SWANSCOMBE & GREENHITHE TOWN COUNCIL

STAFF DISCIPLINARY PROCEDURES

(This Policy was reviewed by the full Council at its AGM held on 17 May 2018, minute 20/18-19)

POLICY

In all organizations it is necessary to establish and maintain certain standards of conduct and performance. To ensure these standards are effectively controlled, disciplinary procedures are introduced that will enable any lowering of standards, or breached of normal conduct expected of all employees, to be dealt with in a fair and just manner.

The following procedure, based on the Advisory, Conciliation and Arbitration Service (ACAS) Code of Practice, is applicable to all employees of the Swanscombe and Greenhithe Town Council. In the case of the Town Clerk the principles of the procedure shall apply, with certain variations as indicated in the appendix. This policy indicates the disciplinary procedure that will normally be followed in the event of misconduct. The following list provides examples of conduct that will normally be regarded as misconduct leading to disciplinary proceedings. The list is not exhaustive, these are examples only:

1. Unsatisfactory time keeping.
2. Absenteeism, including any absence from work during a working day without prior authorisation or instruction.
3. Failure to comply with rules and regulations applicable to job requirements.
4. Failure by an employee to perform the duties and responsibilities of his or her post to the standard expected by the council.
5. Insubordination.
6. Any other conduct that from time to time is defined by the council as amounting to misconduct.

The requirements of this procedure shall not prelude any informal discussions concerning the conduct or performance of an employee. It is important that adequate counseling procedures exist between superiors and subordinates to minimize the need for any, or further, formal disciplinary action.

Prior to any formal disciplinary action being taken by the Town Council, a disciplinary meeting will take place with the employee, his or her representative.(not to be a member of the legal profession),who will be given every opportunity to put his or her view and/or question the statements made.

Notification of formal complaint against an employee to be given in writing at the same time as arranging the date and time of the disciplinary meeting.

After the meeting, the decision arrived at by the Town Council, regarding the nature of the disciplinary action to be taken shall be made known to the employee, both verbally and in writing. The employee shall also be advised of his/her right of appeal against the decision, the procedures to adopt, and the timescale within which the appeal must be made.

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PROCEDURE FOR DISCIPLINARY ACTION

The procedure is designed to allow for four stages of action to be taken. These stages are:

Stage 1 Formal oral warning
Stage 2 First written warning
Stage 3 Final written warning
Stage 4 Dismissal

According to the seriousness of the breach of discipline or further breach of discipline following previous warning(s), Stages 1,2 and/or 3 may be omitted.

APPEALS PROCEDURE

An employee has the right of appeal against any disciplinary action taken with the exception of Stage 1 – Formal Oral Warning.

APPEALS AGAINST FIRST WRITTEN OR FINAL WRITTEN WARNINGS

1 An employee may appeal, in writing, to the Town Clerk within five working days of receiving confirmation of a warning. A copy of the letter of appeal should be retained by the employee or their representative (not to be a member of the legal profession).

2 An appeal will be held within ten working days of the appeal letter being received. The appeal will be heard by a panel made up of 3 members of the Executive & Emergency Committee as per the Terms of Reference of the Executive & Emergancy Committee.. The employee may be accompanied at the appeal meeting by a representative (not to be member of the legal profession) or other person of their choice.

3 On hearing the appeal, the Executive & Emergency Committee may allow or reject it or amend the terms of the warning given. The decision of the Executive & Emergency Committee will be given at the meeting and confirmed in writing to all concerned within three working days.

4 If the appeal is upheld, the warning will be removed from the records.

5 If the appeal is not allowed, there is no further right of appeal.

APPEALS AGAINST DISMISSAL

6 The employee or his/her representative may appeal, in writing, to the Town Clerk within five working days of receiving a dismissal letter.

The procedure for the appeal will be as follows:

(a) The Town Council will meet within ten working days from the date the appeal letter is received. The Town Clerk will present the case of the Council.

(b) The employee will be given notice in writing at least five working days in advance of the time and place of the hearing, and will be allowed to be represented by his/her representative (not to be a member of the legal profession) or some other person of his/her choice and will be able to call witnesses and produce documents relevant to the hearing.

(c) The Town Council's representative(s) will put the case in the presence of the appellant (and representative) and may call witnesses.

(d) The appellant (or representative) will have the opportunity to ask questions of the Town Council's representative(s) and any witnesses who have been called, in the evidence given.

(e) Members of the Executive & Emergency Committee will have the opportunity to ask questions of the Town Council's representative(s) and call such witnesses as required.

