



NEWTOWN AND LLANLLWCHAIARN TOWN COUNCIL

DISCIPLINARY POLICY*

1. Introduction

- 1.1 This Disciplinary Policy forms part of the performance management approach used within the Council.
- 1.2 This policy, therefore, links to other policies within the Council:
- Capability - see Capability (Performance) – Ref 100315b/1
 - Induction – see Employee Handbook
 - Performance Review (Appraisals) – Ref 100315c/1
 - Grievance – see Grievance Policy – Ref 100315e/1

2. Policy

- 2.1 The Town Council aims to ensure that there will be a fair and consistent approach to the enforcement of standards of conduct throughout the Council. This policy and procedure is designed to help and encourage all employees to achieve and maintain standards of conduct, attendance and job performance. The disciplinary rules, (see appendix 1) apply to all employees.

3. Principles

- 3.1 The Clerk to the Town Council is designated as the line manager of employees of the Council
- 3.2 The Town Council will designate a Councillor who will act as the line manager of the Clerk (Usually the Mayor/Chair)
- 3.3 No disciplinary action will be taken against an employee until the case has been fully investigated and a disciplinary hearing has taken place. The employee will be advised in writing of the nature of the complaint against him or her and the arrangements for the hearing.
- 3.4 The employee will be given the opportunity to state his or her case before any decision is made.
- 3.5 The employee will have the right to be accompanied by a colleague, lay or trade union official at all stages during the investigation, disciplinary interview or disciplinary appeal.
- 3.6 An employee will have the right to appeal to the Appeals Committee of the

Council against any disciplinary penalty imposed.

3.7 The members of the Appeals Committee will not be in membership of the Disciplinary Panel

3.8 The procedure may be implemented at any stage if the employee's alleged misconduct warrants such action.

3.9 In poor performance cases, where the reason is not within the control of the employee, the Council's capability policy and procedure will be used instead. But poor performance resulting from negligence, lack of application or attitudinal problems, for example, will be dealt with under the disciplinary procedure. Also, where an employee's absences are deemed to be of a casual nature, the employee will be dealt with under the disciplinary procedure.

4. Procedure

4.0 Minor faults will be dealt with informally by the employee's line manager. Where the matter is more serious the following procedure will be used.

4.1 Stage 1 – Verbal warning

If the employee's conduct or performance does not meet acceptable standards, the employee's line manager will normally give him or her a formal oral warning. The employee will be advised of the reason for the warning. That it is the first stage of the disciplinary procedure and of his or her right of appeal. A record will be kept of the oral warning and placed on the employee's file. The warning will be disregarded for disciplinary purposes after six months, subject to the employee's satisfactory conduct and performance.

4.2 Stage 2 – Written warning

If the offence is a serious one, or if a further offence or no improvement occurs within six months of the oral warning, a written warning will be given to the employee by his or her immediate manager. This will give details of the complaint, the improvement required and the timescale. It will warn the employee that, if there is no satisfactory improvement, further disciplinary action may be taken and it will advise the employee of his or her right of appeal. A copy of this written warning will be placed on the employee's file but will be disregarded for disciplinary purposes after nine months, subject to the employee's satisfactory conduct and performance.

4.3 Stage 3 – Final written warning

If there is still a failure to improve conduct or performance, or if the employee's misconduct is sufficiently serious to warrant only one written warning, but insufficiently serious to justify dismissal, a final written warning will normally be given to the employee by his or her manager. This will give details of the complaint, will warn that dismissal will result if there is no satisfactory improvement, and will advise of the right of appeal. A copy of this final written warning will be placed on the

employee's file, but will be disregarded for disciplinary purposes after 12 months, subject to the employee's satisfactory conduct and performance. In exceptional cases the period may be longer.

4.4 Stage 4 – Dismissal

If conduct or performance is still unsatisfactory and the employee fails to reach the prescribed standards, dismissal will normally result. Only the Disciplinary Panel of the Council can take a decision to dismiss. The employee will be provided, as soon as reasonably practicable, with written reasons for dismissal, the date on which his or her employment will terminate (in accordance with the employee's notice entitlement), and will be notified of his or her right of appeal.

5 Gross misconduct

5.1 If the employee is accused of gross misconduct, the Council may suspend him or her from work on full pay while it investigates the alleged offence. This is normally for no more than ten working days. The Council will explain its reasons in writing. The employee shall not attend his or her place of work during suspension, other than for the purpose of attending disciplinary proceedings, including investigatory interviews. The employee shall not contact any other councillors, employees, suppliers or customers of the Council, except the employee's representative, without the Council's consent.

