



# SAFFRON WALDEN TOWN COUNCIL

## Disciplinary Policy

Version	Adopted Policy Date	Minute Reference	Review Date
1	April 2019	F&E 538-19	2022
2			

## Disciplinary Rules

### General Principles

- 1.1 The aim of the disciplinary procedure and disciplinary rules is to provide a framework within which Managers can work with employees, to maintain satisfactory standards of conduct and to encourage improvement where necessary.
- 1.2 The disciplinary rules should be read in conjunction with our disciplinary procedure. Disciplinary action should only be taken in accordance with that procedure.
- 1.3 If you are in any doubt as to your responsibilities, or the standards of conduct expected you should speak to your Line Manager.

### Rules of Conduct

- 2.1 While employed by the Council you should, at all times, maintain professional and responsible standards of conduct. In particular, you should:
  - (a) observe the terms and conditions of your contract;
  - (b) observe all policies, procedures and regulations included in the Staff Handbook or notified to you from time to time by means of notice boards, e-mail, the internet or otherwise;
  - (c) take reasonable care in respect of the health and safety of employees and third parties;
  - (d) comply with all reasonable instructions given by our Managers; and
  - (e) act, at all times in good faith, and in the best interests of the Council, its customers and employees.
- 2.2 Failure to maintain satisfactory standards of conduct may result in steps being taken under the disciplinary procedure.

### Misconduct

The following are examples of matters that will normally be regarded as misconduct:

- (a) minor breaches of Council's policies including the Sickness and Absence Policy, Electronic Information and Communications Systems Policy, and Health and Safety Policy;
- (b) minor breaches of your employment contract;
- (c) damage to, or unauthorised use of, Council's property;

- (d) poor timekeeping;
- (e) time wasting;
- (f) unauthorised absence from work;
- (g) refusal to follow instructions;
- (h) excessive use of Council telephone for personal calls;
- (i) excessive personal e-mail or internet usage
- (j) obscene language or other offensive behaviour;
- (k) negligence in the performance of your duties; or
- (l) smoking in no-smoking areas.

This list is intended as a guide and is not exhaustive.

### Gross Misconduct

4.1 Gross misconduct is misconduct which, in our opinion, is serious enough to prejudice our business or reputation, or which irreparably damages the working relationship and trust between employer and employee. It is a serious breach of contract and may lead to summary dismissal, that is, dismissal without notice or any compensation.

4.2 The following are examples of matters that are normally regarded as gross misconduct:

- (a) theft or fraud;
- (b) physical violence or bullying;
- (c) deliberate and serious damage to property;
- (d) serious misuse of our property or name;
- (e) deliberately accessing internet sites containing pornographic, offensive or obscene material;
- (f) bringing the Council into serious disrepute;
- (g) serious incapability brought on by alcohol or illegal drugs;

- (h) causing loss, damage or injury through serious negligence;
- (i) serious breach of health and safety rules;
- (j) serious breach of confidence;
- (k) theft, or unauthorised removal of our property, or the property of an employee, contractor, customer or member of the public;
- (l) fraud, forgery or other dishonesty, including fabrication of expense claims and time sheets;
- (m) acceptance of bribes or other secret payments arising out of your employment;
- (n) accepting a gift from a customer, supplier, contractor or other third party in connection with your employment without prior consent from your Manager;
- (o) deliberate damage to buildings, fittings, property or equipment, or the property of an employee, contractor, customer or member of the public;
- (p) actual or threatened violence, or behaviour which provokes violence;
- (q) conviction for a criminal offence that in our opinion may affect our reputation or our relationships with our employees, customers or the public, or otherwise affects your suitability to remain an employee;
- (r) being under the influence of alcohol, illegal drugs or other substances during working hours;
- (s) possession, use, supply or attempted supply of illegal drugs;
- (t) repeated or serious disobedience of instructions, or other serious act of insubordination;
- (u) serious neglect of duties, or a serious or deliberate breach of your employment contract or operating procedures;
- (v) serious or repeated breach of health and safety rules or serious misuse of safety equipment;
- (w) knowing breach of statutory rules affecting your employment;
- (x) unauthorised use or disclosure of confidential information or failure to ensure that confidential information in our possession is kept secure;

