



# **Disciplinary Policy and Procedure**

## **Document Control Sheet**

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This policy supersedes all previous issues

## **1. Purpose and Scope**

- 1.1 This policy has been put in place to encourage all employees to achieve and maintain the required standard of conduct and to ensure consistent and fair treatment for all.
- 1.2 This policy applies to all employees of Ryedale District Council, other than those on Chief Officer Terms and Conditions.

## **2 Principles**

- 2.1 The following principles will be applied to all disciplinary matters;
  - Disciplinary action will not be taken against an employee until the matter has been fully investigated.
  - At every stage in the procedure the employee will be advised of the nature of the complaint against them and they will be given the opportunity to state their case before any decision is made.
  - At all stages the employee will have the right to be accompanied by a trade union representative or work colleague.
  - No employee will be dismissed for a first breach of discipline except in the case of gross misconduct when the penalty will be dismissal without notice or payment in lieu of notice.
  - All sanctions and the reasons for them will be confirmed to the employee in writing.
  - All employees will have the right to appeal against any disciplinary sanction imposed.
  - Before starting a disciplinary procedure, the line manager should first see whether the problem can be resolved in an informal way or has previously considered this and the employee has failed to achieve the required standards or it would be inappropriate in the circumstances.
  - The application of this policy and procedure complies with the ACAS Code of Practice for Disciplinary and Grievance.

## **3 Procedure**

- 3.1 When minor issues with an employee's conduct are raised, they may be dealt with informally but where the matter is more serious or the informal discussions by supervisors have not been effective, the Disciplinary Policy and Procedure will be applied.
- 3.2 As part of the informal process, managers may choose to issue a 'management instruction'. Before issuing a management instruction, the manager must have undertaken an analysis of the situation and be sure that this course of action is appropriate for the situation.
- 3.3 Management instructions should only be used in lower level disciplinary cases, where a full investigation and potential first written warning in the first instance may seem a

little harsh. Some examples of such situation are listed in Appendix 1 (Minor Misconduct).

#### **4 Notification of Allegation(s)**

- 4.1 The employee will be notified in writing of the nature of the allegation or issues in question and that they are subject to a disciplinary investigation.
- 4.2 The nature of the allegations may change during the course of the investigation. The employee should receive correspondence notifying them of any changes to the allegations as soon as reasonably practicable.
- 4.3 Notification of the allegations and any relevant evidence will be provided to the employee in sufficient time for them to be able to state their case as part of the investigation process.

#### **5 Precautionary Action/Suspension**

- 5.1 Depending on the nature of the allegations the employee may be subject to precautionary action. This can include but is not restricted to redeployment, variation to duties or suspension whilst an investigation is carried out.
- 5.2 Suspension should only be used in situations where the employee is considered to be a harm to themselves, colleagues, clients/service users, members of the public, or where information or evidence which may be needed as part of the investigation may be tampered with.
- 5.3 Suspension may also be deemed appropriate where there is a concurrent policy investigation, however this will also depend on the nature of the allegations and the relevance of this to their employment.
- 5.4 Alternatives to suspension should be considered – for example, alternative duties, garden leave.
- 5.5 Precautionary action is not prejudicial to the outcome of the investigation, it is to ensure a fair process is applied and all parties are protected when necessary.
- 5.6 Any precautionary action that may be taken will be confirmed to the employee in writing and it will be reviewed throughout the investigation.
- 5.7 The need for precautionary action, the type of precautionary action or revoking precautionary action may become apparent at any time during the course of the investigation.

#### **6 Investigatory Interviews**

- 6.1 An investigating officer will be appointed to establish facts, interview witnesses, take statements and gather documentary evidence. The Investigating Officer will need to be impartial and may be a manager from a different service area in the interest of impartiality. The Investigating Officer will need to be appropriately skilled to undertake the investigation and should seek advice and guidance from HR as appropriate.

