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Stourport-on-Severn Town Council

Grievance and Disciplinary Policy

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**Stourport-on-Severn Town Council Grievance Policy**

**Introduction**

The Council recognises that circumstances may arise in which an employee feels aggrieved with some aspect of their employment and that an effective procedure should exist for resolving such grievances fairly, consistently and as quickly as possible. Formal procedures should not exclude an initial informal approach to try and resolve the issue.

Management and employees will be encouraged to use this approach in the first instance. However, it is accepted there may be a need, in exceptional circumstances, to move straight into the formal procedure.

At any point in the process the Council may seek external expert advice to support staff.

**Scope**

The procedure applies to all employees with the exception of the Town Clerk. In the case of any grievance raised by senior managers, it may be necessary to seek external advice. A record of the outcome of each stage of the procedure, together with all the relevant documentation must be available for the Manager at the next stage.

The procedure is also available to groups of employees sharing a grievance. If the issue affects a group of employees, a representative of the group (normally a trade union or an employee representative, chosen by the group) will raise the matter on behalf of the group in line with the procedure. At each stage of the procedure, the manager will, if necessary, consult with other members of management in order to find a satisfactory solution.

Mediation will be considered at any stage in the procedure if felt appropriate by all parties. At all stages of this procedure confidentiality must be maintained by all parties.

At certain stages of the procedure a more senior manager may not always be available to respond to an issue within the prescribed timescale and an alternative response period may therefore be appropriate.

**Roles Responsibilities:**

* Human Resources Committee - Hear appeals against dismissal
* Town Clerk - Hear appeals under stage 3
* Senior Managers - Hear stage 2 cases and determine.
* Line Managers - Deal with stage 1 cases.
* Employees - Submit their case and attend meetings as necessary.
* Representative - Either a trade union representative or work colleague - Support and advise employee. Can put forward employee’s case, ask questions or make representations, but cannot answer questions that are directly put to the employee.

**Exclusions**

This procedure shall not normally be used to pursue matters relating to the following:

* Grading or pay (job evaluation scheme)
* National, regional or local terms and conditions of employment (relevant collective agreement)
* Pensions (LGPS regulations and Internal Dispute Resolution Procedures)
* Tax or NI (HMRC rules and regulations)
* Dismissal or disciplinary matters (Disciplinary Procedure)
* Bullying and harassment (separate policy)

If an employee has concerns about these matters, they should discuss them with their line manager in the first instance.

**Representations**

An employee has the right to be represented by their Trade Union or accompanied by a fellow worker at all formal stages of the procedure and must notify management accordingly if they are to be represented or accompanied. The representative may present the employee’s case but the employee must be present at all meetings.

**Investigations**

At any stage of the grievance procedure, the person responsible for hearing it can appoint an investigating officer to collate any additional information required prior to formal meetings

**Witnesses**

Employees (or workers) who are requested to attend at any hearing as witnesses, are required to do so, unless there are overriding reasons why this should not be the case.

**Procedures**

**Step 1: Informal Procedure**

* Where an employee has a grievance, they should initially discuss the matter informally with their immediate line manager who should reply orally as soon as possible and normally within seven calendar days.
* Where the grievance is against the line manager, the employee should approach another manager or raise the matter with the Town Clerk.

**Step 2: Formal Procedure**

* If the employee is dissatisfied with the response from the informal stage, they can invoke the formal procedure and report the grievance to their Trade Union representative or deal with the matter personally and raise the matter in writing with a senior manager.
* The senior manager will decide what further information is required to come to a view, including any meetings with the employee and or management. The manager should aim to reply to the employee, or if the employee agrees, to their Trade Union representative in writing within seven calendar days.

**Step 3: Formal Procedure**

* If the grievance is not satisfactorily resolved at step 2, the employee or their representative can submit an appeal in writing to the Town Clerk (identified in the step 2 letter).
* The employee must submit any appeal within 14 calendar days of receiving the step 2 decision
* The Town Clerk will aim to arrange a meeting within 14 calendar days with the interested parties and, if desired, with a fellow worker (not acting in a professional capacity) or the Trade Union representative. If the Town Clerk deems it necessary, a nominated investigating officer will be asked to collate any additional information required prior to the meeting. If the employee’s representative is not available at the proposed time of the meeting, the employee may request a reasonable alternative time for the meeting within seven calendar days and the Town Clerk will postpone the meeting as requested
* The Council will allow other employees to take time off to accompany another employee to a grievance meeting. Employees who are requested to attend a grievance meeting as witnesses are required to do so unless there are over riding reasons why this should not be the case.
* The Town Clerk will confirm the decision in writing normally within seven calendar days, where possible
* The Step 3 decision is final and there will be no further internal procedure available after this Stage, except that the Appointment & Appeals Committee may hear appeals against dismissals.

