Dinnington St John's Town Council

DISCIPLINARY POLICY

June 2026

1. INTRODUCTION

1. This policy is based on and complies with the **2015 ACAS Code of Practice.** It also takes into account the 2019 ACAS guide on discipline and grievances at work.

This policy is designed to help Council employees achieve and maintain satisfactory standards of conduct, attendance and performance. Wherever possible, the Council will seek to resolve concerns informally, without starting the formal procedure set out below.

2. This policy will be applied fairly, consistently and in accordance with the **Equality Act 2010**. The Council will consider whether any reasonable adjustments are required for employees with disabilities or other relevant health conditions at any stage of the process.

3. This policy confirms that:

- informal management guidance, coaching and supervision will be considered, where appropriate, to address concerns about conduct, attendance and/or performance;
- the Council will fully investigate the facts of each case.
- the Council recognises that misconduct and unsatisfactory work performance are different issues. The disciplinary policy will also apply to work performance issues to ensure that all alleged instances of employees' underperformance are dealt with fairly and in a way that is consistent with required standards. However, the disciplinary policy will only be used when performance management proves ineffective. For more information, see ACAS Performance Management.
- Employees will be informed in writing about the nature of the complaint against them and given the opportunity to state their case.
- Employees will be provided, where appropriate, with written copies of evidence and relevant witness statements in advance of a disciplinary hearing.
- Employees may be accompanied or represented by a companion – a workplace colleague, a trade union representative or a trade union official - at any investigatory, disciplinary or appeal meeting. The companion is permitted to address such meetings, to put the employee's case and confer with the employee. The companion cannot answer questions put to the employee, address the meeting against the employee's wishes or prevent the employee from explaining their case.
- The council will give employees reasonable notice of any meetings in this procedure. Employee must make all reasonable efforts to attend. Failure to attend any meeting may result in it going ahead and a decision being taken. An employee who does not attend a meeting will be given the opportunity to be represented and to make written submissions.
- If the employee's chosen companion is unavailable at the proposed time, the employee may request a postponement and propose an alternative time within five working days of the original date, unless it is unreasonable in the circumstances not to agree a later date;
- Any changes to the time limits in this procedure should normally be agreed between the employee and the Council;

- Information about an employee's disciplinary matter will be restricted to those involved in the disciplinary process. A record of the reason for disciplinary action and the action taken by the council is confidential to the employee. The employee's disciplinary records will be held by the Council in accordance with the UK General Data Protection Regulation (GDPR).
- Audio or video recording of any meeting under this procedure is prohibited unless expressly agreed in advance by the Council. The Council will consider requests for recording or other adjustments as a reasonable adjustment where appropriate;
- Employees have the right to appeal against any formal disciplinary decision. The appeal decision is final.
- If an employee who is already subject to this disciplinary procedure raises a grievance, the grievance will normally be considered after the disciplinary process has concluded, unless the grievance relates directly to the disciplinary process itself;
- Disciplinary action may include a formal verbal warning, first written warning, a final written warning, or dismissal;
- This procedure may be implemented at any stage if the employee's alleged misconduct warrants this.
- Except for gross misconduct, when an employee may be dismissed without notice, the council will not dismiss an employee on the first occasion that it decides there has been misconduct.
- If an employee is suspended, suspension will be on full pay, will not be a disciplinary sanction, will be kept under regular review, and will be for no longer than is reasonably necessary;
- The Council may consider mediation at any stage where appropriate, for example where there has been a communication breakdown or allegations of bullying or harassment, provided all parties agree.

2.DISCIPLINARY PROCEDURE: STEP BY STEP

Step 1: Understanding the options

A disciplinary procedure is a formal way for an employer to deal with an employee's:

- Misconduct (unacceptable or improper behaviour) or
- in some cases, capability or performance issues where informal support and performance management have not resolved the concern.

Before starting a formal disciplinary procedure, the Council will first consider whether the issue can be resolved informally. This may involve:

- speaking privately with the employee and any other staff involved (HR contact to speak with employee and others by agreement).
- listening to their explanation;
- agreeing improvements to be made;
- setting expectations and review periods;
- providing support, supervision, mentoring or training where appropriate.

Dealing with capability issues

Capability or performance concerns relate to an employee's ability to do the job to the required standard. In most cases these should be addressed through:

- support;
- training;
- supervision;
- encouragement to improve; and
- realistic timescales for improvement, depending on the nature of the issue.

The Council will deal with capability or performance concerns fairly and reasonably. Formal disciplinary action in relation to performance will normally only be considered where support and performance management have not led to sufficient improvement, or where the circumstances otherwise justify formal action.

