



Frodsham Town Council Disciplinary Procedure

[In compliance of Employment Right Act 1996 and Employment Relations Act 1999]

1 Context

1.1 The Disciplinary Procedure is subject to statute and applies to all staff employed by FTC.

2 Principles

- 2.1 Whilst Frodsham Town Council (FTC) does not wish to impose unreasonable rules of conduct on its employees, certain standards of behaviour are necessary to maintain good employment relations and discipline in the interest of all employees.
- 2.2 FTC promotes discipline through its employees' voluntary & self-imposed means and encourages improvement in an individual's conduct.
- 2.3 The Disciplinary Procedure is not intended as a means of imposing sanctions. However, in specific circumstances, it may be necessary for FTC to take action in respect of an employee whose behaviour is unacceptable.
- 2.4 No disciplinary action will be taken until the case has been thoroughly and carefully investigated.
- 2.5 As a general rule and subject to any permitted statutory exceptions, FTC will comply with the following Procedure before taking a decision to dismiss an employee on grounds of misconduct.

3 The Procedure

- 3.1 Generally, *Section 1* of the Procedure will apply to employees with less than one year's continuous employment and *Section 2* to employees with one or more years' continuous employment with FTC.
- 3.2 FTC reserves the right to apply Section 2 to all cases of discipline.
- 3.3 **Section 1** (For employees with less than one year's continuous employment with FTC): FTC and its employees will adhere to the three stages as defined below:
- a. *Stage 1 – Put it in Writing*: FTC will:
 - i. Notify the employee in writing of the allegation(s) against him/her and the basis for the complaint of alleged misconduct, capability, poor performance or other circumstances and supply evidence in support of the allegation(s); and
 - ii. Invite the employee to a disciplinary hearing to discuss the proposed action. A minimum of three days' notice will normally be given of a mutually agreed date & time of the meeting to give the employee a reasonable opportunity to consider their response to the allegation(s),
 - b. *Stage 2 – Meet and Discuss*: The disciplinary hearing will be held at a venue that ensures confidentiality of the proceedings and will be conducted as follows:
 - i. The employee will be given the opportunity to state their case.
 - ii. The employee has the right to be accompanied by a trade union official or a fellow employee or a friend of their choice.
 - iii. The employee must take all reasonable steps to attend the hearing.
 - iv. Following the hearing, the employee will be informed of FTC's decision in writing within five working days.
 - v. The employee will be notified of their right to appeal. It may be, however, that no further action will be taken.
 - c. *Stage 3 – Appeal*: If the employee wishes to appeal against FTC's decision, he/she can do so by notifying the Council's Chair, in writing, within five working days stating the grounds for the appeal. The hearing will be conducted as follows:
 - i. The employee will be invited to attend an appeal hearing chaired by the Council's Chair. A minimum of three days' notice will normally be given of a mutually agreed date, time & venue of the hearing.
 - ii. The employee will be given the opportunity to state their case.
 - iii. The employee has the right to be accompanied by a trade union official or a fellow employee of their choice.
 - iv. Following the hearing, the employee will be informed of the appeal decision in writing within five working days. FTC's decision on an appeal will be final.
- 3.4 **Section 2** (For employees with one or more years' continuous employment with FTC)
- a. In considering disciplinary action, incidents of misconduct are regarded cumulatively with any previous occurrences.

