



ST AUSTELL COUNCIL

DISCIPLINARY PROCEDURE

1 Introduction

- 1.1 Discipline is maintained through employees observing proper standards of conduct and the rules and regulations of the Council. However, in the interests of the Council's affairs and for the safety and welfare of its employees it may be necessary on occasion to refer to this formal procedure for disciplinary action.
- 1.2 The purpose of this procedure is to ensure the fair and consistent treatment of employees who become the subject of disciplinary action.
- 1.3 In general the Disciplinary Procedure will not be invoked unless:-
 - (i) Previous informal advice or reprimands have proven ineffective;
 - (ii) The complaint is of a serious nature;
 - (iii) A number of minor complaints are made which together, constitute a serious breach of discipline.
- 1.4 The disciplinary action taken will: -
 - (i) Depend on the seriousness of the offence, the past behaviour of the employee, the consequences to the Council of the offence, any mitigating circumstances presented by the employee, any action taken in similar cases in the past, and any other relevant circumstances.
 - (ii) Be appropriate to the circumstances of the case, having regard to the need for reasonableness and fairness on the part of the Council.

2 Informal Discussions

- 2.1 Before taking formal disciplinary action, every effort should be made to resolve the matter by informal discussions. The formal disciplinary procedure should only be invoked where informal discussions fail to bring about the desired improvement.
- 2.2 A note of informal discussions may be made and kept on file for an agreed period of not more than one year.

3 Related Procedures

When using the procedure it may be necessary to refer to the contents of other agreed policy documents such as: -

- Equal Opportunities Policy;
- Grievance Procedure;
- Sickness and Absence Policy; and
- Capability Procedure.

4 Statutory Three Step Disciplinary Procedure

- 4.1 The following three step procedure is recommended to meet statutory requirements in relation to disciplinary procedures:

- Step One: a written statement to the employee setting out why they are the subject of disciplinary action.
- Step Two: a meeting with the employee to consider and discuss the allegation. Following this meeting a written decision should be given to the employee.
- Step Three: a right of appeal, including an appeal meeting.

5 Disciplinary Hearings

- 5.1 Following an assessment of the case, a formal disciplinary hearing may be required. The Town Clerk has authority to decide whether to move to a formal disciplinary hearing.
- 5.2 In the case of disciplinary action against the Town Clerk, the Mayor may, with the authorisation of the Council, convene a small panel of Members to undertake a disciplinary hearing. He or she should seek independent advice before proceeding.
- 5.3 The employee will be given at least five working days notice of the hearing date and will be made aware (in writing) of the allegation against them, together with the specific details of their shortcomings. An employee required to attend a hearing will be entitled to be accompanied by a friend or union representative.
- 5.4 The purpose of the hearing will be to examine the facts of the case in the presence of the employee and to hear any explanation offered by the employee or their union representative.
- 5.5 If the complaint is accepted by the employee, or substantiated to the satisfaction of the panel then the relevant circumstances, including any mitigating factors, will be considered before any warning is given.

6 First Written Warning

- 6.1 Where conduct or performance is unsatisfactory, the employee will be given a written warning. For the purpose of any disciplinary action, such warnings will be recorded, but disregarded after twelve months of satisfactory service.
- 6.2 The employee will also be informed that a final written warning may be considered if there is no sustained satisfactory improvement or change. (Where the first offence is sufficiently serious, i.e. it is having, or is likely to have, a serious harmful effect on the Council, it may be justifiable to move directly to a final written warning.)

7 Final Written Warning

- 7.1 If the offence is serious, there is no improvement in standards, or if a further offence of a similar kind occurs, a final written warning will be given which will include the reason for the warning and a note that if no improvement results within three months, further action will then be taken.
- 7.2 This final written warning will state clearly that dismissal will result from a failure to comply with the requirement to improve.
- 7.3 If the conduct or performance has failed to improve the employee could suffer demotion, disciplinary transfer, loss of seniority (as allowed in the contract) or dismissal.

7.4 Employees should receive notice or payment in lieu, except in cases of gross misconduct.

8 Gross Misconduct

8.1 While the alleged gross misconduct is being investigated, the employee may be suspended, during which time he or she will be paid their normal pay rate. Suspension from duty is not disciplinary action. Any decision to dismiss will be taken by the employer only after full investigation.

8.2 Following investigation, if it is confirmed that an employee has committed an offence of the following nature - theft, fighting, assault, damage to property, fraud, incapacity for work due to being under the influence of alcohol or illegal drugs, physical violence, or bullying, the normal consequence will be dismissal without notice or payment in lieu of notice. It should be noted that the above list is not exhaustive and there may be other cases/circumstances that are deemed to constitute gross misconduct.

9 Appeals

9.1 If at any time in this procedure the employee wishes to exercise their right of appeal they should inform the Town Clerk in writing within ten working days of the date of the written notification of the decision made under this procedure.

9.2 An Appeal Panel comprising of three Councillors who have not previously been involved in the subject of the disciplinary proceeding shall consider the appeal within 20 working days of receipt of the written appeal. A formal written response to the appeal should be issued within five working days of the Appeal Hearing

9.3 When the Town Clerk is the subject of an Appeal Hearing the Mayor or Deputy Mayor shall convene an Appeal Panel comprising of three Councillors who have not previously been involved in the subject of the disciplinary proceedings and chaired by either the Mayor or Deputy Mayor unless previously involved. The panel will consider the appeal within 20 working days of receipt of the written appeal. A formal response to the appeal should be issued within five working days of the Appeal Hearing.

9.4 There is no further right of appeal.

10 Review

10.1 This strategy will be reviewed regularly (not less than annually) and amended as necessary based on good practice or evidence taken forward.

11 Alternative Formats

11.1 Disability Discrimination Act 1995 – copies of this document in large print (A3 Format) or larger font size, or recorded onto tape as a ‘talking book’ can be made available for those with sight impairment on request from the Council Office or by telephoning 01726 829854 or e-mailing david.pooley@staustell-tc.gov.uk

11.2 The Council can also arrange to provide versions in other languages for staff whose first language is not English.

12 **Freedom of Information**

- 12.1 In accordance with the Freedom of Information Act 2000, this Document will be posted on the Council's Website and copies of this document will be available for inspection on deposit in the Council Office.