What counts as misconduct

Misconduct is unacceptable behaviour or conduct that breaches the Council's rules, standards or policies.

Examples may include:

- bullying;
- harassment;
- insubordination (refusing to do work)
- unauthorised absence;
- misuse of Council resources or facilities;
- inappropriate behaviour;
- breaches of health and safety rules;
- poor timekeeping.

Misconduct outside work

An employee may face disciplinary action for misconduct outside work where the conduct is relevant to their employment, affects the Council's reputation, undermines trust and confidence, or otherwise has a material impact on the Council.

In such cases, the Council will carry out a fair investigation before deciding whether disciplinary action is appropriate.

Gross misconduct

Some acts may amount to gross misconduct because they are extremely serious or have very serious consequences. If gross misconduct is found following a fair procedure, it may justify dismissal without notice or payment in lieu of notice.

Examples of gross misconduct may include:

- fraud or theft;
- physical violence;
- bullying, discrimination or harassment;
- incapacity at work due to alcohol or drugs;
- gross negligence (serious lack of care to their duties or other people)
    - serious breaches of Council policies or procedures e.g. the Health and Safety Policy, Equality and Diversity Policy, Data Protection Policy and any policies regarding the use of information technology.
- serious or deliberate damage to property;
- accessing pornographic, obscene or offensive material using Council systems;
- serious insubordination;
- disclosure of confidential information.

Suspension

If allegations of gross misconduct or serious misconduct are made, the council may suspend the employee while further investigations are carried out. Suspension will be on full pay. Suspension does not imply any determination of guilt or innocence, as it is merely a measure to enable further investigation.

While on suspension, the employee is required to be available during normal hours of work in the event the council needs to make contact. The employee must not contact or attempt to contact or influence anyone connected with the investigation in any way or to discuss this matter with any other employee or councillor.

The employee must not attend work. The council will make arrangements for the employee to access any information or documents required to respond to any allegations, and have access to the council's HR point of contact for advice/guidance whenever required.

The Council will confirm the suspension in writing, including the reasons for it and the arrangements that will apply during the suspension. The employee will be given a named contact for support and communication during the suspension period.

While suspended, the employee must remain available during normal working hours and must not attend work or contact witnesses or others involved in the matter, except through agreed channels or with prior permission.

The Council will make reasonable arrangements for the employee to access documents or information needed to respond to the allegations.

Step 2: Following a fair procedure

If the Council decides formal action may be required, it will inform the employee in writing as soon as reasonably practicable. The written notification will include:

- sufficient information about the alleged misconduct or performance concern;
- the possible consequences;

- details of the next stage of the process.

The employee will be given reasonable time to prepare for any formal meeting.

The Council will ensure that the procedure is conducted fairly and consistently.

Importance of following a fair procedure

The ACAS Code of Practice sets out the minimum standards expected in disciplinary cases. While the Code is not legislation, employment tribunals take it into account when considering relevant cases.

The Council will follow a fair procedure for all employees and, where appropriate, will seek to apply similar principles of fairness in relation to other workers.

Consistency

The Council will seek to deal with similar cases consistently, while recognising that each case must be considered on its own facts and circumstances.

Communication and wellbeing

The Council will maintain clear, appropriate and confidential communication during the process. The Council recognises that disciplinary processes can be stressful and will consider any reasonable steps that may support employee wellbeing, including adjustments to meeting format, timing or location where appropriate.

If the employee raises a grievance

If the employee raises a grievance during the disciplinary procedure, the Council may decide to pause the disciplinary process and deal with the grievance first, or deal with both matters concurrently where appropriate.

If the employee wishes to resign

The employee might feel they want to resign or 'jump before they're pushed' when they are facing a disciplinary. This could risk the employee later claiming constructive dismissal at an employment tribunal. They can only do this if they have worked for the organisation for 2 years or more.

The employer should try and talk through any concerns with the employee and encourage them to complete the disciplinary procedure first.

Step 3: Carrying out an investigation

The Council must carry out such investigation as is reasonable in the circumstances to establish the facts.

If a formal disciplinary investigation is required, the Council's Staffing and Complaints Committee will appoint an Investigator to carry out a fact-finding exercise and collect relevant information. The Investigator will be independent and will normally be a councillor. If there is no appropriate independent councillor available, the Committee may appoint an external investigator.

The Investigator will be appointed as soon as possible after the allegations are raised. The Staffing and Complaints Committee will set terms of reference for the investigation, including:

- the allegations or matters to be investigated;
- whether any recommendations are required;
- the format in which findings should be presented; and
- to whom the findings should be reported.

