



**DORCHESTER TOWN COUNCIL**

*STAFF DOCUMENTS SERIES*

# **DISCIPLINARY PROCEDURE**



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### **1. Introduction**

1.1 This procedure forms part of the local conditions of service for all members of staff of the Dorchester Town Council (“the Council”).

### **2. Objects**

2.1 Discipline is essential for the conduct of the Council’s affairs and for the safety and well-being of all members of staff. The Council has established and maintains a fair procedure for the handling of disciplinary matters and the conduct of disciplinary appeals which should mean that most breaches of the disciplinary rules can be dealt with by a lesser penalty than dismissal without breaching the individual’s contract of employment. However, the Council intends the Procedure to be used primarily as a tool to help or encourage members of staff to improve rather than just as a way of punishing them.

### **3. Scope**

3.1 This procedure covers all members of staff – full time, part time, permanent or temporary – employed by the Council but will not apply to members of staff given notice of termination of employment by the Council –

- (a) at the conclusion of the employment for which the member of staff has been specifically engaged;
- (b) where the reason given for dismissal is one of redundancy;
- (c) where the reason given and agreed for dismissal is incapability by reason of ill-health.
- (d) during a period of probationary service of less than 24 weeks, or where the dismissal arises from unsuitability for confirmation of appointment within a period of 24 weeks from the date the employment began; or
- (e) where the reason given for dismissal is some other substantial reason.

3.2 Members of staff dismissed for (b) or (c) may appeal against the dismissal to the Personnel Panel on grounds of wrongful selection for dismissal or on other reasonable grounds, which have to be set out in the written notice of the appeal.

### **4. Responsibility for Discipline**

4.1 The Town Clerk is responsible for maintaining discipline within the Council, sometimes through the Council’s line managers and other supervisors. Normally this will be done by example, advice, job training and informal reprimands and by members of staff observing proper standards of conduct and the Council’s rules and regulations.

4.2 The Council intends and expects that this situation will continue but, in the interests of the conduct of its business and for the safety and welfare of all members of staff, discipline may on occasion need to be reinforced by the formal elements of this procedure.

## **5. Advice or Informal Reprimands**

5.1 Where minor breaches of discipline occur the member of staff may be informally advised of the standard expected in the future and the possible consequences of a further breach of discipline. These will not be recorded except by way of a brief note of the date on which the matter was discussed and what action was agreed.

## **6. Operating the Procedure**

6.1 The procedure will not normally be invoked unless –

- (i) previous advice or informal oral reprimands have been ineffective; or
- (ii) a number of minor complaints are made which, taken together, constitute a serious breach of discipline; or
- (iii) the complaint is of a serious nature; or
- (iv) the complaint is of gross misconduct.

6.2 The following principles will apply –

- (a) any disciplinary action will depend on the seriousness of the offence, the past recorded behaviour of the member of staff, the consequences to the Council of the offence and any mitigating circumstances presented by the member of staff; and
- (b) any disciplinary action taken against the member of staff will be appropriate to the circumstances of the case having regard to the need for reasonableness and fairness on the part of the Council; and
- (c) the opportunity exists where a written warning or other more serious disciplinary action is specified, for the member of staff to appeal against the action (see paragraph 10); and
- (d) before an investigation takes place prior to any formal warning being given or where other disciplinary action is contemplated the member of staff concerned will be advised of their right to be accompanied by a trade union representative or some other representative of their choice.

### *6.2 Importance of Speed*

All stages of the formal procedures should be carried out as speedily as possible in the interests of both management and staff, particularly in cases of alleged gross misconduct. The Council will give at least 5 days notice in writing of the date of the disciplinary interview to the member of staff and their representative (if any). This notice is not required in the case of a disciplinary interview where the charge is of gross misconduct and the sole purpose of the interview is to consider whether to suspend the member of staff immediately pending a detailed investigation.

### *6.3 Principles of Natural Justice*

The Council will apply the principles of natural justice to any action which it takes under this procedure.

## **7. The Formal Procedure**

### **7.1 The Recorded Oral Warning**

If a member of staff shows no improvement after an informal reprimand, and the conduct or efficiency of a member of staff continues to fall short of the proper standards, the Town Clerk or someone appointed by him will establish the facts of the case, taking account of any statements from available witnesses. The Town Clerk will ensure that the member of staff is fully informed of the case against them and allow them the opportunity to state their case before any further action is taken. Where the Nominated Officer considers the member of staff is at fault, he will give the member of staff an oral warning, which will be recorded to allow him or her to understand and correct any shortcomings before any more formal action is taken. The Nominated Officer will try to determine the reasons for misconduct or lack of capability and may suggest appropriate training, additional supervision or some other action designed to help prevent a recurrence.

