

*Halewood*



*Optima Petimus*

# **HALEWOOD TOWN COUNCIL**

**CODE OF CONDUCT & DISCIPLINARY  
PROCEDURES (REVISED JUNE 2011).**

## **TOWN MANAGERS FOREWORD**

Dear Colleague,

Halewood Town Council recognises the importance of treating employees fairly and consistently. This revised procedure is designed to deal with allegations of misconduct, poor attendance or performance, in a prompt, fair and consistent manner.

Its primary purpose is not to encourage the application of sanctions, but to encourage all employees to maintain high standards of conduct, attendance and performance, thereby enhancing services to the Township of Halewood.

This document therefore exists for four reasons:

- Educate staff by telling them what the rules and standards are, and what happens if there is a breach.
- It exists to instruct staff, by telling them how they can conform to a rule or standard, what action they need to take, and the consequences of continued failure to do so.
- It exists to discipline staff, where rules or standards have been broken or where there is a serious breach of discipline.
- The document helps to promote consistency, which can only be achieved if all members of staff have a clear understanding of the rules which govern their conduct and the sanctions which can be applied.

The document was last updated in July 2003, and following the recent publication of the “Employment Act 2008” has revised the obligations for both employer and employee relating to discipline and grievance issues in the workplace. It was therefore felt appropriate to revise the Town Council’s document because of this new legislation, and also to take account of the changes from May 2009 in the council meeting structure.

The documented changes have been issued in the form of the new ACAS code and there are a number of elements to this:-

- Employers and employees should raise and deal with issues promptly and should not unreasonably delay meetings, decisions, or confirmation of those decisions.
- Employers and employees should act consistently.
- Employers should carry out necessary investigations to establish the facts of the case.
- Employers should inform employees of the basis of the problem and give them the opportunity to put their case in response before any decisions are made.
- Employers should allow employees to be accompanied at any formal disciplinary or grievance meeting.
- Employers should allow an employee to appeal against any formal decision made.

The new code **does not** apply to dismissals due to redundancy, or the non-renewal of fixed term contracts on their expiry. The code was issued under section 199 of the Trade Union and Labour Relations (Consolidation) Act 1992 and was laid before both Houses of Parliament on 9 December 2008. It came into effect on 6 April 2009 and replaced the code issued in 2004.

Finally, this document gives an indication of what is acceptable behaviour and what is not. The guide also outlines the process to be used in cases where the conduct of a member of staff warrants this and the grievance procedures which are available to you if you are not satisfied with your treatment.

I would ask you to read this document and keep it for future reference. If there is anything that appears to be unclear, please discuss this with your immediate supervisor, or by contacting myself.

John Green  
Town Manager  
January 2010

## **HALEWOOD TOWN COUNCIL**

### **CODE OF CONDUCT, DISCIPLINARY AND GRIEVANCE PROCEDURES**

The Guide Consists of:

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2. External Interests
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  - 2.3 Non-Financial Interests
3. Appointments
4. The Press & The Media
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6. Gifts & Hospitality
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- A. Disciplinary Hearing Procedure
- B. Dealing with Criminal Offences
- C. Anti-Bribery Act 2010

## **1. GENERAL DUTIES AND RESPONSIBILITIES**

Your duty as an employee is to serve the Town Council by carrying out the Town Council's work under the direction, control and guidance of your supervisor. You should carry out your job to the best of your abilities.

The reputation of the Town Council depends in large part on the conduct of its employees and what the public believes about their conduct. The public expects conduct of the highest standard, and confidence in the integrity of the Town Council will be shaken if there is the least suspicion that you could be influenced in any way by any improper motive.

## **2. EXTERNAL INTERESTS**

### **2.1 Register of Interests**

The register of interests will be confidential and only inspected by the Town Manager or delegated officer when there is an alleged breach of this Code.

### **2.2 Financial Interests**

If you or a member of your family or spouse has a financial interest in a contract which has been or is going to be entered into by the Town Council, you must declare this in writing immediately. If this happens during your normal duties, you should tell your supervisor, and if your financial interest relates to any work that you are doing at the time, you should ask your supervisor to give the work to someone else. If you are at any meeting of the Town Council when such a contract is to be considered, you should report your interest to the Town Manager, or senior officer present, and you must not speak on any item in which you have an interest.

A member of your family would normally be defined as a spouse, parent, son, daughter, brother or sister. However, if another relative (uncle, aunt, niece, nephew etc) has a financial interest which you are aware of, you may consider it appropriate to declare a general interest in order to avoid future accusations of bias.

### **2.3 Non-Financial Interests**

Interests which are not financial can be just as important and you should treat these in the same way as a financial interest. Whenever you have any private or personal interest in any matter in which you are involved at work, you must not allow that interest in any way to influence how you carry out your work.

Examples include kinship, friendship, membership of an association, societies, trade unions, trusteeship, and any other kind of relationship which could potentially influence your judgement and give the impression that you might be acting from personal motives. You should in general do nothing which could not be justified if it were made public.

An officer's off-duty hours are his (or her) personal concerns, but an officer should not subordinate his duty to his private interests nor put himself in a position where his duty and private interests conflict.

The Town Council will not attempt to prevent officers from undertaking additional employment (unless their grade is above scale 6), but any other employment should not be in conflict with or detrimental to the Town Council's interests and should not in any way weaken public confidence in the conduct of the Town Council's business.

### **3. APPOINTMENTS**

If you are applying for another job within the Town Council, you must state on your application form whether you are related to any elected member or employee of the Town Council (a relative is defined as parents, grandparents, son, daughter, wife, husband, aunt, uncle, cousin, grandchildren and such relatives by common law). If you deliberately fail to give this information, and it is discovered before any interview, you will be disqualified from consideration or subsequently dismissed if you obtain employment with the Town Council. You should also let the Town Manager know if you are aware that you are related to anyone who is applying for a job with the Town Council.