5.2 Examples of gross misconduct are:

- theft, fraud,
- any involvement in bribery, giving, receiving or facilitating bribes
- unauthorised entry to computer records or deliberate falsification of records
- a serious breach of the Council's rules on e-mail and Internet usage
- fighting or assault
- deliberate or reckless damage to Council property
- an inability to perform job duties through being under the influence of alcohol or drugs
- a serious breach of the Council's safety rules or a single error due to negligence which causes, or could have caused, significant loss, damage or injury to the Council, its employees or electors
- conviction of a criminal offence that makes the employee unsuitable or unable to carry out his or her duties
- a serious act of insubordination, such as deliberate refusal to carry out proper instructions
- acts of bullying, harassment or discrimination
- a serious breach of trust or confidentiality.

5.3 This list is not intended to be an exhaustive one and only gives an indication of the types of offence that may be considered gross misconduct.

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

6. Disciplinary investigations

6.1 The Council is committed to ensuring that all potential infringements of disciplinary rules are fully investigated. This may entail carrying out interviews with the employee concerned and third parties such as witnesses, colleagues and councillors, as well as analysing written records and information. It may also involve a search of the employee's person and/or property. The investigation report will be made available to all the parties concerned. The identity of witnesses will be kept confidential where necessary. The Council may engage external professional assistance to undertake the investigation on its behalf.

6.2 Where an employee is called to attend an investigatory interview, it will be made clear that this is not a disciplinary hearing.

7. Disciplinary hearing

7.1 An employee will be invited, in writing, to a disciplinary hearing once the investigations are complete. Prior to the meeting the employee will be informed of the nature of the allegations that are to be addressed.

8. Appeals

8.1 If the employee wishes to appeal against a disciplinary decision, he or she must do so through their line manager within five working days of the receipt of the disciplinary letter. The appeal should be made in writing, stating the ground(s) on which the disciplinary penalty should be reviewed.

8.2 The Appeals Committee of the Council will hear all appeals. In the rare circumstances where this is not possible, alternative arrangements will be agreed with the employee and his or her representative.

8.3 The appeals hearing will be normally held within ten working days of receipt of the letter. The decision of the Appeals Committee shall be final.

9. Appeals hearing

9.1 At the appeals hearing, the employee will be given the opportunity to state the ground(s) on which the appeal is made. The line manager who took the original decision will then have the opportunity to explain his or her decision to impose the given penalty. The Chair of the Appeals Committee conducting the appeal may exercise discretion as to whether or not the two parties will be present together during the proceedings. The hearing will be adjourned when all the evidence has been heard. The Appeals Committee will consider the merits of the appeal, in private, before reaching its decision.

9.2 The Chair of the Appeals Committee will, whenever possible, verbally inform the employee of the decision reached and confirm this in writing no later than seven working days after the hearing.

9.3 The Appeals Committee has the authority to quash or reduce a disciplinary penalty or, in exceptional and appropriate circumstances, to increase it, in accordance with the penalties specified in the Council's disciplinary procedure.

9.4 An appeal hearing is intended to focus on specific factors that the employee feels have received insufficient consideration, such as:

- an inconsistent/inappropriate harsh penalty
- extenuating circumstances
- bias of the disciplining manager
- unfairness of the hearing
- new evidence subsequently coming to light.

9.5 Where an appeal against dismissal fails, the effective date of termination shall be the date on which the employee was originally dismissed.

10. Notes

1. Employees will receive a written invitation to all disciplinary meetings
2. Outcomes of formal meetings will be confirmed to the employee in writing.
3. A second individual may be invited to attend formal disciplinary meetings in order to act as a witness and note taker.
4. The timescales listed above will be adhered to wherever possible. Each party can request an extension of the permitted timescale, however, only where there are good reasons.
5. The Council reserves the right to seek assistance from external facilitators at any stage in the disciplinary procedure, in the interests of seeking a satisfactory outcome for all those concerned.
6. For employees serving their probationary periods, the Council reserves the right to speed up the decision making process. It may choose to follow a truncated version of the above procedure in such circumstances.
7. The grievance procedure should not be used for appeals against disciplinary decisions. That is the purpose of the disciplinary appeals procedure. If, however, the employee has a complaint against the behaviour of a Councillor or another employee during the course of a disciplinary case, they may raise it as a grievance with a designated Councillor or the Clerk. If necessary, the disciplinary procedure may be suspended for a short period until the grievance can be considered. Another Councillor may be brought in to deal with the disciplinary case.
8. This procedure is for guidance only and does not form part of employees' contractual rights. The contents may be subject to revision from time to time.

The Staffing Committee adopted this Policy for Discipline at its meeting on

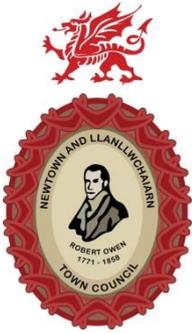
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Version No.....100315d/2.....

