



Lostwithiel Town Council

Disciplinary Policy & Procedure

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1. Policy Statement

The Council is committed to promoting high standards of conduct and behaviour. This policy sets out the procedure for dealing with disciplinary matters in a fair, consistent and transparent manner.

This procedure does not form part of any employee's contract of employment and may be amended by the Council from time to time following appropriate consultation.

- the ACAS Code of Practice on Disciplinary and Grievance Procedures;
- relevant employment legislation;
- good practice guidance for local Councils

2. Purpose and Scope

2.1 Purpose

The purpose of this procedure is to:

- provide a clear framework for managing conduct concerns;
- ensure that disciplinary issues are dealt with promptly, fairly and consistently;
- enable employees to understand the standards of conduct expected of them;
- ensure that employees are given the opportunity to respond to concerns about their conduct;
- ensure that employees are informed of their right to be accompanied and to appeal against formal disciplinary decisions.

2.2 Scope

This policy applies to all employees of the Council, regardless of length of service or contractual status. It covers concerns relating to conduct, including:

- breaches of Council policies or procedures;
- inappropriate behaviour in the workplace;
- misconduct in relation to Council property, colleagues, Councillors, service users or members of the public.

This procedure is intended to address conduct concerns. Issues arising primarily from capability or performance will normally be managed under the Council's capability or performance management procedures, unless there is an element of misconduct.

2.3 Matters Covered by Other Procedures

Some issues may be more appropriately dealt with under another Council policy, for example grievance, capability, bullying and harassment, whistleblowing or safeguarding procedures. Where matters overlap, the Council will decide the most appropriate approach and will explain this to the employee.

3. General Principles

The Council will apply the following principles when dealing with disciplinary matters:

- Fairness and Consistency – all employees will be treated fairly and consistently
- Investigation – no formal disciplinary sanction will normally be issued until an appropriate investigation has taken place. Employees are not entitled as of right to be accompanied at investigatory meetings but the Council may allow this on a discretionary basis where it is reasonable to do so.
- Right to be Heard – employees will be informed of the allegations against them and given an opportunity to state their case before any decision is made.
- Right of Appeal – employees will have the right to appeal against formal disciplinary sanctions.
- Confidentiality – disciplinary matters will be handled confidentially and information shared only where necessary for legitimate purposes, including, where appropriate, with external advisers or statutory bodies.
- Reasonable Adjustments – the Council will make reasonable adjustments to the procedure where necessary to accommodate the needs of employees with disabilities or other protected characteristics, in line with its duties under equality legislation.

3.1 Malicious or False Allegations

Employees must not make malicious or knowingly false allegations about colleagues, Councillors or others. Such behaviour may itself be treated as a disciplinary matter.

No disciplinary action will be taken against an employee who raises a concern in good faith, even if it is not upheld following investigation.

4. Roles and Responsibilities

4.1 Full Council

Full Council has overall responsibility for employment matters and for approving this policy. Employment decisions must be made by the Council or by properly delegated committees or officers.

The Council will ensure that, so far as practicable, any appeal is heard by members who have had no prior involvement in the original decision.

4.2 Staffing Committee

The Staffing Committee (or equivalent body) is responsible for:

- overseeing the implementation of this policy;
- considering serious disciplinary matters;
- making recommendations to Full Council where dismissal is being considered;
- arranging appropriate panels to hear disciplinary hearings and appeals, ensuring independence between the original decision-maker and any appeal panel.

4.3 Town Clerk

The Town Clerk (or equivalent senior officer) is responsible for:

- day-to-day staff management of staff conduct
- dealing with minor disciplinary matters
- managing disciplinary procedures where authorised
- issuing formal warnings where authorised under the Council's scheme of delegation

Where the Town Clerk is the subject of disciplinary action, alternative arrangements will be made by the Staffing Committee. This may include appointing an external investigator and ensuring

that any disciplinary or appeal panel comprises members with no prior involvement in the matter.

4.4 Investigating Officer

An Investigating Officer may be appointed to carry out a fact-finding investigation into alleged misconduct. They will gather evidence, interview relevant witnesses and prepare an investigation report.

They will not decide the disciplinary outcome.

The Investigating Officer should, wherever practicable, have had no prior direct involvement in the matters under investigation.

5. Informal Management Action

Where concerns about conduct are relatively minor, it may be appropriate to address them informally through day-to-day management. This may include:

- a quiet word or coaching;
- setting clear expectations;
- agreeing an action plan for improvement.

A brief confidential management note may be retained where appropriate for management purposes. Such notes will not normally be treated as formal disciplinary warnings but may be referred to if similar issues arise in future.

If conduct does not improve, or if the matter is more serious, the formal disciplinary procedure may be invoked.

