



Sudbury Town Council DISCIPLINARY POLICY AND PROCEDURE 2025

EMPLOYEE CONDUCT POLICY

1. It is important to Sudbury Town Council that the conduct of members of staff is of the highest standard, so that services are optimised and public confidence in the Council and its services is maintained and developed. The Town Council expects members of staff to be fair and honest in all their activities at work and to treat councillors, colleagues, service users and other contacts with courtesy and respect. Staff are to maintain a professional relationship towards each other at work and not to permit any personal friendships to affect their conduct.
2. If staff form close friendships or personal relationships with one another, or with a councillor, this must be reported in writing to the Town Clerk and the Administration Manager without delay. This information will be treated in confidence and used only to ensure appropriate steps are taken to manage any potential conflicts.
3. If a member of staff is unsure of the standards of conduct and behaviour required of them, they must seek clarification from their line manager as a matter of urgency.

OBJECTIVE

4. The objective of the disciplinary procedure is to provide a consistent framework within which a member of staff can be supported in achieving and maintaining satisfactory standards of performance, behaviour and conduct, and to encourage improvement where necessary. On those occasions where improvement cannot be achieved and maintained, this procedure provides a legally compliant framework within which an employee may be dismissed for reasons of misconduct or gross misconduct.

THE SCOPE

5. The Disciplinary Policy and Procedure applies to all employees of the Council and covers both performance and conduct.
6. **Poor Performance.** The following are examples of poor and unacceptable performance. The list is not exhaustive and other matters may be viewed as poor performance.
 - a. Inadequate performance of duties and adherence to policy and procedures
 - b. Inadequate skills which are required by the job
 - c. Unsatisfactory management of staff members
 - d. Unsatisfactory communication skills
 - e. Poor timekeeping

7. **Misconduct.** Misconduct is behaviour which is unacceptable and is viewed by Town Council as requiring change or modification. The following are examples of misconduct. The list is not exhaustive and other matters may be viewed as misconduct.

- a. Unauthorised absence or persistent poor timekeeping
- b. Misuse of Council facilities including telephone email and internet
- c. Negligent behaviour causing damage or risk to the Council
- d. Breach of Council policy
- e. Disruptive behaviour
- f. Inappropriate behaviour
- g. Bringing the Council into disrepute
- h. Incapability at work due to alcohol or illegal drugs
- i. Breach of Health and Safety rules, policy or procedures

8. **Gross Misconduct.** There are certain situations which the Council will view in the most serious manner regardless of an employee's previous service, or employment record. Acts of gross misconduct are those which are considered to be so serious that they destroy the essential relationship that is required between the Town Council as the employer and the employee. The list below gives examples of the type of offences which are likely to be considered by the Town Council to be gross misconduct. The list is not exhaustive and other matters may be viewed as gross misconduct.

- a. Theft, fraud or dishonesty
- b. Physical violence, intimidation or bullying
- c. Repeated refusal to carry out reasonable instructions
- d. Deliberate or serious damage to Council or others' property
- e. Serious misuse of the Council's property or name
- f. Deliberately accessing internet sites including pornographic, offensive or obscene material
- g. Serious insubordination
- h. Discrimination or harassment
- i. Bringing the Town Council into serious disrepute
- j. A serious breach of confidence
- k. Causing loss, damage or injury through serious negligence or a breach of health and safety rules
- l. Serious disclosure of confidential information

PRINCIPLES

9. The Council will not normally start formal disciplinary action without first considering informal action to resolve problems and concerns, but in the most serious situations the Council reserves the right to implement formal disciplinary procedures without any preceding informal action.

10. A line manager will raise any concerns directly with the employee and minor conduct or performance issues will generally be resolved informally between the individual and the manager. In these circumstances the line manager will normally issue a management instruction letter to confirm what changes or improvements are required.

11. Formal disciplinary action will not be taken without an appropriate investigation being carried out.

12. An employee will not be dismissed for a first breach of discipline except in a situation of Gross Misconduct, when the penalty will normally be summary dismissal i.e. dismissal without notice or payment in lieu of notice.