Review Date = Every two years

Amended or Reviewed	Date	Version No	Who
Approved	10/3/15	100315d/1	Richard Northridge
Reviewed	21/11/16	100315d/1	David Selby (Chair Resources)
Reviewed & Amended	19/11/18	100315d/2	John Barker (Chair Resources)

Appendix 1



NEWTOWN AND LLANLLWCHAIARN TOWN COUNCIL

DISCIPLINARY RULES

1. The attached rules should be referenced in relation to the disciplinary procedure for ALL EMPLOYEES of the Town Council.
2. A copy of the rules will be issued to all new employees at the commencement of their employment.

DISCIPLINARY RULES

- 1 The purpose of these rules is to establish a sound and constructive relationship between the Council and its employees by specifying as clearly and concisely as possible, the rules necessary for the efficient and safe performance of work so that they can be applied consistently and fairly for employees of the Council. Copies of these rules are available to any employee on request.

2. Although it is not possible to describe every circumstance, an attempt is made to advise employees of the likely consequences of disciplinary offences identifying whether the matter is likely to be treated as a minor or serious breach of discipline or whether it would be regarded as one of gross misconduct. When determining the disciplinary action to be taken, the Council shall have regard to the test of reasonableness having taken into account:-
 - (a) the nature and circumstances of the disciplinary offence;
 - (b) the location and timing of the offence;
 - (c) the degree of responsibility expected of the employee;
 - (d) whether the offence is one which makes the employee unsuitable for his/her type of work or unacceptable to other employees or councillors;
 - (e) employee's record of employment;
 - (f) the adverse publicity which would be given to the Council as a result of the offence.

3. The type of disciplinary offences can be classified into three categories:-
 - (a) Minor - for which a written oral warning would be given especially if earlier advice and guidance had failed to bring about the necessary improvements. Further or repetition of minor offences will result in further stages in the procedure being applied.

Examples would include failure to attend as requested; frequent or excessive absenteeism without reasonable cause; failure to observe health and safety requirements and recurring, continued defective or unsatisfactory work, where the capability procedure has failed to produce an improvement.
 - (b) Serious - for which a written warning would be given whether or not earlier warnings had been given. Where a written warning has failed to

bring about the required improvement, further disciplinary action may be necessary including the possibility of dismissal.

Examples would include failure to carry out reasonable orders and instructions of the Council, breaches of confidence relating to the work of the Council and failure to observe health and safety regulations where this has been of a repeated or wilful nature.

- (c) Gross Misconduct - certain offences are so grave that for a first offence they warrant dismissal with or without notice. Examples include misconduct involving other members of staff, disclosure of confidential information likely to impact on the work or reputation of the Council, theft, fraud, assault, malicious damage etc. The Council's disciplinary procedure provides additional guidance about the disciplinary offences that are likely to constitute gross misconduct.

4. MINOR OFFENCES OR BREACHES OF DISCIPLINE

- (a) Attendance at Place of Work

Each employee is expected to observe the procedures for notifying absence from duty including sickness. Failure to conform with procedure other than in exceptional circumstances and frequent or excessive absenteeism without reasonable grounds may result in disciplinary action.

- (b) Failure to report accidents in accordance with the Council's Health and Safety Policy.

- (c) Standards of Performance

Recurring, continued defective or unsatisfactory work if not corrected following advice, guidance and training in accordance with the Council's capability procedure, will result in disciplinary action. A member of staff who wilfully refuses to perform his or her duties to a satisfactory standard is committing an act of misconduct. However, where a member of staff's inadequate performance is thought to stem from genuine incapability the use of the capability procedure is appropriate.

5. SERIOUS BREACHES OF DISCIPLINE

- (a) Unauthorised disclosure of confidential information to a third party.
- (b) Failure to observe the requirements of the Council's Health & Safety Policy where this is of a repeated or wilful nature.
- (c) Use of offensive and abusive language or other behaviour likely to cause a nuisance.

- (d) Failure to comply with the Council's Equality and Diversity Policy.
- (e) Unauthorised use of Council facilities for personal gain (e.g. telephones, photocopiers, computer etc) especially where this is of a wilful and systematic nature.

6. GROSS MISCONDUCT

- a) theft, fraud,
- b) any involvement in bribery, giving, receiving or facilitating bribes
- c) unauthorised entry to computer records or deliberate falsification of records
- d) a serious breach of the Council's rules on e-mail and Internet usage
- e) fighting or assault
- f) deliberate or reckless damage to Council property
- g) an inability to perform job duties through being under the influence of alcohol or drugs
- h) a serious breach of the Council's safety rules or a single error due to negligence which causes, or could have caused, significant loss, damage or injury to the Council, its employees or electors
- i) conviction of a criminal offence that makes the employee unsuitable or unable to carry out his or her duties
- j) a serious act of insubordination, such as deliberate refusal to carry out proper instructions
- k) acts of bullying, harassment or discrimination
- l) a serious breach of trust or confidentiality.