

WEST MOORS TOWN COUNCIL



DISCIPLINE PROCEDURE

Adopted 23rd July 2009
Last reviewed: 11th July 2019
Review date due: July 2024

Discipline Procedure.

1. GENERAL

Scope of the Procedure

This Procedure applies to all staff, part time and full time.

Probation

Special provisions apply to members of staff who are on probation, as set out in this procedure.

The aim of this Procedure is to provide a consistent and fair mechanism for the application of disciplinary measures against a member of staff whose conduct is unacceptable. The general ethos is intended to be corrective rather than punitive.

The Grievance Committee of the Council will implement the procedure if it relates to the Clerk; otherwise the Clerk will implement it.

2. PROCEDURE

Informal procedure

When the conduct of a member of staff is causing concern, the line manager's first step will normally be to discuss the problem with the member of staff. Such discussions do not constitute part of the formal disciplinary procedure, and will take the form of an attempt to identify the nature of the problem, its causes and possible solutions. It may be appropriate to consider further training or transfer to other duties. The line manager should make a brief note of any such discussions. It is not normally expected that a representative would accompany the member of staff during informal discussions.

Stage 1: Oral Warning

Where informal discussions have not led to improved conduct, or where, exceptionally, the alleged misconduct is such that informal discussion is inappropriate, the line manager may consider giving the member of staff an oral warning. Before an oral warning is given the line manager must arrange a hearing.

The line manager will inform the member of staff in writing in advance that there is to be a hearing. The letter will give the member of staff full details of the alleged misconduct, the date and time of the hearing, the fact that the hearing is taking place under Stage 1 of this Procedure, and the right of the member of staff to attend and to be accompanied by a friend, or other representative. At the hearing the line manager will interview the member of staff, who will be given the opportunity to respond. Witnesses may attend and give evidence. The line manager should ensure that a note is taken of the

hearing. The line manager may request another member of staff to attend the hearing.

If, having considered the evidence, the line manager is satisfied that the delivery of an oral warning is appropriate, he or she will inform the member of staff that an oral warning is being given under the Procedure, and that the warning will be in force for a period of three calendar months, after which it will be spent. The line manager will set out:

- the finding
- the improvement in conduct expected
- the time during which this improvement must be achieved
- any training or support which may be available
- the consequences of a failure to improve

These details will be confirmed in a letter sent to the member of staff together with a copy of the note of the hearing.

The member of staff will be shown any report on his or her conduct prepared during the period in which the oral warning is current.

If, having considered the evidence, the line manager is satisfied that an oral warning is not appropriate, he or she will so inform the member of staff and will confirm this by letter.

Stage 2: First Written Warning

If the member of staff does not meet the required improvements set out under the oral warning, or where, exceptionally, the alleged misconduct is such that it is appropriate to dispense with an oral warning, the Line manager having conducted an investigation, may consider giving the member of staff a first written warning.

The Line manager will inform the member of staff in writing that there is to be a hearing. The line manager may request another member of staff to attend the hearing. The letter will give the member of staff full details of the alleged misconduct, the date and time of the hearing, the fact that the hearing is taking place under Stage 2 of this Procedure, and the right of the member of staff to attend and to be accompanied by a friend, or other representative. A request by the member of staff for an adjournment will be granted if good grounds are shown. Where appropriate the member of staff should be provided with copies of any relevant documentary evidence in advance of the hearing.

At the hearing the Line manager will interview the member of staff, who will be given the opportunity to respond. Witnesses may attend and give evidence. If,

having considered the evidence, the Line manager is satisfied that a first written warning is appropriate, he or she will inform the member of staff that a letter will be sent within seven days giving a first written warning under the Procedure, and that the warning will be in force for a period of six months from the date of the letter, after which it will be spent. The Line manager will enclose a copy of the note of hearing, and will set out in the letter:

- the finding
- the improvement in conduct expected
- the time during which this improvement must be achieved
- any training or support which may be available
- the consequences of a failure to improve

Alternatively the Line manager may instead issue an oral warning, as set out under Stage 1.

The member of staff will be shown any report on his or her conduct prepared during the period in which the first written warning is current.

