



DISCIPLINARY PROCEDURE

1. INTRODUCTION

It is the aim of Syston Town Council to help and encourage all employees to achieve a high standard of personal conduct. However, there may be instances where, it may be necessary to take disciplinary action in respect of an employee who has breached the policies, rules and instructions which cover the required, or expected standards of conduct while employed by Syston Town Council. The underlying purpose of taking disciplinary action, whether it is on an informal or a formal basis, is to encourage the employee concerned to recognise their lapse and to improve their conduct; it is not automatically concerned with punishment.

2. PURPOSE

This procedure is designed to support the Syston Town Council Discipline Policy and other Syston Town Council, rules, policies and procedures on the standards of conduct, and to deal with alleged breaches of those standards and of its rules and regulations. The aim is to ensure timely, consistent and fair treatment for all concerned. This procedure, based upon the Dispute Resolution Regulations 2004, and current best practice, applies to all staff employed by Syston Town Council. If a member of staff seconded to Syston Town Council breaches a Syston Town Council rule, policy or procedure, then the employing company will be advised accordingly. The decision taken with regards to whether any action is required to be taken as a consequence of the breach will be made by the employing company.

3. PRINCIPLES

- The disciplinary procedure should be seen as a way of helping and encouraging improvement amongst employees whose conduct is unsatisfactory. It should be seen as corrective rather than as punitive.
- No disciplinary action will be taken against an employee until the case has been fully investigated and the facts considered.
- All cases will be dealt with without undue delay, but mindful that appropriate time should be taken to provide for a full investigation.
- At an early stage in the procedure the employee will be advised in writing of the details of the complaint and its seriousness and will be given the opportunity to state their case before any decision is made. At each stage the employee will be advised of their rights under the procedure.
- At each stage of formal discipline the employee will have the right to be at the disciplinary hearing by a full time trade union official or a workplace colleague, not in a position of authority over them and may call witnesses.

- No employee will be dismissed for a first breach of discipline except in the case of gross misconduct (when the penalty may be dismissal without notice or salary in lieu of notice or some other sanction short of dismissal).
- An employee will receive an explanation for any formal disciplinary decision and/ or penalty imposed and will have the right to appeal against any formal disciplinary decision and/or penalty imposed unless the decision or penalty was final under this procedure.
- In cases when it is decided at any stage of the procedure that no further action is to be taken, the employee will be informed in writing as soon as possible.
- Whenever possible no manager, at any level, will deal with more than one stage of, or perform more than one function in, the formal disciplinary procedure in respect of a specific case.
- ***Once a prima facie case has been established, Council should have the option to arrange for this to be chaired and led by an HR professional (stipendiary); Councillors are invited to attend any hearings as a witness to the proceedings and to inject an independent element. Delegated authority can be granted to a Panel to make a decision at or after a hearing. Panels do not have to have a minimum of three Councillors if an independent consultant is being hired.***

4. EXAMPLES OF GROSS MISCONDUCT

Examples of gross misconduct are given below. However, it should be noted that the list is for illustration only and is not intended to be a comprehensive list of offences that could lead to dismissal without notice or pay in lieu of notice. Equally, the penalty for such offences may not necessarily always involve dismissal.

- Failure to follow safety procedures, and/or rules, thereby affecting, or potentially affecting, the safety of the employee or others including other employees, seconded employees, consultants, agency, temporary workers, and any other third party working on Syston Town Council premises or on behalf of Syston Town Council.
- Deliberate or negligent contravention of Syston Town Council's employment policies or procedures;
- Violent or indecent behaviour;
- Serious or persistent harassment, bullying or discrimination;
- Failure to follow rules and procedures on the handling of or accounting for Syston Town Council's cash, goods or assets;
- Breaches of either the Drugs and Illegal Substances Policy or the Alcohol Policy;

- Criminal convictions affecting the employee's duties or status, regardless of whether the offence was committed inside or outside work;
- Gross insubordination;
- Theft, fraud or deliberate falsification of records;
- Deliberate damage to Syston Town Council property;
- Serious misuse of computers, as set out in the policy and management guidelines for email and Internet use.

5. INFORMAL APPROACH

In the normal course of work employees may be made aware, informally, of any minor shortcomings in conduct and encouraged to improve. This may be by way of informal advice, coaching, counselling and/or training with the objective of encouraging and helping employees to improve. It is important that it is made clear what needs to be done, how conduct will be reviewed, over what period and what the consequences of failing to improve will be. The Manager undertaking this informal process must record the facts and inform the employee in writing that an informal warning has been given, outline the advice given and any connected standards of conduct and review periods.

