

DOWN DISTRICT COUNCIL

DISCIPLINARY PROCEDURE

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DOWN DISTRICT COUNCIL

DISCIPLINARY PROCEDURE (MANUAL AND NON-MANUAL EMPLOYEES)

1.0 INTRODUCTION

It is the intention of the Down District Council to function as a fair, progressive and innovative organisation which aims to develop and foster caring and effective working relationships.

Down District Council expects all its employees to carry out their duties to the best of their ability, to an acceptable standard and in a manner which is consistent with the Council's core values.

While the Council relies for effective operations on employees using their common sense and demonstrating a commitment to the organisation, it is widely recognised that an effective disciplinary code is necessary to ensure the maintenance of safe and effective operations and the fair treatment of individual employees. **It is in the interests of both the management and employees that discipline is fairly and consistently administered.**

Action taken under this procedure, will only be where it is clearly necessary and should be corrective in nature, justifiable and aimed at achieving an acceptable level of efficiency, performance and behaviour within the Council.

The procedure does not detract from the pursuit by both parties to resolve day-to-day problems through normal communications between line managers and employees.

1.1 DAY-TO-DAY SUPERVISION OF EMPLOYEES – INFORMAL PROCEDURES

The day-to-day supervision of employees and monitoring their conduct is part of the management function and is outside the scope of the more formal procedures for dealing with breaches of discipline. There is likely to be less requirement for referring to the formal procedures **if deficiencies are brought to employees attention at the earliest possible stage by their line manager.**

1.2 **BROAD PRINCIPLES UNDERLYING DISCIPLINARY PROCEDURES**

Down District Council has the right, which is recognised by the trade unions to expect each employee to abide by the terms and conditions of their contracts of employment and the rules and regulations established by Down District Council's policies and procedures. Management have responsibility for ensuring that employees who do not comply with the Council's regulations receive appropriate penalties.

The Council recognises that employees, who have been accused of misconduct, have a right to a fair hearing accompanied by a trade union representative or a fellow employee and the right of appeal. An employee who does not belong to a recognised trade union may be accompanied by a colleague from the Council.

No disciplinary action beyond Stage 1 Formal (verbal warning) should be taken without trade union/staff representative being notified.

The application of the procedure is affected by the various employment legislation including the unfair dismissal provisions of the **Employment Rights (NI) Order 1996** which requires the procedure to be both fair and reasonable ie, that the sanction is justified by the facts and is consistently applied.

An employee shall be made aware of the complaints made against them in writing and given the opportunity to state their case directly to those considering disciplinary action before decisions are reached.

At all stages disciplinary procedures shall be completed as quickly as is compatible with the need to ensure that justice is done and seen to be done.

The Disciplinary Officer will ensure that appropriate arrangements are made to record and maintain records of the investigation and disciplinary meetings.

1.3 **DISCIPLINARY ACTION AGAINST SHOP STEWARDS/UNION OFFICIALS**

Disciplinary action should not be taken against a local trade union representative until the full time official has been notified of the reason for the action. In exceptional circumstances a local representative may be suspended as a precautionary measure if the circumstances of the case make it unavoidable. In this instance the full time official will be advised at the earliest possible opportunity.

1.4 **FORMAL PROCEDURES**

1.4.1 **Stage 1 – Verbal Warning**

This stage is intended to **deal with minor offences**. The matter should be dealt with by the employee's supervisor and should the offence be proven the employee will be issued with a verbal warning. The warning will remain active on the employee's personal file **for a period of 6 months from the date of issue**. (Copy of Form DP1 attached).

1.4.2 **Stage 2 – First Written Warning**

This stage is intended to deal with **offences of a more serious nature**, or offences for which a verbal warning has been issued but have continued. The matter normally will be dealt with by the employee's supervisor who will investigate the situation and interview the employee who will then have the opportunity to state his/her case. Should the offence be proven a written warning will be issued and will remain active on the employee's personal file **for a period of 12 months from the date of issue**. (Copy of Form DP2 attached).

1.4.3 **Stage 3 – Final Written Warning**

This stage is intended to deal **with offences of a serious nature**, offences which have been the subject of a Stage 2 Warning but have continued, or other offences which have occurred whilst a Stage 2 warning has been in force. The matter will be dealt with by a senior officer or manager. Should the offence be proven the final written warning will remain active on the employee's personal **file for a period of 12 months, from the date of issue**. (Copy of Form DP3 attached).

