

# **CODE OF DISCIPLINE & DISCIPLINARY PROCEDURE FOR TEACHING STAFF**

## **Introduction**

The Code of Discipline and Disciplinary Procedure for Teaching Staff within North Ayrshire Council is detailed. The policy is formed within three main sections as follows:

- Part 1: Code of Discipline.
- Part 2: Disciplinary Procedure.
- Part 3: Disciplinary Appeals Procedure

The Code of Discipline is necessary for the fair and consistent treatment of all employees and in conjunction with the Disciplinary Procedure, sets standards of conduct and behaviour at work. The Code and its related procedures have been jointly agreed between the Council and appropriate Trade Unions.

## **PART 1 - CODE OF DISCIPLINE FOR TEACHING STAFF ONLY**

### **Aims**

The purpose of this Code is to provide:

a sound basis for the maintenance of discipline for all employees of the council;

a clear understanding between management and employees of the need for discipline; and

a mutually acceptable and well-publicised procedure for dealing with breaches of discipline.

The Code and its related procedures have been jointly agreed between the Council and Employee Representatives.

### **Responsibilities**

The formulation of disciplinary rules, including the classification of offences, has been undertaken as a Management responsibility.

Director/Head of Service will be responsible for ensuring that the rules and accepted standards of conduct are made known to all employees.

Employees, for their part, are required to familiarise themselves with the rules and standards and to abide by them.

### **Principles**

The Code outlines the essential features of a fair and reasonable disciplinary procedure.

The underlying thrust of the Code is that discipline need not always be punitive; it is also meant to raise the level of understanding, bring employees' alleged shortcomings to their attention and provide an opportunity for corrective action to be taken. Before any action, the matter should be thoroughly investigated and the employee should be made aware of the cause for complaint and be given an opportunity to state his/her case.

The principles enshrined in this code are:

To encourage the employee whose conduct or standard of work is unsatisfactory to take corrective action.

To deal with disciplinary issues as quickly as possible, consistent with thorough investigation of the facts at each stage.

To ensure that employees are fully informed of the complaint(s) against them prior to a formal disciplinary hearing.

To provide that an employee suspended pending investigation or formal hearing must be entitled to full pay.

To ensure that the employee is made aware of his/her alleged shortcomings and given the opportunity to state his/her case at the disciplinary hearing before disciplinary action is taken.

To ensure that the employee is informed in writing of any disciplinary action taken and the reason for it, the right of appeal, how to lodge an appeal, timescale etc.

To ensure that an employee will have the right of appeal against all disciplinary decisions.

To ensure that the employee has the right at any stage of the procedure to be represented by a trade union representative or other appropriate person of his/her choice.

To ensure that the level of management authorised to impose each form of disciplinary action is clearly specified.

To allow for both parties to maintain, independently, a record of proceedings.

To recognise that, following any preliminary investigation, it may become clear to the investigating officer that no formal procedure is required but that one or more employees involved in the investigation may require guidance as to their method of work or general conduct. Such guidance or counselling is part of normal supervision and is not part of the disciplinary procedure.

## **Notice**

Employees will not normally be dismissed for a first offence but cases of Gross Misconduct will lead to summary (instant) dismissal without any prior warning, oral or written.

If employment is terminated in those circumstances, the employee has no entitlement to notice or payment in lieu of notice under the Employment Rights Act 1996. Types of offences which constitute Gross Misconduct are outlined in the Code.

In circumstances where dismissal, other than summary dismissal, occurs, payment in lieu of notice will be made or, if appropriate, the employee will be required to work the period of notice.

## **Listing Offences**

Whilst it is not possible to list all offences or to specify the nature of the disciplinary action in each case, every offence must be carefully considered and if disciplinary action is to be taken, due weight must be given to the gravity of the offence, the employee's record and mitigating circumstances.

## **Gross Misconduct**

The definition as to whether the employee's conduct can be construed as Gross Misconduct will be dependent on the full consideration of all the facts and circumstances.

Gross misconduct is generally seen as misconduct serious enough to make any further working relationship and trust between the employee and employer untenable.

The following list of examples of gross misconduct offences is intended only to ensure that employees and management recognise the nature and seriousness of breaches of discipline which **MAY** be regarded as gross misconduct:-

Fighting, Theft, Fraudulent salary/wage or other payment claims, Deliberate falsification of records, Assault on another person, Deliberate damage to Council property, harassment, and serious breach of Health and Safety Procedures.

The above list is neither exhaustive nor exclusive.

## **Unsatisfactory Conduct (Other than Gross Misconduct)**

Instances of failure to observe and maintain discipline, which are less serious than offences constituting Gross Misconduct, are termed Unsatisfactory Conduct. These will lead to warnings which is action short of dismissal.

Examples of offences under this heading may include:-

Bad Timekeeping, Unauthorised Absence from work, Unacceptable standard of work performance and misuse of Council equipment.

The above list is neither exhaustive nor exclusive.

## **Role of Management**

In accordance with the code of Discipline, the Council has delegated to the Corporate Director responsibility for ensuring the maintenance of disciplinary standards. It is recognised, however, that it is appropriate for the Director to delegate this authority to nominated officers under their control. It will be for the Director of Education & Skills to determine the nominated officers and the limit of their authority and in doing so account should be taken of special requirements for staff based in locations where appropriate senior officers may not always be available or in attendance. The Director and Heads of Establishment shall ensure that appropriate records of investigations, disciplinary hearings and appeals are held.

## **Role of the HR Adviser**

The Head of Human Resources is available to offer advice to Management in the consideration of matters under the Code and Procedures. Although local management is responsible for the investigation and conduct of the hearings, the Head of Human Resources has up-to-date and expert knowledge which will assist in interpreting the Code and Procedures, in terms of the practice throughout the Council, standards set by case law, external codes of practice etc.

## **Role of Legal Adviser**

The Solicitor to the Council may, at the request of Heads of Service, appoint a legal adviser to provide advice to Directors or Heads of Service where considered appropriate and assist in the preparation of any Industrial Tribunal etc. cases.