Records of informal meetings and warnings do not constitute formal disciplinary action but will serve as evidence of managerial attempts to resolve the issue prior to formal disciplinary action. This should also be explained to the employee at the time. Informal warnings will be retained on record for 6 months.

6. FORMAL DISCIPLINE

Where informal methods have proved ineffective, or there is a more serious breach of discipline, a series of minor breaches, or action arising from other circumstances, (such as an enquiry into incidents or irregularities). It may be appropriate to take formal disciplinary action.

Investigation

The first stage of the disciplinary process will be an investigation to establish the facts and to determine if there is a disciplinary case to answer. This should take place as soon as is practicable.

If appropriate an investigation officer will be appointed to interview the employee concerned and, as far as is reasonably practical, other persons who witnessed the incident or have evidence which is directly relevant to the case. If whilst interviewing the employee concerned it becomes apparent that formal disciplinary action may be needed, the interview will be terminated and a formal hearing convened at which the employee will be afforded the right to be accompanied by a trade union representative or a workplace colleague.

In cases where an employee admits to the allegation made against them a disciplinary hearing should still be arranged to consider any factors of mitigation and determine the penalty and or any remedial action.

In cases where it is concluded that there is no disciplinary case to answer the employee will be informed of this in writing and where necessary given any appropriate advice on future conduct.

Disciplinary Hearing

If the matter proceeds to a formal disciplinary hearing this must be arranged as soon as possible.

The employee will be advised in writing of the hearing. The written advice will include details of the allegation against them, the seriousness of the allegation and the possible consequences for their employment if appropriate, reference to relevant regulations, policies/procedures, instructions or safety procedures. It should also advise the employee of their rights under the procedure, including the right to be accompanied.

7. DISCIPLINARY PENALTIES

The following disciplinary penalties may be awarded under this procedure and will be recorded on the disciplinary record:

- Written Warning
- Final Written Warning
- Dismissal with contractual notice
- Summary dismissal (gross misconduct)

In addition the following may be awarded in their own right or in association with the above.

- Regrading or transfer to other work, either of which may involve a transfer of location.
- Suspension without pay

When deciding on a disciplinary penalty, as far as possible account should be taken of the employee's employment record and any previous unexpired warnings for acts of misconduct. Other relevant factors such as the employee's position, penalties imposed in similar cases in the past, any special circumstances and the gravity of the case.

A written warning and a final written warning will be valid for 1 year. However Syston Town Council reserve the right to alter this if deemed necessary. Warnings should outline details of required improvement, timescales for the improvement to be made and advise the employee that if there are any further instances of similar misconduct further disciplinary action may be taken. A final written warning may be given for a first offence if the misconduct is sufficiently serious, but does not justify dismissal.

A disciplinary penalty will be held in abeyance until consideration of an appeal has been concluded, except in cases of dismissal, or summary dismissal and re-grading or transfer to other work because of unsuitability for present duties. Such penalties will be effective immediately and an appeal will be treated as an application for reinstatement. In cases of dismissal with notice an appeal hearing will be arranged wherever possible before the notice period expires.

8. APPEALS

An employee has the right to appeal against a formal disciplinary penalty. An appeal against a disciplinary decision must be made in writing within 7 days of it being issued. The appeal must be made to the Town Manager, stating the grounds of the appeal. Appeals may be made on the following grounds severity of the penalty, new evidence coming to light or procedural irregularities.

The appeal should be made to a manager where practicable and will be heard as soon as is practical following the procedure for the hire of a Consultant as outlined in Section 3.

At an appeal hearing an account of the disciplinary hearing and evidence will be made available to the employee and or employee's chosen companion a reasonable period prior to the hearing. If at this stage new evidence is brought forward, it will be open to the Appeal Hearing Manager to refer the matter back to the Hearing Manager who held the original disciplinary hearing or to re-hear the case themselves.

The decision of the appeal hearing manager may confirm, vary (but not increase) or cancel the penalty. It will be announced and confirmed in writing to the employee together with any appropriate warning as to future conduct. A decision at an appeal hearing will be final.

9. CONDUCT OF DISCIPLINARY HEARINGS AND APPEALS

The hearing may be attended by the following: -

- the Hearing/Appeal Hearing Manager can be external.
- a representative from Syston Town Council
- the employee
- the employees companion (if applicable)
- witnesses (if applicable)

The hearing manager will open the proceedings by stating the allegation against the employee. The investigation officer (if attending) will present the management case against the employee to those present.

