



PORTISHEAD TOWN COUNCIL

DISCIPLINE PROCEDURES POLICY

INTRODUCTION

The Council recognises that good management can prevent the development of potential disciplinary problems. However, when these do arise it is the Council's aim to deal with the matter fairly, speedily and consistently and in accordance with the current legislation as it is updated.

The following Disciplinary Procedures are designed to maintain good employment relations between you and the Council and to ensure a safe and efficient workplace. Disciplinary Procedures are not just a method of imposing sanctions when rules are broken; they also exist to help and encourage employees to achieve and maintain acceptable standards.

The procedure laid down in this document forms part of the conditions of service for all employees of the Council and has been devised to ensure the fair treatment of employees who might find themselves liable for disciplinary action.

Whilst overall responsibility for the monitoring and the carrying out of the Policy rests with the Council, the Clerk of the Council is responsible for the day to day management and maintenance of discipline.

APPLICATION

Although this procedure applies to all employees of the Council it will not apply in the following circumstances where notice has been given by the Council –

- When the employee has failed to satisfactorily complete a probationary period including any extended probationary period and dismissal arises from the unsuitability for confirmation of appointment.
- When the reason for dismissal is some other substantial reason that is not connected with an individual's capability or conduct (for example, if someone disappears).
- When the dismissal arises as a result of the employee's incapability by reasons of ill health.

AIMS OF POLICY

The aim of this policy is to provide guidance on the standards of conduct and behaviour required of employees of the Council.

As unacceptable standards of conduct or breach of rules will result in disciplinary action being taken it is considered necessary to provide some general guidance to ensure that all employees are aware of what is required of them.

DEALING WITH DISCIPLINARY ISSUES

If the Council is concerned about a disciplinary matter it will undertake an investigation to establish the facts. Once the facts have been established the Council will decide whether to

- Drop the matter
- Deal with it informally, or
- Arrange for it to be handled formally under the disciplinary procedure.

If an investigatory meeting is held purely to establish the facts the Council will make it clear that it is not a disciplinary hearing. In certain cases, eg gross misconduct, consideration may be given to a brief period of suspension with full pay pending an investigation. Any suspension will be periodically reviewed and will not become protracted.

EXAMPLES OF DISCIPLINARY ACTION WHICH CAN BE TAKEN

STAGE	OUTCOME	DESCRIPTION	ISSUED BY
Stage 1A	Oral warning	A formal verbal warning (confirmed in writing) making it clear that further misconduct will render the employee liable to further disciplinary action including more serious consequences	Clerk
Stage 1B	First Written Warning	For a more serious offence or where a previous warning has not resulted in the required improvement to their conduct	Clerk and Chairman
Stage 2A	Final Written Warning	For a sufficiently serious offence, which might warrant only one written warning but is insufficiently serious to justify dismissal, or where previous warnings have been ineffective.	Discipline Panel (Stage 2)
Stage 2B	Dismissal with notice or other penalty	For an act or acts of misconduct, other than gross misconduct, by an employee who is under a first or final written notice. The employee will be liable to dismissal with notice or pay in lieu of notice or some other penalty	Discipline Panel (Stage 2)
	Dismissal without notice	In cases where gross misconduct is established, the employee will be liable to summary dismissal ie without notice or pay in lieu of notice.	Clerk (when not involved with the investigation) or Discipline Panel (Stage 2)

Stage 3	Appeal	The Appeal Panel can confirm the penalty being appealed or reduce it, but it cannot increase it.	Appeal Panel
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Stage 1A Informal verbal warning

Most cases of minor misconduct or unsatisfactory performance or attendance will be dealt with informally. The employee will be invited to attend an informal discussion with the Clerk when s/he will be warned of the likely consequences of any further disciplinary offences or a failure to improve his/her conduct to the satisfaction of the Council. A note confirming the verbal warning will be placed on the employee's personnel file and a copy provided to the employee. A verbal warning will remain in force for 6 months.

The verbal warning stage may be omitted if the offence is of a sufficiently serious nature

Stage 1B First written warning – Unsatisfactory performance/misconduct

If the Council finds an employee to be performing unsatisfactorily or to be guilty of misconduct, s/he will be given a written warning setting out the problem or misconduct, improvements and change of behaviour that are required, the timescale by which improvements are to be achieved, a review date and the support available. The employee will also be advised that failure to improve could lead to the issue of a final written warning and ultimately dismissal. The notice will also state that the warning is part of the formal disciplinary process and that the employee may appeal against any disciplinary action. An initial written warning will remain in force for 12 months.

