



New Alresford Town Council

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Disciplinary Policy & Procedure

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	Related Policies - ACAS Code on Disciplinary Procedures, Data Protection Act 2018, Code of Conduct

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1. Introduction

This policy and procedure apply to all paid employees of New Alresford Town Council (NATC). NATC expect high standards of conduct from all its employees and is committed to helping achieve and maintain these standards.

When conduct falls short of required standards this policy and procedure is designed to ensure that a fair, systematic and consistent approach is followed.

2. Purpose and Scope

2.1 The Disciplinary Policy and Procedure provides a framework to manage concerns which arise about an employee's conduct. Any disciplinary issues will be dealt with as thoroughly and promptly as possible and written/recorded records will be made and retained as confidential.

2.2 The procedure has been drawn up in accordance with the ACAS Code of Practice on Disciplinary and Grievance Procedures 2015.

3 Conduct which may lead to disciplinary action

3.1 Misconduct

The following (non-exhaustive) list provides examples of offences that are normally regarded as misconduct:

- Minor breach of council rules, policies and procedures;
- Minor damage to council property;
- Unsatisfactory attendance and/or poor timekeeping;
- Unauthorised absence;
- Refusal to follow reasonable instructions issued by a manager or supervisor;
- Bringing NATC into disrepute via social media or otherwise

3.2 Gross Misconduct

Gross misconduct is conduct of such a serious and fundamental nature that it breaches the contractual relationship between the employee and the Council.

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

The following (non-exhaustive) list provides examples of offences that are normally regarded as gross misconduct:

- Any act which constitutes a criminal offence
- Any act or attempted act of physical violence or abusive behaviour/bullying towards people;
- deliberate and serious damage to the Council's property or name;
- unauthorised use of the Council's computer systems including downloading inappropriate material

- any serious act of insubordination or unreasonable refusal to carry out reasonable requests;
- any form of unlawful discrimination, victimisation, harassment and bullying
- Any act likely to bring the Council into serious disrepute, whether during or outside of working hours;
- Serious incapability at work brought on by alcohol or drugs
- Serious neglect of duties or incompetence including causing loss, damage or injury through negligence;

4. Mediation/Independent third party

It may be beneficial to all parties concerned to consider mediation. This is a voluntary process where a mediator helps two or more people in dispute to attempt to reach an agreement and resolve the problem. If this route is taken, then the disciplinary procedure will be suspended pending the outcome of the mediation.

5. The Procedure

5.1 Wherever possible NATC will attempt to resolve the matter on an informal basis, depending on the seriousness of the offence. If, however, the matter cannot be resolved on this basis, NATC will consider taking formal disciplinary action.

5.2 Employees are entitled to be accompanied by a work colleague or trade union representative to all investigatory interviews, disciplinary and Appeal hearings

5.3 In all cases the employee will be notified in writing within 5 working days of receipt of the complaint.

The notice will include the below details

- The nature of the alleged misconduct
- The reasons why this is not acceptable.
- Invitation to a hearing to state their case before any decision is reached
- Informed of their right to be accompanied by a work colleague or trade union representative.

5.4 If during the disciplinary meeting, it becomes clear that the employee is raising a grievance, the disciplinary process will be suspended to allow the grievance to be dealt with formally.

5.5 If an employee is found guilty of misconduct following the disciplinary hearing a written notice will be issued within 5 working days of the decision made.

The notice will include the below details if appropriate

- The nature of the misconduct
- Reason for action taken
- The type of warning such as first, final or dismissal.
- If dismissed the date on which employment is terminated.

- Personal Improvement Plan (PIP) and timescales
 - Warn that a failure to complete PIP could result in dismissal.
 - The period for which the warning is extant, after such period NATC will review the warning or the warning will automatically lapse.
- 5.6** The employee will not be dismissed for a first breach of discipline except in the case of gross misconduct, when the penalty may result in a dismissal without notice or payment in lieu of notice.
- 5.7** Regardless of which procedure is applied the written/recorded records will be retained on the employees personnel file until no longer required. The record will include
- Nature of allegation
 - Findings of investigation
 - Outcome of hearing and action taken
 - Personal Improvement Plan (PIP) and timescales
 - Date of review of PIP
 - Expiry date of warning
 - Details of Appeal and Outcome
 - Any subsequent developments
- 5.8** If misconduct continues NATC may rely on the written notices for future consideration.
- 5.9** If an employee has difficulty reading, or if English is not his/her first language, their manager will explain the content of any written correspondence to him/her orally.
- 5.10** If the Town Clerk is the subject of the alleged misconduct, the Chair of the Staffing Committee may implement the procedure.
- 5.11** No action under this procedure (with the exception of suspension in a case of suspected or known gross misconduct) will be initiated against an employee if he/she is a Trade Union Official without prior notification to the Branch Secretary or full time Union Official of the appropriate Union.
- 5.12** Records of meetings and hearings whether written or recorded may be required by an Employment Tribunal and NATC will give this requirement careful consideration, in order to respect employee confidentiality, Data Protection and General Data Protection Regulation responsibilities.

