HR19 – Disciplinary Policy

Welshpool Town Council

Adopted:
Revised:
Review: Biannually or as changes are required.

Council HR and Governance Support
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HR19 - Disciplinary Policy

1. Introduction

1.1. We have clear standards of conduct which all of our employees must meet. These standards are set out in our policies and procedures and your contract of employment, and they are communicated on a day-to-day basis through management instructions. They are also often a matter of common sense.

1.2. This Policy sets out the procedure which we will follow if you breach the conduct standards expected of you. We will normally follow this process in disciplinary situations, but we are not obliged to do so (particularly if you are in your probationary period).

1.3. This Policy applies to all employees in the Council

1.4. This policy it does not form part of your contract of employment. We reserve the right to amend or remove this Policy.

2. Minor conduct issues and informal action

2.1. Minor conduct issues will often be addressed through informal discussion with your line manager. In such cases, the procedure set out in this Policy will not be followed. We may make a note of the discussion, which will be placed on your personnel file for future reference, but we will not issue a formal warning.

2.2. If your conduct does not improve (and in any case, where we believe it appropriate to do so), we will follow the formal process set out below.

3. Suspension

3.1. If there is an allegation of misconduct, then the first thing we will consider is whether there is a need to suspend you from work whilst we follow the disciplinary process. We will generally only do this where the allegation is one of gross misconduct (see below) and/or if we have concerns regarding preserving evidence.

3.2. Suspension is a neutral act. It is not an indication of our position on any allegation you may face.

3.3. If we suspend you:

a You must stay away from work; not visit our premises; and not make contact with staff, clients, suppliers or contractors (unless we authorise this in writing).

b You may contact somebody specifically to ask them to be a witness, or to accompany you at a meeting under this Policy, without asking us first.

c If pre-approved holidays fall during a period of suspension, they will still count as holiday leave and will be deducted from your holiday entitlement as normal.

3.4. You will continue to be paid as normal during any period of suspension unless your contract of employment says otherwise.

3.5. We will only suspend you for as long as reasonably necessary to allow us to complete our investigation and any formal process which follows it.

3.6. We will keep any suspension under review and may lift your suspension at any time if we decide that it is no longer necessary. Likewise, we may decide to suspend you at any point during the disciplinary process even if at the start of the process we did not choose to do so.

4. Investigation

4.1. It is important that all disciplinary allegations are investigated fully before any action is taken.

4.2. The investigation officer will gather evidence in relation to the allegation. How much investigation is required will depend on the nature of the allegation. The investigation officer may need to interview other witnesses, gather documents and view recordings. They will usually (but not always) hold a meeting with you to discuss the allegation. You do not generally have the right to be accompanied at an investigation meeting. You should cooperate fully with any investigation.

4.3. Investigation meetings 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.

4.4. At the conclusion of the investigation, the investigation officer will usually collate the evidence and pass it to the disciplinary officer,[1] who will generally be someone who has not been involved in the process up to this point. There may, however, be occasions where the investigation is carried out by the same person who will conduct the disciplinary hearing.

5. Right to be accompanied

5.1. You are entitled to be accompanied by a colleague or trade union representative at any meeting where you face formal sanctions (including dismissal). If we are holding separate investigation and disciplinary meetings, then your right to be accompanied only applies to the disciplinary meeting.

5.2. If you want to exercise your right to be accompanied, you should tell us as soon as possible who you want to accompany you. It is your responsibility to arrange for them to attend. If you choose a work colleague, we will not prevent them from attending, but we may rearrange the meeting if their absence from work could cause operational problems.

5.3. Your colleague or union representative can, if you prefer, explain the key points of your case to the meeting and can respond on your behalf. You can also confer with them during the meeting. However, they must not answer questions put directly to you or try to prevent us asking questions or outlining our arguments.