- (y) unauthorised use, processing or disclosure of personal data contrary to our Data Protection Policy;
- (z) harassment or discrimination against employees, contractors, clients or members of the public on the grounds of sex, marital status, gender reassignment, race, disability, religion, age, or sexual orientation contrary to the Equal Opportunities Policy or the Harassment and Bullying Policy.
- (aa) failure to disclose any of the information required by your employment or any other information that may have a bearing on the performance of your duties;
- (ab) giving false information as to qualifications or entitlement to work (including immigration status) in order to gain employment, or other benefits;
- (ac) knowingly taking parental, paternity or adoption leave when not eligible to do so or for a purpose other than supporting a child;
- (ad) making a disclosure of information under the Whistle Blowing Policy that is malicious or made for personal gain;
- (ae) making untrue allegations in bad faith against another employee;
- (af) victimising another employee who has raised concerns, made a complaint or given evidence information under the Whistle Blowing Policy, Grievance Procedure, Disciplinary Procedure or otherwise;
- (ag) serious misuse of our information technology systems (including misuse of developed or licensed software, use of unauthorised software and misuse e-mail and the internet) contrary to our Electronic Information and Communications Systems Policy;
- (ah) undertaking unauthorised employment during your working hours;
- (ai) entering an area of the premises which has been clearly designated as a prohibited area without authorisation.

**This list is intended as a guide and is not exhaustive.**

## Disciplinary Procedure

### Policy Statement

The aim of this disciplinary procedure is to provide a framework within which Managers can work with employees to maintain satisfactory standards of conduct and to encourage improvement where necessary.

1.2 It is our policy to ensure that any disciplinary matter is dealt with fairly and that steps are taken to establish the facts. Employees (including those in their probationary period) should not be dismissed or subjected to disciplinary action without being provided with the following:

- (a) a written statement of the allegations against them;
- (b) a fair hearing before any decision is reached; and
- (c) the right to an appeal hearing.

### General Principles

2.1 This procedure applies to all employees regardless of their employment status or length of service. It does not apply to agency workers or self-employed contractors. It is for guidance only and does not form part of your contract of employment.

2.2 This procedure does not apply to cases involving:

- (a) genuine sickness absence;
- (b) proposed redundancies; or
- (c) poor performance or capability.

2.3 Minor conduct issues can normally be resolved informally between you and your Manager. These discussions should be held in private, and without undue delay whenever there is cause for concern. In some cases, an informal verbal warning may be given, detail of the discussion which will be placed on your personnel records. Formal steps will be taken under this procedure if the matter is not resolved, or if informal discussion is not appropriate (for example, because of the seriousness of the allegation).

2.4 Except in cases of gross misconduct or during your probationary period, you will not normally be dismissed for a first act of misconduct. Instead, we will normally give you a warning and a chance to improve.

2.5 Where disciplinary allegations are made against a probationary employee, we may omit some of the steps set down in this procedure and/or vary some or all of the time limits. We will as a minimum however carry out the three steps outlined in 1.2 above prior to dismissing a probationary employee.

- 2.6 Any steps under this procedure should be taken promptly unless there is a good reason for delay. We may vary any time limits if it is reasonable to do so.
- 2.7 If you have difficulty at any stage of the procedure because of a disability, you should discuss the situation with your Manager as soon as possible.

### Confidentiality

- 3.1 Our aim during an investigation or disciplinary procedure, is to deal with matters sensitively and with due respect, for the privacy of any individuals involved.
- 3.2 All employees must treat as confidential, any information communicated to them in connection with an investigation, or disciplinary matter.
- 3.3 Without express permission from all present at a meeting you are not permitted to make any electronic recordings of any investigative meetings, disciplinary or appeal hearings. Your representative, or any companions or witnesses who accompany you to any meetings or hearings are also required to seek express permission from all present before making electronic recordings.
- 3.4 You will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against you, unless, in our discretion, we believe that a witness' identity should remain confidential.
- 3.5 Witnesses must treat as confidential any information given to them in the course of an investigation, including the identity of any employees under investigation.