If, having considered the evidence, the Line manager is satisfied that no warning is appropriate, he or she will so inform the member of staff and will confirm this by letter.

Stage 3: Final Written Warning

If the member of staff does not meet the required improvements set out under the first written warning, or where serious misconduct is alleged, the Line manager having conducted an investigation, may consider giving the member of staff a final written warning. Before a final written warning is given, the Line manager must arrange a hearing.

The Line manager will inform the member of staff in writing that there is to be a hearing. The letter will give the member of staff full details of the alleged misconduct, the date and time of the hearing, the fact that the hearing is taking place under Stage 3 of this Procedure, and the right of the member of staff to attend and to be accompanied by a friend, or other representative. A request by the member of staff for an adjournment will be granted if good grounds are shown. Where appropriate the member of staff should be provided with copies of any relevant documentary evidence in advance of the hearing.

At the hearing the Line manager will interview the member of staff. The member of staff will be given the opportunity to respond. Witnesses may attend and give evidence. The Line manager should ensure that a full note is taken of the hearing.

If, having considered the evidence, the Line manager is satisfied that a final written warning is appropriate, he or she will inform the member of staff that a letter will be sent giving a final written warning under the Procedure, and that the warning will be in force for a period of one year from the date of the letter, after which it will be spent. The Line manager will enclose a copy of the note of the hearing, and will set out in the letter:

- the finding
- the improvement in conduct expected
- the time during which this improvement must be achieved
- any training or support which may be available
- the consequences of a failure to improve

The member of staff will be shown any report on his or her conduct prepared during the period in which the final written warning is current.

If, having considered the evidence, the Line manager is satisfied that no warning is appropriate; he or she will so inform the member of staff and will confirm this by letter.

Stage 4: Procedure following Failure to Comply with a Final Written Warning

If the member of staff does not meet the required improvements set out under the final written warning, or where further serious misconduct is alleged, the Line manager after having conducted an investigation, may consider disciplinary action. Before such action is taken, the Line manager must arrange a hearing.

The Line manager will inform the member of staff in writing that there is to be a hearing. The letter will give the member of staff full details of the alleged misconduct, the date and time of the hearing, the fact that the hearing is taking place under Stage 4 of this Procedure, the fact that possible disciplinary action includes dismissal, and the right of the member of staff to attend and to be accompanied by a friend, or Union or other representative. A request by the member of staff for an adjournment will be granted if good grounds are shown. Where appropriate the member of staff should be provided with copies of any relevant documentary evidence in advance of the hearing.

At the hearing the Line manager will interview the member of staff. The member of staff will be given the opportunity to respond. Witnesses may attend and give evidence. The Line manager should ensure that a full note is taken of the hearing.

If, having considered the evidence, the Line manager is satisfied that the allegations are proved and that disciplinary action is appropriate, he or she may dismiss the employee. Within seven days of the hearing the Line manager will send the member of staff a copy of the note of the hearing, together with a letter confirming the finding. If, having considered the evidence, the Line manager is satisfied that no action is appropriate; he or she will so inform the member of staff and will confirm this by letter.

Gross Misconduct

West Moors Town Council has the right to dismiss summarily (without notice) any member of staff who has been found guilty of gross misconduct.

If there are reasonable grounds to believe that gross misconduct has occurred, the Line manager will arrange a hearing. He may suspend the member of staff on full pay while an investigation of the allegation of gross misconduct takes place. The member of staff should only be suspended where necessary to protect a member of staff or public, or the property of the West Moors Town Council. Written reasons will be recorded and given to the member of staff.

Unless the matter is deemed urgent, no member of staff shall be suspended unless he or she has been given an opportunity to make representations to the Line manager, in person or in writing. In cases deemed to be urgent a member of staff may be suspended with immediate effect. An opportunity will be given to the member of staff to make representations as soon as reasonably practicable. The Line manager will inform the member of staff in writing that there is to be a hearing. The letter will give the member of staff full details of the alleged gross misconduct, the date and time of the hearing, the fact that the hearing is taking place under this Procedure, the fact that possible disciplinary action includes dismissal, and the right of the member of staff to attend and to be accompanied by a friend, or representative. A request by the member of staff for an adjournment will be granted if good grounds are shown. Where appropriate the member of staff should be provided with copies of any relevant documentary evidence in advance of the hearing.