1.4.4 **Stage 4 – Further Disciplinary Action**

This stage is intended to deal with offences which have been the subject of a Stage 3 warning and have continued; **for offences which by their nature warrant immediate summary dismissal, for other offences which constitute gross misconduct** or for other offences which have occurred while a Stage 3 warning has been in force. **It will be the responsibility of the supervising officers to fully investigate the matter**. The senior officer or manager will issue a letter to the employee in accordance with the guidance given in point 1.7.

The senior officer or manager and a representative from the Human Resources Section will conduct the interview using the format in 1.7(2).

An employee who fails to give a satisfactory explanation will be subject to further disciplinary **action to be determined by the senior officer or manager and a representative from the Human Resource Section.**

Such Action may include:-

- a Extension of the final written warning
- b Suspension without pay
- c Demotion
- d Dismissal

If it is decided that the action to be taken is dismissal, **the letter of dismissal will be prepared by the senior officer or manager** in conjunction with the Human Resources Section and the Clerk and Chief Executive. If the decision taken is to dismiss, the employee will be given the appropriate notice of termination of employment and/or payment in lieu of notice (except in the case of gross misconduct). The letter issued by the Senior Officer or Manager **will also advise the employee of their right of appeal** against the decision to the appropriate Director or Clerk and Chief Executive **within 5 working days**, either individually or through the trade unions.

1.5 **GROSS MISCONDUCT AT WORK**

If, after investigation by the senior officer or manager and a senior representative from the Human Resources Section, it is considered that the case is one of gross misconduct, the following action shall be taken:-

- 1.5.1 The employee shall be summarily dismissed **but only after a formal disciplinary meeting has been convened by the senior officer or manager and senior representative from the Human Resources Section** in the presence of his/her trade union representative or staff nominee from within the Council. As an alternative the employee may be immediately suspended on full pay pending further investigation. The hearing will be convened by the senior officer or manager and the procedures outlined in 1.7 shall apply. If gross misconduct is confirmed the employee shall be summarily dismissed without notice and without payment in lieu of notice.
- 1.5.2 A letter of dismissal from the senior officer or manager shall be immediately delivered by hand/recorded delivery to the employee stating:-
 - The reason for dismissal
 - The nature of the gross misconduct
 - The right of appeal to the Director/Clerk and Chief Executive as appropriate.

1.6 **GUIDANCE TO OFFENCES**

It should be noted that the following lists are not intended as a definitive statement of offences but are only intended as a guide to what the Council recognises as offences under each category and **are neither exclusive or exhaustive.**

1. **Misconduct Examples**

Failure to discharge without sufficient cause, and employee's basic obligations which his/her contract places upon him/her.

- Timekeeping
- Lateness
- Careless work – poor effort at work/extending tea/meal breaks
- Failure to report any loss or damage to Council property entrusted in his/her care
- Work place bullying/victimisation issues
- Confidentiality breach
- Health and Safety issues

2. **Serious Misconduct**

- Persistent minor misconduct
- Breach of health and safety rules
- Use of abusive language
- Abuse of Authority
- Offensive behaviour to fellow employees or members of the public
- Physical horseplay
- Leaving place of work without sufficient cause or permission
- Being under the influence of drink or drugs
- Carelessly damaging Council property
- Refusing to carry out a reasonable instruction
- Disclosure of confidential information to unauthorised persons
- Neglect of duty

3. **Gross Misconduct**

- Repeated serious misconduct
- Serious breaches of safety regulations
- Malicious damage to Council property
- Unauthorised removal of Council property and other offences of dishonesty within his/her employment
- Driving any Council vehicle without authorisation from his/her supervisor or whilst under the influence of drink or drugs
- Fighting or physical violence at work
- Engaging in unauthorised employment during working hours

- Discrimination against or victimisation of any Council employee or member of the public on grounds of gender, religion, nationality or ethnic origin or disability (during the course of his/her employment)
- Sexual harassment of an employee or member of the public
- Falsification of time sheets/subsistence and expenses claims
- Serious breaches of Confidentiality Clause

1.7 GUIDANCE ON INVESTIGATION/DISCIPLINARY HEARING

1.7.1 Where practical the investigation should be conducted by supervising officers other than the appropriate disciplinary officer/line manager and should cover:

1. A description of the alleged offence
2. A statement of the pertinent facts
3. All relevant dates, times, names etc
4. Summary of the discussion
5. Areas of agreement/disagreement
6. Officers Comments

1.7.2 At each stage of the formal disciplinary procedure a hearing shall be established by the appropriate Disciplinary Officer referred to in paragraphs 1.4.1 to 1.4.3. Formal written notification of the hearing will be issued to the employee, providing details of the allegations and advising the employee of his/her rights to representation at the appropriate stage.