### Investigations

- 4.1 The purpose of an investigation is for us to establish a fair and balanced view of the facts relating to any disciplinary allegations against you before deciding whether to proceed with a disciplinary hearing. This may involve reviewing any relevant documents, interviewing you and any witnesses, and taking witness statements.
- 4.2 Investigative 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.
- 4.3 You do not normally have the right to bring a companion to an investigative interview. However, we may allow you to bring a companion if it helps you to overcome a difficulty caused by a disability, or any difficulty in understanding English.
- 4.4 You must cooperate fully and promptly in any investigation. This will include informing us of the names of any relevant witnesses, disclosing any relevant documents to us and attending any investigative interviews.
- 4.5 The amount of investigation required will depend on the nature of the allegations and will vary from case to case.

## Suspension

- 5.1 In cases of alleged gross misconduct employees will be placed on investigatory suspension from work while an investigation and / or disciplinary procedure is ongoing. The suspension will be for no longer than is necessary to investigate the allegations and we will confirm the arrangements to you in writing. While suspended you should not visit our premises or contact any of our clients, customers, suppliers, contractors or employees, unless you have been authorised to do so.
- 5.2 Unless a contractual entitlement, employees will be required to hand in all Town Council property, for example keys to offices, vehicles and laptops.
- 5.2 Suspension of this kind is not a disciplinary sanction and does not imply that any decision has already been made about your case. You will continue to receive your full basic salary and benefits during the period of suspension.

## Formal Disciplinary Procedure

### Written Information

Following any investigation, if we consider there are grounds for disciplinary action, we will inform you in writing of the allegations against you and the basis for those allegations. This will normally include:

- (a) a summary of relevant information gathered during the investigation
- (b) documents which will be used at the disciplinary hearing.

You will have a reasonable opportunity to consider this information before the hearing.

### Disciplinary Hearing

- 7.1 We will give you written notice of the date, time and place of the disciplinary hearing, which will normally be held between two days and one week after you receive the written notice.
- 7.2 You may bring a companion with you to the disciplinary hearing (*see paragraph 9*).
- 7.3 You must take all reasonable steps to attend the hearing. Failure to attend the hearing without good reason, may be treated as misconduct in itself. If you or your companion cannot attend at the time specified, you should inform us immediately and we will seek to agree an alternative time.
- 7.4 The purpose of the disciplinary hearing is to review the evidence and to enable you to respond to any allegations that have been made against you. If you have a companion, he or she may make representations to us and ask questions, but should not answer questions on your behalf. You may confer privately with your companion at any time during the hearing.



- 7.5 The disciplinary hearing may be adjourned if we need to carry out any further investigations. For example, we may decide to re-interview witnesses in the light of any new points that have been raised at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
- 7.6 Within one week of the disciplinary hearing we will inform you in writing of our decision (including details of any misconduct that we consider you have committed; and the disciplinary sanction to be applied) together with the reasons for our decision. We will also inform you of your right to appeal.

## Appeals

- 8.1 If you wish to appeal you should do so in writing, stating your full grounds of appeal within one week of the date on which you were informed of the decision.
- 8.2 We will give you written notice of the date, time and place of the appeal hearing. This will normally be between two days and one week after you receive the written notice. In cases of dismissal the appeal will be held as soon as possible.
- 8.3 Where practicable, the appeal hearing will be conducted by a Manager who is no less senior to the person who conducted the disciplinary hearing. You may bring a companion with you to the appeal meeting.
- 8.4 If you raise any new matters in your appeal we may need to carry out further investigation prior to the appeal hearing. If any new information comes to light, we will provide you with the details as set out under paragraph 6. You will have a reasonable opportunity to consider this information before the hearing.
- 8.5 The appeal hearing may be a complete rehearing of the matter or it may be a review of the original decision taking account of any new information. This will be at our discretion depending on your grounds of appeal and the circumstances of your case.
- 8.6 Following the appeal hearing we may:
- (a) confirm the original decision; or
  - (b) revoke the original decision; or
  - (c) substitute a different disciplinary sanction.
- 8.7 We will inform you in writing of our final decision within one week of the appeal hearing. Where possible we will also explain this to you in person. There will be no further right of appeal.

