



NEWHAVEN TOWN COUNCIL

Disciplinary Procedures – Clerk & Head of Strategic Development

1. Introduction

The purpose of these procedures is to ensure a clear understanding of the relationship between the management of Newhaven Town Council and its employees. They are designed to help and encourage all employees to achieve and maintain standards of conduct, attendance and job performance. These procedures apply to the Clerk and the Head of Strategic Development. The aim is to ensure consistent and fair treatment for everyone in the organisation. There is a separate procedure for employees who are line managed by the Clerk.

2. Informal Procedures

- 2.1. Informal action may often be a more satisfactory method of resolving problems than use of the formal disciplinary procedures.
- 2.2. It should take the form of a discreet and informal discussion between members of the Personnel Committee and the employee with the objective of encouraging and helping the employee to improve. The employee should fully understand the outcome (that if there is no improvement, formal action may be taken).
- 2.3. The option of using a mediator, where appropriate, as an independent third party will be considered. The third party could be an internal mediator as long as they are not involved in the issue, or in some cases an external mediator may be more appropriate. This option will be on a voluntary basis and will only be used if both parties agree to it. Newhaven Town Council will aim to have a combination of internal and external mediators and the process for accessing mediation when required will be available to all staff.

3. Formal Procedures

- 3.1. The formal procedures apply to an employee's conduct or performance/capability.
- 3.2. In most cases, the formal disciplinary procedures should only be used when counselling or training has been given and this has failed to produce the required improvements or when the seriousness of the offence warrants the formal disciplinary procedure.
- 3.3. Appropriate investigations should be carried out without unreasonable delay to establish the facts. In some cases this may involve holding an investigatory

meeting with the employee before proceeding to any disciplinary hearing. In others, it may involve the collation of evidence for use at a disciplinary hearing.

- 3.4. Before any warning, disciplinary action or decision to dismiss is taken by Newhaven Town Council, the following minimum procedures will be followed:
- The employee will be advised in writing about the alleged conduct or characteristics, unsatisfactory performance, or other circumstances, which lead the organisation to contemplate dismissing or taking disciplinary action against him or her. This letter will be signed by the Chair of the Personnel Committee or Chair of the Council and authorised by the Council. The Council will seek external advice.
 - The employee will be invited to a meeting of a hearing panel which will consist of the Chair of the Personnel Committee and at least two other members of the Personnel Committee, where he/she will be given the opportunity to state his or her case before any decision is taken;
 - If the employee's chosen companion will not be available at the time proposed for the meeting, the meeting will be postponed to a time proposed by the employee, provided that the alternative time is both reasonable and not more than five working days after the date originally proposed;
 - The employee's chosen companion may, if the employee wishes, put and sum up the employee's case, respond on his/her behalf to any views expressed at the meeting and confer with him/her during the meeting.
 - The employee will be advised that he/she may be accompanied by another member of staff or a trade union representative of his or her choice, at any stage of the formal proceedings;
 - The employee may appeal against any dismissal/disciplinary decision/action imposed.
- 3.5. Notes of the hearing panel meeting will be taken and made available to the employee.
- 3.6. The formal disciplinary procedure exists for:
- Performance issues
 - Misconduct; and
 - Gross misconduct
- 3.7. In the case of gross misconduct, Newhaven Town Council may at its absolute discretion proceed immediately to Stage Three of the formal disciplinary procedures.

4. Misconduct

The following offences are examples of misconduct (however, this list is not exhaustive):

- 4.1. Poor timekeeping

- 4.2. Unauthorised absence
- 4.3. Minor damage to Newhaven Town Council's property
- 4.4. Minor breach of Newhaven Town Council's Rules and Procedures
- 4.5. Abusive behaviour
- 4.6. Poor standard of work

5. Gross Misconduct

The following are examples of gross misconduct (however, this list is not exhaustive):

- 5.1. Theft or unauthorised possession of any property belonging to Newhaven Town Council
- 5.2. Serious damage to Newhaven Town Council's property
- 5.3. Fraud, falsification of reports, accounts, expense claims or self-certification forms, bribery, corruption
- 5.4. Unauthorised entry to computer records
- 5.5. Serious act of insubordination
- 5.6. Serious incapability whilst on duty by reason of alcohol or illegal drugs
- 5.7. Illegal drugs in the employee's possession, custody or control on Newhaven Town Council premises
- 5.8. Violent, dangerous or intimidatory conduct
- 5.9. Sexual, racial, serious bullying or other harassment of a fellow employee
- 5.10. Serious negligence which causes or might cause unacceptable loss, damage, or injury
- 5.11. Serious infringement of health and safety rules
- 5.12. Serious breach of confidence (subject to the Public Interest (Disclosure) Act 1998)

6. Formal Disciplinary Procedure – Stage 1 – Improvement Note – Unsatisfactory Performance

- 6.1. If performance does not meet acceptable standards, notification will be given by the Chair of the Personnel Committee or Chair of the Council following a disciplinary meeting as referred to in 3.4.
- 6.2. The employee will be informed of the formal nature of the warning by way of an improvement note. This will set out the performance problem, the improvement that is required, the timescale and any help that may be given. The employee will be advised that it constitutes the first stage of the disciplinary procedures and that failure to improve could lead to a final written warning.