Such notification should allow the employee

- Reasonable time to prepare for the Hearing
- Advise of the seriousness of the allegation

1.7.3 The hearing shall cover the following points to which the employee will be given an opportunity to reply:-

- Nature of allegation
- Corrective action which will be necessary
- Previous warnings issued and still valid
- Specified time for improvement
- Indication when recurrence of misconduct may lead to dismissal
- The right of appeal and who to appeal to (see paragraph 1.6)
- Agreement as to evidence/records arising from the Hearing

1.7.4 Disciplinary Hearing arising from Stage 4 Warning (Gross Misconduct)

The Disciplinary Officer shall take the following action;

either:- (a) Extension of the final written warning period if considered appropriate

or (b) Suspension without pay for up to 10 working days.

or (c) Demotion

or (d) Dismissal (see paragraph 1.4.4 Stage 4 Dismissal)

or (e) Any combination of (a), (b) or (c).

1.7.5 **Areas of Gross Misconduct**

A disciplinary hearing will be established without reference to previous stages and after consultation with the appropriate trade union/staff representative the employee may:-

either be issued with a precautionary suspension pending formal investigation and the outcome of the appeal.

or summarily dismissed without notice.

An employee summarily dismissed may appeal against the dismissal in the normal way but the dismissal will not be set aside pending the outcome of the appeal.

1.7.6 **Precautionary Suspension**

If the alleged offence is one of gross misconduct, the disciplinary officer may suspend the employee from work, on full pay **normally for not more than 5 working days**, while the Council investigates the alleged offence.

1.7.7 **Decision of Appeal Panel for Appeals Against Dismissal**

The appeal panel shall be constituted as per Section 1.9 of this procedure.

The decision of the Appeal Panel against dismissal will be final and the panel may consider other courses of appropriate disciplinary action as listed at Section 1.7.3 of this procedure.

1.8 **RIGHT OF APPEAL**

The employee may appeal against any disciplinary action taken at stages 1 to 4. In such an event the employee must lodge an appeal in writing, stating the grounds on which they wish to lodge the appeal. This must be submitted to the disciplinary officer **within 5 working days from receipt of warning.**

Appeals against disciplinary action taken at stages 1 to 3 will be heard by another nominated officer **at or above the level of the disciplinary officer involved in the disciplinary action.**

Appeals against stage 4 disciplinary action (except for dismissal) will be heard by the Director of the Service or the Clerk and Chief Executive, as considered appropriate. Appeals against dismissal will be dealt with under the provisions of paragraph 1.9 of this procedure.

Appeals (other than against dismissal) **will normally take place within 5 working days,** except in special circumstances.

Appeals against dismissal **will normally take place within 20 working days,** except in special circumstances.

The appeal decision in respect of all disciplinary action will be issued to the applicant within **5 working days and will be final.**

1.9 **APPEALS PANEL CONSTITUTION FOR APPEALS AGAINST DISMISSAL**

(a) **Staff below Director level –**

Independent Chairperson drawn from a list provided by the LRA

Management Representative – a Senior Officer/Director/Manager from another Department within the Council service.

Staff Representative – to be drawn from a panel held by the LRA (not from the Appellant's Union or employer as appropriate).

(b) **Director Level/Other Officer reporting directly to the Clerk and Chief Executive –**

Independent Chairperson drawn from a list provided the LRA

Management Representative – Chairperson or Vice Chairperson of the Council

Staff Representative – to be drawn from a panel held by the LRA (not from the Appellant's Union or employer as appropriate).

1.10 **EXCEPTIONS**

This procedure does not apply to notice given:-

- (a) On termination of employment of specified duration.
- (b) In the event of redundancy.
- (c) During a probationary period.

