

Swaffham Town Council

DISCIPLINARY POLICY AND PROCEDURE

1.1 Introduction

Swaffham Town Council aims to ensure that there will be a fair, systematic and consistent approach in the enforcement of standards of conduct and performance in the workplace. By adhering to this Disciplinary Policy, which has been aligned to the ACAS Disciplinary Code of Practice, the Council endeavours to resolve all matters quickly, efficiently, fairly and as near as possible to the point of origin

All employees are expected to maintain a reasonable standard of conduct and performance at all times. Where this does not occur, the Council reserves the right to commence disciplinary proceedings.

Employees will not usually be dismissed for a first act of misconduct except in cases regarded as gross misconduct, which will normally result in summary dismissal. The penalty for gross misconduct will normally be dismissal without notice and without pay in lieu of notice. Examples of misconduct/gross misconduct are provided below.

Depending on the circumstances, it may be appropriate for an employee to be suspended from work while an alleged disciplinary offence is investigated. Suspension will be on basic pay and will be entirely without prejudice.

1.2 Policy Objectives

In the event of disciplinary proceedings, the purpose of the policy is to:

- support the effective and efficient running of the Council by maintaining reasonable standards of performance and conduct;
- ensure consistency and fairness of approach;
- ensure that employees understand both the process and the potential outcomes of any disciplinary proceedings.

1.3 Informal Discussions

Wherever possible, management will attempt to resolve on-going issues and concerns through informal discussions.

Minor conduct issues can often be resolved informally between the employee and their Line Manager. These discussions should be held in private and without undue delay whenever there is cause for concern. Where appropriate, a note of any such informal discussions may be placed on the employee's personnel file but will be ignored for the purposes of any future capability hearings.

Where the issue/s or concerns involves the Town Clerk, then the Chair of HR or Town Mayor will carry out the informal discussion.

However the Council accepts that some disciplinary offences, for example those that may be deemed to be acts of gross misconduct, will not be resolved informally.

1.4 Stage 1 – Investigation

Whenever disciplinary action is contemplated, the relevant manager (or Investigating Officer) will make a reasonable investigation of the circumstances first. This will normally involve the employee being interviewed, being advised of what is being alleged against them, and being advised of any rights under the procedure; this will include informing the

relevant manager (or Investigating Officer) of the names of any relevant witnesses, disclosing any relevant documents. The Line Manager will normally investigate and will set out a provisional timetable for the investigation, which will be communicated to all parties. The investigation will be thorough, impartial, and objective.

An employee has the right to bring a companion to an investigative interview; these interviews are solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held.

Where the investigation involves the Town Clerk, then the Chair of HR or Town Mayor will be the Investigating Officer, or an External HR Officer may be appointed, depending on the circumstances.

1.5 Suspension

Depending on the circumstances, it may be appropriate for an employee to be suspended from work while an alleged disciplinary offence is investigated. Suspension of this kind is not a disciplinary penalty and does not imply that any decision has already been made about the allegations.

Suspension will be on basic pay and will be entirely without prejudice, and for no longer than necessary.

While suspended you should not visit our premises or contact any of our clients, customers, suppliers, contractors, or staff, unless you have been authorised to do so by your line manager.

1.6 Criminal Charges

Where your conduct is the subject of a criminal investigation, charge or conviction the relevant manager will investigate the facts before deciding whether to take formal disciplinary action.

A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if we consider that it is relevant to your employment.

1.7 Stage 2 – Disciplinary Hearing Notification

Following any investigation, if there are grounds for disciplinary action, the employee will be required to attend a disciplinary hearing. The employee will be informed in writing of the allegations and the basis for those allegations, and what the likely range of consequences will be if it is decided after the hearing that the allegations are true. The following information will also be included the following where appropriate:

- A summary of relevant information gathered during the investigation;
- A copy of any relevant documents which will be used at the disciplinary hearing; and
- A copy of any relevant witness statements, except where a witness's identity is to be kept confidential;
- Written notice of the date, time and place of the disciplinary hearing. The hearing will be held as soon as reasonably practicable, allowing a reasonable amount of time to prepare a case based on the information provided;

If the employee or their companion cannot attend the hearing, they should inform the Line Manager immediately and to arrange an alternative time. Employees must make every effort to attend the hearing, and failure to attend without good reason may be treated as misconduct. Where an employee refuses or is unable to attend a disciplinary hearing, without good reason, the Council reserves the right to hold the hearing in the employee's absence.

1.8 Stage 2 – Disciplinary Hearing Procedure

A disciplinary hearing will normally be conducted by a more senior Manager. Where necessary an HR Officer may be instructed to support this process. Any member of

management responsible for the investigation of the disciplinary offence(s) shall not be involved in making decisions about the outcome of a disciplinary hearing, although such managers may be present within the hearing to provide their disciplinary investigation conclusions, plus any supporting facts and material. The employee will be entitled to be given a full explanation of the case against him/her, and to set out his/her case, and answer any allegations. Both the employer and the employee are entitled to call witnesses where this is relevant but must give reasonable notice to the other party of who will be attending and provide any written statements in advance.

The employee will be given the opportunity to respond to any information given by a witness.

The disciplinary hearing may be adjourned if further investigations need to be carried out, such as re-interviewing witnesses in the light of any new points that have raised at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

As soon as possible after the conclusion of the disciplinary hearing, the employee will be informed in writing of what disciplinary action, if any, is to be taken. Where possible an explanation will be given to the employee in person.