### **7.2 The Disciplinary Interview**

If an oral warning has not resulted in the member of staff correcting any shortcoming or where the member of staff has been shown to be guilty of serious misconduct or inefficiency then, after preliminary investigation by the officer instituting the complaint, the Nominated Officer will prepare a statement setting out what the member of staff has done – or has failed to do – and a copy of it will be sent to the member of staff and a meeting to discuss the matter will be convened by the Nominated Officer. The purpose of this meeting will be to determine the facts of the case in the presence of the member of staff and any representative and to hear any explanations which either of them offer. If the complaint is admitted or proven to the satisfaction of the Nominated Officer, then mitigating circumstances will be considered before any warning is given.

The number of persons attending the interview will be kept to a minimum but must include –

- the Nominated Officer who will preside at the interview;
- the officer instituting the complaint;
- the member of staff; and any representative attending in accordance with paragraph 6.1 (d);
- witnesses who can be called by either side.

### **7.3 The Written Warning**

Where the member of staff is considered at fault at the disciplinary interview by the Nominated Officer he will inform the member of staff at the conclusion of the interview that a written warning will be issued; this warning may be a final warning dependent on the seriousness and circumstances of the case. This written warning will –

- set out the particulars of the shortcomings of the member of staff;
- give the nature of the warning –whether it is a first written or final warning;

- outline the nature of possible further action by the Council if there is no improvement on the part of the member of staff or further misconduct occurs to ensure that the member of staff is in no doubt that dismissal or other disciplinary action will follow if his or her shortcomings are not corrected;
- be handed personally to the member of staff whenever possible or posted directly by recorded delivery within 3 working days of the disciplinary interview; a copy will be sent anyone who represented the member of staff at the interview (if any).

Where a member of staff's conduct, behaviour or performance is unsatisfactory after a previous written warning which is not a final warning, a second disciplinary interview will be arranged which, if the member of staff is found to be at fault, will result in a final warning being given. This final warning will contain the same particulars set out above.

The member of staff may appeal to the Town Clerk against a written warning within 7 working days of the warning being received.

#### **7.4 *Procedure Prior to Serious Disciplinary Action***

Where a member of staff's conduct or efficiency is unsatisfactory after a previous final warning the officer instituting the complaint may recommend further disciplinary action to the Nominated Officer and will inform the member of staff of that intention. On receipt of this recommendation the facts of the latest incident will be determined by the Nominated Officer. The member of staff will be given the opportunity to explain his or her actions. The member of staff will be allowed sufficient time to demonstrate improvement between warnings and before further disciplinary action is recommended. Where disciplinary action is recommended by the Nominated Officer after determining the facts the member of staff will be informed of the reasons for the recommendation and the disciplinary action proposed, and will also be informed that a formal disciplinary hearing will be convened.

A final decision on the recommendation will be made by the Town Clerk who has been authorised to take appropriate disciplinary action, or in the case of more senior or chief officers by the relevant committee of the Council (see paragraph 8). Before finally determining the recommendation the Town Clerk (or someone specifically appointed by him not previously involved in the investigation) or relevant committee as the case may be will convene and conduct a disciplinary hearing. The people attending the disciplinary hearing must include –

- the Town Clerk or someone specifically appointed by him;
- if appropriate the member of staff instituting the complaint;
- the member of staff; and any representative attending in accordance with paragraph 6.1 (d);
- witnesses who can be called by either side.

The procedure at the hearing will be as follows –

- The Nominated Officer will state the reasons for the recommendation, calling witnesses if necessary.

- The member of staff and/or any representative(s) will have the opportunity to ask questions of the Nominated Officer and any witnesses.
- The member of staff and/or any representative(s) may contest any recommendation and will be invited to put their case, calling witnesses if necessary.
- The Nominated Officer will have the opportunity to ask questions of the member of staff and any representative or witnesses.
- The Town Clerk or his appointed representative may ask questions of both parties.
- Both parties will have the right to summarise their case, but not introduce new matter, with the member of staff or his or her representative having the final say.
- The Nominated Officer, the member of staff and all representatives and witnesses will withdraw.

The decision of the Town Clerk will be given orally to both sides at the end of the hearing or adjourned hearing and will be confirmed in writing to the member of staff within three working days. The written confirmation will set out the reasons for the decision.

On receipt of the decision to take disciplinary action, as outlined in paragraph 7.5 the member of staff or their representative may lodge an appeal through the Town Clerk to the Personnel Panel within seven working days. The decision of the Panel will be final and will complete the Disciplinary Procedure.

#### *7.5 Disciplinary Action*

Disciplinary action which may be considered if the warning procedure has been exhausted could include –

- (a) instant dismissal - in the case of gross misconduct only; or
- (b) dismissal with due notice; or
- (c) one or a combination of the following:
  - (i) suspension without pay or on reduced pay for a specified period;
  - (ii) relegation with no protection of pay;
  - (iii) compulsory transfer to another department or depot at no expense to the Council.

With the exception of (a) and (b), none of the above disciplinary actions will be implemented if an appeal is lodged pending the completion of the appeals procedure.