DOWN DISTRICT COUNCIL

FORMAL DISCIPLINARY PROCEDURE

VERBAL WARNING

Department _____

Issued by _____ Position _____

This is to certify that an Oral Warning has been given to:-

_____ (name) a _____ (position)

on _____ (date) for the reason of _____

To Employee:

- This warning which constitutes a formal stage of the disciplinary procedure is hereby recorded and will remain active on your personal file for a period of six months.
- Any repetition of this offence or failure to show significant improvement within **SIX MONTHS** will lead to further disciplinary warning.
- You have the right of appeal against this decision, and if it is your intention to do so you should inform the appropriate designated officer as per the procedure within five working days of receipt of this warning, clearly stating the grounds on which you wish this appeal to be heard.

The Issuing Officer:-

- This warning should be accompanied by any relevant investigation information including Reports on Disciplinary Hearing.
- In the event of an employee or his/her representative refusing to sign the Verbal Warning, the warning should be presented in the presence of a witness and signed by the witness.

Copy of Warning Received _____ Employee/Representative/

Issuing Officer _____ Witness to Issue

(Supervisor)

Date _____

TO BE COMPLETED IN TRIPLICATE, ONE COPY TO BE GIVEN TO THE EMPLOYEE, ONE COPY TO BE FORWARDED TO THE HUMAN RESOURCES SECTION AND ONE RETAINED BY THE ISSUING DEPARTMENT.

DOWN DISTRICT COUNCIL

FORMAL DISCIPLINARY PROCEDURE

WRITTEN WARNING

Issued by _____ Position _____

This Written Warning is hereby issued to _____(name)

a _____(position)

in the _____(department) for the reason of

on _____ (date)

To Employee:

- This warning which constitutes a formal stage of the disciplinary procedure is hereby recorded and will remain active on your personal file for a period of twelve months.
- Any repetition of this offence or failure to show significant improvement within **TWELVE MONTHS** will lead to further disciplinary warning.
- You have the right of appeal against this decision, and if it is your intention to do so you should inform the appropriate designated officer as per the procedure within five working days of receipt of this warning, clearly stating the grounds on which you wish this appeal to be heard.

The Issuing Officer:-

- This warning should be accompanied by any relevant investigation information including Reports on Disciplinary Hearing.
- In the event of an employee or his/her representative refusing to sign the Written Warning, the warning should be presented in the presence of a witness and signed by the witness.

Copy of Warning Received _____ Employee/Representative/
Witness to Issue

Issuing Officer _____ (Supervisor)

Date _____

TO BE COMPLETED IN TRIPLICATE, ONE COPY TO BE GIVEN TO THE EMPLOYEE, ONE COPY TO BE FORWARDED TO THE HUMAN RESOURCES SECTION AND ONE RETAINED BY THE ISSUING DEPARTMENT.

DOWN DISTRICT COUNCIL

FORMAL DISCIPLINARY PROCEDURE

FINAL WRITTEN WARNING

Issued by _____ Position _____

This Final Written Warning is hereby issued to _____(name)

a _____(position)

in the _____(department) for the

reason of _____

Your attention is drawn to the written/oral warning(s) already given to you on

_____ (dates)

To Employee:

- This warning which constitutes a formal stage of the disciplinary procedure is hereby recorded and will remain active on your personal file for a period of twelve months.
- Any repetition of this offence or failure to show significant improvement within **TWELVE MONTHS WILL RESULT IN TERMINATION OF YOUR EMPLOYMENT.**
- If you wish a copy of this warning to be forwarded to your Shop Steward, please inform the Personnel Department as soon as possible in writing.
- You have the right of appeal against this decision, and if it is your intention to do so you should inform the appropriate designated officer as per the procedure within five working days of receipt of this warning, in writing, clearly stating the grounds on which you wish this appeal to be heard.

The Issuing Officer:-

- This warning should be accompanied by any relevant investigation information including Reports on Disciplinary Hearing.
- In the event of an employee or his/her representative refusing to sign for the receipt of the Final Written Warning, the warning should be presented in the presence of a witness and signed by the witness.

Copy of Warning Received _____ Employee/Representative/
 Issuing Officer _____ Witness to Issue
 (Supervisor)

Date _____

TO BE COMPLETED IN TRIPLICATE, ONE COPY TO BE GIVEN TO THE EMPLOYEE, ONE COPY TO BE FORWARDED TO THE HUMAN RESOURCES SECTION AND ONE RETAINED BY THE ISSUING DEPARTMENT.