The Investigator will normally be asked to submit their report within 20 working days where reasonably possible.

In cases involving minor misconduct or straightforward performance concerns, the Council may decide that a separate investigation report is not required and may proceed directly to a disciplinary hearing, provided this is fair in the circumstances.

The Staffing and Complaints Committee will notify the employee in writing of:

- the allegations or concerns;
- the identity of the Investigator; and
- the investigatory process.

The employee may be invited to attend an investigatory meeting and will be given reasonable notice. The employee will be provided with a copy of this disciplinary procedure and given the opportunity to comment on the allegations.

As a matter of Council policy, employees may be accompanied at investigatory meetings by a workplace colleague, trade union representative or trade union official.

The Investigator may also obtain information from other relevant persons, including employees, councillors, contractors or members of the public.

The Investigator has no authority to impose disciplinary sanctions. Their role is to establish the facts and prepare a report for the Staffing and Complaints Committee recommending one of the following:

- there is no case to answer and no further action should be taken under this procedure;
- the matter is not serious enough to justify formal action and should be dealt with informally; or
- there is a case to answer and the matter should proceed under the disciplinary procedure.

The Staffing and Complaints Committee will consider the report and decide whether further action is required.

If the Council decides not to take disciplinary action, it may consider whether mediation or another informal resolution would be appropriate.

Step 4: The disciplinary hearing

Where the investigation indicates that there is a case to answer, the Council will invite the employee to a disciplinary hearing.

The Council will appoint a disciplinary hearing sub-committee of three councillors to hear the matter. The sub-committee will appoint a Chair from among its members. The Investigator must not sit on the disciplinary hearing sub-committee. No councillor with prior direct involvement in the matter shall be appointed to the sub-committee.

Preparing for the hearing

The hearing should be held as soon as reasonably possible after the investigation, while allowing adequate time for preparation.

In advance of the hearing, the employee will receive written confirmation of:

- the names of the members of the hearing sub-committee;
- the date, time and place of the hearing;
- details of the alleged misconduct, its possible consequences and the employee's statutory right to be accompanied at the meeting.
- a copy of the information provided to the sub-committee, which may include the investigation report, supporting evidence and a copy of the Council's disciplinary procedure.
- a copy of the Council's disciplinary procedure;
- the arrangements for calling witnesses and exchanging witness names and documents in advance.

The employee may submit their own evidence and call relevant witnesses where reasonable.

Right to be accompanied

At a disciplinary hearing, an employee has the right to be accompanied by:

- a fellow worker;
- a certified or trained trade union representative; or
- an official employed by a trade union.

The Council will consider requests for other companions where this is appropriate as a reasonable adjustment or otherwise reasonable in the circumstances.

Conduct of the hearing

The hearing is the opportunity for both the Council and the employee to present their case.

The Council should:

- explain the allegations or concerns;
- present the evidence;
- ensure a note is taken of the meeting.

The employee should have the opportunity to:

- respond to the allegations;
- ask questions;
- present evidence;
- call relevant witnesses, where reasonable notice has been given;
- respond to witness evidence;
- make representations before any decision is taken.

The companion may:

- put the employee's case;
- respond on the employee's behalf to points made at the meeting;
- confer with the employee during the meeting;
- sum up the employee's case
- take notes.

The hearing may be adjourned if further investigation or clarification is required.

At the end of the hearing

The Council may adjourn to consider the evidence before reaching a decision.

The employee will be told what will happen next and when they can expect to receive the decision.

A confidential written record of the hearing will be kept.

If the employee is absent or off sick

If the employee is absent or off sick for the disciplinary hearing, the council should pause the disciplinary procedure until they return to work. If the employee still says they cannot attend or if they go on extended sick leave, the council should see if it would help to make other arrangements. For example, if the employee is off with stress and is worried about coming to the workplace, they could hold the hearing somewhere else.

If the employee still refuses to or cannot meet, the council will need to look at the case and come to a reasonable decision.

The council could look at:

- offering HR support
- any rules it has for dealing with failure to attend disciplinary hearings
- how it has dealt with similar cases in the past
- the seriousness of the disciplinary issue
- the employee's disciplinary record, general work record, work experience, position and length of service
- getting a medical opinion on whether the employee is fit to attend the hearing (with the employee's permission)

If the council reaches a decision, it should tell the employee in writing and tell them of their right of appeal.

