

Wirksworth Town Council



Disciplinary, Grievance & Whistle-blowing Policies & Procedures

Policy – Adopted 17/12/18
Minute C120/18

This policy will be reviewed annually
at the Annual Town Council Meeting

DISCIPLINARY RULES AND PROCEDURES

1. DISCIPLINARY RULES:

The Council has a formal locally agreed disciplinary procedure, and to promote good industrial relations, it is necessary to demonstrate that individual employees will be treated fairly, reasonably and consistently. Therefore rules are necessary to ensure equity of treatment and the Council's disciplinary rules are detailed below.

Disciplinary action normally relates to behaviour at work and, exceptionally, where misconduct outside work has a direct relationship with the employee's duties or amounts to a frustration/breach of contract on the part of the employee.

(a) **GROSS MISCONDUCT** is behaviour of such a nature that continued employment would not be reasonable in all the circumstances. Dismissal is instant and no notice need be given. The following acts and offences of a like nature are regarded as gross misconduct and have, in the past, led to local authority employees being dismissed. In no way are these examples exhaustive:

- (i) Theft, or attempted theft, from the authority, or its employees;
- (ii) Malicious damage to, the property of the council, or any other unlawful act which involves the said property;
- (iii) Deliberate falsification of time sheets, or other records of working hours, expense claims, bonus documents etc;
- (iv) Willful disregard of instructions concerning the collection, transfer, security and paying in of monies;
- (v) Willful action or serious negligence which endanger life or limb including deliberate damage to equipment or significant breach of Health & Safety regulations involving serious risk to employees, other people or to property;
- (vi) Sexual misconduct or harassment;
- (vii) Racial harassment;
- (viii) Inciting racial hatred;
- (ix) Discrimination against an employee or member of the public on the grounds of race, ethnic origin, religion, sex, disablement, sexual orientation or marital status;
- (x) Being under the influence of alcohol or drugs at work to the extent that the employee's ability to properly perform his/her duties is impaired;
- (xi) Fighting, acts of violence and physical intimidation;
- (xii) Breaches of confidence that may have serious consequences eg disclosure of information confidential to the council, conflicts of interests etc (except in accordance with the council's confidential reporting ("whistleblowing") policy;
- (xiii) Criminal offences and/or conduct of such nature (whether on or off duty) that the employee would be unsuitable to carry out his/her duties.

- (b) **SERIOUS MISCONDUCT** is conduct of such a kind to warrant disciplinary action rather than dismissal for a first offence. A proven case of serious misconduct can result in dismissal with notice, or the issue of a final written warning. This could be as a result of the culmination of a series of disciplinary offences.
- (c) **OTHER MISCONDUCT** is conduct that necessitates the issue of a written warning or verbal warning for breaches of the council's rules and procedures which do not constitute gross or serious misconduct.

2. DISCIPLINARY PROCEDURE:

- (a) The procedure in general contains the following elements but are not necessarily sequential. Depending on the nature of the disciplinary offence the following sanctions are possible:
 - (i) verbal warning
 - (ii) written warning
 - (iii) final written warning
 - (iv) dismissal

Alleged gross misconduct will lead to suspension and possible dismissal.

- (b) In all cases of alleged misconduct which requires a disciplinary hearing the employee will be advised of the allegation in writing, the date and time of the hearing and that they have a right to be represented at the hearing.
- (c) No disciplinary action shall be taken against any employee acting as a Trade Union Official until the circumstances of the case have been discussed with a full time district or area official of the union concerned.
- (d) An employee may be suspended from duty by the Chairman of the Council, or, in his absence, by the Clerk, either to enable investigations to be made where the possibility of dismissal may arise, or where there are grounds for criminal proceedings to take place.
- (e) Confirmation of an alleged offence will result in the employee and their representative, if represented, being advised at the hearing of the sanction to be imposed. This will be confirmed in writing. The employee will be advised of their right of appeal.
- (f) An employee wishing to exercise their right of appeal should notify the council within one month of receipt of the confirmatory letter of disciplinary action.

