



SELBY TOWN COUNCIL DISCIPLINARY POLICY AND PROCEDURE

1. Purpose and scope

The purpose of this disciplinary policy is to help and encourage all employees to achieve and maintain required standards of performance and conduct. The disciplinary procedure provides a fair and consistent framework through which any issues with performance or conduct can be addressed.

This policy applies to all paid staff.

Where an employee is still within the probationary period any issues of performance or conduct will be dealt with under the probationary period procedure detailed in Section 6 of this policy.

This policy is non contractual.

2. Principles

This policy is designed to establish the facts quickly and to deal consistently with performance and / or conduct issues.

No formal disciplinary action will be taken against an employee until the case has been fully investigated by the Town Clerk.

At every stage of the formal disciplinary procedure the employee will be advised of the nature of the complaint against them, and will be given the opportunity to have their views fully and fairly considered before any sanction is imposed.

The employee will have the right to be accompanied by a work colleague or trade union official at all meetings under the formal disciplinary procedure. At the meeting the employee's companion has the right, if the employee wishes, to confer with the employee, to put forward the employee's case, to sum up the case and to respond on the employee's behalf.

The employee will have the right to appeal against any disciplinary action taken.

Disciplinary action may be implemented at any stage of the procedure if the alleged misconduct or under performance warrant such action.

No employee will be dismissed for a first breach of discipline, except in the case of gross misconduct. Dismissal in such circumstances will be without notice or payment in lieu of notice.

All proceedings, witness statements and records will be kept confidential and will be retained in line with the Data Protection Act 1998. Copies of any formal proceedings and sanctions will be kept on the employee's personnel file but will normally be disregarded for disciplinary purposes after 12 months.

In order to ensure fairness in misconduct cases the stages of the procedure will, where practicable, be carried out by separate personnel. Any appeal, in both misconduct and performance cases, will normally be heard by the Councillors from the Finance & Staffing sub-committee.

In the event that the employee raises a grievance during a disciplinary process the disciplinary process may be temporarily suspended in order to deal with the grievance. However, if the grievance and disciplinary cases are related it will usually be appropriate to deal with both issues concurrently.

In the event that disciplinary action is being considered against the Town Clerk the Town Council must ensure that Councillors are removed from the process at the earliest stage to allow enough to be available to conduct the appeal stage.

3. Informal action

In cases of minor misconduct or under performance the Town Clerk should deal with matters informally by discussing the issues with the employee and encouraging them to achieve the required standards. This will involve setting clearly defined objectives and / or standards, monitoring them over a reasonable time period and providing training, advice, encouragement and any other appropriate forms of support. Such actions are not part of the formal disciplinary process.

Where informal action of this kind is decided upon, the Town Clerk will send a follow-up letter to the employee specifying the standards required, how they will be monitored, and the review period during which improvements should be achieved and sustained. The letter will explain that the informal action is not formal disciplinary action but that if the employee fails to improve the formal disciplinary procedure may be instigated.

If the required standards of behaviour or performance are met and consistently maintained no further action will be needed. Records of the informal action will be kept on the employee's personnel file for reference.

If the employee fails to meet and / or maintain the standards required, despite being given appropriate support to do so, the Town Clerk may extend the review period or proceed to initiate formal disciplinary action.

In certain circumstances it may, with mutual agreement, be helpful to consider using an independent third party to help resolve the problem. In some cases an external mediator might be appropriate.

4. Formal disciplinary procedure

Investigation

If formal disciplinary action is being considered the matter will be investigated. In misconduct cases the investigator shall obtain a statement from any witnesses they consider to be relevant. The amount of investigation necessary will depend on the facts of the case. In some situations this may involve an investigatory meeting with the employee, however this is not always necessary. If an investigation meeting is held the employee will be informed at the outset that the interview is an investigatory interview. There is no right for employees to be accompanied at a formal investigatory interview.

In cases of poor performance the investigatory stage will be the collation of evidence by the Town Clerk.

At the end of the investigation the Town Clerk will decide whether it is necessary to proceed with disciplinary action in which case the employee will be invited to a disciplinary hearing.

Suspension

In potentially serious cases it may be appropriate to suspend the employee on full pay until the investigation has been completed and a disciplinary hearing held. Suspension is not a disciplinary sanction in itself. During this time, the employee should remain away from the Town Council but will be paid in the usual way. They should be reminded that they remain under the strict duty of fidelity as an employee and must not contact clients or colleagues without prior permission during this suspension period.

Any period of suspension will be as brief as possible.

Disciplinary hearing

The Town Clerk will write to the employee specifying the allegations or under performance concerns. The employee will be provided with any relevant supporting evidence and a copy of the disciplinary policy and procedure. The letter will also advise the employee of their right to be accompanied at the hearing by a workplace colleague or trade union official.

Where practicable, the employee will be given at least 48 hours' notice of any meeting. They must take all reasonable steps to attend any meeting commenced under this procedure. If the employee (or their companion) fails to attend the meeting or gives notice that they cannot attend through circumstances beyond their control, a new date should be set. If the employee fails to attend on a second occasion the hearing may proceed in their absence, or it may be postponed again.

