



**ANDOVER TOWN COUNCIL  
DISCIPLINARY POLICY and PROCEDURE – 2019 (March 2019)**

<b>Contents</b>	<b>Subject</b>	<b>Page No</b>
	GDPR Privacy Statement	
1	Introduction	3
2	Objectives	3
3	Principles	4
4	Roles and Responsibilities	4
5	Who is Covered by The Disciplinary Procedure	7
6	What is Covered by The Disciplinary Procedure	7
7	Principles of The Disciplinary Procedure	7
8	Right to Be Accompanied	8
9	Minor Conduct Issues – Informal Stage	8
10	Major Conduct Issues – Formal Stage	9
11	Suspension	9
12	Disciplinary Hearing Outcomes	10
13	Appeals	13
14	Document Information	14
15	Document Control	14

**The General Data Protection Regulation (GDPR) standardizes data protection law across all 28 EU countries and imposes strict new rules on controlling and processing personally identifiable information (PII). It also extends the protection of personal data and data protection rights by giving control back to EU residents. GDPR replaces the 1995 EU Data Protection Directive and goes into force on May 25, 2018. It also supersedes the 1998 UK Data Protection Act.**

## **GDPR PRIVACY STATEMENT**

(General Data Protection Regulations)

This is a privacy statement of Andover Town Council. Our registered office address is 68b High Street, Andover, Hampshire, SP10 1NG.

### INTRODUCTION

- This is a statement to inform you of our policy about all the information we record about you. It sets out the conditions under which we may process any information that we collect from you or that you provide to us. Any information that identifies you (“Personal Information”) is used to provide you with the services you require.



## Disciplinary Policy 2019

- We regret that if there are one or more points below that you are not happy with us holding, we have to hold this under General Data Protection Regulations (GDPR) law.
- We take seriously the protection of your privacy and confidentiality. We understand that all visitors to our websites, customers and clients are entitled to know that their personal data will not be used for any purpose other than the lawful basis upon which it was provided for.
- We undertake to preserve the confidentiality of all information that you provide to Andover Town Council.
- Our policy complies with UK law accordingly implemented including that required by the GDPR.
- The law requires us to tell you about your rights and our obligations to you in regards to the processing and control of your personal data. We do this now by requesting that you read the information provided at [www.knowyourprivacyrights.org](http://www.knowyourprivacyrights.org).
- Except as set out in our GDPR policies (which can be found at [www.andover-tc.gov.uk](http://www.andover-tc.gov.uk)) we do not share, sell or disclose any personal data to any other organisation or third party.

### THE BASIS ON WHICH WE PROCESS INFORMATION ABOUT YOU

The law requires us to determine under which of the six defined bases, we process different categories of your personal information. If a basis on which we process your personal information is no longer relevant, your personal information will be destroyed.

If the basis changes then as required by law, we will notify you of the change and of any new basis under which your personal data is being held.

### ALLOTMENTS

Data is held on an internal Town Council database/software system and is used to send you Newsletters, Yearly Invoices, Receipts, Follow-Up letters and Terminations if necessary.

Tenancy Agreements are held for 1 year after the expiry of the agreement under the GDPR guidelines (subject to change).

### EMAILS & WEBSITES

If you contact the Town Council via email or our website, your personal data i.e. email address, will be kept for the time it takes to answer your enquiry, unless another lawful reason becomes apparent, which we will notify you of, after which time it will be destroyed.



## Disciplinary Policy 2019

For details of our full Privacy Policy, please refer to [www.andover-tc.gov.uk](http://www.andover-tc.gov.uk). Alternatively, you may write to us at Andover Town Council, 68b High Street, Andover, Hampshire, SP10 1NG and we will send you a hard copy.

### 1. Introduction

Andover Town Council seeks to ensure that lawful, fair and effective arrangements exist for dealing with employee conduct and disciplinary issues. The Council's Disciplinary Procedure provides a framework for ensuring that employees are made aware of unacceptable conduct and for developing ways of correcting any such issues whenever possible.

