

## ANDOVER TOWN COUNCIL DISCIPLINARY POLICY

### **1. POLICY STATEMENT**

- 1.1 The aims of this Disciplinary Procedure are to set out the standards of conduct expected of all staff and to provide a framework within which the Council 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 and to give employees the opportunity to respond before taking any formal action.
- 1.3 This procedure does not form part of any employee's contract of employment and it may be amended at any time. We may also vary this procedure, including any time limits, as appropriate in any case.

### **2. WHO IS COVERED BY THE PROCEDURE?**

The procedure applies to all employees regardless of length of service. It does not apply to agency workers or self-employed contractors.

### **3. WHAT IS COVERED BY THE PROCEDURE?**

- 3.1 This procedure is used to deal with misconduct. It does not apply to cases involving genuine sickness absence, proposed redundancies or poor performance. In those cases reference should be made to the appropriate policy or procedure.
- 3.2 Minor issues can often be resolved informally between you and THE Town Clerk or the Chairman of the Staffing Sub-Committee. These discussions should be held in private and without undue delay whenever there is cause for concern. Where appropriate, a note of any such informal discussions may be placed on your personnel file but will be ignored for the purposes of any future disciplinary hearings. In some cases an informal verbal warning may be given, which will not form part of your disciplinary 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).
- 3.3 You will not normally be dismissed for a first act of misconduct, unless we decide it amounts to gross misconduct or you have not yet completed your probationary period.

- 3.4 If you have difficulty at any stage of the procedure because of a disability, you should discuss the situation with your line manager as soon as possible.

#### **4. CONFIDENTIALITY**

- 4.1 Our aim is to deal with disciplinary matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.
- 4.2 You, and anyone accompanying you (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this procedure.
- 4.3 You will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against you, unless we believe that a witness's identity should remain confidential.

#### **5. INVESTIGATIONS**

- 5.1 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. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from you and any witnesses, and/or reviewing relevant documents.
- 5.2 If an investigative interview is held with you, this will be solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held.
- 5.3 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 any disability, or any difficulty in understanding English.
- 5.4 You must co-operate 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 investigative interviews if required.

## **6. CRIMINAL CHARGES**

- 6.1 Where your conduct is the subject of a criminal investigation, charge or conviction we will investigate the facts before deciding whether to take formal disciplinary action.
- 6.2 We will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where you are unable or have been advised not to attend a disciplinary hearing or say anything about a pending criminal matter, we may have to take a decision based on the available evidence.
- 6.3 A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if we consider that it is relevant to your employment.

## **7. SUSPENSION**

- 7.1 In some circumstances we may need to suspend you from work. 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 staff, unless you have been authorised to do so by the Town Clerk or Chairman of the Staffing Sub-Committee.
- 7.2 Suspension of this kind is not a disciplinary penalty and does not imply that any decision has already been made about the allegations. You will continue to receive your salary and benefits during the period of suspension.

## **8. NOTIFICATION OF A HEARING**

- 8.1 If we consider there are grounds for disciplinary action, you will be required to attend a disciplinary hearing. We will inform you in writing of the allegations against you, the basis for those allegations, and what the likely range of consequences will be if we decide after the hearing that the allegations are true. We will also include the following where appropriate:
- (a) a summary of relevant information gathered during the investigation;
  - (b) a copy of any relevant documents which will be used at the disciplinary hearing; and
  - (c) a copy of any relevant witness statements, except where a witness's identity is to be kept confidential, in which case we will give you as much information as possible while maintaining confidentiality.

- 8.2 We will give you written notice of the date, time and place of the disciplinary hearing. The hearing will be held as soon as reasonably practicable, but you will be given a reasonable amount of time to prepare your case based on the information we have given you.

## **9. THE RIGHT TO BE ACCOMPANIED**

- 9.1 You may bring a companion to any disciplinary hearing or appeal hearing under this procedure. The companion may be either a trade union representative or a colleague. You must tell your line manager who your chosen companion is, in good time before the hearing.

- 9.2 A companion is allowed reasonable time off from duties without loss of pay but no-one is obliged to act as a companion if they do not wish to do so.

- 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 meeting; or
- (b) if your companion is unavailable at the time a meeting is scheduled and will not be available for more than five working days afterwards.

- 9.4 We may, at our discretion, allow you to bring a companion who is not a colleague or union representative (for example, a member of your family) if this will help overcome a disability, or if you have difficulty understanding English.

## **10. PROCEDURE AT DISCIPLINARY HEARINGS**

- 10.1 If you or your companion cannot attend the hearing you should inform us immediately and we will arrange an alternative time. You must make every effort to attend the hearing, and failure to attend without good reason may be treated as misconduct in itself. If you fail to attend without good reason, or are persistently unable to do so (for example for health reasons), we may have to take a decision based on the available evidence.

- 10.2 The hearing will be chaired by the Chairman of the Staffing Sub-Committee.

- 10.3 At the disciplinary hearing we will go through the allegations against you and the evidence that has been gathered. You will be able to respond and present any evidence of your own. Your companion 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.

- 10.4 We may adjourn the disciplinary hearing if we need to carry out any further investigations such as re-interviewing witnesses in the light of any new points you have raised at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
- 10.5 We will inform you in writing of our decision and our reasons for it, usually within 14 days of the disciplinary hearing. Where possible we will also explain this information to you in person.