The employee will have the opportunity to state their case at the meeting. The Town Clerk may adjourn the disciplinary proceedings if it appears necessary to do so (for example if they need to gather further information or undertake further investigation). The employee will be informed of the period of any adjournment.

Following the meeting the Town Clerk will decide whether to impose a disciplinary sanction and the employee will be advised in writing of the outcome. Where practicable the letter will be sent to the employee within five working days of the hearing. The employee will have a right of appeal.

Appeal

If the employee wishes to appeal against any disciplinary sanction they must do so in writing within five working days of the decision being taken, to the next level of management in the organisation (for the purposes of this procedure this person shall be referred to as the "Appeal Panel" who will be appointed by the Chair of the Finance & Staffing sub-committee.). The employee should set out the full grounds for appeal prior to the meeting.

The appeal will be heard by the Appeal Panel as long as they have had no prior involvement with the case. Any person appointed under this procedure shall be deemed to have delegated authority from the Town Council.

Where practicable the appeal meeting will be convened within 15 working days. The employee has the right to be accompanied at the appeal meeting by a workplace colleague or trade union official.

The decision will be final and, where practicable, the employee will be informed of the decision in writing within five working days of the appeal hearing.

5. Formal disciplinary sanctions

It should be noted that for cases of minor misconduct or poor performance, Selby Town Council will normally go through each stage in turn. In cases of more serious misconduct or poor performance Selby Town Council may enter the disciplinary procedure at Stage 2 or Stage 3 if appropriate.

Stage 1 – First written warning for misconduct

Where informal action has not brought about the desired improvement in conduct, or if the employee's conduct is considered sufficiently serious, a written warning will be given following the disciplinary hearing. This will include details of the misconduct and a statement that, if there is insufficient improvement after a reasonable period of time, a final written warning may be given. The warning will detail the employee's right of appeal.

Or

Stage 1 - Improvement note for unsatisfactory performance

Where informal action has not brought about the desired improvement in performance, an improvement note will be given following the disciplinary hearing. This will include details of the performance problem, the improvement required, the timescale for improvement and review dates. It will also include a statement that, if there is insufficient improvement after a reasonable period of time, a final written warning may be given. The improvement note will detail the employee's right of appeal.

Stage 2 – Final written warning

If the employee's conduct or performance is still unsatisfactory after the period notified in Stage 1, or if the misconduct / performance issue in question is considered sufficiently serious, a final written warning will be given following the disciplinary meeting. The warning will state that, if there is insufficient improvement within a further period of time, the employee may be dismissed. The warning will detail the employee's right of appeal.

Stage 3 – Dismissal (with notice)

If there is insufficient improvement after the period notified in Stage 2 the employee will be dismissed with the appropriate notice following the disciplinary meeting. A letter will be sent to the employee detailing the reasons for the dismissal, the date on which their employment will terminate and the arrangements for the notice period. The letter will detail the employee's right of appeal.

Gross misconduct (dismissal without notice)

If, following an investigation and a disciplinary meeting with the Town Clerk, it is confirmed that the employee has committed an offence of gross misconduct during the course of their employment, the normal consequence will be dismissal without notice. The following list provides examples of offences which are normally regarded as gross misconduct, however this list is not exhaustive:

Theft, damage to company property, fraud, or any other act of dishonesty, a serious breach of the equal opportunities policy, incapacity for work due to being under the influence of alcohol or illegal drugs, physical or verbal assault towards another employee or client, gross insubordination, breach of confidentiality, refusal to obey the reasonable orders of your immediate supervisor, willful disregard of health and safety rules, conduct outside or within the workplace which is likely to bring Selby Town Council into disrepute, any deliberate acts of harassment or bullying or discrimination, serious misuse of Selby Town Council's IT system, gross misconduct in the performance of your duties.

Alternative sanctions

As an alternative (or in addition) to one of the above disciplinary sanctions, the employee may be demoted with a corresponding reduction in pay or transferred to a different job, which may or may not be in a different workplace.

6. Probationary period

During the probationary period the disciplinary procedure above does not apply. In the event that Selby Town Council is concerned about the employee's performance or conduct during the probationary period the Town Clerk will explore the issues with the employee, clearly setting out the areas for improvement. If, following this informal action, there is no improvement the following procedure will apply:

1. Where Selby Town Council is unhappy about the employee's performance or conduct or is concerned that they do not meet the requirements of their role Selby Town Council will write to them notifying them of the concerns and inviting them to a meeting to discuss the matter.
2. A meeting will then be convened to discuss the matter at which the employee has the right to be accompanied by a colleague or trade union official and following which they will be notified of Selby Town Council's decision. The employee should note that they are obliged to make all reasonable efforts to attend the meeting convened.
3. The employee has the right to appeal against the decision taken and at the appeal meeting they will again have the right to be accompanied and following the meeting they will be informed of the final decision in the matter.