13. An employee has the right of appeal against any formal disciplinary action taken against them. The appeal will be considered by the Town Clerk or a panel of councillors who have not previously been involved in making the decision which is being appealed.

14. If a grievance is raised by the employee during the disciplinary process it may be dealt with in parallel, or after the disciplinary process has been completed, but it will not be allowed to delay or disrupt the disciplinary action.

15. The Council reserves the right to vary the way in which an individual investigation, hearing or appeal is conducted, so that it is appropriate to the circumstances of the situation whilst respecting and remaining within the Council's Disciplinary Policy and Procedure, legislative/ statutory requirements and good practice.

16. The Council's aim is to deal with disciplinary matters sensitively and with due respect for the privacy of the individuals involved. All concerned are required to treat as confidential all information communicated to them about an investigation or disciplinary matter.

17. The policy will be applied fairly, consistently and in accordance with the Equality Act 2010.

THE SANCTIONS AVAILABLE IN THE DISCIPLINARY PROCEDURE

First Formal Warning

18. The first formal warning is the initial level of disciplinary action may be issued by the Town Clerk or a manager authorised by the Town Clerk.

- a. **Poor Performance.** A first formal warning for poor performance will be given in writing setting out the nature of the problem, the improvement that is required, the timescale, any help that may be appropriately provided. The formal notification will include the right to appeal. The warning will also inform the employee that a final formal warning may be considered if they fail to meet and maintain satisfactory standards of performance. The warning will be kept in their records and but will normally be disregarded for disciplinary purposes after a period of six or twelve months.
- b. **Misconduct.** A first formal warning for misconduct will be given in writing setting out the nature of the misconduct and the change in behaviour which is required. The formal notification will include the right to appeal. The warning will also inform the employee that a final formal warning may be considered if they fail to meet and maintain satisfactory standards of conduct. The warning will be kept in their records and but will normally be disregarded for disciplinary purposes after a period of six or twelve months. If the misconduct is sufficiently serious, the Council may proceed directly to a final written warning or dismissal as described below

Second and Final Formal Warning

19. For serious misconduct, or if there is further misconduct, or a failure to improve performance during the period of a previous warning, the Town Clerk may issue a final formal warning to the employee. This final warning will include full details of the improvement in conduct or performance required and the timescale over which this will be measured. The employee will also be informed that failure to improve may lead to dismissal. They will be made aware of their right to appeal. The final formal warning will normally be disregarded after one or two years subject to the employee achieving and maintaining a satisfactory standard of conduct or performance.

Dismissal

20. The penalty for gross misconduct will normally be summary dismissal i.e. dismissal without notice or payment in lieu of notice. Where there is further misconduct, or failure to improve performance, after a final formal warning the next stage of the procedure will normally be dismissal. Summary dismissal only applies to gross misconduct not to other types of dismissal. Where dismissal is a likely outcome, a disciplinary panel of at least three Councillors will be formed to consider the case. If the panel decide to dismiss the employee, they will be provided in writing with the reasons for their dismissal, the date on which the employment will terminate and their right of appeal. The disciplinary panel making the decision will have the right to substitute action short of dismissal if they believe it to be appropriate. This may include extension of a final formal warning and other action deemed to be appropriate including demotion, transfer to an alternative job, reduction in pay and loss of future incremental progression.

THE INVESTIGATION PROCESS

21. Whenever there is an allegation of poor performance or misconduct the line manager concerned must bring this to the attention of the Town Clerk. The Town Clerk will consider the allegation and decide on the appropriate level of investigation.

22. An investigation of an allegation of poor performance or misconduct by the Town Clerk can only be ordered by a meeting of the full council with the Town Clerk present, as individual councillors, or groups of councillors, cannot take action on behalf of the Town Council. If there is a suggestion that the Town Clerk is acting illegally, the matter should be reported directly to the police.

23. Before starting the formal process, it will often be appropriate for the line manager to discuss the issue with the member of staff concerned to see if there can be an informal resolution. A formal investigation will not start until the Town Clerk has assessed the appropriate level of investigation.

