



ALFRETON TOWN COUNCIL EMPLOYEE DISCIPLINARY PROCEDURE

Alfreton Town Council's disciplinary procedure aims to establish a fair and consistent approach where an employee's work or conduct is unsatisfactory. It ensures that appropriate standards are maintained and that care is taken to help employees become effective again where previously their conduct/performance has been questioned.

It is Alfreton Town Council's intention that the procedure is published and all employees made aware of their rights and obligations.

Whilst supervising other employees, it is often necessary for supervisors and managers to provide guidance on general behavior and to correct such employees in the manner in which they carry out their duties. Such action is not considered to be disciplinary action within the terms of the disciplinary procedure. It is an effort to encourage the employee to improve their standard of work or conduct.

Role of Elected Members

Elected members should not take part in day to day management/supervision. If members require information they are entitled to a speedy and courteous response. Any complaints about employees should be made to the Town Clerk (*Chair of Personnel, in the case of the Town Clerk*))

Disciplinary investigation

Before implementing the disciplinary procedure, it should be ensured that there is a fact-finding exercise to establish whether there is a need to arrange a disciplinary hearing.

Employees who are interviewed as part of an investigation may be accompanied by a representative if they so wish.

Where a complaint arises the disciplinary investigation will be undertaken as follows:

Complaint against the Town Clerk	Investigated by Chair of Personnel with advice from an independent person.
Complaint against other employee	Investigated by Town Clerk

Disciplinary hearing:

Where the investigating officer considers that the complaint should proceed to a disciplinary interview. A panel will hear the complaint presented by the investigating officer.

Employees will be given reasonable notice and relevant information relating to the complaint to enable them to prepare their case.

Employees will be informed of their right to be accompanied by a Trade Union or other representative.

This is the formal stage of the procedure, which allows employees to be given adequate opportunity to explain and defend themselves in relation to an alleged disciplinary offence.

Witness statements/ evidence will be considered by both sides. During the disciplinary hearing requests by either side for a short recess will be accommodated to ensure fairness and sensitivity.

The complaint will be made, the employee will be able to respond there will be the opportunity to sum up.

The Panel will then make their decision and present their findings in no less than 5 working days.

The Panel will comprise as follows:

Complaint against the Town Clerk	3 elected members (not the Town Mayor, Deputy Town Mayor or Leader) who to date have taken no part in the process nor are they to be involved in the complaint, with advice from. an independent person
Complaint against other employee	3 elected members (not the Town Mayor, Deputy Town Mayor or Leader), who to date have taken no part in the process nor are they to be involved in the complaint, with advice from the Town Clerk

Disciplinary procedure for all employees

(Matters relating to the Town Clerk are in italics or specified in detail)

Where an employee's work or conduct are such as to warrant disciplinary action the Town Clerk (*Chair of Personnel who will have carried out an investigation*) will notify the employee verbally of the nature of the complaint and its implications.

The complaint will be confirmed in writing and the employee invited to attend a disciplinary hearing. Employees will be given reasonable notice and relevant information relating to the complaint to enable them to prepare their case.

Employees will be informed of their right to be accompanied by a Trade Union or other representative at all stages of the disciplinary procedure.

Should any disciplinary action be considered and effectively withdrawn, any written reference to it will be removed from the employee's file. The employee will be notified accordingly.

If the Employee's conduct or performance does not meet acceptable standards the Town Clerk (*Chair of the Disciplinary Panel with advice from an independent person*) will take disciplinary action and issue the employee with a warning as follows:

First offence of a similar or related nature	Verbal warning/First written warning
Second offence of a similar or related nature	First or second written warning
Third offence of a similar or related nature	Second written warning or final written warning
Fourth offence of a similar or related nature	Final written warning or dismissal
Fifth offence of a similar or related nature	Dismissal

Dismissal or other disciplinary action will be confirmed by a letter and delivered by hand or recorded delivery. The letter will state the grounds for the action taken and will confirm that the employee may appeal by following Alfreton Town Council's procedure for hearing of appeals.

Appeals

Employees will be allowed to appeal at any stage in the disciplinary process with his/her Trade Union or other Representative, to present their case.

If an employee wishes to appeal against any form of disciplinary action taken. He/she must notify the Town Clerk (*Town Mayor*) within ten working days of receipt of the disciplinary warning.

If the employee is notified of the termination of his/her employment on disciplinary grounds the employee must state his/her intention to appeal within four weeks of receipt of that notification.

An Appeals Sub-Committee comprising The Town Mayor, Deputy Town Mayor and Leader will hear appeals.

Their decision will be final.

Gross Misconduct

Following investigation, matters of gross misconduct may lead to dismissal immediately after the disciplinary hearing.

Suspension

An employee's contract of employment may be suspended for any of the following reasons:

- a) To enable investigations to be made.
- b) Where there are grounds for doubt as to the employee's suitability to continue working pending criminal investigation.
- c) Where there is a possibility of dismissal.
- d) As an alternative to immediate dismissal.

During the period of suspension the employee will be paid an allowance equal to full pay.

If an employee is later dismissed, he/she will only be entitled to the sum of the salary due up to the date of suspension, but he/she will be allowed to retain any sum already paid as a suspension allowance during the period of suspension.

