



SHREWSBURY TOWN COUNCIL

DISCIPLINARY PROCEDURE

AIMS OF THE POLICY

The purpose of Shrewsbury Town Council's Disciplinary Procedure is to help and encourage staff to achieve and maintain required standards of conduct and work performance.

The aim is also to ensure that the Town Council's services are maintained and effective while all staff are treated fairly, effectively and consistently.

This procedure provides a framework for dealing with issues where an individual's performance and/or conduct has failed to reach the required standard.

It sets out the action that will be taken in response to alleged breaches of organisational policies, rules and procedures.

This procedure should only be used where problems with conduct cannot be resolved through advice and encouragement, training or increased support.

In cases of poor performance, this procedure will only be used once an employee has been referred from the organisation's formal capability procedure.

COMPLIANCE WITH ACAS CODE OF PRACTICE

This disciplinary procedure follows the [ACAS Code of Practice on Disciplinary and Grievance Procedures](#) issued under section 199 of the Trade Union and Labour Relations (consolidation) Act 1992.

SCOPE OF THE POLICY

This policy applies to all staff who are employed at the Town Council including part-time and temporary employees, regardless of hours worked or length of service.

All new members of staff will be made aware of this policy and procedure, and how it operates as part of their induction.

GENERAL PRINCIPLES

Fairness – This procedure sets out to treat all staff fairly, consistently, impartially, promptly, reasonably and will be applied without discrimination. Employees will be heard in good faith and there will be no pre-judgement of the issue.

Investigation – No disciplinary action will be taken until a case has been thoroughly investigated. When starting an investigation into an allegation of misconduct or poor performance, there shall be no assumption that disciplinary action will automatically follow.

Representation – The employee at all stages in this procedure has the right to be represented and accompanied by their trade union representative, full-time union official or work colleague.

Confidentiality – All documentation and records relating to this procedure including notes of meetings will be treated as confidential, stored securely and only accessed by those individuals essential for dealing with

the case. They will be kept no longer than necessary in accordance with Town Council's Data Retention Policy. Any breach of confidence may be treated as a disciplinary case of misconduct.

Natural Justice – At all stages of this process the employee will be given a full explanation of the complaint in writing and will be given the opportunity to state their case before any decision is taken. If a warning is given as part of this procedure, the employee will be given full support by the employer to improve their conduct.

Right to appeal – At all formal stages of this policy the employee has the right to appeal. The appeals will be heard in an appeal meeting by a senior manager/s who previously had no involvement with the case.

Recordings – Audio/ visual recordings of the proceedings by the employee or their companion or by Town Council are not acceptable at any stage of this procedure.

Grievance – The Disciplinary Procedure is to be used separately from the Grievance Procedure. If the employee is already being investigated as part of the grievance procedure, the disciplinary process will not begin until the grievance has been completed.

Equality and diversity – This procedure will be applied without discrimination. If someone has an existing mental or physical health impairment which they have previously disclosed, the Town Council will make reasonable adjustments to the process as necessary.

Process – There are three stages of disciplinary action. A employee will not normally be dismissed for the first breach of discipline unless the employee is found guilty of gross misconduct, where the penalty may be summary dismissal without pay in lieu of notice. The procedure may be implemented at any stage if the employee's alleged misconduct warrants such action.

Criminal offences – Where a employee is convicted of a criminal offence, they will not be automatically dismissed. The employer will consider if the offence is one that makes the employee unsuitable for their role or unacceptable to other employees, partners or clients of the organisation and if so whether there is suitable alternative work available. Following this consideration the employer may initiate the disciplinary procedure.

The HR team must be consulted before any formal action is taken.

RESPONSIBILITIES OF MANAGERS

Line managers should ensure that all employees are aware of this policy and understand their own and Town Council's responsibilities.

Line managers must ensure that their staff are aware of general and specific policies, rules, standards and procedures laid down for the regulation of work and conduct.

In appropriate cases of minor misconduct or unacceptable performance or behaviour, line managers should exhaust all other means of achieving the required standards before formal disciplinary action is taken. This may include setting clearly defined objectives and standards, monitoring them over a reasonable time period and providing additional coaching or training. In some cases this may also include reference to other appropriate sources of counselling and assistance.

