



DISCIPLINARY POLICY AND PROCEDURE

Responsibility : Human Resources (HR) Committee

Review Cycle : Every three years, or earlier in the event of legislative changes

Date of Adoption: 20 June 2023

Disciplinary Policy and Procedure

Downham Market Town Council (the Council) believes the fairest way to resolve any problems relating to conduct or performance is to have a well-structured disciplinary policy and procedure. The procedure is designed to help and encourage all employees to achieve and maintain the Council's standards of conduct and performance. This should be looked at as a corrective process. For the avoidance of doubt, this procedure will be used for conduct, behaviour, performance and capability at work issues. This procedure applies to all employees the Council may employ.

This policy and procedure is not contractual and may be amended from time to time by the Council.

1. PRINCIPLES

1.1 Should an employee be subject to formal disciplinary action, they have the right to be informed in advance of the allegations of misconduct or poor performance, which will be raised at any formal disciplinary meeting.

1.2 Employees will always be given as much information as possible regarding the allegations of misconduct, or performance which will form the basis of a formal disciplinary meeting.

1.3 Wherever possible, formal meetings and hearings will be held during the employee's normal working hours.

1.4 Employees are expected to make all reasonable efforts to attend an investigation meeting, formal disciplinary meeting, or appeal hearing. Failure to attend any such meeting or hearing may result in it going ahead and a decision being taken in the employee's absence.

1.5 An employee may choose to submit written documents or statements instead of attending a formal disciplinary meeting or appeal hearing and must inform the Town Clerk of their intention to do so, at least 24 hours in advance of a scheduled meeting of hearing.

1.6 Any disciplinary action will only be taken after a full investigation of the facts.

1.7 An employee may be suspended on their normal rate of pay during an investigation should it be deemed appropriate. Any period of suspension is not intended to be punitive and will be kept as short as possible. A suspended employee should **not make contact** with other employees, or persons associated with the case, or return to the workplace unless instructed to do so. The employee will be advised of a named point of contact for the period of suspension.

1.8 Employees have the right to appeal any decision resulting from a formal disciplinary meeting. The appeal decision is final.

1.9 The Council reserves the right to deduct from pay the cost of any damage or loss of property or goods, which after a formal disciplinary meeting was found to have been caused by staff negligence or vandalism.

2. INVESTIGATION

2.1 An investigation is the process by which the Council will find out all it reasonably can about issues of concern. An investigation is to:

- . See if there is a case to answer
- . Make sure everyone is treated fairly
- . Gather evidence from all sides
- . Help the Council see what should happen next

2.2 An investigation should be conducted without unreasonable delay to establish the facts of the case. In some cases, this will require an investigatory meeting with the employee prior to a formal disciplinary meeting. In other cases the investigation will be the collation of evidence by the Council for use at a formal disciplinary meeting. Where an investigation meeting is necessary with an employee, whose performance or conduct is under investigation, the employee will be given at least 3 working days' notice of the meeting.

2.3 If a formal disciplinary investigation is required, The HR Committee will appoint an investigator who will be independent and may be an external consultant to ensure the investigation is fair and reasonable. Where possible, the person conducting the investigation will not be the same as the person conducting a formal disciplinary meeting.

2.4 An investigation meeting alone, will not result in a disciplinary section being applied. With the exception of a verbal warning, this can only be done as a result of a formal disciplinary meeting.

2.5 The investigator's report will contain their recommendations and the findings on which they were based. They will recommend either:

- . the employee has no case to answer and there should be no further action under the Council's disciplinary procedure;
- . the matter is not serious enough to justify further use of the disciplinary procedure and can be dealt with informally or
- . the employee has a case to answer and a formal hearing should be convened under the Council's disciplinary policy.

2.6 The investigator will submit their recommendations and report. At this stage, the HR Committee will only be made aware of the recommendations and NOT the report. The HR Committee will consider the recommendations and then decide upon the next course of action.

3. THE PROCEDURE

3.1 Minor Conduct

3.1a Minor conduct or performance concerns will be addressed informally by the Town Clerk. In the case of the Town Clerk, by the HR Committee. There is no requirement for the employee to be accompanied to the meeting between the employee and manager. Details of any discussion about the misconduct or performance will be put on the employee's individual HR record as a verbal warning for a period of 6 months. It is expected that improvements in conduct, or performance will be made by the employee with immediate effect. There is no appeal against the informal action.

3.1b Where the informal approach fails to bring the necessary improvement in conduct or performance, the formal procedure will be instigated.