(f) The appellant (or representative) will put his/her case in the presence of the Town Council's representative(s) and call such witnesses as required.

(g) The Town Council's representative(s) will have the opportunity to ask questions of the appellant and witnesses.

(h) Members of the Executive & Emergency Committee will have the opportunity to ask questions of the appellant and witnesses.

(i) The Town Council's representative(s) and the appellant (or representative) will have the opportunity to sum up their cases if they so wish.

(j) The Town Council's representative(s), the appellant (and representatives) and witnesses will then withdraw.

(k) The Executive & Emergency Committee will then deliberate in private, only recalling the Town Council's representative(s) and the appellant (and representative) to clear points of uncertainty on evidence already given. If recall is necessary both parties will return not withstanding only one is concerned with the point giving rise to doubt.

The Executive & Emergency Committee may allow or reject the appeal and their decision will be the final decision of the Town Council and will be passed

to the officer responsible for carrying out decisions of the Council on Staff Discipline. The decision will be given verbally to the employee and his representative and will be confirmed in writing within five working days.

GENERAL INFORMATION

TIME LIMITS

The previously mentioned time limits will generally apply throughout, although these may be varied in exceptional circumstances by mutual agreement.

SUSPENSION

Where there is a distinct possibility that serious disciplinary action may be taken against an individual, ie, Stage 3 of Stage 4 of the procedure, the Contract of Employment of an employee may be temporarily suspended in order that the appropriate investigations may be completed before a formal disciplinary hearing is convened. During the period of suspension the employee shall be paid basic minimum rate (including contractual overtime) but if found not blame-worthy at the hearing shall receive all monies to which he would have been entitled but for suspension.

In relation to the previous paragraph, the Authority recognises the need to abide by paragraph 8 of the Contract of Employment, Statement of Particulars of Terms of Employment.

The Town Clerk shall be empowered to suspend any employee of the Town Council for a period not exceeding one working day where it is suspected that a case of gross misconduct has occurred. Such a period of suspension shall be extendible on the agreement of the Chairman and Vice-Chairman of the appropriate Committee and a Committee Chairman leading up to a disciplinary hearing. The appropriate representative shall be notified of any such action taken.

GROSS MISCONDUCT

The following list provides examples of conduct that will normally be regarded by the Town Council as Gross Misconduct. This list is not exhaustive, these are examples only:

1. Refusal or repeated failure by an employee to carry out his or her duties.

2. Falsification of documents or information (including expense claims, leave records and timesheets).

3. Unauthorised disclosure of confidential information.

4. Assaulting a fellow employee or any other person whilst acting or purporting to act on behalf of the Town Council.

5. Insulting, indecent or offensive behaviour towards a fellow employee or any other person whilst acting or purporting to act on behalf of the Town Council.

6. Serious or repeated harassment (including sexual and racial harassment).

7. Incapacity at work due to the influence of alcohol, unprescribed drugs or any other substance.

8. Wilful damage to Town Council property.

9. Theft, unauthorised use or possession of council property or theft of the property of a fellow employee.

10. Conduct bringing the Town Council into disrepute.

Any other conduct that from time to time is defined by the Town Council as amounting to gross misconduct.

An employee shall not normally be dismissed for a first offence, but in the event of an employee's misconduct being assessed as sufficiently serious to constitute "gross misconduct", suspension shall be immediate and after full investigation and hearing, dismissal with or without notice, may follow.

DISCIPLINARY RECORDS

Should a particular disciplinary action, or stage in the procedure, be found unwarranted and subsequently withdrawn, any written reference shall be expunged from the file of the employee and the employee notified accordingly, by the Town Clerk.

The period during which a disciplinary warning shall be effective will normally be as indicated below, unless otherwise determined at the disciplinary meeting, and shall be subject to the foregoing appeals procedure.

Stage 1 Formal oral warning – 6 months
Stage 2 First written warning – 6 months
Stage 3 Final written warning – 12 months