Andover Town Council accepts that before employees can be expected to reach required standards of conduct and job performance, it is essential that they have been provided with appropriate training and appropriate levels of guidance and supervision. The procedures used for dealing with misconduct are different from those used when dealing with work performance and capability.

This policy and its associated procedure will be applied in those cases where an employee is judged capable of carrying out their work duties to the required standard but for some reason chooses not to.

In cases of work performance and capability Andover Town Council's Capability Policy should be used unless the incident itself is so serious as to justify initiating disciplinary proceedings.

### 2. Objectives

The objectives of this policy are to ensure that:

- Andover Town Council meets all relevant legal requirements regarding disciplinary decisions it takes in relation to employees.
- Employees are treated in a fair and consistent manner in relation to conduct and disciplinary issues.
- The Town Clerk and/or the Chairman of staffing Sub-Committee are supported in carrying out their responsibilities for the maintenance of high standards of conduct of all Officers/employees and that standards of conduct of individual Officers/employees are improved, wherever necessary and practicable.
- Andover Town Council Officers, members, the public and recipients of Council services are protected from the consequences of misconduct.



### 3. Principles

At all stages in Andover Town Council's Disciplinary Procedure employees will be:

- Informed of the nature of the issue(s) of concern or case against them.
- Given a chance to offer an explanation before any decision is taken.
- Given the right to be represented by an Andover Town Council work colleague or a recognised trade union representative or official, at any formal meeting or hearing.
- Given reasonable notice of any formal meeting or hearing as outlined below.
- Notified of the outcome of any formal meeting or hearing in writing.
- Given a right to appeal against formal disciplinary action.
- Confident that Andover Town Council will comply with its obligations to disabled employees under the Equality Act in terms of reasonable adjustments.
- Treated with dignity and respect at all times.
- Recognised to be in a situation of potential stress/anxiety and be treated accordingly.
- Confident they will not be judged "guilty" in advance of the conclusion of the process.
- Confident of confidentiality of communication: with access to such, by others, limited.
- Confident the process will be carried out in a timely manner and without undue delay.

### 4. Roles and Responsibilities

#### **TOWN CLERK**

Ensuring employees understand council rules, practices and procedures and for applying the policy in a fair and consistent manner.

To consult with the relevant HR Adviser for advice and assistance in disciplinary issues prior to taking any formal action.



## Disciplinary Policy 2019

Developing a culture where employees are supported and assisted in achieving and maintaining the required standards of conduct.

Through normal performance management meetings, i.e. one to ones, supervisions, appraisals etc., address and resolve work conduct issues informally and promptly as appropriate.

To record details of all the meetings with the employee under this procedure, including any targets set, monitoring and support.

To keep a copy of the notes of meetings, letters to the employee and any ad hoc verbal feedback given during the monitoring period and place in a designated confidential and secure location within the department. Only letters relating to the formal procedure should be kept on the employee's personal file.

The Town Clerk should ensure that all documentation relating to disciplinary issues are retained in accordance with the Andover Town Council Retention and Disposal Schedule.

Should the matter progress to a Disciplinary Hearing, to present the details of the employee's failure to meet and maintain the required standards of conduct, including all relevant performance information and the outcome of performance improvement plans/records of actions to date.

Where the matter concerns a safeguarding issue, ensure that the Safeguarding Vulnerable Adults Team or the Local Authority Designated Officer (LADO) at Test Valley Borough Council are aware.

### **EMPLOYEES**

Employees have a contractual responsibility to be aware of and conform to the Council's values, rules, policies and procedures and to co-operate with any investigations, to attend any meetings, interviews, and hearings convened in accordance with this policy and its associated procedure.

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.

### **TRADE UNION REPRESENTATIVES**

The standards required from employees will apply to Trade Union Representatives.