6. Investigation

- 6.1** No disciplinary action will be taken against an employee until the allegations have been fully investigated.
- 6.2** As soon as the allegation comes to light or in any case within 3 working days the Town Clerk will meet the employee to establish their version of events and determine if the case requires further investigation.

- 6.3** When an investigation is to be undertaken, the employee will be notified in writing within 5 working days
- 6.4** The Town Clerk will conduct the investigation, with advice and support. NATC reserves the right to nominate any other person to conduct the investigation where it is deemed to be appropriate.
- 6.5** In more complex or serious cases of alleged misconduct or gross misconduct, it may be necessary for the investigation to be conducted by an independent Town Clerk. In these circumstances, the Town Clerk will nominate an appropriate Town Clerk to conduct the investigation. The investigating Town Clerk will be advised and supported as necessary.
- 6.6** The investigation should be conducted expeditiously, and in most cases, it is expected to be completed within 20 working days. If it is not possible to complete the investigation within this timeframe, the employee will be notified in writing of the reason for the delay and informed when the investigation is expected to be completed.
- 6.7** If an investigatory interview is held to establish whether there is a case to be progressed under this procedure, the investigatory interview will not be a disciplinary hearing.
- 6.8** The employee will be notified in writing within 5 working days of the conclusion of the investigation

7. Suspension

- 7.1** If an employee is subject to an allegation which is deemed to be gross misconduct, they may be suspended from work on full pay, whilst the allegation is investigated fully.
- 7.2** Suspension will only be implemented after careful consideration and kept under review. Suspension does not represent disciplinary action and does not involve any prejudgement or assumption of guilt. An employee's contract of employment will continue to be in force. Suspension must be authorised by the Staffing Committee.
- 7.3** Any decision to suspend will be confirmed in writing immediately and will state that the suspension is precautionary, not disciplinary in nature, pending the outcome of the investigation and any subsequent disciplinary proceedings.

8. The Disciplinary Hearing

- 8.1** A disciplinary hearing will normally be conducted by the Town Clerk and Chair of Staffing Committee. If the Town Clerk is the subject of a disciplinary hearing, this will normally be conducted by the Chair of the Staffing Committee and another member of the committee.

- 8.2** In the case of formal hearings, the Disciplinary panel will be a panel of 3 persons. Any Member of the Council responsible for the investigation of the disciplinary offence(s) shall not be a member of the panel, although such Councillors may present any supporting facts and materials to the disciplinary hearing.
- 8.3** In the case of a disciplinary hearing, an employee's chosen companion has the right to address the hearing to put their case, sum up the case and respond on the employee's behalf to any view expressed at the hearing. An employee's companion may also confer with them during the hearing. However, there is no entitlement for an employee's companion to answer questions to address the hearing where the employee indicates that they do not wish them to do so.
- 8.4** If an employee or their chosen companion cannot attend a hearing on the appointed date, another hearing will be arranged. NATC will endeavour to reschedule the hearing to take place within 10 working days of the original date, if this is not feasible then alternatively an agreed time and date with all parties
- 8.5** Employees must take all reasonable steps to attend hearings. If an employee fails twice to attend a hearing, unless there are mitigating circumstances, the rearranged hearing will take place in their absence. The employee's companion may attend in such circumstances and will be allowed to present the employee's case. The employee will also be allowed to make written submissions in such a situation.
- 8.6** NATC will disclose to the employee all relevant information (including statements or summaries taken from any fellow employees or other persons that the Council intends to rely upon) not less than 3 working days in advance of the hearing.
- 8.7** NATC reserves the right to conceal the identity of any, or all the witnesses if there is a legitimate reason to do so, such as whether there is a risk to the safety of others if the identity is disclosed. In those circumstances, NATC will consider providing a summary of the information to the employee.
- 8.8** The employee must also disclose relevant information and if they intend to call relevant witnesses not less than 3 working days in advance of the hearing.
- 8.9** The employee is permitted to set out their case and answer any allegations. The employee will be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses. The employee will also be given the opportunity to raise points about any information provided by witnesses.
- 8.10** The Council may adjourn the disciplinary hearing if it appears necessary or desirable to do so (including for the purpose of gathering further information). The employee will be informed of the period of any adjournment. If further information is gathered, the employee will be allowed an agreed period of time which must be reasonable, together with their companion, to consider the new information prior to the reconvening of the disciplinary hearing.
- 8.11** NATC reserves the right to initiate this procedure at whatever stage the Council considers to be appropriate, having regard to the nature of the misconduct.