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DISCIPLINARY ACTION CHART

STAGE	ACTION TO BE TAKEN	LEVEL OF OFFICER & MEMBERS AUTHORISED TO ADMINISTER APPROPRIATE STAGE OF PROCEDURE
Stage 1 Formal Oral Warning	1 Formal oral warning given. 2 Complete Disciplinary Record Form (DRF) 3 Employee to sign DRF 4 Town Clerk to report to Personnel Committee	The Town Clerk
Stage 2 First Written Warning	1 Conduct disciplinary meeting. 2 Notify Employee of decision and right of appeal on DRF. 3 Employee to acknowledge receipt of DRF. 4 Send copy of DRF to representative where applicable. 5 Town Clerk to report to Executive and Emergency Committee (EC).	The Town Clerk
Stage 3 Final Written Warning	1 Conduct disciplinary meeting. 2 Notify Employee of decision and right of appeal on DRF 3 Employee to acknowledge receipt of DRF. 4 Send copy of DRF to representative where applicable. 5 Town Clerk to notify EC.	The Town Clerk
Stage 4 Dismissal	1 Conduct disciplinary meeting. 2 Notify Employee of decision and right of appeal in writing. 3 Ensure preparation and dispatch of dismissal documentation. 4 Send copy of documentation to representative where applicable. 5 Town Clerk to notify Members of the Town Council as soon as possible.	The Town Clerk in conjunction with the EC.

DISCIPLINARY RECORD FORM

Record of: - Formal oral / First written warning / Final written warning*

Name of Employee: ……

Grade: ……..Department: ……

Date of Offence: ……..Date Warning Issued: ……

Full details of offence – including reference to improvement required.

A copy of this form will be given to your shop steward/staff representative unless you indicate to the contrary.

RIGHT OF APPEAL

You have a right of Appeal in the case of first and final written warnings, which you may exercise within five working days of receipt by giving notice in writing to the Town Clerk.

I do/do not* wish a copy of this form to be given to my representative.

Signed: ……..... (Employee)

Date: .....

Acknowledgement of receipt by:

Employee: ……..... Date: …….....

Employee's Representative: …….....
Date: ……..…*Delete as applicable

7 DEVIATIONS FROM PROPOSED STAFF DISCIPLINARY PROCEDURE IN THE CASE OF DISCPLINARY ACTION TO BE TAKEN AGAINST THE TOWN CLERK

The text below represents possible variations from the drafted Staff Disciplinary Procedure which may make it applicable to the Town Clerk. As such any Disciplinary Procedure would be applicable both to the 'Town Clerk' or to any other person who was acting as 'Town Clerk' on a temporary basis – as in the case of holiday periods or sickness etc. the position of Town Clerk presents specific problems from a Staff Disciplinary viewpoint because of the sensitivity of taking action against the Chief Officer of Swanscombe and Greenhithe Town Council and because it would normally be the Town Clerk who issued disciplinary notices.

The following text requires careful consideration and negotiation prior to approval:

Revision from the main text : Staff Disciplinary Procedures

In the case of appeals first and final written warnings, or an appeal against dismissal, the general conditions of appeal would apply but the appeal would be made in writing to the Town Mayor.

In the case of an appeal being heard by the Town Council it would be expected that the position of Swanscombe and Greenhithe Town Council would be made by a nominee from the Executive & Emergency Committee. The underlying reason for this is that it would be unfair of the Town Council to expect a member of staff to present a Disciplinary Case against his/her superior. On hearing and deliberating upon an appeal against a first or final written warning the opinion of the Town Council would be made known to the Town Clerk by the Chairman, Vice-Chairman of the Executive Committee and a Committee Chairman who would be responsible in conjunction with the Responsible Financial Officer (RFO) to complete the necessary disciplinary paperwork. In the case of an appeal against dismissal, the Town Clerk would be made known of the decision of the appeal by the Chairman, Vice-Chairman of the Executive & Emergency Committee and a Committee Chairman, whereupon the necessary paperwork would be undertaken by the RFO, who would have assumed temporary responsibility as Town Clerk.

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REVISIONS ON THE DISCIPLINARY ACTION CHART

Stage 1	Formal Oral Warning	Shall be administered by the Chairman of the Executive & Emergency Committee and a Committee Chairman or substitutes where a Councillor fills more than one of these positions, with the necessary paperwork being undertaken in conjunction with the RFO.
Stage 2	Formal Written Warning	Shall be administered by the Executive & Emergency Committee with the RFO being responsible for the issuing of the necessary paperwork.
Stage 3	Final Written Warning	As above.
Stage 4	Dismissal	Shall be administered by the Executive & Emergency Committee with the RFO being responsible for the issuing of the necessary paperwork.

Appeals against stages 2, 3 and 4 to be heard by the Town Council. All stages of disciplinary procedures adopted in the case of the Town Clerk to be reported to the Members of the Town Council.

NB A distinction is drawn throughout this Disciplinary Procedure between the Town Mayor and the Chairman of the Executive & Emergency Committee. This has been done because as far as is aware, although in practice the Town Mayor would normally take the Chairmanship of the Executive & Emergency Committee there exists no express provision as to that fact – hence it is possible that a Councillor other than the Town Mayor could serve as Chairman of the Executive & Emergency Committee.