- 8.8 The date on which any dismissal takes effect will not be delayed pending the outcome of an appeal. However, if the appeal is successful, you will be reinstated with no loss of continuity of pay.

### Right to be accompanied

- 9.1 You may bring a companion to any disciplinary or appeal hearings under this procedure. The companion may be either a Trade Union Official or a work colleague.
- 9.2 Acting as a companion is voluntary and employees are under no obligation to do so. Employees will be allowed reasonable time off from duties without loss of pay to act as a companion.
- 9.3 If your choice of companion is unreasonable, we may ask you to choose someone else. For example:
- (a) if in our opinion your companion may have a conflict of interest or may prejudice the hearing; or
  - (b) if your companion is unavailable at the time a hearing is scheduled and will not be available for more than five working days.

## Dismissals and Disciplinary Action

### Disciplinary Sanctions

- 10.1 We aim to treat all employees fairly and consistently. Disciplinary action previously taken against other employees for similar misconduct, will usually be taken into account, but should not be treated as a precedent. Each case will be assessed on its own merits.
- 10.2 Depending on the seriousness of the matter any of the following stages may be omitted.

### Stage 1: Verbal Warning

- 11.1 You may be given a verbal warning for a minor act of misconduct where you have no other active warnings on your disciplinary record.
- 11.2 The warning will be confirmed in a letter to you which will set out the nature of the misconduct, the change in behaviour required and the likely consequences of further misconduct
- 11.3 A record of the warning will be placed permanently on your personnel file, and will remain active for six months from the date it is given, after which time it will be disregarded in deciding the outcome of future disciplinary proceedings.

## Stage 2: First Written Warning

- 12.1 A first written warning will usually be given for:
- (a) first acts of misconduct where there are no other active warnings on your disciplinary record; or
  - (b) minor misconduct where there is an active verbal warning on your record.
- 12.2 The warning will set out the nature of the misconduct, the change in behaviour required and the likely consequences of further misconduct.
- 12.3 The warning will be placed permanently on your personnel file and will remain active for six months from the date it is given, after which time it will be disregarded in deciding the outcome of future disciplinary proceedings.

## Stage 3: Final Written Warning

- 13.1 A final written warning will usually be given for:
- (a) misconduct where there is already an active written warning on your record; or
  - (b) cases where there is no active warning on file, but we consider that the misconduct is sufficiently serious to warrant a final written warning.
- 13.2 The warning will set out the nature of the misconduct, the change in behaviour required and the likely consequences of further misconduct.
- 13.3 The warning will be placed permanently on your personnel file and will normally remain active for 12 months or, if we decide that this matter is more serious, for a longer period. Your conduct may be reviewed at the end of this period and if it has not improved sufficiently, we may decide to extend the active period. After the active period it will be disregarded in deciding the result of future disciplinary proceedings.

## Stage 4: Dismissal

- 14.1 We may decide to dismiss you in the following circumstances:
- (a) misconduct during your probationary period;
  - (b) misconduct where there is an active final written warning on your record; or
  - (c) gross misconduct regardless of whether you have received any previous warnings.

- 14.2 gross misconduct will usually result in summary dismissal, that is, dismissal without notice or payment in lieu of notice. In cases not involving gross misconduct you will be given your full contractual notice period, or payment in lieu of notice.

#### Alternative Sanctions short of Dismissal

- 15.1 In appropriate cases we may consider some other sanction short of dismissal, such as:

- (a) demotion;
- (b) transfer to another department;
- (c) period of suspension without pay;
- (d) loss of seniority;
- (e) reduction in pay;
- (f) loss of future pay increment or bonus;
- (g) loss of overtime.

- 15.2 These sanctions may be used in conjunction with a written warning