6. Formal Disciplinary Procedure

6.1 Investigation

Where formal action is being considered, an investigation will normally be carried out to establish the facts. This may involve:

- interviewing the employee;
- interviewing witnesses;
- reviewing relevant documents or other evidence.

The employee will be informed of the nature of the concerns and given a reasonable opportunity to respond. The employee may provide their response verbally at a meeting and or in writing.

In some cases, it may be appropriate to suspend the employee on full pay while an investigation is carried out (see Section 8).

6.2 Investigation Outcome

At the conclusion of the investigation, the Council will decide whether:

- no further action is required;
- informal management action is appropriate;
- a formal disciplinary hearing should be convened.

No Further Action

If no further action is required, the employee will be informed and, where appropriate, any suspension will be lifted.

Informal Management Action

If informal management action is appropriate, the manager will meet with the employee to discuss the concerns and expectations for future conduct.

Any informal action will be confirmed to the employee and where appropriate, recorded in a brief management note.

Formal Disciplinary Hearing

If a formal disciplinary hearing is required, the procedure in Section 6.3 will be followed.

6.3 Disciplinary Hearing

The employee will be invited in writing to attend a disciplinary hearing. The invitation will set out:

- the nature of the allegations;
- the possible disciplinary outcomes;

- the date, time and venue of the hearing;
- the employee's right to be accompanied.

The employee will normally receive at least five working days' notice of the hearing. Where the employee or their companion cannot reasonably attend on the proposed date, the employee may request a postponement to a reasonable alternative time within five working days of the original date, or as otherwise agreed.

The Council will provide sufficient information to allow the employee to prepare and respond properly, including copies of relevant documents and witness statements (where appropriate).

If the employee fails to attend a hearing without good reason, the Council may proceed in their absence based on the available evidence, having considered any written representations submitted.

6.4 Conduct of the Hearing

The hearing will normally be conducted as follows:

- The Chair will introduce those present and explain the purpose of the hearing.
- The Investigating Officer or manager will present the case and call any witnesses.
- The employee (and or their companion) may ask questions of the Investigating Officer, manager and any witnesses.
- The employee (and or their companion) will then present their case and call any witnesses.
- The Investigating Officer or manager may ask questions of the employee and their witnesses.
- The Chair and any panel members may ask questions of any party.
- Both sides will have the opportunity to sum up.
- The hearing will then be adjourned while the decision is considered.

The hearing procedure may be adapted as appropriate to the circumstances of the case, provided that it remains fair and allows the employee a reasonable opportunity to present their case.

6.5 Disciplinary Decision

After the hearing, the Chair (and any panel members) will decide whether the allegations are upheld, in whole or in part, and what, if any, disciplinary sanction is appropriate. Possible outcomes include:

- no further action;
- informal management action;
- first written warning;
- final written warning;
- dismissal with notice;
- summary dismissal for gross misconduct.

The decision will be confirmed to the employee in writing, normally within five working days of the hearing. The letter will set out:

- the findings and reasons;
- any disciplinary sanction;
- the period for which any warning will remain active;
- any required improvements in conduct and any support to be provided;
- the employee's right of appeal and how to exercise it.

Any formal warning will specify the period for which it will remain active and the consequences of any further misconduct during that period.

7. Disciplinary Outcomes

A first written warning may be issued where misconduct is found but is not sufficiently serious to warrant a final written warning or dismissal, or where there has been a previous informal warning that has not led to sufficient improvement.

A first written warning will normally remain active for 12 months. The warning letter will set out any required standards of conduct, any support or training to be provided and the review arrangements.

7.2 Final Written Warning

A final written warning may be issued where:

- the misconduct is sufficiently serious to warrant a final warning but not dismissal; or
- there has been further misconduct while a first written warning is active.

A final written warning will normally remain active for 24 months. Further misconduct during the active period of a final written warning may result in dismissal.

7.3 Dismissal

Dismissal may occur where:

- there is further misconduct while a final written warning is active; or
- gross misconduct is established.

Where dismissal is not for gross misconduct, the employee will be dismissed with notice or payment in lieu of notice in accordance with their contract and statutory requirements.

Summary dismissal for gross misconduct will normally take effect immediately without notice or payment in lieu of notice, other than any accrued but untaken statutory holiday entitlement.

8. Suspension

In serious cases, it may be appropriate to suspend an employee on full pay while an investigation is carried out. Suspension is a neutral act and is not a disciplinary sanction.

Where an employee is suspended, they will be informed in writing of:

- the reason for suspension;
- the expected duration, if known;
- any conditions attached to the suspension (for example, not contacting certain individuals);
- that suspension will be kept under regular review;

- the Council will confirm the arrangements for keeping in contact with the employee during suspension and for providing updates on progress;
- the Council will review the need for continued suspension at appropriate intervals and will lift suspension as soon as it is no longer considered necessary.