Line managers must respond promptly and within the timescales as required as part of this disciplinary procedure.

Line managers will be given training on how to operate this procedure fairly, effectively and consistently and in line with all its general principles.

RESPONSIBILITIES OF EMPLOYEES

All staff should familiarise themselves with the policies, rules and procedures covering work and conduct, and to co-operate with their line managers and supervisors to ensure that they are followed.. Full details can be found in the staff handbook and on Vivup.

TRADE UNION INVOLVEMENT

Consultation will take place with the recognised trade union on the implementation, development, monitoring and review of this policy.

Union reps will be given training equal to that of managers and supervisors and sufficient time to carry out their duties.

REVIEW AND MONITORING

The Town Council will ensure that all new employees, supervisors and managers will receive induction on the policy.

Adequate resources will be made available to fulfil the aims of this policy. The policy will be widely promoted, and copies will be freely available and displayed in the Town Council's offices and on Vivup.

This policy will be reviewed on a regular basis.

DEFINITIONS

Misconduct is defined as failure in personal conduct, persistent poor performance or deliberate infringement of the Town Council's policies, rules and procedures.

Gross misconduct is defined as misconduct serious enough to destroy the employment contract between The Town Council and the employee, which makes further working relationship and trust impossible. Gross misconduct is normally restricted to serious offences.

Gross misconduct may lead to a summary dismissal or dismissal without notice.

Reasons for disciplinary action may include the following disciplinary offences but are not limited to:

Acts of misconduct	Acts of gross misconduct
Dishonesty	Theft, fraud, deliberate falsification of records
Misuse of the organisation's name	
Breach of confidentiality & data protection	Serious breach of confidentiality Actions bringing or likely to bring the Town Council into serious disrepute
Breach of financial regulations	Deliberate falsification of financial claims including overtime, expenses or flexitime
Misuse of the organisation's equipment and materials	Misuse of the Town Council's property or name including: unauthorised use of Town Council vehicles or vehicles hired by the Town Council, including carrying members of the public as authorised passengers;

	unauthorised removal or possession of property belonging to the Town Council or another employee. Surplus materials or scrap materials left over from jobs are regarded as the property of the Council;
Engaging in activities on the premises that could bring the employer into disrepute	Serious actions which may bring the Town Council into disrepute Criminal offence which affects the individual's ability to carry out his/her job
Supplying false or misleading information when applying for employment	
Health and Safety issues for example threatened physical assault	Physical assault by a employee on any other person
	Deliberate or reckless damage to the organisation's property
Abusive, obscene language or gestures	Deliberately accessing internet sites containing pornographic, offensive or obscene material
Failure to observe health and safety rules and report accidents or injuries whilst at work	Serious infringement of safety rules or negligence which causes unacceptable loss, damage or injury
Creating or contributing to unsanitary conditions	
Entering or leaving the organisation property except by designated entrances and exits	
Possession of offensive weapons	
Performance related issues for example, serious neglect of duty which undermines the organisation	Serious infringement of safety rules or negligence which causes unacceptable loss, damage or injury Serious incapability whilst on duty brought on by alcohol or illegal drugs – Managers should refer to the Policy on Alcohol and Drugs at Work in the first instance Actions in breach of the Council's Code of Conduct
Failure over time to perform work to satisfactory standards	
Refusal to carry out a reasonable request of a manager	Wilful misconduct or disobedience of lawful and reasonable orders
Infringement of terms and conditions of service, for example absence from duty without permission of a line employer	Engaging in unauthorised employment during hours when contracted to work or during periods of designated leave, for example sick leave or time off for training, etc.
Infringement of flexitime/flexible working or regular excess of debit hours at the end of accounting periods	Deliberate and serious abuse of flexitime / flexible working systems
Breach of the organisations written policies, examples include harassment and bullying, alcohol and drug use, email, internet and social media use	With reference to the appropriate policy: Serious acts of harassment / bullying / discrimination relating to a protected characteristic (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation) / persistent alcohol or drug abuse / serious misuse of email/internet/social media

MINOR MISCONDUCT

Informal action should be taken in cases of minor misconduct unless this is a repeated occurrence.