1.9 **The Right to be Accompanied** ~~Role of Companion~~

Employees have the right to be accompanied by a colleague or trade union representative (normally internal to the Council) at all stages of the procedure and are expected to inform the employer in advance if a companion will be attending who the chosen companion is, in good time before the hearing.

The employee's chosen companion has the right to address the hearing to put forward the employee's case, sum up the case and respond on the employee's behalf to any view expressed at the hearing. The companion may also confer with the employee during the hearing. However, the Council will not permit the companion to answer questions on behalf of the employee, or to address the hearing where the employee indicates that he/she does not wish this.

1.10 **Potential Outcomes of a Disciplinary Hearing**

There are five possible outcomes of a disciplinary hearing:

1. **No action being taken.** When it is decided there was no misconduct or performance issue and the end of the disciplinary procedure.
2. **Verbal warning.** If the misconduct or performance issue was found to be small and not serious, the employer might just have an informal talk with the employee.
3. **First written warning.** It will usually be appropriate for a first act of misconduct where there are no other active written warnings on an employee's disciplinary record.
4. **Final written warning.** It will usually be appropriate for:
 - Misconduct where there is already an active written warning on your record; or
 - Misconduct that is sufficiently serious to warrant a final written warning even though there are no other active warnings on the employee's record.
5. **Dismissal.** It will usually only be appropriate for:
 - Any misconduct during an employee's probationary period;
 - Further misconduct where there is an active final written warning on an employee's record; or
 - Any gross misconduct regardless of whether there are active warnings on record.
 - Gross misconduct will usually result in immediate dismissal without notice or payment in lieu of notice (summary dismissal).

A warning will normally state:

- why it was given;
- what improvement is required and, if appropriate, over what period;
- what action will be taken if there is not the required improvement in performance/conduct, or the action if a particular reoccurrence should happen;
- how long it will be kept on file.

A report of the warning(s), **verbal or written**, will be entered in the employee's personnel file detailing the nature of the breach of disciplinary rules, of the action taken and reasons for it, the date action is taken, whether an appeal is lodged, its outcome, and any subsequent developments.

Warnings will be disregarded after a period of satisfactory conduct/performance, which is set by management. The set period will be dependent upon the severity of the breach.

1.11 Alternatives to Dismissal

Where a final warning is given to an employee the Council may also impose on the employee:

- demotion;
- transfer to a different job.

The above sanctions may be imposed in conjunction with other forms of disciplinary action, or as an alternative to dismissal.

1.12 Stage 3 – Appeal

Any employee has the right to appeal against any disciplinary action taken against them. This must be sent in writing to the ~~Town Clerk~~ **Chair of the Hearing Panel** within five working days of the disciplinary sanction being imposed against them.

When lodging an appeal, the employee should state **in a letter or email**:

- the grounds of appeal; (for example, the employee could ask for another investigation to be carried out or look at the new evidence that the employee has found)
- whether he/she is appealing against the finding that he/she has committed the alleged act or acts of misconduct, or against the level of disciplinary sanction imposed.

If an employee raises any new matters in their appeal, further investigations may need to be carried out. written notice of the date, time, and place of the appeal hearing., will be given to the employee, who will have the right to be accompanied by a companion or union representative.

Appeal hearings will normally take place within 14 days of receipt of the employee's written notice of appeal. Appeals will be heard **by an appropriate Appeals Panel** who were not involved in the original disciplinary action. The decision reached following an appeal will be final.

The appeal hearing may be a complete re-hearing of the matter or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light. In any event the appeal will be dealt with as impartially as possible.

Following the appeal, the decisions may be:

- Confirm the original decision;
- Revoke the original decision; or
- Substitute a different penalty.

1.10 Notes

The time schedule in this procedure will be subject to individual commitments and may be extended by mutual agreement of both parties.

The Council reserves the right to engage an independent equivalent to conduct any of the stages above, where management are not able to do so for any reason.

1.11 Confidentiality

Proceedings in investigations, disciplinary interviews/hearings and appeal hearings shall remain strictly confidential.

Appendix 1

Examples of 'Gross Misconduct' are:

- theft of Council, customer's, or another employee's property;
- unauthorised removal of Council, customer's, or another employee's property from Council or customer's property or sites;
- vandalism to Council, customer's, or another employee's property;
- fighting, provoking or instigating a fight on Council premises or whilst working for the Council;
- incapacity at work due to intoxicants or non-prescribed drugs;
- gross negligence;
- possession of an offensive weapon on Council premises or whilst working for the Council;
- disclosing or attempting to disclose confidential Council information to competitors or potential competitors;
- violation of safety rules, or disregarding safety of themselves or others;
- disclosing information in bad faith or to intentionally disrupt the Council etc;
- falsification of any document e.g. time sheet or attendance record;
- wilful refusal to comply with a lawful and reasonable management request;
- discrimination, harassment or bullying whilst working for the Council;
- sexual misconduct at work;
- bribery offences under the Bribery Act 2010.

Examples of behaviour or events that normally result in a warning but may, depending upon the seriousness of the circumstances, result in dismissal are:

- verbal abuse to customers, colleagues or management;
- misuse of Council or customer's property;
- absence from the job without reasonable cause or permission;
- frequent lateness and/or absence;
- performance that is considered to be consistently unsatisfactory;
- disregard or abuse of any Council policy.

N.B. The above lists of examples are not exhaustive lists. Management reserves the right to include other behaviour/events that may warrant disciplinary action.