- 6.2 As part of the Disciplinary Investigation an employee will be invited in writing to attend an investigatory interview where they will be asked questions in relation to the allegation(s) of misconduct. This letter should notify the individual of the allegation(s).
- 6.3 Should the employee or their representative be unable to make the suggested meeting date, they should suggest an alternative date and time within 10 working days of the original date, unless there are exceptional circumstances (e.g. planned holiday out of the country). In exceptional circumstances the meeting should be rearranged to be held at the earliest opportunity.
- 6.4 Notes of this interview will also be taken and then provided to the employee to verify and sign to ensure that an accurate record has been taken. These will then be used in the disciplinary investigation and added to the evidence.
- 6.5 Should the allegations change during the course of the investigation, the employee will be notified at the earliest opportunity in writing and be given the opportunity to respond to the change in allegations.
- 6.6 During the course of the disciplinary investigation, other employees may be called to interviews as witnesses as they may have any information that could aid the investigation. The witnesses will also be notified in advance of the date, time and venue of the meeting and will have the right to be accompanied by either a Union representative or work colleague. Notes of this interview will also be taken and then provided to the employee to verify and sign to ensure that an accurate record has been taken. These will then be used in the disciplinary investigation and added to the evidence.

## **7 Conclusion of Disciplinary Investigation**

- 7.1 Once the Disciplinary Investigation has been concluded and all relevant parties have been interviewed and evidence has been collated, the Investigation Officer will produce a report which will contain the recommendations as listed below:
- Recommend that there is **sufficient evidence** for the case to proceed to a Disciplinary Hearing
  - Recommend that there is **insufficient evidence** for the case to proceed to a Disciplinary Hearing

If there is a recommendation that there is insufficient evidence for the case to proceed to Disciplinary Hearing, the employee will be notified in writing as soon as reasonably practicable, without undue delay.

## **8 Disciplinary Hearing**

- 8.1 Should the case be recommended to proceed to a Disciplinary Hearing, the employee will be required to attend a further meeting. They will be notified in advance of the date, time and venue of the meeting and will have the right to be accompanied by either a Trade Union representative or work colleague. Only in exceptional circumstances will be employee not be permitted to attend. Where there is the potential for the outcome of the hearing to be dismissal, the letter must state this.
- 8.2 The employee will receive all relevant documentation, including the full investigation report and appendices a minimum of 5 working days before the date of the hearing. If there is a significant amount of data, it may be requested by all parties that this timescale be extended and this should be granted if deemed reasonable to do so.

- 8.3 Should the employee or their representative be unable to make the suggested meeting date, they should suggest an alternative date and time within 10 working days of the original date, unless there are exceptional circumstances (e.g. planned holiday out of the country). In exceptional circumstances the meeting should be rearranged to be held at the earliest opportunity.
- 8.4 At the hearing the employee will be notified of the allegations and they will be given the opportunity to answer any of the allegations and set out their case. The meeting will be conducted by an independent Chairperson of sufficient seniority within the organisation, who will normally be advised by someone from HR. The hearing should be recorded for accuracy.
- 8.5 In cases where the outcome of the hearing may result in dismissal, there should be a panel of at least 3 people, one of which may include HR. In all cases, HR should advise the panel.
- 8.6 The employee will be required to attend the meeting whether they are currently in work or not, unless the above mentioned exceptional circumstances apply. In the event that the employee is persistently unable or unwilling to attend the disciplinary hearing or agree an alternative date without good cause, a decision will be made, in their absence, with all the evidence available.
- 8.7 If the employee were to fall sick within this period, they should notify their manager on the first day of absence and then the employee will be required to follow the normal sickness absence reporting procedures.

## **9 Outcome of Disciplinary Hearing**

- 9.1 The possible outcomes from a disciplinary hearing are;
- No further action
  - The meeting is adjourned until a further date, normally pending further information (reason must be given to the employee)
  - Disciplinary action is required
    - Written Warning
    - Final Written Warning
    - Dismissal (with or without notice)
- 9.2 The outcome will be confirmed to the employee in writing as soon as reasonably practicable, without undue delay.