6. Disciplinary meetings

6.1. If a decision is taken that an allegation should be taken forward to a disciplinary hearing, then we will write to you to:

[1] The ACAS Code recommends having two different people carry out the investigation and disciplinary roles, but in smaller businesses, or cases where the nature of the allegations means that the investigation required is limited, it will be reasonable for the same person to carry out both roles.

a Set out the disciplinary allegation which has been made against you

b Provide all the evidence we will look at when considering the allegation

c Confirm the date, time and venue for a formal disciplinary hearing

d Set out the possible outcomes of the meeting (including whether dismissal might result)

e Set out details of your right to be accompanied

6.2. You should let us know as soon as possible if there is a reason why you cannot attend the meeting at the arranged time. We will usually reschedule the meeting once, provided we are satisfied with your reason for not attending. We will not reschedule the meeting a second time unless there is a very good reason to justify this. Note that we may not reschedule at all if we decide it is likely to lead to unreasonable delay, and we may instead have to make our decision on the disciplinary issue without you being present.

6.3. You should review the evidence provided and contact us as soon as possible if there are any other documents, or further evidence, which you would like us to consider. Please provide copies of anything you want us to look at.

6.4. We will usually arrange for a note-taker to attend formal disciplinary hearings, or we may choose to record the meeting. We may record the meeting, but we will not do so without telling you. You are welcome to record the meeting if you wish, but please tell us beforehand, as we think it is discourteous to the managers involved for you to make a covert recording.

6.5. At the meeting, we will go through all of the evidence with you and make sure that you understand the allegation you are facing. We may call witnesses as part of this process, but we are not obliged to do so.

6.6. We will give you time to respond to the allegations and to put your own case. We will also give you the opportunity to ask us questions, present your own evidence, call your own witnesses and respond to the evidence we put forward. If there are any questions you want us to put to our witnesses, please tell us and (unless there is a good reason not to) we will make sure they are asked.

6.7. We will not usually make a decision on the day of the meeting. We will usually send you our decision in writing. We will try to do this within two weeks of the disciplinary meeting.

7. Appeal

7.1. You have the right to appeal against any disciplinary action taken against you under this Policy. You should set your grounds of appeal out in writing to the person or department detailed in the outcome letter you receive. You must submit your appeal within seven days of receiving your outcome letter, setting out the grounds of your appeal and any additional evidence you wish to be taken into account.

7.2. Once we have received your letter of appeal, we will arrange an appeal hearing. An ad-hoc appeals committee will be appointed to hear your appeal. They will not usually have had any involvement in the process or the allegation up to this point.

7.3. You will receive a letter inviting you to the appeal hearing, at which you have the right to be accompanied (see above). It may be necessary to conduct further investigation depending on your grounds of appeal.

7.4. The appeal could involve a review of the original decision, taking account of the specific grounds of appeal you have raised. Alternatively, it could involve a full re-hearing of the matter. We will decide which approach is most appropriate for your case.

7.5. You should be aware that our appeals committee are not limited in their options when considering your appeal. They can, if they believe it appropriate, decrease a sanction, approve the original outcome, remove a sanction or increase a sanction.

7.6. Following your appeal hearing, we will send details of the outcome to you in writing. We will usually aim to do this within two weeks of your appeal hearing. The decision you receive on appeal is our final decision. There is no further right of appeal.

8. Disciplinary action and dismissal

There are three stages in our procedure for dealing with cases of misconduct. We may start at any stage of this procedure, and we may skip stages if we think it appropriate.

8.1. First stage – We will give you a first written warning. Unless you already have active written warnings relating to disciplinary matters on your work record, a first written warning will usually remain in place for *12 months* from the date you are notified of the decision. It will then be removed from your record.

8.2. Second stage – If there is an active first written warning on your record and you are involved in further misconduct, we will usually issue you with a final written warning**.** In serious cases of misconduct, we may issue a final written warning *without* first issuing a first written warning. In either case, the final written warning will usually remain in place for *12 months* from the date you are notified of the decision. It will then be removed from your record.