Step 5: Deciding on the disciplinary outcome

After the hearing, the Council will decide on the appropriate outcome based on:

- the evidence;
- the findings of the investigation and hearing;
- what is fair and reasonable in the circumstances;
- how similar matters have been dealt with previously.

If a sanction short of dismissal is imposed, the Council will set out any expected improvements, support, and review timescales.

Informing the employee

The employee will be informed of the outcome as soon as reasonably possible and confirmed in writing.

If the employee's conduct or performance has not improved in the timeframe set, the council should repeat the disciplinary procedure until improvements are made or until dismissal is the only fair and reasonable option.

No action

If it is decided that there is no misconduct or performance issue requiring formal action, the disciplinary process will end. The Council may take reasonable steps to support the employee's return to normal working arrangements.

The Council will retain such records as are necessary in accordance with its legal obligations and retention arrangements.

Informal action

Where the matter is minor, the Council may decide that formal disciplinary action is not required and deal with the issue informally through management advice, guidance or counselling.

Informal action is not a formal disciplinary sanction, although a confidential management note may be kept in accordance with the Council's retention policy.

First written warning

A first written warning may be issued where misconduct or poor performance is substantiated and formal action is appropriate.

The warning will normally set out:

- the nature of the misconduct or performance issue;
- the required improvement or change;

- any support or training to be provided, where relevant;
- the timescale for improvement;
- the consequences of failing to improve or of further misconduct;
- how long the warning will remain active.

Final written warning

A final written warning may be issued where:

- there is further misconduct or insufficient improvement during the life of a previous warning; or
- the misconduct or performance issue is serious enough to justify a final warning without a first written warning.

The warning will state that dismissal may follow if the required improvement is not achieved or if there is further misconduct.

If an employee does not meet the requirements of their final written warning in the timeframe set, it could lead to dismissal. The council should make this clear to the employee.

Other sanctions

Where appropriate and lawful, and subject to the employee's contract, the Council may consider alternatives to dismissal, such as redeployment or demotion.

Dismissal

Dismissal may be considered where:

- gross misconduct is found; or
- there has been repeated misconduct or insufficient improvement following previous formal warnings.

Dismissal should only be decided by the full Staffing and Complaints Committee which it has authority to do so.

The employee will be informed in writing of:

- the reasons for dismissal;
- the date employment will end;
- whether notice or pay in lieu of notice applies;
- the right of appeal.

To avoid the risk of an unfair dismissal claim, the council should always follow a full and fair disciplinary procedure before deciding on dismissal.

The employee's right of appeal

The employee has the right to appeal against any formal disciplinary sanction, including dismissal.

An appeal may be made on grounds including:

- the sanction is too severe;
- the procedure was unfair;
- new evidence has come to light.

Where possible, the appeal will be heard by a panel of three members of the Staffing and Complaints Committee who have had no prior involvement in the case. The Investigator and members of the original disciplinary hearing panel must not sit on the appeal panel.

If there are insufficient uninvolved members available, the Council will appoint an alternative panel of appropriate members, or may seek external support if necessary, in order to ensure fairness. The appeal panel will appoint a Chair from one of its members.

The employee will be notified in writing within 10 working days of receipt of the appeal of the date, time and place of the appeal hearing.

The appeal hearing will broadly follow the same principles of fairness as the original hearing.

The Chair of the appeal panel will normally confirm the decision and reasons in writing within five working days of the appeal hearing.

The appeal panel may:

- uphold the original decision;
- substitute a lesser sanction; or
- overturn the decision and remove the disciplinary sanction.

Where an appeal is upheld, the Council will amend the employee's record accordingly. Any records retained will be limited to what is necessary to meet the Council's legal, governance and record-keeping obligations.

If an appeal against dismissal is upheld, the employee will be reinstated with continuity of service preserved and pay restored as appropriate.

The appeal decision is final within the Council's internal procedure.

Step 6: After the disciplinary procedure

Talking to staff

The outcome and details of disciplinary proceedings are confidential. However, where appropriate, the Council may speak privately to staff directly affected in order to confirm that the process has concluded and remind them of confidentiality.

The Council may also communicate any general lessons learned or policy changes arising from the matter, without disclosing confidential personal information.

Keeping records

The Council will keep a written record of disciplinary cases in accordance with its legal obligations and records management arrangements. Records will be:

- confidential;
- kept securely; and
- retained only for as long as necessary.

References after disciplinary action

By law, an employer does not have to provide a reference. When an employer gives a reference, they must make them:

- fair
- accurate
- consistent with others

This means they might have to give information about the employee's disciplinary outcome.

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Next review date: June 2028