- b. Minor faults will be dealt with informally through counselling and training.
- c. In cases where informal discussion with the employee does not lead to an improvement in conduct / performance, or where the matter is more serious (eg unauthorised absence, persistent poor timekeeping, sub-standard performance), FTC and its employees will adhere to the three stages as defined below:
- d. *Stage 1 – Put it in writing:* As para 3.3.a.
- e. *Stage 2 – Meet and discuss:* The disciplinary hearing will be held at a venue that ensures confidentiality of the proceedings and will be conducted as follows:
 - i. The employee will be given the opportunity to state their case.
 - ii. The employee has the right to be accompanied by a trade union official or a fellow employee of their choice.
 - iii. The employee must take all reasonable steps to attend the hearing.
 - iv. Following the hearing, the employee will be informed in writing of FTC's decision in accordance with steps set out below and notified of his or her right to appeal against that decision. It may be, however, that no further action will be taken.
 - v. *Written Warning:* The employee will be given a formal written warning. He/she will be advised that the warning is the first stage of the formal disciplinary procedure that includes:
 - The reason for the warning,
 - How they need to improve their conduct or performance,
 - The timescale over which the improvement is to be achieved,
 - The likely consequences if the terms of the warning are not complied with.
 - That the written warning will be recorded but nullified after six months, subject to satisfactory conduct and performance.
 - vi. *Final Written Warning:* Failure to improve performance in response to the written warning, a repeat of misconduct for which a warning was issued, or a first instance of serious misconduct or serious poor performance will result in a final written warning being issued. This will include:
 - Details of, and grounds for, the complaint,
 - How he/she needs to improve their conduct or performance,
 - The timescale over which the improvement is to be achieved,
 - A warning that dismissal may result if the terms of the warning are not complied with,
 - That final written warning will be recorded but nullified after twelve months, subject to satisfactory conduct and performance.
 - vii. *Dismissal:* Failure to meet the requirements set out in the final written warning will normally lead to dismissal with appropriate notice. A decision to dismiss an employee will only be made after the fullest possible investigation. Dismissal can be authorised only by the Council's Chair. The employee will be informed of:
 - The reasons for dismissal,
 - The appropriate period of notice,
 - The date on which his or her employment will terminate; and
 - How the employee can appeal against the decision.
- f. *Stage 3 – Appeal:* As para 3.3.c.

3.5 **Removal of Warnings:** Subject to satisfactory conduct, attendance, or performance, all records of warnings will be removed from the employee's record for disciplinary purposes after the specified dates.

3.6 **Other Disciplinary Actions:** If conduct or performance continues to be unsatisfactory, dismissal will normally result. However, depending on circumstances and the ability of FTC to meet such sanctions, it may decide on alternative action, viz:

- a. Demotion
- b. Reduction in benefits eg loss of bonus
- c. Transfer to alternative employment
- d. *Suspension:*

- i. Suspension is a neutral act that does not imply guilt or blame. When instigated, it will be for a short period to allow a full investigation and to remove the employee from a potentially difficult situation. An employee may be suspended where his/her act of gross misconduct:
 - Is alleged or suspected;
 - Involves audit or police investigation;
 - Results in criminal charges or pending criminal charges;
 - Raises doubts as to his/her suitability to return to work
- ii. Any suspension will be with full pay pending a disciplinary hearing. If an employee, when suspended, is receiving less than full pay or no pay at all under the terms of the contract of employment, that entitlement or lack of it or less than full pay will continue during the period of suspension.
- iii. FTC will inform the employee of the reason(s) for the suspension in writing within two working days from the date of suspension and will fix a date (not more than five working days from the date of suspension) time and venue for a review of the suspension.

3.7 Gross Misconduct: Offences under this heading are so serious that an employee who commits them will normally be summarily dismissed (See Annex 2 for examples of gross misconduct). In such cases, FTC reserves the right to:

- a. Dismiss without notice of termination or payment in lieu of notice; and
- b. Report any offence to the police. This will not prevent FTC from initiating or continuing with its Disciplinary Procedure

3.8 Disciplinary & Appeal Panels

- a. The Panel for the Disciplinary Hearing will consist of the Chair of Policy & Process Committee and a maximum of two other Councillors appointed by FTC. The Chair of P&PC will chair the Panel. (Paras 3.3.b & 3.4.e).
- b. The Panel for the Appeal Hearing will consist of the Council's Chair and a maximum of two other Councillors appointed by FTC. The Council's Chair will chair the Panel (Paras 3.3.c & 3.4.f)
- c. A Councillor may not be appointed to both Panels.