#### *7.6 Gross Misconduct*

In cases of gross misconduct, instant dismissal does not require a verbal or prior warning. Other disciplinary action may, however, be considered, depending upon the circumstances of the offence. The following procedure must be carried out by the Town Clerk or other nominated officer in such cases:-

- the member of staff will be asked for an explanation of their actions, and informed

of their right to have a representative in attendance;

- if such explanations are unacceptable and the allegations proved, dismissal action should be taken;
- the Town Clerk will ensure that the action being taken has been consistently applied; and
- the member of staff will be informed of their right to appeal.

#### 7.7 *Action against a Trade Union Official*

Disciplinary action against a recognised trade union official can lead to a serious dispute if it is seen as an attack on the union's functions. Although normal disciplinary standards should apply to their conduct as members of staff, no disciplinary action beyond an oral warning should be taken until the circumstances of the case have been discussed with the Town Clerk and with a full-time official. In case of alleged gross misconduct against a recognised trade union official and where a full-time union official cannot be contacted within 48 hours the recognised trade union official may be suspended until the full-time union official has been contacted and further action agreed.

#### 7.8 *Currency of Warnings*

Should any warning or other disciplinary action be reconsidered or effectively withdrawn, whether following an appeal or otherwise, any written reference on the member of staff's file will be removed; where following previous disciplinary procedure no further action has been necessary then written reference will be expunged from the employee's file, after the time periods listed below:

Recorded oral warnings - 1 year

Written warnings - 2 years.

#### 7.9 *Criminal Proceedings*

A criminal offence outside employment should not be treated as an automatic reason for dismissal regardless of whether the offence has any relevance to the duties of the individual as a member of staff. The main consideration should be whether the offence is one that makes the individual unsuitable for their type of work or unacceptable to their colleagues. Members of staff should not be dismissed solely because a charge against them is pending or because they are absent through having been remanded in custody; acquittal of a criminal charge will not in itself preclude disciplinary action where such action would otherwise be appropriate.

### 8. **Delegation of Power to Officers**

The Town Clerk has the power to assume the responsibilities of any other officer relating to disciplinary matters. He is also authorised to take appropriate disciplinary action such as relegation with no protection of salary, withholding of incremental progression, suspension on reduced salary for a specified period.

## **9. Town Clerk**

Should disciplinary action against the Town Clerk become necessary the powers of the Town Clerk specified in this Procedure shall be exercisable by the Chairman and Vice-Chairman of the Policy Committee.

## **10. Appeals Against Disciplinary Action**

Where a member of staff wishes to appeal against the form of disciplinary action he or she must do so within 7 days of receipt of the notification of such action.

## **11. Appeals Procedure**

The Council has established a Personnel Panel which will act as an Appeals Panel for disciplinary purposes and the following procedure at hearings of appeals against dismissals or other disciplinary actions shall apply.

- The Town Clerk shall notify the appellant in writing at least 7 working days in advance of the time, date and venue of the appeal. If the appellant is to be represented the date of the hearing shall be fixed in consultation with the appellant's representative.
- The appeal will be conducted in accordance with the following paragraphs except that these rules of procedure may be varied by the Personnel Panel for any particular appeal, with the consent of the parties thereto.
- The appeal will be heard by the Personnel Panel.
- The Council's case is presented first, followed by the appellant's case, and both parties will have the right of reply to each other's cases. Normally the parties are open to questions by the Panel after both sides have made their submissions. Each party will be given the opportunity to question the other if they wish to do so. The detailed procedure is as follows:
  - The Council's representative will put the case in the presence of the appellant and any representative and may call witnesses.
  - The appellant or his or her representative will have the opportunity to ask questions of the Council's representative and any witnesses on the evidence given by them.
  - The Panel may ask questions of the Council's representative and witnesses.
  - The appellant or his or her representative will put their case in the presence of the Council's representative and will be allowed to call such witnesses as they wish.
  - The Council's representative will have opportunity to ask questions of the appellant and/or his or her representatives and their witnesses.
  - The Panel may ask questions of the appellant, his or her representative and any witnesses.

- The Council's representative and thereafter the appellant or his or her representative will have the opportunity to sum up their cases if they so wish. No new matter should be introduced at this stage.
- The Council's representative, the appellant, his or her representative and all witnesses shall withdraw.
- The Panel together with the Town Clerk or his representative shall deliberate in private, only recalling the Council's representative and the appellant and his representative to clear points of uncertainty on information already given. If recall is necessary both parties are to return even if only one party is concerned with the point giving rise to doubt.
- The Chairman of the Personnel Panel shall announce the decision to the parties orally or in writing unless for special reasons the Panel has only the power of recommendation to the Council in which case a report will be submitted to the Council and the parties so advised. Normally the decision will be confirmed in writing by the Town Clerk within 10 working days.

**N.B.** The Panel reserves the right to call any witness, employee or adviser who might be able to assist and clarify any point in the presence of both parties that may emerge during the hearing in order to enable the Committee to form a decision consistent with the spirit and intent of the A.C.A.S. Code on Disciplinary Practice and Procedure and of natural justice.

### **General Note**

In the absence of any officer specifically mentioned in either the Rules or Procedure then that officer's nominated deputy will act.