3.1c If during the minor conduct discussion, it becomes obvious that the matter may be more serious, the meeting should be adjourned. The employee should be told that the matter will continue under the formal disciplinary procedure.

3.1d Formal disciplinary action may involve a first written warning, final written warning or dismissal. Where dismissal takes place for misconduct other than gross misconduct, appropriate notice, or pay in lieu notice, will be given.

4. FORMAL PROCEDURE

4.1 Stage One - First Formal Action

4.1a If an employee has a current verbal warning on file and the Town Clerk (** see below) has cause to raise further concerns about conduct or performance, or where the misconduct or poor performance is serious enough, the employee will be informed that First Formal Action, of this procedure, is being instigated. The employee will be informed in writing (including via email) of the area of concern and will be invited to attend a formal disciplinary meeting to discuss the matter, giving at least 3 working days' notice.

4.1b. The HR Committee will appoint a sub-committee of 3 councillors from HR. This will consist of the Chair, Vice Chair and 1 other from HR, to formally hear the allegations.

4.1c At the formal disciplinary meeting the problem will be discussed and the employee will be given the opportunity to offer a satisfactory explanation. If the explanation is unsatisfactory, a formal written warning will be issued. The Town Clerk (** see below) will confirm the standards of conduct or performance required with immediate effect. Any warning will also inform the employee that a final written warning may be considered if there is no sustained satisfactory improvement of change.

4.1d If, at the meeting, an employee's conduct or performance is sufficiently serious, it may be appropriate to move directly to a final written warning.

4.1e The employee will be advised of the outcome of the meeting in writing within 5 working days after the meeting. The letter will constitute a formal written warning under this procedure, and will include details of the employee's right to appeal against the warning. The warning will remain on file for 12 months.

4.1f Should the Town Clerk (** see below) have concerns about conduct, or performance while the formal warning is still in effect, Stage Two of this procedure will be instigated - Final Written Warning.

** (or in the case of the Town Clerk, the HR Committee)

4.2 **Stage Two - Final Written Warning**

4.2a If the offence is sufficiently serious, it may be justifiable to move directly to a final written warning. If there is further misconduct or a failure to improve performance during the currency of a prior warning, Stage Two of the procedure will be instigated, by the Town Clerk (** see below). The employee will be informed in writing (including via email) of the area of concern and will be invited to attend a formal disciplinary meeting to discuss the matter, giving at least 3 working days' notice.

4.2b. The HR Committee will appoint a sub-committee of 3 councillors from HR. This will consist of The Chair, Vice-Chair and 1 other, to formally hear the allegations.

4.2c At the formal disciplinary meeting the problem will be discussed, and the employee will be given the opportunity to offer a satisfactory explanation. If the explanation is unsatisfactory, the employee will be issued with a formal final written warning. The Town Clerk (** see below) will confirm the standards of conduct, or performance required with immediate effect.

4.2d A letter summarising the discussion will be given to the employee within 5 working days of the meeting. This letter will constitute a formal final written warning under this procedure and remain on file for 12 months. It will warn that failure to

improve may lead to dismissal and will include details of the employee's right to appeal against the warning.

(Or in the case of the Town Clerk, the HR Committee)

4.3 GROSS MISCONDUCT DISMISSAL

Gross misconduct is generally seen as misconduct serious enough to overturn the contract between the employer and the employee thus justifying summary dismissal. If the offence is a matter of gross misconduct, or if there is still further misconduct or failure to improve performance the final step in the procedure may be dismissal.

4.3a The employee will be informed in writing (including via email) of the area of concern and will be invited to attend a formal disciplinary meeting to discuss the matter, giving at least 3 working days' notice.

4.3b. The HR Committee will appoint a sub-committee of 3 councillors from HR. This will consist of The Chair, Vice-Chair and 1 other, to formally hear the allegations.

4.3c The employee will either be advised verbally of the outcome at the end of the meeting, after an adjournment, or will be advised in writing after the meeting if further consideration is necessary. In the event of a dismissal, the employee will receive confirmation in writing within 5 working days, stating the reason(s) for this action and confirming the effective date of the dismissal and their right of appeal.

5 APPEAL

5.1a If an employee wishes to appeal against a decision to issue a formal warning or terminate the contract of employment, the Town Clerk (** see below) must be notified in writing, within five working days of receiving the confirmation of the disciplinary action, clearly detailing the reasons for the appeal.