3.9 Rearranging Hearings

- a. Where FTC arranges a meeting for the convenience of the employee and then the employee fails to attend, or informs FTC in advance that he/she is unable to attend, the question of what happens next depends on the reason for non-attendance.
- b. Where the employee has not taken all reasonable steps to attend the meeting, they will be in breach of the requirements and FTC will be released from future obligations under the Procedure.
- c. Where the employee's non-attendance is the result of unforeseeable circumstances and it is not reasonably practicable for the employee to attend (eg due to illness), FTC will rearrange the hearing and invite the employee to attend it.
- d. If the employee's companion cannot reasonably attend the meeting, the employee must propose an alternative date within five days. If acceptable, FTC will invite all parties to attend on proposed date and time.
- e. Although FTC is legally obliged to rearrange a hearing only once, it will consider the reasons for any further non-attendance by an employee with care & compassion to ensure that the Procedure is applied fairly.

Annex A

Examples of Behaviour That Might Invoke the Disciplinary Procedure

Listed below are examples of behaviour that could render an employee being liable to the dismissal and disciplinary procedure being invoked:

- Concealing defective work
- Failure to apply reasonable care and attention to work
- Failure to observe the terms and conditions of employment, as set out in the written statement of the terms and conditions of employment.
- Failure to take a constructive and co-operative approach to work and to fellow employees
- Failure to wear safety equipment where provided by FTC for personal protection
- Failure, after appropriate training, to achieve and maintain the full requirements of the position.
- Misuse of FTC's telephones.
- Misuse of FTC's resources including computers and computer software (eg unofficial use of Internet, unauthorised e-mails or playing computer games).
- Persistent failure to work reasonable levels of overtime, when required.
- Poor housekeeping.
- Substandard work and failing to achieve quality levels.
- Unacceptable levels of attendance.
- Unacceptable levels of timekeeping, time wasting and abuse of breaks.
- Unauthorised absence or failure to comply with absence procedure.

Annex B

Examples of Gross Misconduct Resulting in Summary Dismissal

Listed below are examples of behaviour that amount to gross misconduct. It is not an exhaustive list.

- f. Actions contrary to FTC's Equal Opportunity Policy
- g. An act of a criminal nature, whether committed on FTC's, its clients' or other premises during or outside the normal course of employment
- h. Conduct which brings FTC's name/reputation into disrepute
 - i. Deliberate violation of FTC's Health & Safety rules or reckless interference with or damaging safety equipment
 - j. Engaging in activity prejudicial to the health & safety of people on FTC's or its clients' premises
- k. Deliberate breach of discrimination legislation
 - l. Deliberate damage to FTC's property
- m. Dishonesty in the representation of FTC or its services
- n. Falsifying information essential for employment with FTC
- o. Falsifying FTC's accounts or records
- p. Gross negligence
- q. Harassing or victimising another employee on the grounds of:
 - i. Age
 - ii. Colour
 - iii. Disability
 - iv. Ethnic or national origin
 - v. Marital status
 - vi. Nationality
 - vii. Race
 - viii. Religious belief
 - ix. Sex
 - x. Sexual Orientation
 - xi. Union membership status
- r. Harassment, whether to the detriment of colleagues or clients and whether committed in the course of employment or otherwise
- s. Incapacity or misconduct whilst on FTC's or its clients' premises due to the influence of drink or drugs whether during or out of working hours
- t. Insubordination
- u. Leaving the job/premises without permission (walking off the job)
- v. Misappropriating or borrowing FTC's money without written permission from an authorised Councillor
- w. Possessing, using, displaying or dealing in illegal drugs on FTC's premises
- x. Using FTC's computer(s) to view, download or copy pornographic material or other material which other employee(s) may find offensive or which has the potential to cause offence
- y. Wilfully causing harm or injury to another employee, physical violence, bullying or grossly offensive behaviour