The employee and their companion may reply to the allegation by bringing evidence, calling witnesses and advancing extenuating circumstances.

The companion may address the hearing but has no right to answer questions. Also the companion should not suffer any disadvantage when accompanying a member of staff and is entitled to reasonable time off for this purpose.

The hearing/appeal hearing manager may adjourn the hearing or consider requests for adjournments at any point in the proceedings.

Witnesses may be called by either the employee or management provided they have a direct bearing on the case. The hearing manager may put questions to witnesses at the hearing. It will be at the discretion of the hearing manager to allow the questioning of the witness by the employee or their companion, taking due account of the gravity of the case. Witnesses will be present only whilst their own evidence is being given.

In some cases it may be necessary to ensure the anonymity of witnesses. The hearing manager may in such cases exclude the employee and his/her companion from the meeting while the witness gives his/her evidence, or alternatively may consider evidence from the witness in the form of a written statement.

It is the responsibility of the employee concerned to arrange the attendance of his/her witnesses.

At the end of a disciplinary hearing the hearing/appeal hearing manager may, as appropriate, dismiss the allegation, impose penalties as set out in the disciplinary penalties section of this procedure or, in the case of an appeal confirm or reduce the penalty.

The hearing/appeal hearing manager will provide reasons for their decision and the employee will also be warned of the consequences of a repetition of the breach of discipline and indicate specific improvements required, with a time scale, if appropriate. These will be confirmed in writing to the employee.

10. INVESTIGATORY SUSPENSION

In certain circumstances, for example in cases involving gross misconduct issues, where relationships have broken down or where it is considered there are risks to the employer's property or responsibilities to other parties, consideration should be given to a brief period of suspension with pay whilst an investigation is undertaken and/or pending a disciplinary hearing.

Suspension should only be imposed after careful consideration and should not be for a protracted period. The investigation officer will advise the employee of the suspension at an interview. The circumstances of the suspension will be confirmed in writing.

It should be made clear to the employee that the suspension is not considered as disciplinary action, but is used only as a precautionary or protective device.

Suspension could alternatively involve a temporary change in duties or location at current salary.

11. CRIMINAL OFFENCES

Where an employee has been charged or is about to be charged by the Police with an offence that is also in breach of the Syston Town Council discipline policy, the discipline procedure should proceed. It is not intended that the discipline procedure be delayed pending the outcome of police or legal proceedings. This is dependent upon there being sufficient evidence other than the fact of the charge on which to take disciplinary action.

Criminal offences outside work will give rise to disciplinary action if the offence makes the employee unsuitable in relation to his or her work. The facts must be considered to establish whether the matter is sufficiently serious in the light of their employment to warrant disciplinary action.

12.PAYMENT FOR ATTENDANCE AT A DISCIPLINARY OR APPEAL HEARING

An employee required to attend a disciplinary hearing/appeal hearing will receive normal pay for the day within which the hearing takes place.

Witnesses and workplace colleagues accompanying the employee who attend a disciplinary hearing will be released with pay as above.

13.VARIATIONS IN PROCEDURE

An authorised deputy, or a manager of equivalent level, may act in the absence of a specified manager if the absence would unreasonably delay the hearing. A deputy may not be involved at more than one stage of the procedure.

14.LEVELS FOR DISCIPLINARY ACTION

As a general principle and where practical, no one person, at any level, can deal with more than one stage of, or perform more than one function in, the formal disciplinary procedure in respect of a specific case.

Equality Impact Assessment

We need to understand whether our services are meeting everyone's needs and that everyone who needs them has access to those services. We have developed an Equality Impact Assessment process for the assessment of any new or significantly changed policies, practices, procedures, functions and services.

Undertaking Equality Impact Assessments enables us to take action to prevent direct and indirect discrimination by ensuring that as far as possible any negative consequences for a particular group or sector of the community are eliminated, minimised or counterbalanced by other measures. Resources Oct 2018

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Our ultimate aim is to improve our services. By making sure we have considered the potential impacts of a policy, strategy or plan at an early stage potential barriers or problems can be avoided and actions put in place these it can be fully incorporated into any decisions and not just a 'bolt-on' at the end. Working in this way helps us to integrate and mainstream equalities into our work. Likewise, when reviewing the effectiveness and performance of our services, we can use this procedure to identify equality issues and opportunities as an integral part of our review.