At the hearing the Line manager will interview the member of staff. The member of staff will be given the opportunity to respond. Witnesses may attend and give evidence. The Line manager should ensure that a full note is taken of the hearing.

If, having considered the evidence, the Line manager is satisfied that the allegations are proved, he or she may take disciplinary action, including summary dismissal.

As an alternative to dismissal, the Line manager may give a final written warning. The period during which the warning will remain active will be determined at the time of the hearing and will be notified in writing to the member of staff. In exceptional circumstances this period may exceed one year.

Within seven days of the hearing the Line manager will send the member of staff a copy of the note of the hearing together with a letter confirming the finding and the action taken.

If, having considered the evidence, the Line manager is satisfied that no action is appropriate; he or she will so inform the member of staff and will confirm this by letter.

3. PROBATIONARY PERIODS

Probationary Warning

A probationer's work performance will be monitored throughout the period of probation. The probationary period is intended to provide a support mechanism for staff new to West Moors Town Council, and this Procedure should be used with the aim of achieving improvements.

When a probationer's work performance is unsatisfactory, the line manager may consider giving a formal written warning, usually half way through the probationary period. Before a formal warning is given, the Line manager will interview the probationer.

The Line manager will inform the probationer in writing that the interview is to take place. The letter will give the probationer full details of the alleged unsatisfactory performance, the date and time of the interview, the fact that the interview is being held under this Procedure, and the right of the probationer to attend and to be accompanied by a friend, or other representative.

At the interview the Line manager will discuss the probationer's performance. The Line manager may request another member of staff to attend. The probationer will be given the opportunity to respond. Witnesses may attend and give evidence. The interview should be conducted in a constructive manner, designed to achieve improved performance if at all possible. The Line manager should ensure that a note is taken.

If, having considered the matter, the Line manager is satisfied that a written warning is appropriate, he or she will inform the probationer that a letter will be sent within seven days giving a written warning under the Procedure. The Line manager will enclose a copy of the note of the hearing and will set out in the letter:

- the finding
- the improvement in performance or conduct expected
- the time during which this improvement must be achieved
- any training or support which may be available

- the consequences of a failure to improve, which may include dismissal or an extension of the probationary period

The probationer will be shown any report on his or her performance.

If, having considered the matter, the Line manager is satisfied that no warning is appropriate, he or she will so inform the probationer and will confirm this by letter.

Extension of Probation or Termination of Employment

If the probationer's work remains unsatisfactory or where serious misconduct is alleged, the Line manager, may consider dismissal or an extension of the probationary period. Before such action is taken, the Line manager must arrange a hearing.

The Line manager will inform the probationer that there is to be a hearing. The letter will give the probationer full details of the alleged poor performance, the date and time of the hearing, the fact that the hearing is taking place under this Procedure, the disciplinary action proposed, and the right of the probationer to attend and to be accompanied by a friend, or other representative. Where appropriate the member of staff should be provided with copies of any relevant documentary evidence in advance of the hearing.

At the hearing the Line manager will interview the probationer. The probationer will be given the opportunity to respond. Witnesses may attend and give evidence. The Line manager should ensure that a full note is taken of the hearing.

If, having considered the evidence, the Line manager is satisfied that action is appropriate, he or she will inform the probationer of the action to be taken. Within seven days of the hearing the Line manager will send the probationer a copy of the note of the hearing together with a letter confirming the finding and the action taken

If, having considered the evidence, the Line manager is satisfied that no action is appropriate, he or she will so inform the probationer and will confirm this by letter.

Spent Warnings

A warning that is spent will be disregarded for future disciplinary purposes; save that where a pattern emerges whereby the conduct of a member of staff is satisfactory throughout the period during which a warning is current, only to lapse very soon thereafter, the warning may be borne in mind in deciding the type of warning to be given in the future. After a warning is spent, any notes and correspondence relating to the warning will be destroyed, except for one copy, which will be held on the central personnel file, clearly marked as spent.

