

DISCIPLINARY PROCEDURES

INTRODUCTION

These procedures apply to all employees of Godalming Town Council and need to be read in conjunction with the Code of Conduct for Employees of Godalming Town Council. These two documents set out the rules about how staff should behave and the procedures that will be used should staff not follow the rules.

Disciplinary procedures are also a legal requirement to ensure that disciplinary matters are handled in accordance with employment law and to protect both the employees and the Town Council as employer.

Inevitably, because the Town Council is a small organisation, Members will be involved in initiating and hearing disciplinary action. Members must always follow this procedure and should always seek external support and advice when taking disciplinary action (particularly in respect of the Town Clerk). Suitable sources of advice include the Surrey Association of Local Councils (SALC) or the Town Council's solicitors (Penningtons LLP).

INFORMAL DISCIPLINARY ACTION

Cases of minor misconduct or unsatisfactory performance are usually best dealt with informally. As Godalming Town Council is a small organisation where problems can be dealt with quickly and confidentially the informal approach is preferred. The aim of informal action is to encourage improvement in an individual's conduct and/or performance.

There will, however, be situations where matters are more serious or where an informal approach has been tried but is not working.

FORMAL ACTION

Step 1 – Statement of Grounds for Action and Invitation to Meeting

- The employer, that is the Town Clerk, (in the case of all other Town Council staff) or the Chairman or Vice Chairman of the Staffing Sub Committee (if the Town Clerk is the individual to be disciplined), will let the employee know in writing what it is they are alleged to have done wrong. The letter will explain clearly what the individual is alleged to have done wrong and the reasons why the employer believes this is not acceptable. If the employee has difficulty reading, or if English is not their first language, the employer will explain the content of the letter to them orally.
- The letter will also invite the individual to a meeting at which the problem can be discussed and it will inform the individual of their right to be accompanied at the meeting. The employee will be given copies of any documents that will be produced at the meeting.

- The Town Clerk will inform the Chairman or Vice Chairman of the Staffing Sub Committee before issuing a Statement of Grounds for Action and the invitation to meeting, or if urgent action is required as soon as practicably possible after the event.

Step 2 – The Meeting

- The meeting will take place before any disciplinary action is taken, except when gross misconduct is alleged when the employee may be suspended on full pay pending an investigation and before the meeting (such suspension does not constitute disciplinary action or indicate prejudgement).
- The meeting must not take place unless:
 - i) the employer has informed the employee what the basis was for initiating the disciplinary procedure ie. made a full statement under Step 1; and
 - ii) the employee has had a reasonable opportunity to consider their response to that information.
- The employee must take all reasonable steps to attend the meeting.
- The employee has the right to be accompanied at the meeting by a fellow worker, Trade Union official, friend or family member.
- The employer will be represented by two individuals as appropriate: either the Town Clerk and Deputy Town Clerk; the Town Clerk and a Member of the Staffing Sub Committee; or the Chairman/Vice Chairman of the Staffing Sub Committee and another member of that sub-committee.
- The meeting must be held as soon as possible, preferably within five working days of receipt of the statement of grounds for disciplinary action, and in private in a proper office or meeting room (for example it would not be appropriate for the meeting to take place at anyone's home).
- If the employee, or the employee's companion, cannot attend on a proposed date the employee can suggest another date so long as it is reasonable and is not more than five working days after the date originally proposed by the employer. This five-day time limit may be extended by mutual agreement.
- Following the meeting the Staffing Sub Committee will decide whether disciplinary action is justified or not. Where it is decided that no action is justified the employee will be informed. Where it is decided that disciplinary action is justified the Staffing Sub Committee will consider what form this should take (see Possible Outcomes of a Disciplinary Meeting, below). The meeting of the Staffing Sub Committee must take place within four working days of the meeting because within five working days of the meeting the employer must inform the employee in writing of their decision and notify them of the right of appeal against the decision if they are not satisfied with it. (Note – in practical terms it is essential that when arranging the meeting the employer also takes steps to call an extraordinary meeting of the Staffing Sub-Committee for a date immediately after the meeting so that the matter may be dealt with without delay.)