The employee will be invited to attend an informal meeting by their line manager where an explanation of the minor misconduct will be given. The line employer will give constructive feedback and the employee should express their views on the issue. This is separate from the formal part of this disciplinary procedure.

The manager will explain to the employee what needs to be improved, and put in place any measures to support the employee. This may include setting clear targets and expectations, monitoring progress over a reasonable time period and providing additional coaching or training. In some cases it may also include reference to other appropriate sources of counselling and assistance.

The employee's conduct will be reviewed at a later date and both parties will agree any informal action and a date for the review. Notes should be kept by the manager of this meeting but not placed on the employee's file.

The employee should be advised if their conduct or performance does not improve they will be moved to Stage 1 of this procedure.

FORMAL PROCEDURE

If informal action fails to achieve the required improvement in performance or behaviour, then this procedure is followed.

1. The Investigation

Disciplinary action will not be taken before an investigation to establish the facts has taken place.

The investigation will usually be carried out by the staff member's supervisor or line employer. The employee will be informed as soon as possible that an investigation is taking place and the date when the investigation will conclude. The investigation should take no longer than 10 working days. In serious cases, there may be instances where a employee is suspended with full pay while the investigation of allegations is carried out (see section headed '[Suspension](#)' below). Suspension in these circumstances does not constitute disciplinary action.

Depending on the case it may be necessary for the employee to attend an investigatory interview. If such an interview is held, it will be made clear that the interview is part of the investigation process and separate from the disciplinary meeting.

The employee will have warning in advance of any investigatory interview and given reasonable time to prepare.

The employee has the right to be accompanied at any investigatory interview by a trade union representative, full-time union official or work colleague.

2. Suspension

Suspension is not a disciplinary action and will normally be on full pay and benefits.

The employee will be informed in writing that they are to be suspended immediately, stating the nature of the alleged offence, the purpose of suspension, and its anticipated duration. A copy of this letter will be provided to the employee's companion.

Suspension in these circumstances should normally be for a period of no more than five working days.

However, in exceptional circumstances, the period may be extended. The employee will be informed in writing specifying the duration of the extension and the reasons for it. In cases of alleged gross misconduct, suspension may continue until the appeal process, if pursued, has been concluded.

If, on completion of the investigation and the full disciplinary procedure, the organisation is satisfied that gross misconduct has occurred, the result will normally be summary dismissal without notice or payment in lieu of notice.

3. Invitation to a disciplinary meeting

The disciplinary meeting will take place within 10 working days of the conclusion of the investigation and will be heard by a panel of at least two senior managers.

Without unavoidable delay, the employee should be given a notification letter:

- explaining why the disciplinary meeting is taking place
- giving at least five working days' notice of the meeting date, time and venue
- explaining that the disciplinary meeting will be conducted under this procedure
- explaining the possible consequences such as a potential warning or dismissal
- stating the employee's right to be accompanied by a trade union representative, full-time union official or work colleague
- providing the employee with all relevant information including statements and supporting evidence the employer wishes to use as part of this process.

The Town Council will make provision for any reasonable adjustments to accommodate the needs of a disabled employee or their companion.

The employee will be notified of the name of witnesses along with the names of the disciplinary panel within two working days of the meeting.

The names of any witnesses being called by the employee must be made available to Human Resources no later than two working days prior to the meeting. It is the responsibility of the employee to organise their own witnesses and inform HR of any access requirements needed.

4. Attendance at the disciplinary meeting

The employee should take all reasonable steps to attend the meeting on the date / time stated in the employer's letter. However, the meeting will be rescheduled to another time if their companion is not available at the chosen time. In these cases the employee must propose another date within five working days of the original meeting date.

Where an employee fails to attend or remain throughout a scheduled meeting through circumstances beyond their control, the meeting or the continuation of the meeting should be arranged for another time (within five working days).

If there is any additional evidence presented at the meeting the disciplinary panel may decide to adjourn a meeting and reconvene at a later date (within five working days of the original meeting date).