Suspension does not indicate that misconduct has occurred or that any disciplinary outcome has been decided.

While suspended, the employee must not attend the workplace or undertake any work on behalf of the Council, unless specifically authorised to do so.

9. Right to be Accompanied

Employees have the right to be accompanied at any formal disciplinary hearing by:

- a trade union representative; or
- a workplace colleague.

The companion will normally attend in their own time unless otherwise agreed. There is no general right to be accompanied by a legal representative, although the Council may agree to this in exceptional circumstances.

The companion may address the hearing, put and sum up the employee's case and confer with the employee, but may not answer questions on the employee's behalf.

10. Appeal Procedure

10.1 Right of Appeal

Employees have the right to appeal against any formal disciplinary sanction. An appeal is not intended to automatically repeat the original disciplinary hearing. The Appeal Panel will not normally impose a more severe sanction than that imposed at the original hearing.

10.2 Submitting an Appeal

An appeal should normally be submitted in writing within 10 working days of receiving the disciplinary outcome letter.

The appeal should set out the grounds of appeal, which may include:

- procedural flaws;
- new evidence;
- disproportionate sanction;
- other substantive concerns.

The Council may consider late appeals where there is a reasonable explanation.

10.3 Appeal Panel

An Appeal Panel, normally comprising Councillors who have not previously been involved in the matter, will be convened to hear the appeal. The Appeal Panel will:

- review the original decision;
- consider the grounds of appeal;
- decide whether the original outcome should be upheld, amended or overturned.

The Appeal Panel may confirm the original decision, substitute a different sanction, or decide that no disciplinary action is required.

The appeal hearing will broadly follow the procedure for disciplinary hearings, adapted as appropriate. The outcome of the appeal will be confirmed in writing. The decision of the Appeal Panel will be final within the Council's procedures.

11. Special Circumstances

11.1 Disciplinary Matters Involving the Town Clerk

Where the Town Clerk is the subject of disciplinary allegations, the Staffing Committee (or equivalent) will make alternative arrangements for investigation and decision-making to ensure fairness and independence. This may include appointing an external investigator or adviser.

In managing disciplinary matters involving the Town Clerk, the Council will have regard to any statutory or sector-specific guidance relevant to the role of the Town Clerk as the Council's Proper Officer.

11.2 Role of Councillors

Individual councillors must not become directly involved in disciplinary matters relating to employees, except where they are acting as part of an appointed panel or committee under this policy. This protects employees, councillors and the Council from procedural challenges. Councillors must also comply with the Council's Code of Conduct and any relevant standards regime when dealing with employment matters.

11.3 Criminal Allegations

Where allegations involve potential criminal offences, the Council may report the matter to the police or other relevant authorities. Disciplinary action may proceed before, during or after any criminal investigation or proceedings, depending on the circumstances.

11.4 Probationary Employees

During a probationary period, the Council may use a shortened or simplified procedure where appropriate. However, probationary employees are still entitled to:

- be informed of concerns about their conduct;
- have an opportunity to respond;
- receive confirmation of any decision in writing.

Where dismissal is being considered during a probationary period, the Council will still follow a fair process, including informing the employee of the concerns, allowing them an opportunity to respond and confirming any decision in writing.

12. Record Keeping and Data Protection

The Council will keep records of:

- the nature of any allegations;
- the investigation;
- the conduct of any hearing;

- decisions and outcomes;
- any appeals.

Records will be:

- accurate and kept up to date;
- stored securely;
- retained only for as long as necessary.

Records of formal warnings will normally be kept on the employee's personnel file for the duration of the warning and for a reasonable period thereafter, in line with the Council's data retention schedule.

Records will be handled in accordance with data protection legislation and the Council's data protection policies.

Employees may request access to their personal data in accordance with the Council's data protection and subject access request procedures.

13. Policy Review

The Council will periodically review the operation of this policy to ensure that it remains:

- legally compliant;
- consistent with ACAS guidance;
- aligned with local council employment practice;
- effective in supporting positive working relationships.

The policy will normally be reviewed every three years or earlier where:

- legislation changes;
- ACAS guidance changes;
- NALC/SLCC guidance changes;
- operational experience identifies improvements.

Where appropriate, employees and recognised trade unions or staff representatives will be consulted on proposed changes.

Appendix 1

Disciplinary Process Flowchart

Stage 1 – Concern Identified

Manager identifies potential misconduct.

Stage 2 – Initial Assessment

Manager considers whether informal action or formal investigation is appropriate.

Stage 3 – Investigation

Investigation carried out and outcome determined (no further action, informal action, or formal hearing).

Stage 4 – Disciplinary Hearing

Formal hearing held if required.

Stage 5 – Outcome

- first written warning
- final written warning
- dismissal with notice
- summary dismissal for gross misconduct