**Stourport-on-Severn Town Council Disciplinary Policy**

**Introduction**

The Council aims to ensure that there will be a fair and systematic approach to the application of standards of conduct required of its employees.

This procedure aims:

* To ensure that a fair and consistent process is adopted where there are concerns regarding the conduct and behaviour of an employee
* To help and encourage employees to achieve and maintain acceptable standards of conduct and behaviour
* To ensure that employees experiencing difficulties at work which manifest themselves as poor conduct are managed appropriately by adopting a constructive and problem solving approach to achieving improvement
* To maintain the high standards of integrity and conduct expected of those employed in public office in order to protect the Council’s reputation with the public
* To ensure that managers recognise the Council’s separate arrangements for dealing with the performance, ill health and disability of employees

**Scope**

The procedure applies to all employees of the Council. Where an officer holds a Politically Restricted Post, the provisions of the Local Government & Housing Act 1989 will supersede all or part of this procedure as required.

Where allegations relate to the Town Clerk, the provisions set out in the conditions of service should be read in conjunction with this procedure.

**Roles Responsibilities**

* Human Resources Committee- Hear appeals against dismissal
* Town Clerk - Suspend, dismiss, hear appeals and take any other actions under the policy deemed appropriate.
* Line Managers - Deal with misconduct issues within their own teams except dismissal and suspension.
* Employee/witnesses - Answer allegations or complaints made under this procedure and fully co-operate with all associated meetings Representative or work colleague
* Either a trade union representative or work colleague - Support and advise the employee. Can put forward the employees’ case, ask questions or make representations but cannot answer questions that are directly put to the employee.

**The Disciplinary Procedure**

**Informal Action**

Where there is a concern about possible misconduct, managers should take informal action wherever possible as cases of minor misconduct are usually best dealt with promptly and informally. However, informal action may not be appropriate as the first step in all cases and the procedure for cases of alleged gross misconduct is set out later in this document.

Managers are responsible for ensuring that employees are clear about what is expected of them both from a Council perspective and for dealing with unacceptable behaviour effectively.

An informal discussion may be required to improve an employee’s conduct which will concentrate on:

* The standards of conduct and behaviour expected
* Providing examples and supporting information relating to the possible misconduct
* Exploring possible reasons for the misconduct
* Setting standards of conduct and behaviour for the future which will be monitored with agreed timescales for improvement
* Identifying any additional training or support, such as mediation or counselling, needed to support the employee in improving.
* The employee’s personal circumstances which may be affecting their work.
* Whether signposting to extra support would be of assistance or whether any adjustment can be made in the workplace to support the employee in resolving the matter

The manager may use the informal discussion to decide whether the absence policy or capability procedure is a more appropriate route for resolving the matter. Notes of the informal discussion should be kept for reference purposes.

**Formal Action**

Where it becomes apparent that an informal approach to dealing with the misconduct has failed, or where further information becomes available during the informal discussion which makes the matter sufficiently serious or where there is an allegation of serious misconduct, then the manager will need to use the formal disciplinary procedure.

Managers need to establish that they have the necessary level of authority before taking formal action by speaking to the Town Clerk. The employee must be advised in writing that formal action under the disciplinary procedure has been started.

Factors such as the nature and seriousness of the incident, the employee’s previous conduct or behaviour, any mitigating circumstances determined at the investigation stage should be thoroughly assessed before coming to the decision to proceed to the formal disciplinary procedure. In serious cases of alleged gross misconduct, it will be necessary to consider what measures could be taken to reduce the risk to the Council and to allow the investigation to proceed. This could include additional supervision, removal of certain duties, temporary redeployment or in certain cases suspension.

**Formal Process**

**Step 1: The Investigation**

The first step in formal action will usually be to carry out an investigation into the facts of the allegation and prepare a report on the findings. The investigation must be impartial and needs to be undertaken promptly. No disciplinary action will be taken without an investigation having been undertaken to consider whether there is a disciplinary case to answer.

It is not normally recommended that officers who investigate such matters ultimately take the decision to discipline an employee. It is accepted in some instances however, particularly where minor breaches of misconduct occur, that this is the more proportionate approach and can produce a satisfactory and fair outcome without any bias on the part of the manager.

The employee will be informed in writing of the alleged matter to be investigated and that an investigation to establish the facts will be undertaken. The investigation must be concluded as soon as reasonably practical whilst allowing sufficient time to interview all relevant parties. The employee must be kept informed if there is any unexpected delay in the process.

The manager is responsible for keeping the investigation under review and making sure it is completed in a proportionate and timely fashion.