8.3. Third stage – If there is an active final written warning on your record and you are involved in further misconduct, you may be dismissed. You may also be dismissed for a serious case of misconduct, or if you are involved in gross misconduct. We explain what we mean by 'misconduct' and 'gross misconduct' below.

9. What is misconduct?

9.1. Misconduct is a general term referring to behaviour that falls below the standards we expect. You will not usually be dismissed for a first allegation of misconduct, unless it amounts to gross misconduct, which we discuss in the next section).

9.2. The following list gives examples of what we would normally regard as misconduct:

a Minor breaches of Council policy

b Minor breaches of your employment contract

c Unauthorised use of, or minor damage to, council property

d Poor attendance and timekeeping

e Refusing to follow instructions, where doing so is not serious enough to be gross misconduct

f Making an excessive number of personal calls using company phones

g Sending and receiving an excessive number of personal emails

h Using the internet or email for personal purposes, other than on an occasional basis

i Using obscene language or otherwise behaving offensively

j Being careless when carrying out your duties

k Wasting time during your contracted working hours

l Smoking in areas where smoking is not allowed

10. What is gross misconduct?

10.1. You will usually be dismissed without warning, without notice and without payment in lieu of notice if we find you have committed an act of gross misconduct. This is known as summary dismissal.

10.2. The following list gives examples of what we would normally regard as gross misconduct. This list is not exhaustive and should be referred to as a guide.

a Serious breaches of council policy

b Bullying or physical violence

c Fraud, theft or any act of dishonesty

d Continued absence without leave

e Altering records, such as sales records, to put yourself in a better light even if there is no immediate financial benefit to you

f Malicious misuse of any of our procedures, for example, if you make up allegations when taking out a grievance against someone

g Serious negligence or carelessness, particularly if it leads to us losing trust and confidence in you

h Serious health and safety breaches

i Serious breaches of data protection legislation or our *Data Protection Policy*]

j Serious and/or intentional damage to company property

k Unlawful harassment or discrimination

l Viewing, receiving or sending anything that breaches our *Harassment and Bullying Policy* or our Equality Policies

m Knowingly accessing websites containing offensive, obscene or pornographic material

n Misuse of internal email, external email or other internet and computer-based facilities, including the storage and/or transmission of obscene, illicit or undesirable material

o Serious insubordination or refusal to obey management instructions

p Serious breaches of confidence

q Covertly recording your colleagues or any management (or other) meeting where the participants do not know you are recording

r Being under the influence of, or possessing, illegal drugs

s Being under the influence of alcohol unless this is with your manager's express knowledge and permission – for example, where you are involved in entertaining on the Council's behalf

t Conduct that violates common decency, or engaging in behaviour that might bring the Council's name into disrepute

11. Sickness absence during the disciplinary process

11.1. Should you be absent due to sickness once you have been notified of a disciplinary investigation meeting or disciplinary hearing, you will be paid under the sick pay rules set out in our other policies (which may not involve being paid full pay). We may decide not to pay you any company sick pay during that period of sickness absence, even if we would normally pay you company sick pay. Your rights to Statutory Sick Pay are unaffected.

11.2. If you say you are unable to attend a disciplinary hearing due to sickness, we will offer you a new date for the hearing. However, if you are unable to attend a hearing within what we consider to be a reasonable period of time, then we will look at alternative ways of conducting the hearing. This may involve conducting the hearing by phone or virtually, inviting you to send written submissions or asking a colleague to attend on your behalf.

12. Criminal offences

12.1. If the police are involved in any issues which we are also investigating, we will not usually delay our internal processes whilst we await the outcome of any decision to charge or criminal prosecution.

12.2. Conduct outside of work which is alleged to be criminal may be considered a disciplinary matter by us if we reasonably believe that it is relevant to your job.

13. Administration of the Disciplinary Policy

13.1. The Town Clerk is responsible for the administration of the Disciplinary Policy. Should you have any feedback, please contact the Town Clerk.