

KENT ASSOCIATION OF LOCAL COUNCILS



DISCIPLINARY POLICY

1. Purpose and Scope

1.1 This procedure is designed to help and encourage all employees and Executive Committee members to achieve and maintain standards of conduct, attendance and job performance.

2. Principles

2.1 Informal action will be considered, where appropriate, to resolve problems.

2.2 No disciplinary action will be taken against an employee or an Executive Committee member until the case has been fully investigated.

2.3 For formal action, the employee or Executive Committee member will be advised of the nature of the complaint made against them and will be given the opportunity to state their case before any decision is made at a disciplinary meeting.

2.4 Employees and Executive Committee members will be provided, where appropriate, with written copies of evidence and relevant witness statements in advance of a disciplinary meeting.

2.5 At all stages of the procedure the employee will have the right to be accompanied by a trade union representative or colleague. An Executive Committee member will have the right to be accompanied by another Executive Committee member.

2.6 No employee will be dismissed for a first breach of discipline except in the case of gross misconduct, when the penalty will be dismissal without notice or payment in lieu of notice.

2.7 An employee will have the right of appeal against disciplinary action.

2.8 The procedure may be implemented at any stage if the employee's or Executive Committee's alleged misconduct warrants this.

3. The Procedure

Except in cases of gross misconduct where an employee may be instantly dismissed, the following 4 stages will apply to unsatisfactory performance and conduct, subject to the confirmation at each stage:

Stage 1 – First Verbal Warning: The Chief Executive (or Chairman in the case of a verbal warning to the Chief Executive) will explain to the employee the reasons for initiating disciplinary action and discuss plans for overcoming the problem. The discussion and plans will be recorded, and a reasonable time for review agreed. In the case of an Executive Committee member, a Members Panel will be convened, consisting of 3 members from the Executive Committee, who will explain to the member the reasons for initiating disciplinary action, and discuss plans for overcoming the problem.

Stage 2 – Second Verbal Warning: If the Chief Executive (or Chairman in the case of a verbal warning to the Chief Executive) considers after the review progress is unsatisfactory, there will be a further discussion and re-examination of the plan with the employee. The discussion and plan will again be recorded, and a further reasonable time agreed with the employee. In the case of an Executive Committee member, if the Members Panel considers after the review progress is unsatisfactory, there will be a further discussion and re-examination of the plan with the member. The discussion and plan will again be recorded, and a further reasonable time agreed with the member.

Stage 3 – Written Warning: If there is a repetition of earlier misconduct or unsatisfactory performance which resulted in a verbal warning, or for different and more serious misconduct, the employee will normally be given a written warning. A written warning will set out:

- The reason for the written warning, the improvement required (if appropriate) and the time period for improvement.
- That further misconduct/failure to improve will result in more serious disciplinary action.
- The employee's right of appeal.
- That a note confirming the written warning will be placed on the employee's personnel file, that a copy will be provided to the employee and that the warning will remain in force for 12 months.

In the case of an Executive Committee member, if there is a repetition of earlier misconduct, a letter from the Chairman of the Executive Committee outlining any investigations or actions to date (or in his absence from: the Vice Chairman) constituting a written warning will be forwarded by registered post to the member and will remain on file for **one year** and this warning will remain in force for the *next three Executive Committee Meetings*.

Where there is a failure to observe the warning (e.g. repetition or further related issue), or in the case of proven gross misconduct, the Executive Committee will put it to the vote at the next opportunity moved on notice and by a simple majority vote decide to deselect that member and this will take effect forthwith in the case of gross misconduct or no later than the next meeting in all other cases. In some cases, the calling of an extraordinary meeting of the Executive Committee with limited agenda may be justified if judged expedient by the Chair of the Executive Committee in conjunction with the agreement of the Chief Executive. There will be no appeal

process: although a member will be allowed to make a short personal statement before any decisive vote.

Stage 4 – Final Written Warning: If there is further misconduct during the period of a written warning or if the misconduct is sufficiently serious, the employee will be given a final written warning. A final written warning will set out:

- The reason for the final written warning, the improvement required (if appropriate) and the time period for improvement.
- That further misconduct/failure to improve will result in more serious disciplinary action up to and including dismissal.
- The employee's right of appeal.
- That a note confirming the final written warning will be placed on the employee's personnel file, that a copy will be provided to the employee and that the warning will remain in force for 12 months.

Stage 5 – Dismissal: KALC may dismiss:

- For gross misconduct.
- If there is no improvement within the specified time period in the conduct which has been the subject of a final written warning.
- If another instance of misconduct has occurred and a final written warning has already been issued and remains in force.

KALC will consider very carefully a decision to dismiss. If an employee is dismissed, they will receive a written statement of the reasons for their dismissal, the date on which the employment will end and details of their right of appeal.

If KALC decides to take no disciplinary action, no record of the matter will be retained on the employee's personnel file. Action imposed as a result of the disciplinary meeting will remain in force unless it is modified as a result of an appeal.

4. Misconduct

4.1 Misconduct is behaviour that can lead to KALC taking disciplinary action. The following list contains some examples of misconduct:

- Bad time keeping.
- Unauthorised absence.
- Misuse of KALC resources and facilities including telephone, e-mail and internet.
- Inappropriate behaviour.
- Failure to carry out reasonable instructions.
- Breach of health and safety rules.
- Bringing KALC into disrepute.

5. Gross Misconduct

5.1 Gross misconduct is misconduct that is so serious that it is likely to lead to dismissal without notice. The following list contains some examples of gross misconduct:

- Bullying, discrimination and harassment.
- Incapacity at work because of alcohol or drugs.
- Violent behaviour.
- Inappropriate sexual behaviour.
- Fraud or theft.
- Gross negligence.
- Gross insubordination.
- Serious breach of the Health & Safety rules which endanger the lives of any other person.
- Serious and deliberate damage to property.
- Use of the internet or email to access pornographic, obscene or offensive material.
- Disclosure of confidential information.

5.2 If you are accused of an act of gross misconduct, you may be suspended from work on full pay, normally for no more than 5 working days while the alleged offense is investigated. If, on completion of the investigation and the full disciplinary procedure, KALC is satisfied that gross misconduct has occurred, the result will normally be summary dismissal without notice or payment in lieu of notice.

6. Appeals

6.1 An employee who wishes to appeal against a disciplinary decision must do so within 5 working days.

6.2 The grounds for appeal include:

- A failure by KALC to follow its disciplinary policy.
- The decision was not supported by the evidence.
- The disciplinary action was too severe in the circumstances of the case.
- New evidence has come to light since the disciplinary meeting.

6.3 The Appeal will be heard by a panel of 3 members of the KALC Executive Committee who have not previously been involved in the case.

6.4 The Appeal Panel's decision is final.

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