A first written warning may be omitted if the offence is of a sufficiently serious nature.

Stage 2A Final written warning

A final written warning will be issued in cases where an employee has failed to improve their performance or change their behaviour in the timescale set in the initial formal stage or where the offence is sufficiently serious to warrant the issue of this warning in the first instance. Prior to this warning being issued the employee will be allowed to present their case at a hearing. A final written warning will give details of, and the grounds for, the complaint, warn that failure to improve may lead to a dismissal or other disciplinary penalty and refer to the right to appeal.

A final written warning will normally remain in force for 24 months.

Stage 2B Dismissal or Other Disciplinary Penalty

Should an employee's conduct or performance still fail to improve the final stage in the disciplinary process might be dismissal or some other disciplinary penalty such as demotion, suspension without pay, withholding of incremental progression or a

combination of these. Written notification of a dismissal or other penalty will be given and will set out the reason for the dismissal or penalty, when, in the case of a dismissal, the contract of employment will cease or when any other disciplinary penalty is to commence. It will also refer to the right of appeal.

DISCIPLINARY PROCEDURE – STANDARD 3-STAGE PROCESS

Stage 1 – Instigation

If informal action or a first written warning does not bring about an improvement or the employee's conduct, unsatisfactory performance or attendance is considered too serious to deal with informally the Council will commence the formal disciplinary procedure.

The alleged misconduct will be investigated and the facts surrounding the complaint established. Statements will be taken from any available witnesses. The Council will set out in writing the alleged conduct or other circumstances which lead the Council to contemplate dismissing the employee or taking disciplinary action against the employee and the basis for the allegation. The employee will be sent a copy of the statement and be invited to attend a disciplinary meeting with the Council's Discipline Panel to discuss the matter.

Stage 2 – The Hearing

The procedures for the hearing can be found in the Council's Protocol for hearings.

After the hearing

The Panel will decide whether or not disciplinary action or a dismissal is justified and will take into account the employee's disciplinary and general record, length of service and whether any intended disciplinary action, including dismissal, is reasonable under the circumstances. The employee will be informed of the decision and any applicable sanction, in writing, within 5 working days. The employee will also be advised of their right to appeal against any decision.

Stage 3 – Appeals

If the employee wishes to appeal against the decision s/he must notify the Council in writing within 5 working days of receiving written notice of the decision. The appeal letter must set out the grounds for the appeal, normally under one of the following headings:

- The severity of the disciplinary action
- The findings of the Panel on a point of fact which is pertinent to the decision of the hearing or new evidence which has come to light since the hearing
- A failure to adhere to the disciplinary procedure.

The employee will be invited to attend a disciplinary appeal hearing before the Council's Appeal Panel. The disciplinary appeal meeting will normally be convened within 5 working days of the Council receiving notification that the employee wishes to appeal.

The protocol for the meeting can be found in the Council's Protocol for Appeal Meetings.

The appeal hearing may be adjourned to allow matters raised during the course of the meeting to be investigated or to afford the Appeal Panel time to consider its decision.

After the disciplinary appeal meeting the employee will be informed of the Appeal Panel's decision, in writing, within 5 working days. The decision of the Appeal Panel is final.

DISCIPLINARY PROCEDURE – MODIFIED 2-STEP PROCESS (FOR USE IN CASES OF GROSS MISCONDUCT)

Step 1

If an employee is accused of Gross Misconduct s/he may be suspended from work on full pay pending the outcome of an investigation into the alleged offence(s). Such a period of suspension will not normally exceed 10 working days unless there are exceptional circumstances.

The Clerk will investigate the matter and will establish the facts surrounding the case as necessary, taking into account the statements of any available witnesses. As part of that investigation the employee will be interviewed by the Clerk and the Chairman.

If they believe the employee is guilty of gross misconduct the employment will be terminated without notice or pay in lieu of notice.