**Step 2: Investigation Outcomes**

The investigating officer will normally produce a report which sets out the investigation findings. The manager will consider the findings of the investigation report in order to determine whether there is a case to answer and if so what further action should be taken. The manager’s decision will be one of the following:

* Returned to the investigating officer for further investigation of certain points
* No further action
* Informal action
* Formal action

Where the manager determines that either no further action or informal action is appropriate then a disciplinary meeting will not be required. The manager responsible for considering the findings of the report must notify the employee of the outcome of the investigation, in writing, as soon as possible and where possible within 7 calendar days of receipt of the final investigation report.

In certain circumstances the manager may decide to meet with the employee to address any concerns raised within the investigation report. The aim of the meeting will be to prevent the reoccurrence of any problem issues. It will be made clear to the employee at the earliest opportunity that this is not a disciplinary sanction.

The employee will have the right to be accompanied by a colleague or union representative at any such meeting.

**Step 3: The Disciplinary Meeting**

Where it has been determined that formal action is appropriate a disciplinary meeting will be convened. The purpose of the meeting is for the manager hearing the case and chairing the meeting to consider the findings of the investigation report, test the evidence and hear the employee’s version of events and any mitigation.

The manager hearing the meeting will generally be the Town Clerk and will manage the disciplinary meeting with the aim of ensuring that it is run in an effective manner which is proportionate to the issue being considered to minimise the impact on all parties.

The employee must be given written notice of arrangements for the meeting, the reasons for the disciplinary meeting, possible outcomes and the right to be accompanied at least 7 calendar days prior to the meeting.

The investigating officer will submit a set of papers to be considered at the disciplinary meeting (normally the investigation report and any supporting evidence) and advise who they intend to call as witnesses no less than 3 working days before the meeting (unless both employee and management agree a shorter period).

The employee will have the opportunity to submit a set of papers and/or any supporting evidence that they wish to be considered at the disciplinary meeting no less than 3 working days before the meeting (unless both employee and management agree a shorter period).

The individuals expected to be available to attend the meeting will be:

* The manager hearing the case
* The investigating officer
* The employee who is subject to the formal action
* A work colleague or trade union representative (at employee’s request)

If an employee fails to attend a disciplinary meeting without notice to the TC, the meeting may go ahead in the employee’s absence and a decision taken based on the evidence available.

If an employee requests a postponement of the meeting the request will be considered by the Town Clerk and the meeting may be re-arranged taking into account the particular circumstances and reasons given. A second postponement of the meeting is likely to result in the meeting going ahead and a decision being made in the employee’s absence based on the evidence available.

Whilst it is always the preferred option to hear from all parties first hand at a disciplinary meeting, alternatives to attending a meeting may be considered depending on the individual circumstances of the case. Such alternatives may include offering the employee the opportunity to send along a representative or allowing the employee to provide a written statement in their absence.

**Procedure at The Disciplinary Meeting**

The Town Clerk will introduce those present to the employee and explain why they are there; explain the role of the accompanying person if present; and explain that the purpose of the meeting is to consider what action, if any, should be taken. In serious cases it should be made clear that this could include dismissal. The manager will also set out how the meeting is to be conducted:

* The investigating officer will present the case and call witnesses as appropriate
* The employee (or their representative) can then ask questions of the investigating officer and any other witnesses called by management
* The employee (or representative) will put their case next and call witnesses individually as appropriate
* The investigating officer can ask questions of the employee and their witness(es);
* Witnesses will be present only when called to give evidence
* The Town Clerk will have the opportunity to ask questions of both parties and any witnesses at any stage
* Each party will have an opportunity to sum up their case with the employee summing up last. No new matters can be introduced at this stage
* The Town Clerk will deliberate in private and may recall the employee, their representative and the investigating officer only to clarify points of uncertainty on information already given. If recall is necessary, both parties are to return, even if only one is concerned with the point giving rise to doubt
* The manager will endeavour to announce the decision to the employee and their representative verbally at the end of the meeting. The employee will also be given notice of any right of appeal verbally at that time
* The manager will confirm the decision in writing to the employee as soon as possible and within 7 calendar days of the date of the meeting

**Decisions at The Conclusion of a Disciplinary Meeting**

The Town Clerk can reach one of the following decisions:

* The management case is not proven in which case no sanction is applied
* The management case is proven but under the circumstances no sanction should be imposed
* The management case is proven and a formal sanction is appropriate

**Actions Following a Disciplinary Meeting**

* No sanction imposed
* Verbal warning/Improvement note
* First written warning
* Final written warning
* Dismissal with notice
* Dismissal without notice

**Dismissal without Notice**

Where an act of misconduct is deemed to be gross misconduct this will result in summary dismissal without entitlement to notice.

**Other possible sanctions for misconduct**

There may be circumstances where other sanctions are appropriate either in addition to, or as an alternative to formal disciplinary sanctions. Examples include:

* Withholding incremental progression
* Demotion
* Redeployment

All disciplinary sanctions must be notified to the employee in writing and will be recorded on the employee’s file.