4. APPEALS

Right to Appeal

A member of staff has the right to appeal against formal warnings and disciplinary action. An appeal may be made under this Procedure after a member of staff has left West Moors Town Council following dismissal.

Notice of Appeal

A member of staff who wishes to appeal against a disciplinary warning or disciplinary action should write to the Chairman of West Moors Town Council setting out clearly the grounds on which the appeal is based. The appeal must be made within three weeks of the date of the letter notifying the member of staff of the decision taken.

Composition of Appeal Panel

The Chairman of West Moors Town Council will form an appeals committee of 3 Councillors

Nature of the Appeal

There will be no entitlement to a rehearing of the case. Those hearing the appeal may overturn the disciplinary warning or disciplinary action or impose a different penalty where they consider it just to do so. In particular they may do so in the light of new evidence, or where it is considered that the original hearing was not conducted fairly, or where the disciplinary decision was unreasonable in the light of the findings of fact.

Procedure

As soon as possible after the notice of appeal has been received, the Chairman will establish an appropriate appeals committee. At least five working days before the hearing, the Chairman will provide the member of staff and the members of the committee with copies of relevant reports and correspondence relating to the disciplinary warning or disciplinary action.

The committee will determine its own procedure. The member of staff may present his or her case in person or in writing, and may be represented by a friend, or other representative.

Where the appeal committee has three members, the decision of the majority will prevail.

The Chairman will confirm the decision of the panel to the member of staff in writing within seven days of the hearing.

Specimen disciplinary rules

1. Introduction

These Rules apply to all members of staff and form part of their terms and conditions of employment. They set out behaviour, which may amount, to misconduct, resulting in disciplinary action. The Rules are intended to promote a productive, harmonious and safe working environment.

2. General Requirements

Members of staff are expected to:

- Comply with their terms and conditions of employment
- Fulfil the duties of their post as reasonably required by their line manager
- Observe relevant rules, regulations, codes of practice and policy statements
- Comply with health and safety, and data protection requirements

3. Misconduct

The following may constitute misconduct:

- Conduct which constitutes a criminal offence, whether committed on West Moors Town Council premises or elsewhere
- Action likely to cause injury or impair safety on West Moors Town Council premises
- Violent, indecent, disorderly, threatening, intimidating or offensive behaviour or language at work
- Sexual or racial harassment of any member of staff of West Moors Town Council, or customer.
- Fraud, deceit, deception or dishonesty in relation to the West Moors Town Council, or its staff, or visitors
- Theft, misappropriation or misuse of West Moors Town Council property, or the property of West Moors Town Council's staff, or visitors, including intellectual property.
- Misuse or unauthorised use of West Moors Town Council premises or equipment.
- Damage to West Moors Town Council property, or the property of West Moors Town Council's staff, or visitors, caused intentionally or recklessly
- Incapacity at work through the use of alcohol or drugs

- Breach of the provisions of any West Moors Town Council or departmental code, rule or regulation
- Failure to respect confidentiality of information
- Unauthorised absence or poor timekeeping

4. Gross Misconduct

A member of staff who is found to have been guilty of misconduct will normally in the first instance be given a warning. However gross misconduct may lead to summary dismissal without warning. Gross misconduct is misconduct of such seriousness as to give good grounds for immediate dismissal.

Examples of gross misconduct are assault or physical violence, theft, fraud, falsifying time-sheets or other records, serious breaches of regulations relating to health and safety or data protection, and any other serious issue of misconduct or issue of negligence where the actual or potential consequences are extremely serious or where the reputation of West Moors Town Council is seriously damaged.

The Line manager will deal with any issues not covered by this Procedure as diligently as possible.

(For Line manager please substitute Grievance Committee where appropriate)

How the Grievance Committee and Appeal Committees are constituted.

The Chairman or Vice Chairman of the Council shall constitute a committee of three members to sit on the Grievance committee. The three members will be selected at random from a list of willing Councillors, who have no connection to the disciplinary concerned. The Appeal committee, should it be required, will be constituted in the same manner, excluding those councillors already sitting on the Grievance committee.