Employees may not be able to attend a meeting due to ill health. In these circumstances the employee may be required to submit a medical certificate from their GP. The matter may also be referred to an Occupational Health Practitioner who with the employee's consent will discuss the matter with the individual's GP to assess the length of time the employee is unable to attend meetings. If a employee does not give their consent, the disciplinary panel may have no option but to base any decision on whether to defer the meeting or proceed in the employee's absence on the information available. Each case will be assessed on its own merits, but the prime objective is to minimise any delays in holding meetings.

5. The disciplinary meeting

Where possible, a note-taker, who must be uninvolved in the case, will take down a record of the meeting.

If there are any witnesses, they should not be present throughout the meeting. They should be called in, one by one, to give their evidence and asked to leave once they have done so.

The chair of the disciplinary panel will open the meeting with an explanation of its purpose and will read aloud the allegations.

The employee and their companion can ask questions including of any witnesses called.

The chair of the disciplinary panel will then ask the employee if they wish to take the opportunity to respond to the allegations or concerns or if there are any mitigating circumstances to be taken into account. The chair may question the employee and any witnesses called.

The chair of the disciplinary panel will summarise the main points of the discussion and ask the employee if they have anything further to say.

The meeting may be adjourned by either the employee or by the chair of the disciplinary panel, if it is considered necessary to gather further information or evidence or clarify any issue. The meeting will be reconvened as soon as possible.

The disciplinary panel will then consider the details heard in private. They must decide whether the case against the employee has been established on the balance of probabilities, i.e. whether misconduct is confirmed or the employee's performance is found to be unsatisfactory.

If this is the case, when they are considering appropriate disciplinary action, they should also consider any special, mitigating circumstances, the employee's previous disciplinary or performance record, how the Town Council has dealt with similar cases in the past and whether the proposed action is reasonable in view of all the circumstances.

The employee will be provided with written confirmation of the decision normally within five working days of the meeting. This will include notifying the employee of their right of appeal and the procedure to be followed.

STAGES OF DISCIPLINARY ACTION

If following the disciplinary meeting, the decision is to take action, the table below sets out the stages of disciplinary action within this procedure.

The procedure may be implemented at any stage if the misconduct or poor performance warrants such action.

Stage 1 – first written warning	If a employee's conduct or performance does not meet the required standards, the employee will be given a written warning. This warning will be placed on the employee's HR file for 6 months and then removed. The employee is advised at this stage that if their conduct or performance does not improve, the employer will move to the second stage of this disciplinary procedure.
Stage 2 – final written warning	A final written warning will be issued to a employee if there is still a failure to improve conduct or consistent poor performance or if the misconduct is sufficiently serious to warrant a written warning but not dismissal. This final written warning will be placed on a employee's HR file and removed after 12 months. The employee is advised at this stage that if

	their conduct or performance does not improve, the employer may move to the third stage of this disciplinary procedure.
Stage 3 – dismissal	If a employee’s performance or conduct continues to be unsatisfactory, or if the offence constitutes gross misconduct, then the employee will be dismissed. Only a senior manager can make the decision to dismiss a employee. Employees will not normally be dismissed for a first breach of discipline, except in the case of gross misconduct, when the penalty will be dismissal without notice and without payment in lieu of notice.
Stage 3 – action short of dismissal	In serious cases where dismissal is considered but it is decided to impose disciplinary action other than dismissal (such as disciplinary transfer, demotion, loss of seniority or loss of increment), it may also be decided to retain a final warning permanently on the employee’s personal record and the employee be advised that any recurrence will lead to dismissal. Such a warning will be subject to review, at not less than 12-month intervals, at the request of the employee.

The disciplinary panel have the authority to:

- find that the employee has no case to answer and to discharge the case
- require satisfactory completion of a course of training or developmental activity by the employee
- issue a first written or final written warning and impose conditions in relation to such warnings
- extend the period of the final written warning as an alternative to dismissal
- decide on demotion or loss of seniority in relation to the employee’s current role
- dismiss the employee with the appropriate period of notice or payment in lieu of notice
- dismiss the employee without notice or payment in lieu of notice (summary dismissal).

