

MUMBLES COMMUNITY COUNCIL

DISCIPLINARY PROCEDURE

Policy and purpose

The Community Council is committed to treating all staff fairly and equitably and to helping employees to perform effectively. However, there will be occasions when it may be necessary to invoke disciplinary procedures. Should the need arise; the employee will be given the opportunity to improve throughout the stages of the procedure.

When work falls below an acceptable standard, help will be given to the employee to improve. If standards of work continue to fall and there is a necessity for action, it will automatically begin with a pre-disciplinary informal discussion. Similarly, when an employee's behaviour is potentially inappropriate and unacceptable, it will mean the initiation of a pre-disciplinary informal discussion or the disciplinary procedure, depending on the severity.

If disciplinary action should become necessary, each case will be treated consistently and fairly, and the disciplinary procedure will be observed at all steps. The employee will be given the opportunity to provide their version of events and any extenuating circumstances will be considered. An employee's rights will be upheld at all times, and employees will have the right to:

- know the case against him/her
- reply
- due consideration of their case
- be accompanied
- appeal.

All those involved in the implementation of the procedure are required to use their best efforts to:

- provide feedback at early steps to encourage and support employees to improve
- ensure that all cases are thoroughly investigated
- avoid any discrimination
- prepare carefully and be consistent
- keep adequate records
- adhere to this procedure.

This policy is adopted on a non-contractual basis and therefore does not make up part of employees' contractual terms and conditions.

Investigation

Prior to taking the decision to invoke the disciplinary procedure, the Community Council will ensure that a thorough investigation is carried out. This is a fact-finding process and may necessitate the gathering of detailed information as well as the carrying out of formal interviews, taking of written statements, etc.

A proper investigation is an integral part of the process and, where an allegation of gross misconduct is involved, may require employees to be suspended on contractual pay whilst this is carried out. Suspension on pay is not considered to be a sanction taken under the disciplinary procedure. It is there to ensure that issues are dealt with in a fair and reasonable manner, and adequate protection is given to all employees. Suspension will not normally last for more than 10 days and the employee will be given a letter explaining the suspension arrangement, including the requirement not to attend work but be available for meetings eg investigatory meetings.

Informal pre-disciplinary discussion

Where appropriate, prior to using the formal aspects of the Community Council's disciplinary procedure, a pre-disciplinary discussion will be held with the employee.

Minor misconduct, poor performance or minor breaches of rules will normally result in an informal warning being given by the designated manager/Chair of the HR Committee in the case of the Community Clerk. This will not be recorded in writing. If that approach is not successful, the matter is likely to escalate to the formal disciplinary procedure.

The disciplinary procedure

This procedure will be used in cases of a breach of the rules or poor performance that have not been remedied by an informal warning. Normally, the procedure will follow the steps listed below, although it is acceptable to move directly to steps two, three or four if a case is sufficiently serious.

From the first formal step of the disciplinary procedure there will be the presence of the designated line manager* in conjunction with a member of the Council*. Employees have the option to have a work colleague or trade union representative present.

At each step in the procedure a disciplinary meeting will be held where all the facts will be considered and any mitigating circumstances discussed. Where a warning is issued a copy will be placed on the employee's personnel file for the specified period. All warnings issued under this procedure will state clearly that the employee will be liable for further disciplinary action should their performance not improve or should there be a further breach of Community Council rules. In the event of no further misconduct occurring and the performance improving, the warning will be removed and the employee's file will be clear. The employee will also be advised of their right to appeal against the decision to take disciplinary action.

The steps in the disciplinary procedure are as follows:

Verbal written warning (step one)

A verbal warning will be applied where the matters of concern are substantiated. A record of the verbal warning will be given to the employee and a copy will be retained on the personnel file for six months unless there is repetition of misconduct within this period. The employee will be informed of their right of appeal, the improvement required and if this does not materialise, or there is further misconduct, the procedure will escalate to step two. This can happen before the end of the verbal warning period.

First written warning (step two)

A first written warning will be applied where the matters of concern are substantiated. A record of the first written warning will be given to the employee and a copy will be retained on the personnel file for up to 12 months unless there is repetition of misconduct within this period. The employee will be informed of their right of appeal, the improvement required and if this does not materialise, or there is further misconduct, the procedure will escalate to step three. This can happen before the end of the first written warning period.

Final written warning (step three)

A final written warning will be applied where the matters of concern are substantiated. A record of the final written warning will be given to the employee and a copy will be retained on the personnel file for up to 12 months unless there is repetition of misconduct within this period. The employee will be informed of the improvement required and if this does not materialise, or there is further misconduct, the procedure will escalate to step four. This can happen before the end of the final written warning period. The employee will be informed of their right of appeal and that further misconduct within the specified period may result in their dismissal.

Dismissal or action short of dismissal (step four)

An employee will normally be dismissed if they have failed to improve to the required standard via the previous steps. In the event of a gross misconduct allegation, the Council may enter the process at step four and dismissal for first offence may occur. The employee will be issued with a letter setting out the reasons for dismissal and other arrangements including in relation to their final pay and their right to appeal.

Gross misconduct

The following offences will be viewed by the Council as gross misconduct:

- unauthorised use of the Council's assets and equipment
- insubordination e.g. refusal to carry out duties or obey reasonable instructions, except where employee safety may reasonably be in jeopardy
- intentional sexual harassment, harassment, bullying or violent, dangerous or intimidatory conduct
- serious breach of rules, policies or procedures, especially those designed to ensure safe operation

- divulging or misusing confidential information
- theft or fraud
- possession or consumption of alcohol or drugs, or intoxication by reason of alcohol or drugs, which could affect work performance in any way or have an impact on other employees
- unauthorised or inappropriate use of e-mail, Internet and/or computer systems
- falsification of any Council records including reports, accounts, expenses claims or self-certification forms
- bringing unauthorised person(s) onto Council premises.

This list of examples is not exhaustive or exclusive, and offences of a similar nature will be dealt with under this procedure. Gross misconduct will result in the initiation or escalation of the Council disciplinary procedure, and may result in immediate dismissal without notice or pay in lieu of notice.

Appeals

At every step, the employee has the right to appeal in writing. If employees wish to appeal they should do so in writing within 5 working days of the decision setting out their reasons for appeal.

Employees will be invited to attend an appeal hearing at which they have the right to be accompanied by a colleague or trade union official. The hearing will be held by the Appeals Committee of the Community Council. The employee will be given the opportunity to provide the reasons they believe the sanction should be overturned which could include that it was too severe, inappropriate or because new information has come to light. A decision will be made on whether the disciplinary sanction is to be upheld or overturned and delivered to the employee normally within 5 days of the hearing. In exceptional circumstances, the sanction may also be increased. The decision of the appeal panel will be final.

Third parties

The Council reserves the right to engage an independent third party to assist at any stage of the disciplinary procedure.

* In the case of the Community Clerk, a Committee of the Community Council will be established to deal with all matters relating to this policy but not appeals which will be dealt with by the Appeals Committee of the Council.