5.1b If the employee has new information or evidence to support an appeal, details must be given in full and include the names of witnesses that may be called to support their appeal. This is in order that there will be sufficient time to investigate any additional information before the appeal hearing.

5.1c An appeal hearing will be heard as soon as reasonably practicable from the date of the receipt of the employee's appeal letter, but allowing for reasonable time to carry out any further investigations necessary. Where possible, an appeal hearing will be chaired by a panel of 3 councillors, including The Mayor and Deputy Mayor, who will not have previously been involved in the the disciplinary action. Where this is not possible, the HR Committee may nominated a suitable person or an external HR consultant.

5.1d If the appeal is successful, the warning will be withdrawn or the individual will be reinstated. If the appeal is unsuccessful the employee's warning or dismissal will stand, and this decision is final.

(**or in the case of the Town Clerk, the HR Committee)

5.1e The severity of any disciplinary action cannot be increased as a result of an appeal hearing.

5.1f The Chair of HR will write to the employee as soon as reasonably practicable from the date of the appeal hearing confirming the outcome of the meeting.

6. RIGHT TO A COMPANION

6.1a At any formal disciplinary meeting or disciplinary appeal hearing, employees are entitled to be accompanied by a fellow employee, or a fully trained and certified trade union official or union representative if they are a member of a union. Employees must inform the Council of the name and position of a chosen companion prior to any meeting or hearing.

6.1b If a chosen companion is not available at the time proposed for the meeting or hearing, the employee may delay the meeting/hearing, provided that they propose an alternative time and date within 5 working days of the date of the original meeting or hearing. If the chosen companion is not available to attend within this timeframe, an alternative companion must be chosen who is able to attend the meeting or hearing.

6.1c A companion can provide support to set out the employee's case, respond for the employee to any comments or points made at the meeting/hearing, talk with the employee, take notes and sum up the employee's case at the end of the meeting/hearing. However, any notes taken by a companion will not form part of the official record. A written confidential record will be taken by a representative of The Council at all meetings and hearing.

6.1d The right to a companion does not apply to investigation meetings.

7. EXAMPLES OF MISCONDUCT

7.1a Gross misconduct is misconduct which is so serious that it may lead to dismissal without notice. **Examples of gross misconduct includes, but is not limited to:**

- . Deliberate falsification of records, dishonesty, fraud or theft;
- . Breach of Council confidentiality;
- . The committing of offences against current discrimination legislation whilst acting on behalf of the Council;
- . Fighting or assaulting another person;

- . Making yourself unfit for work by solvent abuse, drinking alcohol, taking of illegal substances or failing to follow medical instructions on prescribed drugs;
- . Being in possession of illegal drugs and substances or alcohol whilst on Council premises or during normal working hours;
- . Being in unauthorised possession of the Council's property;
- . Behaviour likely to bring the Council into disrepute;
- . Wilful and deliberate damage to or misuse of Council property;
- . Conviction of a criminal charge that is relevant to your employment with the Council;
- . The misuse including for personal gain, of confidential information in the course of working for the Council;
- . Undertaking private work without permission, during paid Council time;
- . Harassment (sexual, racial or by reason of another's disability) or bullying behaviour;
- . Using threatening, offensive or obscene language, or making comments which may reasonably be expected to cause offence, towards or in your interactions with members of the public or other employees;
- . Inappropriate or unwanted physical contact with another employee, member of the public or any visitor to the Council;
- . Deliberate failure to comply with or serious disregard of the published rules of the Council, including those covering security, health and safety, equal opportunities and compliance;
- . Serious breach of the Council's policies and rules, including the health and safety policies and rules;
- . Negligence resulting in potential serious loss, damage or injury;
- . Public and deliberate refusal to carry out a reasonable request made by, or serious insubordination;
- . Failure to follow Council procedures concerning the handling of money or other valuables;
- . Serious breach of the rules relating to the use of computers, e-mail or the internet;
- . Breach of the Council vehicle policy, including using a Council vehicle for personal reasons without consent.

7.1b **Serious misconduct includes, but is not limited to:**

- . Refusal to carry out a reasonable request or instruction;
- . Unauthorised absence from work;
- . Negligence resulting in potential minor loss, damage or injury.

7.1c **Minor misconduct includes, but is not limited to:**

- . Unsatisfactory conduct, performance or reliability;
- . Persistent lateness;
- . Failure to maintain an acceptable standard of dress;
- . Poor standard of personal hygiene.

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