However, where an application of formal disciplinary action is being considered against a Trade Union Official or Representative, the case must first be discussed with a Senior Trade Union Representative or full time Official in accordance with the ACAS Code of Practice.



### **STANDARDS OF CONDUCT**

Andover Town Council employees are expected to maintain standards of conduct both at work and outside of work.

The Council's Code of Conduct expands further on some of these standards.

This includes covert electronic, audio or video recording, by any device, of meetings or discussions in the workplace or whilst on Andover Town Council business unless express authorisation has been received from the appropriate senior manager prior to any such recording taking place.

Where the nominated note taker at meetings and/or hearings associated with the process feels it is necessary to make an audio recording in order to support with the preparation of the notes, the requirement to make a recording will be clarified with all present at the start of the meeting.

(Examples of misconduct are listed in the Disciplinary Procedure)

### **SAFEGUARDING**

Where the matter concerns a safeguarding issue, i.e. there is a concern regarding the conduct of an employee in respect of a child or a vulnerable adult, the Town Clerk must ensure that the Safeguarding Vulnerable Adults Team or the Local Authority Designated Officer (LADO) at Test Valley Borough Council are aware. In some cases, for example where an individual is in a notifiable occupation, the Safeguarding Vulnerable Adults Team or LADO may have already been made aware by the Police Service and would inform the Town Clerk accordingly.

### **ALLEGED CRIMINAL ACTIVITY**

An employment investigation may run in parallel to police, audit and /or child protection or adult abuse investigation. This should not hold up by any such investigations unless considered prejudicial to those investigations to proceed. It is not always necessary to await the outcome of any court hearing before deciding on disciplinary action.

An employee who provides information on criminal acts, breaches of legal obligations, health and safety dangers, environmental risks and related cover ups will have the right not to be dismissed or victimised for speaking out on such malpractice.



### SUSPENSION AND TEMPORARY TRANSFER

It may be considered appropriate, after careful consideration to alternatives to suspension, to suspend an employee from work or to have them temporarily transferred to work elsewhere, i.e. in cases where the allegations are serious or to facilitate an investigation. Such actions do not constitute disciplinary action or imply guilt on the part of the employee. The suspended employee will be given support and issued with appropriate guidance and the suspension (or temporary transfer) will be kept under review.

### 5. Who is Covered by The Disciplinary Procedure?

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

### 6. What Is Covered by The Disciplinary Procedure?

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.

### 7. Principles of The Disciplinary Procedure

- Where appropriate, concerns will be settled without recourse to a formal process.
- The procedure will be applied consistently with a defined process for all stages.
- All disciplinary matters will be dealt with sensitively and with due respect for the privacy of the individuals involved.
- All employees will be treated fairly and sensitively and supported during the process.
- Electronic, audio or video recording, by any device of meetings and/or hearings will not be permitted.
- Formal disciplinary matters will be investigated promptly, thoroughly considered in an impartial and independent manner and in confidence.
- Employees have the right to be accompanied at formal meetings, by a work colleague, a trade union representative or an official employed by a trade union.
- Employees have a right of appeal against the outcome of a disciplinary hearing.
- All employees must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.



### 8. The Right to be Accompanied

Employees attending any formal stage of the disciplinary procedure have the right to be accompanied by a work colleague, a trade union representative or an official employed by a trade union. Legal representation is not permitted.

If the choice of companion/representative is unreasonable, the employee will be asked to choose an alternative companion, for example:

- The companion/representative may have a conflict of interest or may prejudice the meeting,
- The companion/representative is unavailable at the time a meeting is scheduled and will not be available for more than five working days afterwards.

At the Town Clerk's and/or the Chairman of the Staffing Sub-Committee's discretion, the employee may bring a companion/representative (i.e. a member of the employee's family) if this will help overcome a disability, or the employee has a difficulty understanding English.