The employee will be sent a statement setting out the allegations of misconduct that led to the employee's dismissal and the Council's basis for thinking that the employee is guilty of that misconduct. The date on which the employment terminated will be confirmed to the employee and the employee will be reminded of any continuing obligations s/he may have following the termination of employment. This statement will also explain the employee's right to appeal against the Council's decision.

Step 2 – Appeal

If the employee wishes to appeal against the Council's decision he or she must notify the Council in writing within 5 working days of receiving notice of the Council's decision.

The employee will be invited to attend a disciplinary appeal hearing before the Council's Appeal Panel. The disciplinary appeal meeting will normally be convened within 5 working days of the Council receiving notification that the employee wishes to appeal. The employee must take all reasonable steps to attend the meeting.

The procedure for the Appeal Hearing can be found in the Council's Protocol for Appeal Hearings.

The appeal hearing may be adjourned to allow matters raised during the course of the meeting to be investigated or to afford the Appeal Panel time to consider its decision.

After the disciplinary appeal hearing the employee will be informed of the Appeal Panel's decision, in writing, within 5 working days. The decision of the Appeal Panel is final.

GENERAL PROCEDURAL INFORMATION

- A record will be kept of the discipline process and will include –
 - The reason for the discipline process
 - A copy of any written statement from the employee
 - The Discipline Panel's decision
 - What action is taken and the reasons for that action
 - The outcome of any appeal
 - Any subsequent developments
- A record of the Stage 2 Panel hearing and any Appeals Panel hearing will be taken by the Clerk. Where the Clerk is involved in the proceedings the Council will arrange a mutually acceptable alternative.
- Where action is being taken against the Clerk, the Chairman will conduct the above processes, and will act with the Chair of the Staffing and Finance Committee where necessary.
- Records will be treated as confidential and retained for no longer than is necessary in accordance with the Data Protection Act.

*February 2007
Reviewed April 2011
Reviewed Jan 2016*

APPENDIX

EXAMPLES OF MATTERS WHICH WOULD BE LIKELY TO RESULT IN DISCIPLINARY ACTION

Not every potential breach of discipline can be covered but it is important that employees are aware of the issues that may result in disciplinary action being taken. The following list is not exhaustive and other offences not listed will be considered as disciplinary matters as and when necessary. Examples of offences that are most likely to attract dismissal are listed under the heading of Gross Misconduct. Examples under the headings of Attendance and Capability may also be subject to disciplinary action but are less likely to result in dismissal for a first offence.

Conduct

Misconduct

- Minor damage to the property of the Council
- Abusive behaviour
- Carelessness in work

- Disobedience
- Inappropriate dress and/or personal appearance and hygiene
- Minor breach of health and safety regulations
- Drunkenness on duty where consequences are not serious
- Refusal to carry out management instructions

Gross Misconduct

- Physical assault, fighting, violent, dangerous or intimidating conduct
- Theft from the Council, its members, members of staff or the public and other offences of dishonesty.
- Falsification of forms or medical records
- Discrimination on racial or religious grounds or on grounds of sex, marital status or disability including harassment
- Acceptance of work-related bribes
- Refusal to carry out a reasonable instruction
- Intoxication by reason of drink, drugs or solvents
- Serious breach of the Council's rules or procedures
- Serious negligence which causes or might cause unacceptable loss, damage or injury
- Bringing the Council into disrepute
- Wilful or serious damage to the Council's property, including arson
- Misuse of the Council's property or name
- Any fraudulent or dishonest act or omission, eg falsifying time sheets
- Any wilful or reckless act constituting a serious danger to the health and safety of any person
- Serious breach of health and safety regulations, involving potential loss of life or limb
- Deliberate and/or persistent failure to follow the Council's procedures and/or instructions
- Deliberate damage to other employee's property
- Misuse of plant and equipment
- Unauthorised disclosure of sensitive or confidential information
- False and malicious allegations
- Disclosures made for personal gain
- Serious breach of contract in respect of duties set out in the contract of employment
- Misappropriation of funds
- Inappropriate, abusive and/or offensive language
- Misuse of personal and/or sensitive personal data
- Gross insubordination
- Submission of false references
- Sexual misconduct at work, including harassment

Attendance (See Attendance Policy)

Capability (See also Attendance Policy)

- Lack of knowledge or skills necessary for the job
- Aptitude/mental quality eg if the employee is inflexible and not adaptable or difficult and abrasive, affecting other employees' quality of work