DECISION AND WRITTEN NOTICE

If the chair and disciplinary panel decide that disciplinary action should be taken, the employee will normally be notified in writing within five working days of the conclusion of the meeting.

If a disciplinary warning has been issued the written notification will set out all the conditions associated with the warning, i.e. reason for the warning, the improvement required, the set timescale for improvement, how monitoring will take place, the period for which the warning will be in force, the likely penalties for failure to meet conditions of the warning, and the employee’s right to appeal.

Where disciplinary action is dismissal, the written notification will state the reason for the dismissal, the date on which their employment contract will end (taking into account the employee’s required notice period if appropriate) and the employee’s right to appeal.

APPEAL

An employee can appeal against the decisions of the disciplinary meeting taken under this procedure.

The employee must submit a written appeal to the Town Clerk within 10 working days of being informed of the disciplinary action. Any documents submitted in support of the appeal must be attached.

When lodging the appeal, the employee must state:

- the grounds of the appeal
- whether they are appealing against the findings that they committed the alleged act or acts of misconduct, or against the level of disciplinary action imposed, or against a failure to follow this procedure adequately.

Names of any witnesses to be called by the employee must be made available no later than two working days prior to the meeting. It is also the employee's responsibility to inform witnesses where the appeal is taking place and the time.

The employee has the right to be accompanied to the appeal meeting by a trade union representative, full-time union official or work colleague.

The appeal will be heard by the Staffing Appeals Committee. The committee is obliged to consider any representations made by the employee, trade union rep or trade union official and those of the manager who conducted the investigation and the chair of the disciplinary panel who conducted the disciplinary meeting and imposed the disciplinary sanction.

On hearing the appeal, the committee must make a judgement after reviewing all the evidence put forward from all parties, together with any further facts of evidence that may have come to light. The committee must make a decision whether to uphold the disciplinary action.

In the event that the committee finds for the employee, anything relating to the disciplinary action will be removed from the employee's record.

Appeal meetings will normally take place within 14 days of receipt of the employee's written notice of appeal.

Where possible, a note-taker, who must be uninvolved in the case, will take down a record of the meeting.

The employee should take all reasonable steps to attend the appeal meeting on the date/time stated in the written notification. However, the meeting will be re-scheduled to another time convenient for the employee if the employee's companion is not available. The employee must propose an alternative date within five working days of the original date (this time limit may be extended only by mutual agreement).

Employees may not be able attend a meeting due to ill health. In these circumstances the employee may be required to submit a medical certificate from their GP. The matter may also be referred to an Occupational Health Practitioner who with the employee's consent will discuss the matter with the individual's GP to assess the length of time the employee is unable to attend the appeal meeting. If an employee does not give their consent, the appeal panel will have no option but to base any decision on whether to defer the appeal meeting or proceed in the employee's absence on the information available. Each case will be assessed on its own merits, but the prime objective is to minimise any delays in holding the appeal meeting.

Upon completion of the appeal, the committee will inform their decision to the employee. The decision will be confirmed in writing within five working days. The decision of the Staffing Appeals Committee is final.

When an appeal lies against a dismissal by the disciplinary panel, the disciplinary panel's decision to dismiss will have had immediate effect and therefore, if the dismissal is by notice, the period of notice will have already commenced on the date the disciplinary panel gave their decision. If the disciplinary panel's decision was to dismiss the employee summarily without notice, the organisation will be under no obligation to reinstate or pay the employee for any period between the date of the original dismissal and the appeal decision and the original date of termination will stand.

In the event that the disciplinary panel's decision to dismiss is overturned, the employee will be reinstated with immediate effect, and they will be paid for any period between the date of the original dismissal and the successful appeal decision. An employee's continuous service will also not be affected.

FURTHER INFORMATION

ACAS code of practice on disciplinary and grievance procedures

www.acas.org.uk/acas-code-of-practice-on-disciplinary-and-grievance-procedures

ACAS guide to discipline and grievance at work

www.acas.org.uk/acas-guide-to-discipline-and-grievances-at-work

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APPENDIX A: Outline of Formal Disciplinary Procedure