### 9. Minor Conduct Issues – Informal Stage

Minor conduct issues can often be resolved informally between the employee, the Town Clerk and/or the Chairman of the Staffing Sub-Committee, without any undue delay, whenever there is a cause for concern. These meetings are held in private to establish if there is an acceptable explanation for the alleged misconduct. A note of the informal meeting will be placed on the employee's personal file; however, this will be ignored for the purpose of any future disciplinary hearings. In some cases, an informal verbal warning may be given, which will not form part of your personnel file.

Notes from the discussions on minor conduct issues should include the following:

- A clear statement of what was discussed with regard to the employee's conduct and an explanation of why this is unsatisfactory.
- The required level of improvement discussed and (wherever practicable) agreed with the employee. These should be in measurable terms such as quantity, quality, frequency and timing etc.
- How management will assist the employee (if applicable) to meet the required standards.

You will not normally be dismissed for a first act of misconduct, unless the decision amounts to gross misconduct or the employee has not completed the required probationary period.





## 10. Major Conduct Issues – Formal Stage

If the Town Clerk and/or the Chairman of the Staffing Sub-Committee determine that the misconduct issue can not be resolved with informal action, then Disciplinary Hearing procedures will need to be followed.

The employee will be invited to attend a disciplinary hearing with at least five working days' notice. At least two working days prior to the hearing, the employee may submit written submissions and /or provide any names of witnesses they may wish to call to the hearing.

The invitation will detail the allegation(s), give an indication of the alleged level of misconduct and include the investigation documentation.

If sickness or other absence prevents an employee attending a Disciplinary Hearing, it may be postponed and re-arranged within five days or as soon as practicable. Employees will be advised that if they fail to attend the re-arranged hearing, then their case may be considered by management in their absence, based on the written submissions.

At the hearing the employee will have the opportunity to; respond to the allegations, challenge the investigation findings, ask questions and seek clarification, present evidence, call witnesses and be expected to answer questions.

## 11. Suspension

In some circumstances the Town Clerk and/or Chairman of the Staffing Sub-Committee may need to suspend the employee from work whilst the necessary investigations into the alleged allegations are carried out. The arrangements will be confirmed in writing. The employee is not permitted to visit the Council's premises, contact any members, contractors or staff unless authorised to do so by the Town Clerk and/or Chairman of the Staffing Sub-Committee.

Suspension of this kind is not a disciplinary penalty and does not imply that a decision has been made about the allegations. Payment of salary and benefits will continue to be made during the period of suspension.



## 12. Disciplinary Hearing Outcomes

Andover Town Council's Disciplinary Policy and Procedure allows for the following disciplinary hearing outcomes:

### **1) NO FURTHER ACTION**

- Where it is considered there is no case to answer.

### **2) TOWN CLERK ACTION**

- Where the alleged offence is proven but a reprimand is considered an appropriate outcome due to mitigating circumstances or the nature of the offence, i.e. a relatively minor issue.

### **3) FIRST WRITTEN WARNING**

- Where the employee's conduct has fallen below acceptable standards or,
- Where the offence is sufficiently serious to justify an immediate formal sanction.

***(N.B. The warning will be valid for disciplinary purposes for between 6 to 12 months, as determined at the Hearing)***

### **4) FINAL WRITTEN WARNING**

- Where the employee's conduct continues to be significantly below acceptable standards and previous written warning(s) have not resulted in sufficient improvement, or
- Where the offence is so serious that a final warning is appropriate as a first formal warning or
- Where dismissal would normally be appropriate but significant mitigation is accepted by management.

***(N.B. The warning will be valid for disciplinary purposes for between 12 to 24 months as determined at the Hearing)***

All warnings will be confirmed in writing to the employee and include:

- A clear statement of the unsatisfactory conduct or behaviour.
- The level of warning.
- The length of time it will remain live for disciplinary purposes.



## Disciplinary Policy 2019

- The required level of improvement (in measurable terms).
- The consequences of no improvement in conduct or behaviour.
- The right to appeal.