In cases where a serious disciplinary case, is considered, as a result of the hearing the employee may:

- a) Be reinstated with no loss of earnings.
- b) Be instantly dismissed.
- c) Be dismissed with notice.

Employees may only be suspended as follows:

Town Clerk	By Chair of Personnel
Other Employees	By the Town Clerk

Suspension should not last more than one month, other than by reference to The Town Clerk or in the case of the Town Clerk an independent person.

Disciplinary action against a Trade Union Official

No disciplinary action should be taken against a Trade Union Official until the circumstances in the case have been discussed the full-time official of the Trade Union concerned.

This procedure does not apply to notice given on termination of employment for which an Employee has been specifically engaged.

Where less than 6 months probationary service has been completed and dismissal arises from unsuitability for confirmation of appointment.

Gross misconduct

Gross Misconduct is defined as misconduct of such a serious nature that the Council is justified in treating it as a reason for terminating employment without notice.

Employees will be dismissed without notice unless there are any acceptable mitigating circumstances. **Examples** of gross misconduct relating to all employees include:

- Unauthorised removal, possession or theft of property (including misuse of vehicles) belonging to the Council, a fellow employee, client or members of the public.
- Acts of violence including the physical assault of a fellow employee, client or member of the public.
- Deliberate falsification of qualifications or information, which are a statutory or essential requirement of employment or which result in additional remuneration.
- Malicious damage to property that belongs to the Council, a fellow employee, a client or member of the public.
- Being under the influence of drink or drugs sufficient to affect work performance significantly.
- Absence from the work place without permission for a significant amount of time
- Deliberate falsification of time sheets, subsistence, mileage and other expense claims etc.
- Acceptance of bribes or other corrupt practices.
- Deliberate unauthorised disclosure of confidential information (including breaches of the Data Protection legislation/Information Technology Security Rules).
- Gross negligence in the performance of duties.
- Conviction of a criminal offence whether or not involving an incident occurring in the course of employment of such a nature that it is unacceptable for the employee to remain in their post e.g. a cashier convicted of theft, a driver convicted of driving under the influence of drink or drugs. (NB: While no guarantee of continued employment in another and suitable capacity can be given, the possibility will be investigated).
- Serious breaches of safety rules including deliberate damage to or misappropriation of safety equipment.
- Engaging in work or activities incompatible with absence on sick pay.
- Deliberate or malicious discrimination against a fellow employee, client, or member of the public so as to treat them less favourably in any matter relating to their employment or the provision of services to them on account of their race, sex or disability.

The great majority of breaches of discipline will not be sufficiently serious to warrant summary dismissal. Certain types of offences will however warrant the issue of a warning and examples of such offences are listed below. In addition, if such offences are committed and if a final warning (for this or another type of offence) has previously been given, then

unless there are acceptable mitigating circumstances, the employee will be dismissed.

- Refusal to obey legitimate instructions from senior employees.
- Negligence in the performance of duties.
- Bad timekeeping
- Swearing at or abuse of members of staff, clients or members of the public.
- Accessory to a disciplinary offence.
- Breach of safety rules.
- Non-compliance with sickness reporting and sickness pay schemes.
- Inadequate performance of the type of work which an employee is engaged to undertake.
- A series of minor offences.
- Discrimination, other than that done deliberately or maliciously, against a fellow employee, client, or member of the public so as to treat them less favourably in any matter relating to their employment or the provision of services to them on account of their race, sex or disability.
- Harassment of a fellow employee, client or member of the public. Harassment is behaviour towards another person, whether on a number of occasions or in a single serious instance, so as to make them feel threatened, humiliated or distressed on account of their race, sex, disability or other personal characteristic.

In some cases the degree of the misconduct (for example in matters of harassment and discrimination could mean that after investigation the matter could be considered Gross misconduct

LOCAL APPEAL HEARING

Procedure to be followed at Local Hearing of Appeals Against Dismissal or other Disciplinary Action

All Employees

1. The Employee will be given five working days notice in writing and advised of the time and place of the hearing. The Employee will be allowed to be represented by his/her Trade Union Representative or other Representative, call witnesses and produce documents relevant to his/her defence at the hearing.

Opportunity for Recess

During the hearing, should there be a request for a temporary recess by either side, this should be accommodated to ensure fairness and sensitivity.

2. The Council's representative(s) will state the case in the presence of the Employee and his/her representative.

3. The Employee (or his/her representative) will have the opportunity to ask the Council's representative and witnesses questions on the evidence given.

4. The Appeals Sub-Committee 5. In the presence of the Council's representative, the Employee (or their representative) will state his/her case and may call witnesses to defend.

6. The Council's representative will have the opportunity to ask the Employee and his/her witnesses questions.
7. The Appeals Sub-Committee may ask the Employee and his/her witnesses questions.
8. The Council's representative and the Employee (or their representative) will have an opportunity to sum up their case if they so wish.
9. The Council's representative, the Employee and his/her representative and all witnesses will wait in a separate room whilst the Appeals Sub-Committee and Independent Adviser discuss the case.
10. The Appeals Sub-Committee, will if necessary recall the Council's Representative and the Employee and his/her representative to clear points of uncertainty on evidence already given. If recall is necessary both parties are to return even if one party is concerned with the point giving rise to doubt.
11. The Appeals Sub-Committee or the Council Board will announce the decision to the parties personally or in writing within a period of five working days from the date of the hearing.

That decision will be final