



Knutsford Town Council

Disciplinary Policy

Approved November 2019

Contents

Introduction.....	2
Definitions of Misconduct and Gross Misconduct.....	2
Informal Action.....	3
Investigation.....	3
Suspension.....	4
Hearing.....	4
Disciplinary Action.....	5
Dismissal.....	5
General.....	6

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Introduction

- 1.1 The Council seeks to deal with disciplinary issues fairly and promptly. This procedure sets out the framework under which allegations of misconduct will be investigated and considered.
- 1.2 While the procedure set out in this policy will be appropriate in most cases, there may be situations in which it is not practicable to comply with a particular requirement of it. When this happens the Council will still ensure the matter is dealt with fairly and will pay particular attention to the need to give the employee every opportunity to explain their version of events.
- 1.3 The Council reserves the right not to follow this procedure in full for employees who are within their first two years of employment with the Council.

Definitions of Misconduct and Gross Misconduct

- 2.1 Misconduct is defined as behaviour which is disruptive, disrespectful to colleagues, or which falls short of the requirements set by council policy, will be treated as misconduct under the disciplinary procedure.



- 2.2 While employees will not usually be dismissed for a first misconduct offence, a failure to remedy the behaviour or to adhere to required standards may ultimately lead to dismissal once appropriate warnings have been given.
- 2.3 Gross misconduct is behaviour which is fundamentally at odds with the employee's duty to the Council and their colleagues. Gross misconduct will usually result in dismissal without notice, or payment in lieu of notice, even in cases of a first offence.
- 2.4 It is not possible to list every example of gross misconduct which may arise, but the following provides an illustration of the sort of conduct that will fall into this category, some of which are then explained in more detail below:
- a. Theft
 - b. Refusal to carry out reasonable instructions
 - c. Falsification of documents or information
 - d. Assault, physical violence or intimidating behavior whilst acting or purporting to act on behalf of the council
 - e. Deliberate acts of discrimination or harassment
 - f. Insulting, indecent or offence behaviour towards any person whilst acting or purporting to act on behalf of the council
 - g. Bringing the council into serious disrepute
 - h. Wilful damage to property
 - i. Reckless behaviour posing a risk to health and safety
 - j. Any act or omission constituting serious or gross negligence/or dereliction of duty
 - k. Sleeping on duty
 - l. Any illegal act during working time or on council premises
 - m. Any act described as gross misconduct elsewhere in policy

Informal Action

- 3.1 Most minor acts of misconduct can be dealt with informally through discussions between an employee and their line manager. This may consist of management guidance or an informal warning given orally or in writing. These steps are an everyday part of the management process and no formal procedure needs to be followed in respect of them.
- 3.2 Where informal action of this kind fails to resolve an issue, or where the misconduct alleged is considered too serious, then the matter will be dealt with formally under this procedure.

Investigation



- 4.1 If it is alleged that an employee has committed misconduct, an investigation will be carried out aimed at gathering all of the relevant evidence.
- 4.2 The employee may be interviewed as part of this investigation and will have the opportunity to point the investigator towards any evidence that is felt relevant.
- 4.3 The right to be accompanied does not apply to any investigatory interview.

Suspension

- 5.1 An employee may be suspended from duty on full pay whilst an allegation of misconduct is being dealt with to allow an unhindered investigation to take place, or to protect the interests of the Council and its employees.
- 5.2 The Council will make every effort to ensure that any period of suspension is kept as short as possible.
- 5.3 During any period of suspension an employee may be instructed not to contact other members of staff except for the purposes of preparing for any disciplinary hearing. This is not a disciplinary sanction and should not be seen as a predetermination of any disciplinary process.

Hearing

- 6.1 Once the investigation has been carried out, the investigating officer will make a decision about whether there is sufficient evidence to warrant a disciplinary hearing. If there is, the employee will be informed of this and an appropriate date for the hearing will be arranged. This will take place within normal working hours wherever possible.
- 6.2 To enable the employee to prepare, the Council will provide a copy of all written evidence which will be considered at the hearing in advance. The council will provide at least two days' notice of the hearing.

In exceptional cases the Council may need to withhold the identities of certain witnesses or hold back sensitive items of evidence. This will only be done where it is considered necessary to protect individuals or the essential interests of the Council and every effort will be made to ensure that employees are given as much information as possible so that a fair hearing can be conducted.

- 6.3 The purpose of the hearing will be to consider the evidence gathered during the investigation and to consider any representations made by the employee. The hearing will be conducted by the employee's line manager.
- 6.4 The hearing will consider any evidence the employee chooses to present. Should witnesses be prepared to appear on the employee's behalf they will be permitted to do so provided that their evidence is relevant to the issues that need to be decided. The Council will not compel or require any employee to appear as a witness. The employee will be entitled to challenge any evidence presented but will not be entitled to cross-examine witnesses.
- 6.5 The Council may need to proceed with a disciplinary hearing even if the employee is absent due to ill health or simply does not attend. Before hearing the matter in an employee's absence, the Council will attempt to arrange the hearing in such a way that the employee will be able to attend or to submit written representations to the hearing and/or to arrange for an appropriate representative to attend the hearing on their behalf.

Disciplinary Action

- 7.1 After considering all of the evidence, including any submissions made by the employee, the line manager conducting the hearing will decide on the outcome. If misconduct is found to have taken place then the usual outcome will be a written warning.
- 7.2 A warning will stay active for a period of one year, after which it will not be taken into account in any future disciplinary action.
- 7.3 If a further instance of misconduct is found to have occurred whilst a warning remains active, or if any misconduct is considered to be serious enough to warrant it, then subject to the formal process above being followed, the employee will be issued with a final written warning.
- 7.4 A final written warning will usually remain active for one year, but a longer period may be specified if the manager conducting the hearing feels that the circumstances warrant it.
- 7.5 An employee who is found to have committed further misconduct during a period covered by a final written warning will, following a hearing conducted in accordance with this procedure, generally be dismissed.

Dismissal



- 8.1 An employee will not normally be dismissed under this procedure for a single instance of misconduct unless a final written warning is already in place.
- 8.2 Where gross misconduct is found to have occurred then dismissal without notice or payment in lieu will be the usual outcome.

General

- 9.1 An employee may appeal any decision taken under this policy in accordance with the council's appeals policy.
- 9.2 With the exception of investigation meetings an employee has the right to be accompanied to meetings under this policy as per the council's accompaniment policy.
- 9.3 Any action to be taken against the Town Clerk will be conducted by a sub-committee of the Personnel Committee. Dismissal of the Town Clerk must be ratified by Full Council.



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