- 6.3. A copy of the improvement note will be kept on the employee's personnel file for six months, but will then be considered spent subject to achievement and sustainment of satisfactory performance.
- 6.4. The employee will be informed that he/she may appeal.

7. Formal Disciplinary Procedure – Stage 1 – First Warning – Misconduct

- 7.1. If conduct does not meet acceptable standards, notification will be given by the Chair of the Personnel Committee or Chair of the Council following a disciplinary meeting as referred to in 3.4.
- 7.2. The employee will be given a written warning setting out the nature of the misconduct and the change in behaviour required. The written warning will also inform the employee that a final written warning may be considered if there is no sustained satisfactory improvement or change.
- 7.3. A copy of the warning will be kept on the employee's personnel file but will be disregarded for disciplinary purposes after a period of six months.
- 7.4. The employee will be informed that he/she may appeal.

8. Formal Disciplinary Procedure – Stage 2 – Final Written Warning

- 8.1. If the employee has a current warning about conduct or performance, then further misconduct or unsatisfactory performance (whichever is relevant) may warrant a final written warning. It may also be warranted where 'first offence' misconduct is sufficiently serious but would not justify dismissal.
- 8.2. This will normally be given by the Chair of the Personnel Committee or Chair of the Council and confirmed to the employee in writing following a disciplinary meeting as referred to in 3.4.
- 8.3. The written warning will contain a summary of the complaint, the improvement required and the timescale. It will also specify the duration of the warning and that failure to improve may lead to Stage 3 (dismissal or some other action short of dismissal).
- 8.4. A copy of the warning will be kept in the employee's personnel file but will be disregarded for disciplinary purposes after twelve months subject to the achievement and sustainment of satisfactory conduct or performance.
- 8.5. The employee will be informed that he/she may appeal.

9. Formal Disciplinary Procedure – Stage 3 – Dismissal or other sanction

- 9.1. Dismissal may result from a serious first act of gross misconduct or from any further misconduct (of the same or another type) during the currency of an earlier warning, or failure to meet acceptable standards of performance. Such dismissal may be with or without notice or pay in lieu of notice.

- 9.2. The decision to dismiss the employee will not be taken without the authority of the Council. The decision to dismiss will be confirmed in a letter signed by the Chair of the Council.
- 9.3. If some sanction short of dismissal is imposed, the employee will receive details in writing of the complaint, will be warned that dismissal could result if there is not satisfactory improvement. A copy of the warning will be kept in the employee's personnel file but will be disregarded for disciplinary purposes after twelve months subject to the achievement and sustainment of satisfactory conduct or performance.
- 9.4. The employee will be informed that he/she may appeal.

10. Suspension during investigation

- 10.1. If appropriate, Newhaven Town Council may by written notice suspend the employee for as brief a period as possible while any investigation into an allegation of gross misconduct is carried out. The decision to suspend the employee can only be taken by a properly convened meeting of the Personnel Committee. Except when necessary or in exceptional circumstances, any such suspension will be limited to two weeks. The suspension itself is not seen as disciplinary action.
- 10.2. If the employee is suspended the terms and conditions of employment will continue together with all his or her rights under the terms and conditions, including the payment of salary.
- 10.3. During the period of suspension the employee will not be entitled to access any of Newhaven Town Council's premises except at the prior request or with the prior consent of Newhaven Town Council and subject to such conditions as Newhaven Town Council may impose.

11. Appeals Procedure

- 11.1. An employee may appeal against all disciplinary/dismissal decisions arising from the formal procedure.
- 11.2. The request for an appeal should be put in writing and set out the grounds of appeal, within five working days, to the Chair of the Council, who will call a meeting of the Town Council's Appeals Panel, consisting of three council members who have not been involved so far.
- 11.3. The appeal will be heard by the Appeals Panel and the employee has the right to be accompanied by a fellow employee (or union representative).
- 11.4. The appeal hearing will be conducted within a reasonable period of the appeal being lodged and wherever possible within five working days of the appeal being lodged.

- 11.5. Where new evidence arises during the appeal, the employee and his/her companion should be given the opportunity to comment before any action is taken. If necessary, the appeal will be adjourned.
- 11.6. The employee will be informed of the results of the appeal and the reasons for the decision. This will be confirmed in writing within five to ten working days and it will be made clear, if this is the case, that the decision is final. If it is not possible to respond within five to ten working days, the employee will be given an explanation for the delay and advised when a response may be expected.

12. Grievance during disciplinary action

Should an employee raise a grievance during the course of disciplinary procedures, it may be appropriate to suspend the disciplinary procedure for a short period until the grievance can be properly considered. The Town Council may consider seeking external advice as appropriate.

13. Records

Full records should be kept including details of the nature of any breach of disciplinary rules or unsatisfactory performances, the employee's response, the action taken and the reasons for it, whether an appeal was made and, if so, its outcome and any subsequent developments. All records will be kept confidential and retained in accordance with the Data Protection Act 1998.