Step 3 – Appeal

- If the employee does wish to appeal they must inform the employer (either the Town Clerk or the Chairman/Vice Chairman of the Staffing Sub Committee).
- In the event of an appeal the Town Clerk or the Chairman/Vice Chairman of the Staffing Sub Committee must ask the Policy & Management Committee (or Full Council) to appoint an

Appeals Panel to consist of two individuals¹ who have not been party to the original disciplinary action – the request must go to the next meeting of the Policy & Management Committee (or direct to Full Council if that meets sooner).

- The appeal meeting should be held, in private in a proper office or meeting room, within five working days of the Policy & Management Committee (or Full Council) meeting that appoints the Appeals Panel.
- The employer must invite the employee to attend the appeal meeting. The invitation to the appeal meeting should be in writing and specify the date, time and place that the meeting is to take place and inform the employee of their right to be accompanied (as at Step 2).
- The employee must take all reasonable steps to attend the appeal meeting.
- The employee has the right to be accompanied at the meeting by a fellow worker or Trade Union official.
- If the employee, or the employee's companion, cannot attend on a proposed date the employee can suggest another date so long as it is reasonable and is not more than five working days after the date originally proposed by the employer. This five-day time limit may be extended by mutual agreement.
- Within five working days of the appeal meeting the Appeals Panel must inform the employee in writing as to their final decision.

POSSIBLE OUTCOMES OF A DISCIPLINARY MEETING

Following the meeting the Staffing Sub Committee will decide whether disciplinary action is justified or not. Where it is decided that no action is justified the employee will be informed. Where it is decided that disciplinary action is justified the Staffing Sub Committee will consider what form this should take. Before making any decision the Staffing Sub Committee will take account of the employee's disciplinary and general record, length of service, actions taken in any previous similar case, the explanations given by the employee and – most important of all – whether the intended disciplinary action is reasonable under the circumstances.

FIRST FORMAL ACTION: UNSATISFACTORY PERFORMANCE

Following the meeting, an employee who is found to be performing unsatisfactorily will be given a written note setting out:

- the performance problem;
- the improvement that is required;
- the timescale for achieving this improvement;
- a review date; and
- any support the Council will provide to assist the employee.

The employee will be informed that the note represents the first stage of a formal procedure and that failure to improve could lead to a final written warning and, ultimately, dismissal. A copy of the note will be kept and used as the basis for monitoring and reviewing performance over the next six months.

¹ These individuals need not necessarily be Members of Godalming Town Council.

FIRST FORMAL ACTION: MISCONDUCT

Where, following a disciplinary meeting, an employee is found guilty of misconduct, a written warning will be given setting out the nature of the misconduct and the change in behaviour required.

The employee will be informed that the warning is part of the formal disciplinary process and what the consequences will be of a failure to change behaviour. The consequences could be a final written warning and ultimately, dismissal. The employee will also be informed that they may appeal against the decision. A record of the warning will be kept, but it will be disregarded for disciplinary purposes after six months.

FINAL WRITTEN WARNING

Where there is a failure to improve or change behaviour in the timescale set at the first formal stage, or where the offence is sufficiently serious, the employee will normally be issued with a final written warning (but only after they have been given a chance to present their case at a meeting). The final written warning will give details of, and grounds for, the complaint. It will warn the employee that failure to improve or modify behaviour may lead to dismissal or to some other penalty, and refer to the right of appeal.

The final written warning will normally be disregarded for disciplinary purposes after 12 months.

If the employee's conduct or performance still fails to improve, the final stage in the disciplinary process might be dismissal or (if the employee's contract allows it or it is mutually agreed) some other penalty such as demotion, disciplinary transfer, or loss of seniority/pay. A decision to dismiss will only be taken by the Staffing Sub Committee. The employee will be informed as soon as possible of the reasons for the dismissal, the date on which the employment contract will terminate, the appropriate period of notice and their right of appeal.

GROSS MISCONDUCT

If the Staffing Sub Committee considers an employee guilty of gross misconduct, and thus potentially liable for summary dismissal, this procedure will still be followed. The employee will be suspended on full pay while the matter is investigated. It will be made clear to the employee that the suspension is not a disciplinary action and does not involve any prejudgement.

ABSENCE FROM WORK

When dealing with absence from work, the Staffing Sub Committee will take steps to determine the reasons why the employee has not been at work. If there is no acceptable reason, the matter will be treated as a conduct issue and dealt with as a disciplinary matter using this procedure.

In cases of extended sick leave both statutory and contractual issues will need to be addressed and specialist advice will be sought.