24. The purpose of an investigation is to establish a fair and balanced view of the facts relating to the allegations against an employee. The amount of investigation required will depend on the nature of the allegations and will vary from case to case.

25. The Town Clerk will appoint an investigator who will be responsible for establishing the facts and producing a report. The Investigator may be a member of the Council's management team, or an independent investigator. The Investigator will be appointed as soon as possible after the allegations have been made.

26. In most cases where a first formal warning would be appropriate, the line manager concerned will be tasked to conduct the investigation and produce a simple report. When the allegation is more serious, or a first formal warning is already in place, the Town Clerk will consider whether an independent investigator is required.

27. The investigator will identify suitable witnesses and invite them to attend meetings and record their evidence.

The investigator will invite the subject to attend a meeting and records their account.

The investigator should consider other evidence as appropriate to the case, including documents, emails, photographs, CCTV, tracking data or other records as they believe is necessary.

28. The Investigator will write an investigation report and submit it to Town Clerk with their findings and recommendation on whether the matters in question should progress to a disciplinary hearing and at what level. For a simple investigation, this may be in the form of an email.

29. It is anticipated that a simple investigation should normally take no more than 5 working days to complete. However, where the circumstances indicate that a longer period may be necessary the timeframe should be agreed in advance by the Town Clerk. The timeframe for the investigation will be communicated to the staff concerned.

30. The employee who is the subject of the investigation may be asked to work in another location or to take special paid leave whilst the initial investigation takes place.

31. An employee may be accompanied or represented by a trade union representative or a work colleague at any formal meeting with the investigator.

32. All members of staff must co-operate fully and promptly in any investigation. This will include informing the investigator of the names of any relevant witnesses, disclosing any relevant documents and attending investigative interviews as required.

33. The Investigator will write an investigation report and submit it Town Clerk with their recommendations and findings on the matters in question. They must recommend either:

- a. That employee has no case to answer and there should be no further action under the Council's disciplinary procedure.
- b. That there is a case to answer, but the matter is not serious enough to justify further use of the disciplinary procedure and should be dealt with informally,
- c. That the employee has a case to answer and the matter should proceed to a formal disciplinary meeting which will consider formal action under the Council's disciplinary procedure.

34. The Town Clerk must decide on whether to accept the recommendations of the investigation report and what further action is appropriate.

35. An employee accused of gross misconduct may be suspended from work on full pay, following a risk assessment. This is not a disciplinary penalty but it is intended to allow for a comprehensive investigation to take place. This suspension will be for as short a time as is possible and normally for no more than 14 days.

36. Whilst suspended an employee must not visit Council premises or contact any Council clients, customers, suppliers, partners, contractors or other staff, unless they have been authorised to do so by the Town Clerk in writing.

37. An employee under suspension is required to co-operate with the investigation. If on completion of the investigation and disciplinary procedure the Council is satisfied that gross misconduct has occurred, the result will normally be summary dismissal which is dismissal without notice or payment in lieu of notice.

THE DISCIPLINARY MEETINGS

38. The make up of the disciplinary meeting will depend on the seriousness of the allegation and the potential penalty. For the more minor issues, where a first formal warning would be appropriate, the disciplinary meeting will often be chaired by the line manager with one other colleague as a note taker. For a final formal warning the disciplinary meeting will often be chaired by the Town Clerk, with the line manager and one or two other colleagues. When dismissal is an option, the disciplinary meeting will be a panel of at least three councillors and the Town Clerk as their advisor with other supporting staff as necessary. Only councillors who are clearly independent and have had no close contact with the employee will be considered as panel members.

39. Where formal disciplinary action is considered necessary the employee will be advised of the nature of concern/compliant against him/her at least 7 days in advance of the disciplinary meeting. The employee concerned will be given full access to any evidence, materials and statements which are to be considered.

40. A disciplinary meeting will normally be scheduled during an employee's working hours although evening meeting may be necessary to allow councillors to attend after work. The employee's attendance is normally required, and they must make all reasonable efforts to attend the scheduled meeting. The Council will consider a reasonable request for an adjournment, however, if an employee fails to attend a scheduled meeting, the Council may proceed in their absence and an appropriate decision may be taken.