NB: The procedure does not apply to notice given under the following circumstances:

- (i) On expiry of contract for which an employee has been specifically engaged;
- (ii) In the event of redundancy;
- (iii) Where the employee is still covered by a probationary period of service and dismissal arises from unsuitability for confirmation of appointment.

3. REMOVAL OF DISCIPLINARY RECORDS:

The timescale for the removal of disciplinary records from personal files is as follows:

<i>Type of misconduct</i>	<i>Action</i>	<i>Timescale on file</i>
1. Gross Misconduct	Instant dismissal without notice	In perpetuity
2. Serious Misconduct	Final written warning. Dismissal with notice	Expunged after 3 years
3. Other Misconduct	Verbal warning Written warning	Expunged after 6 months Expunged after 12 months
Not proven		Expunged immediately. Employee to be advised
Appeal		Expunged if appeal successful otherwise as 1, 2 or 3

PROCEDURE FOR SETTLING A GRIEVANCE

OVERVIEW

A grievance is a concern, problem or complaint which is raised by an employee if they feel unhappy about an aspect of their work or treatment they have received.

PROCEDURE

1. Where an employee is aggrieved on any matter he/she should discuss the matter initially with the Town Clerk.
2. The Town Clerk should reply orally to the grievance as soon as possible, and in any case within seven days.
3. If the employee is dissatisfied with the reply, he/she should report his/her grievance to his/her trade union representative who may then raise the matter with the Chairman of the Council. Where an employee is not a member of a trade union or staff organisation he/she should be allowed personally to make representations to the Chairman of the Council.
4. The Chairman of the Council should reply to the complaint as soon as possible and in any case within seven days.
5. If the complaint is not satisfactorily resolved at this stage, the Town Council is recommended to try and settle the matter, where practicable, through the machinery of the appropriate Joint Consultative Committee.
6. The matter to end at employing authority level except where it is agreed between the parties that an important issue of principle arises which could be considered through the conciliation machinery.

WHISTLEBLOWING POLICY & PROCEDURE

POLICY

The Council believes that all employees are entitled to work in an environment free from fear and oppression.

The council wishes to encourage any employee, regardless of their role or position in the organisation, to speak out where they believe there may be fraud, malpractice or illegal activities occurring. Examples may be theft of council property or cash, harassment of other staff, accepting substantial gifts for favouring external contractors etc.

PROCEDURE

- (a) **Reporting Procedure:** If an employee identifies that fraud, malpractice or illegal activities are taking place then they must raise their concerns with the Clerk. If it is not appropriate to refer the matter to this officer, then it should be raised with either the Chairman of the Council, or a trade union representative. Where the trade union is approached, then it will be the responsibility of the representative to report the matter to the relevant officer. If an employee has any firm evidence of their concerns, this should also be brought to the attention of the person to whom the matter is reported.
- (b) **Confidentiality:** Every effort will be made to protect confidentiality and to deal with complaints in a sympathetic and sensitive manner with understanding and support.
- (c) **Supporting Advice:** Where appropriate, internal and external advice and assistance will be obtained to follow up a complaint. This may involve audit, legal and/or the police. Where practicable steps will be taken to preserve confidentiality and the safety of complainants from possible reprisals.

REPRISALS/VICTIMISATION

In circumstances where intimidation, victimisation or reprisals takes place towards an employee who has raised concerns, then this will be treated as gross misconduct under the disciplinary rules.

UNFOUNDED AND MALICIOUS COMPLAINTS

In circumstances following an investigation into a complaint which, in the reasonable opinion of the investigating officer, shows the complainant made frivolous, deliberately or recklessly unfounded or malicious allegations, then they will be subject to disciplinary hearing that the complaint was motivated by malice, and this will normally be treated as gross misconduct, and the complainant will be dismissed.