8.12 If the employee is found guilty of further acts of misconduct or gross misconduct following the disciplinary hearing, they may be subject to dismissal.

9. Informal Action

9.1 Minor occurrences of misconduct will be dealt with informally in the first instance.

9.2 Both parties will enter into communications with the express purpose of resolving the matter.

9.3 If informal action does not bring about an improvement or if the nature of the misconduct is deemed to be too serious to be dealt with informally, then the matter will be dealt with under the formal stages of this procedure.

10. Formal Action

10.1 Formal Stage One

This stage applies where an improvement has not been achieved through informal action, or for a first offence, which the Town Clerk considers sufficiently serious they may receive a first written warning

10.2 Formal Stage Two

This applies where there is no improvement following a written warning, or if the misconduct is sufficiently serious to warrant a first written warning but does not justify a final written warning.

10.3 Formal Stage Three

This stage applies where conduct does not improve after the first written warning, or if the misconduct is sufficiently serious to warrant a final written warning but does not justify dismissal

10.4 Formal Stage Four

This stage applies where conduct still fails to improve after a final written warning, or is deemed to be gross misconduct

10.5 Following the Disciplinary hearing, the Town Clerk has the authority to take any appropriate disciplinary action. Below are guidelines for Actions following any hearing.

Conduct	Action	Extant for
Minor misconduct Poor performance	First Written Warning PIP together with timescales	6 months 6 months
Failure to improve sufficiently within PIP timescale	Final written warning PIP together with timescales	12 months
Further misconduct within 12	Dismissal	10 years

months of receipt of Final Written warning		
Gross misconduct	Dismissal	Life

11. Appeals

- 11.1** Employees have the right to appeal against any disciplinary penalty imposed.
- 11.2** The employee must write to the Town Clerk who conducted the disciplinary hearing, detailing the ground(s) for their appeal, within 5 working days of receiving the written confirmation of the disciplinary decision.
- 11.3** When lodging the appeal, the employee should state:
- the ground(s) of appeal
 - whether the appeal is against the finding that they have committed the alleged acts
 - or against the level of disciplinary sanction imposed
- 11.4** NATC will endeavour to arrange an appeal hearing within 10 working days of receipt of the written notice of appeal.
- 11.5** The appeal will be heard by the Staffing Appeals Committee who have not been involved in the decision to impose the disciplinary sanction against the employee.
- 11.6** At the appeal hearing, the panel will consider the information presented at the disciplinary hearing, together with any new evidence presented, and will allow the employee to make comment.
- 11.7** The appeal panel will consider any representations made by the employee and/or their companion or trade union representative, those of the investigating Town Clerk and those of the Town Clerk who conducted the disciplinary hearing and imposed the disciplinary sanction. The appeal panel must decide, based on both sets of representations, together with any subsequent facts that may have come to light, to either uphold or dismiss the disciplinary sanction.
- 11.8** The appeal panel can withdraw the disciplinary penalty and/or impose a lesser one but cannot increase the penalty.
- 11.9** The appeal panel will convey the outcome of the appeal to the employee. The decision will be confirmed in writing within 5 working days of the appeal hearing. The appeal panel's decision is final.
- 11.10** In the event the appeal panel allows the appeal, all the records of the disciplinary sanction for disciplinary purposes will be removed. If the appeal panel dismisses the appeal, then the disciplinary sanction will be upheld.

11.11 If the appeal is refused and the original sanction was dismissal then the decision to dismiss will be extant. If the decision was to dismiss the employee summarily without notice, NATC will be under no obligation to reinstate or pay the employee for any period between the date of the original dismissal and the appeal decision. The original date of termination will stand. If the decision to dismiss is overturned, the employee will be reinstated with immediate effect and paid for any period between the date of the original dismissal and the successful appeal decision. The employee's continuous service will not be affected.

12. Criminal Charges or Convictions

If an employee is charged with or convicted of a criminal offence, this does not automatically give rise to a disciplinary situation. Consideration needs to be given to how a charge or conviction may affect the employee's ability to undertake their job duties and their relationships with the employer, colleagues, subordinates or customers.

13 Employee Assistance

Short term face-to-face counselling can be arranged by the Council, where appropriate.

14 Monitoring and Review

14.1 Training will be provided to those who are expected to operate the procedure.

14.2 Failure to follow the ACAS Code of Practice can lead to an Employment Tribunal awarding an uplift of an award against NATC of up to 25%. Tribunals dealing with unfair dismissal claims are particularly interested in whether the employer followed a procedure and whether the employer acted fairly and reasonably.

Appendix 1 - An Overview