41. At all formal stages of the disciplinary procedure the employee will have the right to be accompanied by a trade union representative or work colleague of their choice. The work colleague or trade union representative has the right to address meetings, to help put the employee's case and to confer with the employee. The trade union representative or work colleague cannot respond to questions on the employee's behalf, address the meeting against the employee's wishes or prevent the employee from explaining their case.

42. At the disciplinary meeting the Chair will explain the evidence that has been produced and, if necessary, call witnesses to provide evidence in person. The subject will have the opportunity to ask the witnesses relevant questions.

43. The employee concerned will then have the opportunity of putting forward their case and introducing their own witnesses.

44. The Manager or Panel carrying out the disciplinary hearing may adjourn if they consider there is a need to carry out any further investigations such as interviewing others or re-interviewing witnesses in the light of any new points which arise at the hearing. The subject will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

45. Once all evidence has been heard, the Chair of the disciplinary meeting will usually ask all except panel members and panel advisor to leave the room whilst the evidence is considered. They may decide to call witnesses back for further questions, but this must be done in the presence of the subject who may also ask further relevant questions.

46. Once the Manager or Panel are content that they have heard all the evidence required they will usually ask all others to leave the room whilst they consider their decision. The Manager or Panel must produce written findings recording their decision on;

- a. Has the allegation been proved to the required standard of certainty.
- b. What mitigating factors, if any, have been considered.
- c. What sanctions are appropriate.
- d. What other actions are required.
- e. How these conclusions will restore efficiency.

47. An employee will usually be given a written copy of the findings, but this will often be a few working days after the meeting.

DISCIPLINARY APPEALS

48. An employee who wishes to appeal against a formal disciplinary decision must do so in writing to the Town Clerk within 5 working days of receipt of written notice of disciplinary action or dismissal.

49. An appeal request will generally be expected to be detailed, and on the basis of one or more of the following:

- a. The disciplinary process and procedure which was followed was not appropriate or was not what was required.
- b. That there was a problem with the evidence on which the disciplinary decision was based.
- c. The disciplinary action that was taken was not appropriate to the situation and circumstances.
- d. New evidence has come to light which was not available at the time the disciplinary decision was made.

50. An appeal against disciplinary action at 'First Formal Warning' will be considered by the Town Clerk.

51. An appeal against disciplinary action at 'Final Formal Warning' will be considered by a Panel of 3 Councillors and the Town Clerk as their advisor. Only councillors who are clearly independent and have had no close contact with the employee will be considered as panel members

52. An appeal against dismissal will be considered by a Panel of 3 Councillors who have not previously been involved and the Town Clerk as their advisor. Only councillors who are clearly independent and have had no close contact with the employee will be considered as panel members.

53. An appeal hearing will be held, to which the member of staff making the appeal will present the grounds for their appeal. They may be accompanied by a trade union representative or a work colleague.

54. Any new information or evidence must be provided to those hearing the appeal by the employee, the trade union representative or a work colleague no less than 7 days before the hearing date.

55. Those hearing the appeal may consider any or all aspects of the situation and the nature of each appeal may vary according to its level, complexity and nature. The appeal may simply consider the points raised by the staff member or those responsible may instigate or conduct a more in depth consideration of the disciplinary evidence and situation. They may question the employee on any aspect of the situation, the hearing or the evidence and may speak with witnesses if they believe it to be appropriate.

56. Those responsible for the appeal will respond within 7 days of the appeal hearing in writing with their decision and they may:

- a. Confirm the disciplinary action taken.
- b. Substitute alternative disciplinary action in accordance with the Councils Discipline Procedure.
- c. Substitute other informal action or support.
- d. Overturn the disciplinary decision and eliminate the records from the individuals personal file.

57. An employee who is dismissed and who appeals against the decision is considered to be dismissed in accordance with the original decision with effect from the relevant dismissal date. If they are reinstated by an appeal they will be paid from the dismissal date to the reinstatement date and will suffer no break in continuity of service.

58. The Council's policy allows for one appeal against disciplinary action and the decision of the appeal is final.