### 5) DISMISSAL

Dismissal will occur where there has been gross misconduct OR where the employee has a warning in force and is deemed appropriate for any further misconduct or unsatisfactory conduct has taken place.

**Dismissal with contractual notice** – Unless an employee is dismissed for gross misconduct, they will receive the appropriate period of notice.

**Summary Dismissal** – Actions of gross misconduct will, except in the most exceptional circumstances, justify dismissal without notice.

Examples of gross misconduct are:

- 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;
- Actual or threatened violence, or behaviour which provokes violence, bullying;
- Deliberate damage to the Council's buildings, fittings, property or equipment, or the property of a colleague, contractor, customer or member of the public;
- Serious misuse of the Council's property or name;
- Repeated or serious failure to obey instructions, or any other serious act of insubordination;
- Unlawful discrimination or harassment;
- Action that does bring or is capable of bringing the Council into serious disrepute;
- Serious incapability at work brought on by alcohol or illegal drugs;
- Causing loss, damage or injury through serious negligence;
- Serious or repeated breach of health and safety rules or serious misuse of safety equipment;



## Disciplinary Policy 2019

- 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;
- Accepting or offering a bribe or other secret payment;
- 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;
- Possession, use, supply or attempted supply of illegal drugs;
- Serious neglect of duties, or a serious or deliberate breach of your contract or operating procedures;
- Knowing breach of statutory rules affecting your work;
- Unauthorised use, processing or disclosure of personal data contrary to our Data Protection Policy;
- 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;
- Giving false information as to qualifications or entitlement to work (including immigration status);
- Knowingly taking parental, paternity or adoption leave when not eligible to do so or for a purpose other than supporting a child;
- Containing pornographic, offensive or obscene material); 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.

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

### 6) ALTERNATIVES TO DISMISSAL

In some cases, Andover Town Council may at their discretion consider alternatives to dismissal. This will usually be accompanied by a final written warning. Examples include:

- Demotion;
- Transfer to another job or department;
- A period of suspension without pay;



- Loss of seniority;
- Reduction in pay;
- Loss of future pay increment or bonus;
- Loss of overtime.

### 13. Appeals

An employee has the right to appeal in writing to the Chairman of the Staffing Sub-Committee, against any formal disciplinary action taken against him/her under this procedure, within five working days of being notified of the decision. The letter should clearly state the grounds for the appeal, based on:

- New evidence coming to light which was not previously available at the time the decision was made or which was unreasonably withheld (other than by the employee) and which could have materially affected the outcome;
- A flaw in the procedure which could have influenced the final outcome;
- Unfairness of the judgement or;
- Severity of the penalty.

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. The employee may bring a companion with to the appeal hearing (see Section 7, "Principles of The Disciplinary Procedure") The employee will be given written notice of the date, time and place of the appeal hearing. This will normally be seven days after receipt of the written notice.

If the employee raises any new matters in their appeal, Andover Town Council may need to carry out further investigation. If any new information comes to light, the employee will be provided with a summary including, where appropriate, copies of additional relevant documents and witness statements. The employee will have a reasonable opportunity to consider this information before the hearing.

Following the appeal hearing we may:

- Uphold the original decision;
- revoke the original decision; or
- Impose a lesser disciplinary sanction



## Disciplinary Policy 2019

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. If the appeal is successful, the employee will be reinstated with no loss of continuity or pay.

### 14. Document Information

Title:	Disciplinary Policy
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### 15. Document Control

Date	Version	Description	Sections Affected	Approved by
Nov 2016	1	1 <sup>st</sup> Draft	All	Policy & Resources Committee
Mar 2019	2	2 <sup>nd</sup> Draft	All	Council

*Disclaimer:*

*A printed version may not be the current version.*

*A current version may be obtained in the required format from the Town Clerk's Office at Andover Town Council.*