## 11. DISCIPLINARY PENALTIES

11.1 The usual penalties for misconduct are set out below. No penalty should be imposed without a hearing. We aim to treat all employees fairly and consistently, and a penalty imposed on another employee 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.

11.2 **Stage 1 - First written warning.** A first written will usually be appropriate for a first act of misconduct where there are no other active written warnings on your disciplinary record.

11.3 **Stage 2 - Final written warning.** A final written warning will usually be appropriate for:

- (a) misconduct where there is already an active written warning on your record; or
- (b) misconduct that we consider sufficiently serious to warrant a final written warning even though there are no other active warnings on your record.

11.4 **Stage 3 - Dismissal.** Dismissal will usually only be appropriate for:

- (a) any misconduct during your probationary period;
- (b) further misconduct where there is an active final written warning on your record; or
- (c) any gross misconduct regardless of whether there are active warnings on your record. Gross misconduct will usually result in immediate dismissal without notice or payment in lieu of notice (summary dismissal). Examples of gross misconduct are:
  - (i) Theft, or unauthorised removal of our property or the property of a colleague, contractor, customer or member of the public; Fraud, forgery or other dishonesty, including fabrication of expense claims and time sheets;

- (ii) Actual or threatened violence, or behaviour which provokes violence, bullying;
- (iii) Deliberate damage to the Council's buildings, fittings, property or equipment, or the property of a colleague, contractor, customer or member of the public;
- (iv) Serious misuse of the Council's property or name;
- (v) Repeated or serious failure to obey instructions, or any other serious act of insubordination;
- (vi) Unlawful discrimination or harassment;
- (vii) Action that does bring or is capable of bringing the Council into serious disrepute;
- (viii) Serious incapability at work brought on by alcohol or illegal drugs;
- (ix) Causing loss, damage or injury through serious negligence;
- (x) Serious or repeated breach of health and safety rules or serious misuse of safety equipment;
- (xi) Serious breach of confidence or unauthorised use or disclosure of confidential information or failure to ensure that confidential information in your possession is kept secure;
- (xii) Accepting or offering a bribe or other secret payment
- (xiii) Conviction for a criminal offence that in our opinion may affect our reputation or our relationships with our staff, customers or the public, or otherwise affects your suitability to continue to work for us;
- (xiv) Possession, use, supply or attempted supply of illegal drugs;
- (xv) Serious neglect of duties, or a serious or deliberate breach of your contract or operating procedures;
- (xvi) Knowing breach of statutory rules affecting your work;
- (xvii) Unauthorised use, processing or disclosure of personal data contrary to our Data Protection Policy;
- (xviii) Refusal 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;
- (xix) Giving false information as to qualifications or entitlement to work (including immigration status);
- (xx) Knowingly taking parental, paternity or adoption leave when not eligible to do so or for a purpose other than supporting a child;

- (xxi) Serious misuse of our information technology systems (including misuse of developed or licensed software, use of unauthorised software and misuse of e-mail and the internet, including accessing internet sites containing pornographic, offensive or obscene material);

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

11.5 **Alternatives to dismissal.** In some cases we may at our discretion consider alternatives to dismissal. This will usually be accompanied by a final written warning. Examples include:

- (a) Demotion.
- (b) Transfer to another department or job.
- (c) A 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.

## 12. THE EFFECT OF A WARNING

12.1 Written warnings will set out the nature of the misconduct, the change in behaviour required, the period for which the warning will remain active, and the likely consequences of further misconduct in that active period.

12.2 A first written warning will usually remain active for six months and a final written warning will usually remain active for 12 months. In exceptional cases verging on gross misconduct or details of company specific misconduct which may warrant indefinite warnings such as dangerous breaches of health and safety, a final written warning may state that it will remain active indefinitely. Your conduct may be reviewed at the end of a warning's active period and if it has not improved sufficiently we may decide to extend the active period.

12.3 After the active period, the warning will remain permanently on your personnel file but will be disregarded in deciding the outcome of future disciplinary proceedings.

## 13. APPEALS AGAINST DISCIPLINARY ACTION

13.1 If you feel that disciplinary action taken against you is wrong or unjust you should appeal in writing, stating your full grounds of appeal, to the Chairman

of the Staffing Sub-Committee within one week of the date on which you were informed of the decision.

- 13.2 If you are appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if your appeal is successful you will be reinstated with no loss of continuity or pay.
- 13.3 If you raise any new matters in your appeal, we may need to carry out further investigation. If any new information comes to light we will provide you with a summary including, where appropriate, copies of additional relevant documents and witness statements. You will have a reasonable opportunity to consider this information before the hearing.
- 13.4 We will give you written notice of the date, time and place of the appeal hearing. This will normally be seven days after you receive the written notice.
- 13.5 The appeal hearing may be a complete re-hearing of the matter or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light. This will be at our discretion depending on the circumstances of your case. In any event the appeal will be dealt with as impartially as possible.
- 13.6 Where possible, the appeal hearing will be conducted impartially by a Councillor of the Town Council who has not been previously involved in the case. You may bring a companion with you to the appeal hearing (see paragraph 9).
- 13.7 We may adjourn the appeal hearing if we need to carry out any further investigations in the light of any new points you have raised at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
- 13.8 Following the appeal hearing we may:
  - (a) confirm the original decision;
  - (b) revoke the original decision; or
  - (c) substitute a different penalty.
- 13.9 We will inform you in writing of our final decision as soon as possible, usually 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.