**How long will sanctions last**

The length of a warning must be proportionate (depending on the nature and seriousness of the misconduct) and time limited. However, the list below provides an indication of the likely currency period of any sanction. These periods may vary in exceptional circumstances.

**Sanction Currency Period**

* Verbal warning/Improvement note - 6 months
* First written warning - 1 year
* Final written warning - 2 years
* Withholding incremental progression - Reviewed after an agreed period, but normally not less than 1 year
* Demotion - Permanent
* Redeployment - Permanent (subject to a management trial period)
* Warnings issued under the disciplinary procedure can run concurrently with other formal action taken under other Council procedures such as capability.

**Gross Misconduct and Suspension**

**What is gross misconduct?**

Gross misconduct is misconduct serious enough to fundamentally breach the contract between the employer and employee. An allegation of gross misconduct does not remove the right to a full and fair disciplinary process. A finding of gross misconduct will result in summary dismissal without entitlement to notice.

Gross misconduct may include, but is not limited to, intoxication (whether from drink or drugs), fighting or other physical abuse, indecent behaviour, theft, dishonesty, sabotage, serious breaches of health and safety rules, offensive behaviour (such as discrimination, harassment, bullying, abuse and violence) and gross insubordination.

**Suspension**

Suspension is not a punishment or to be taken as prejudging the outcome of disciplinary action. Whilst suspension is not limited to cases of potential gross misconduct it must be considered in all cases where the allegation could be regarded as gross misconduct. The decision to suspend or not to suspend and the reasoning for this decision must be clearly recorded.

An employee may be suspended at any stage in the procedure. There is no right of appeal against suspension. Suspension may need to take place in cases of potential gross misconduct where it may be necessary to act immediately to remove the employee from the workplace, to prevent immediate harm to themselves, to others, to council property, or to prevent interference with an investigation. However, managers must consider alternatives to suspension to allow the employee to remain at work during an investigation, for example, temporary redeployment, additional supervision or the restriction of duties. Whilst suspended, employees remain entitled to full contractual pay and must be available to attend any meetings, unless they are away on pre-arranged annual leave.

The suspension should be reviewed regularly to ensure that it is not unnecessarily protracted. Employees are entitled to request an appeal against the imposition of a disciplinary sanction. This should be submitted in writing within 14 calendar days of receiving the letter confirming the decision of the meeting (unless otherwise agreed) to the manager identified in the letter. Any appeal letter should include reasons for the appeal and any evidence the employee wishes to rely upon.

**Appeals against dismissal**

Appeals against dismissal are determined by the Human Resources Committee. Appeals against sanctions which fall short of dismissal will be dealt with at officer level as described below.

**Appeals against sanctions (not dismissal)**

Appeals against sanctions which fall short of dismissal will be considered at an appeal meeting chaired by a different manager at an appropriate management level. It is not intended that an appeal should be a re-hearing, but a review of the decision taken by the manager of the disciplinary meeting and whether the conclusion reached by the manager was reasonable on the basis of the evidence presented.

The letter from the employee submitting the appeal, outlining the reasons for an appeal and enclosing any other evidence will be circulated to all parties along with the papers from the disciplinary meeting at least 3 working days in advance of the meeting unless otherwise agreed. The Manager who heard the disciplinary meeting will have the opportunity to submit a statement which will become part of the papers to be circulated.

**Appeal Decisions**

The decision of the Appeal Manager will be one of the following and will be final:

* Uphold the appeal and rescind the action taken;
* Uphold the appeal in part which may result in the level of action being reduced;
* Dismiss the appeal

**Related Council Policies**

You may also find it helpful to read the following related HR policies:

* Employee Code of Conduct
* Anti-Harassment and Bullying Policy
* Grievance and Disciplinary Policy
* Sickness Policy
* Training and Development Policy

**The statutory and regulatory framework for disciplinary action**

The important provisions governing discipline at work are to be found in:

* The Employment Act 2008
* The Employment Tribunals (Constitution and Rules of Procedure) (Amendment) Regulations 2008.

## Compliance

All permanent and temporary staff, Town Councillors and volunteers will be provided with a copy of this policy and must sign to confirm they have received it and will comply at all times with its content.

This policy will be officially monitored for compliance by the Town Clerk and may include random and scheduled inspections.

## Non-compliance

All policies require the participation of staff, councillors and volunteers to be successful. Anyone found to have violated this policy may be subject to disciplinary action.

**Review of Policy**

The review of this document will be carried out annually, or if a breach should arise, by the Town Clerk. All amendments will be approved by the Town Council, with the revised document circulated accordingly.

Signed: Date:

Sue Saunders, Town Clerk