.1 It is recognised that in some cases, whilst dismissal is a justifiable action, there may be mitigating circumstances. In such instances other forms of disciplinary action may be applied by the Town Clerk as an alternative to dismissal.

These can include:

- extended suspension without pay for up to one month,
- demotion,
- transfer,
- reduction in pay or grade etc.

In all cases where such action is proposed, the employee will have a right to refuse this alternative, accepting that dismissal will be the only remaining option.

5. Appeals

5.1 Employee(s) shall have a right of appeal if they consider that they have been unfairly dismissed or otherwise treated unfairly in respect of disciplinary action.

5.2 The purpose of an appeal process is to enable independent officers or in more serious cases, the Appeals Committee, to consider all of the circumstances of the case and the procedure followed. The appellant will have an opportunity to present his/her basis for appealing and the managers concerned will outline the reasons for their action. A decision can then be taken as to whether the outcome was appropriate and justified in the light of all of the issues involved.

5.2 (i) **Verbal/Written Warning**

In cases involving verbal or written warnings the appeal will normally be determined by the Town Clerk. In cases where the Town Clerk has previously been involved, arrangements will be made for an independent Personal Officer from another authority, to determine the appeal or an Independent HR consultant.

(ii) **Final Warning/Dismissal**

In cases involving final warnings or dismissal, an employee will be informed in writing that he/she has a right of appeal and that any such appeal shall be dealt with by the Council's Appeals Committee. Notification by the employee that he/she wishes to exercise a right of appeal must be made in writing within 14 days of the date of issue of the warning or notification of dismissal to the Appeals Committee.

5.3 The procedure to be followed by the Special Committee, when dealing with appeals, is set out in the Appendix to this procedure.

6. Expiry of Warnings

- 6.1 As outlined in paragraph 1 and 2 the purpose of the disciplinary action is to improve performance and apply a corrective process, which will benefit both the employee and the Council.
- 6.2 For this reason the disciplinary action will not remain valid forever. Given a positive approach by the employee the position will be reviewed and subject to satisfactory performance warnings will cease to be valid after the following time periods:-

Verbal warning	06 months
Written warning	12 months
Final Written warning	18 months

- 6.3 Towards the end of the above periods, the Town Clerk will consult the Managers concerned to ascertain whether or not a sustained improvement has been achieved.

The employee will then be informed in writing whether the warning is considered to be no longer valid or that further improvement is required before reconsideration of the situation.

7. Conclusion

- 7.1 The use of this disciplinary procedure is not intended as a means of imposing sanctions. It will be the aim of the Council in using these procedures and the Trade Unions in co-operating with them, to emphasise the more positive aspect of discipline and to encourage and make possible improvements in individual conduct and performance. The Council will make all attempts to be fair in every case and ascertain all the relevant facts prior to reaching a decision. The Trade Unions, on their part, recognise that the disciplining of employees is sometimes necessary and when done fairly, is in the interests of the workforces as a whole and on this basis agree to co-operate in the implementation of these procedures.

Procedure for Appeals

Procedure to Be Followed At a Local Hearing of Appeals Against Dismissal or Final Warning

- 1 The Council's Appeals Committee shall be the body which hears and determines relevant appeals arising out of the Council's disciplinary procedures. The Committee's decision shall be final insofar as the Council's internal processes are concerned.
 - (i) All appeals must be made by lodging an Appeal Form with the Town Clerk within fourteen days of dismissal/final warning,
 - (ii) The Appeals Committee shall have jurisdiction to deal with appeals on one or more of the following grounds only:
 - that the employee was not guilty of the conduct alleged against him/her;
 - that the disciplinary action by way of dismissal or final warning was unreasonable in the circumstances;
 - that the manner in which the employee was treated was procedurally unfair.
 - (iii) Evidence relating to any aspect of the employee's employment other than that which relates solely to the above-mentioned grounds shall be inadmissible during the hearing before the Appeals Committee.
 - (iv) The Appeals Committee shall not accept jurisdiction to determine appeals relating to the following:-
 - legal points or interpretation;
 - matters relating to the propriety of established procedural rules previously agreed with the relevant Union;

- any grievances or other disciplinary actions other than those currently appearing on the personnel record of the employee.
2. The employee shall be given notice in writing at least fourteen days in advance of the time and place of the hearing and shall be allowed to be represented by his trade union representative or some other person(s) of his/her choice and subject to paragraph 3 shall be entitled to call witnesses and produce documents relevant to their case at the hearing.
 3. Each party shall not, less than seven days before the date fixed for the hearing, disclose to the other the written statements of witnesses intended to be called at the hearing: no person shall give evidence at the hearing unless that person's written statement has been so disclosed.
 4. The Council's representative shall put the case in the presence of the appellant and his/her representative and may call witnesses.
 5. The appellant (or his/her representative(s)) shall have the opportunity to ask questions of the Council's representative(s) on the evidence called by him/her and any witnesses whom he/she may call.
 6. Members of the Special Committee may ask questions of the Council's representative and witnesses.
 7. The appellant (or his/her representative(s)) shall put his/her case in the presence of the Council's representative and to call such witnesses as he/she wishes.
 8. The Council's representative(s) shall have the opportunity to ask questions of the appellant and his/her witnesses.
 9. Members of the Appeals Committee may ask questions of the appellant and his/her witnesses.
 10. The Council's representative(s) and the appellant (or his/her representative(s)) shall have an opportunity to sum up their case if they so wish. The appellant shall have the right of final reply.
 11. The Council's representative(s) and the appellant and his/her representative(s) and Witnesses shall withdraw.
 12. The Appeals Committee, with the officer appointed as its Secretary, shall deliberate in private, only recalling the Council's representative(s) and the appellant and his/her representative(s) to clear points of uncertainty on evidence given. If recall is necessary, both parties are to return, notwithstanding only one is concerned with the point giving rise to doubt.

13. The Appeals Committee shall, wherever possible, announce its decision to the parties personally.
14. If it is not possible for the Appeals Committee to announce its decision personally on the day of the Appeals Hearing, then the Chairman of the meeting will write to all parties, as soon as possible after a decision has been reached, and within 7 working days.