## **10 Disciplinary Action**

- 10.1 The three levels of disciplinary action are detailed below;
- 10.1.1 A Written Warning is given when the employee's conduct has not been of the expected standard. The warning is kept on the employee's personal file for 6 months, but will normally be disregarded for disciplinary purposes following this period of satisfactory conduct.
- 10.1.2 A Final Written Warning is given when the employee's conduct is more serious than a Written Warning, but not serious enough to warrant dismissal. The warning is kept on the employee's personal file for 12 months, but will normally

be disregarded for disciplinary purposes following this period of satisfactory conduct.

10.1.3 Dismissal may happen when the three step process above has been exhausted (Written Warning, Final Written Warning, Dismissal) or where when the employees conduct is so serious that their employment is terminated. Depending on the seriousness of the case will dictate whether the employee receives notice pay following dismissal or is summarily dismissed (without notice).

10.1.4 Contractually the organisation may choose to provide payment in lieu of notice and not require the employee to work their notice period. Any such payment is subject to tax and national insurance deductions in the normal way.

10.2 All disciplinary action will be confirmed to the employee in writing and they will be given the right of appeal.

10.3 Examples of the type of misconduct that would warrant each level of disciplinary action are listed in Appendix 1.

## **11 Gross Misconduct**

11.1 Examples of gross misconduct can be found in Appendix 1. This is not an exhaustive list.

11.2 If the disciplinary investigation concludes that gross misconduct has occurred the outcome will normally be a final written warning or dismissal. Dismissal in cases of gross misconduct may be with or without notice (summary dismissal) where the offence is such that this is deemed appropriate

## **12 Appeals**

12.1 An employee may appeal against any of the levels of disciplinary action listed above.

12.2 An appeal against a Written Warning or a Final Written Warning will be heard by the relevant member of the Council's Strategic Management Board or their representative, accompanied by a member of HR.

12.3 Appeals against dismissal will be heard by a Member of Senior Management Board and at least one Elected Member as part of the panel to ensure impartiality.

12.4 Any appeal must be made in writing within 10 working days of the receipt of the letter confirming the disciplinary action. The appeal should be sent in writing to the Investigating Officer.

## **Types of Misconduct**

Please find listed below the types of misconduct and examples along with probable consequences. Please note this is not an exhaustive list, they are only examples, and they should not be regarded as the only examples of misconduct.

### **1. Minor Misconduct**

- Persistent lateness
- Unauthorised absences
- Failure to follow absence reporting procedures
- Minor conduct issues

These types of misconduct would normally result in a Written Warning. Continued/repeated incidences of misconduct could potentially lead to Final Written Warning or Dismissal.

### **2. Serious Misconduct**

- Verbal assault or threat of violence in the workplace to employees or other people.
- Negligence in carrying out duties in accordance with the Authority's policies and procedures.
- Misconduct occurring outside of the workplace, which is deemed sufficiently serious to affect an employee's position at work.
- Inappropriate use of electronic communications, including email or internet access facilities.
- Failure to abide by professional codes of conduct / standards.
- Repeated minor misconduct where disciplinary action has failed to improve behaviour

These types of misconduct would normally result in a Final Written Warning. Continued/repeated incidences of misconduct could potentially lead to Dismissal.

### **3. Gross Misconduct**

- Unauthorised removal or misuse of the Authority's property
- Stealing from the Authority, it's Members, employees or members of the public and other instances of dishonesty.
- Serious breaches of confidentiality (unless subject to the protection afforded by the 'Speak Out' Policy / Public Interest (Disclosure) Act 1998).
- Serious breaches of safety regulations endangering other people, including deliberate damage to, neglect of and misappropriation of safety equipment.
- Discrimination, bullying or personal harassment of any person including Elected Members, Customers and Colleagues/Co-Workers.
- Being incapable of work, or of working safely due to the influence of alcohol or drugs.
- Behavior which has brought the Authority or its services into serious disrepute.
- The victimization, intimidation or harassment of any co-worker/colleague on the grounds of their gender, ethnicity, sexual orientation, race, age, religious beliefs or disability.

These types of misconduct would normally result in dismissal without notice.