You must not canvass Members of the Town Council, either for yourself or for anyone else, about any appointment with the Town Council. If YOU do this, the candidate concerned will be automatically disqualified.

### **4. THE PRESS AND THE MEDIA**

You should not normally be contacted by representatives of the press or media, since their enquiries will normally be dealt with by the Town Manager. If you are not clearly authorised and you receive an enquiry from the press, you should not deal with it, but refer it to the Town Manager for attention.

If you are authorised by the Town Manager to deal with enquiries from the press or media you should deal with requests for information or questions which relate to the facts of a situation and explain the Town Council's policies, activities or proposals. Where an expression of opinion or official statement of policy is required, you should not deal with this, but should refer it instead to the Majority Group Leader of the Town Council, via the Town Manager.

## **5. DISCRIMINATION AND EQUAL OPPORTUNITIES**

### **5.1 Equal Opportunities**

The Town Council is an equal opportunity employer, and will not discriminate in employment practice nor in the provision of facilities and services for the public by reference to colour, race, nationality, ethnic or national origins, disability, trade union activity, sex, marital status, sexuality, age or any other unjustifiable factors. The Town Council has a legal duty to avoid unlawful discrimination, and this duty applies also to you and every employee of the Town Council.

You must avoid direct discrimination in which one person is treated less favourably than another, either deliberately or accidentally, for reasons of colour, race, nationality, ethnic or national origins, disability, sexuality, trade union activity, sex, marital status, age or any other unjustifiable reasons.

### **5.2 Discrimination**

You must also avoid indirect discrimination, whereby unjustifiable conditions or requirements are applied to any situation which have a disproportionately adverse effect on a person from one race, sex, marital status, disability etc., because the proportion of that group which can comply with the conditions or requirements is considerably lower.

Where people are applying for employment with the Town Council you should make sure that there is no direct or indirect discrimination in the description/requirements, interviewing and selection. With existing employees for whom you are responsible, you should avoid any discrimination in any matter including training, promotion and discipline.

Where people are not seeking the services of the Town Council, you must ensure that you do not refuse, or omit to provide, services on the grounds of race, sex, disability etc., and that all the services offered are of the same quality and are delivered in the same way on the same terms.

### **5.3 Harassment**

Harassment on grounds of colour, race, nationality, ethnic or national origins, disability, trade union activity, sex, marital status, sexuality, age or any other unjustifiable grounds can be defined as any repeated and unwanted comments, suggestions or physical contact that is found objectionable or offensive and causes discomfort in an employee's job.

It is the responsibility of every employee of this Council to ensure that their actions cannot be construed as any form of harassment, at work and in the course of dealing with members of the public. It is important that all employees take responsibility for eliminating any form of harassment. In certain circumstances it may be appropriate to ask the harasser to stop the offending behaviour, or for the supervisor to be informed so that appropriate action can be taken. Some people may not realise that a particular joke, comment and touching in certain circumstances are offensive simply because they remain unchallenged.

It should be emphasised that this does not preclude the day to day banter of colleagues working in a shared environment. It merely prohibits unwanted and unwelcome comments and/or approaches which are liable to cause embarrassment, offence or discomfort to individual employees.

## **6. GIFTS AND HOSPITALITY**

You should not accept personal gifts or services from any contractor supplier or anyone else who might be seeking any benefit from the Council nor should you accept gifts from clients etc., who are under your care or supervision. There is no objection to you accepting certain gifts with minimal value (for instance diaries and calendars) but if you are in any doubt as to whether any gift should be accepted, you should NOT accept the gift.

Similarly you should be very careful about accepting hospitality from any outside body, and you must be able to justify acceptance of such hospitality if you are called upon to do so. You must on all occasions seek to avoid any risk of damaging the public's confidence in the Council or those it employs. All gifts and hospitality must be declared to the Town Manager by being entered into the register of hospitality.

See Appendix "C" for the Town Council's Anti-Bribery statement.

## **7. HEALTH & SAFETY AT WORK**

### **7.1 Relationship with Colleagues**

You must by law take reasonable care for the health and safety of yourself and other people, including your colleagues, who may be affected by anything you do at work. You should not do anything either intentionally or recklessly which you might interfere with what is provided in the interests of health, safety and welfare. Nor should you undertake any job in any way which might be a danger either to yourself, your colleagues or to any member of the public.

### **7.2 Alcohol**

There are certain limited occasions when you may consume alcohol during working hours but only if the Town Manager permits this, for example on the



occasion of someone leaving, or at Christmas, but otherwise you must not consume alcoholic drinks while you are on duty. Staff working in licensed premises are encouraged to take soft drinks whilst on duty in circumstances where it is appropriate to have a drink.

Employees who are found to be suffering from alcohol or drug dependency will be entitled to time off work on full pay to receive counselling.

## **8. CONFIDENTIALITY**

You will often have, or be in a position to obtain, certain information which is highly confidential. You must never pass on any information you obtain through your employment to anyone who is not entitled to have that information. This includes information about the work of the Council, members of the public who come into contact with it, or your own colleagues. It is a grave betrayal of trust to disclose such information to any unauthorised person, or to use that information for the personal advantage of yourself or someone else. Nor should you abuse your position if you have access to information by trying to find out information which you do not need to know to enable you to carry out your duties.

Staff who approach supervisors on confidential matters have a right to expect their supervisor to absolutely respect such confidences if so requested.

## **9. EQUIPMENT AND MATERIALS**

You will often have access through your job to equipment and materials which belong to the Council. Any facilities or equipment provided by the Council for duties carried out by you are provided only for those duties and should not be used for private purposes, unless specific authority has been given.

## **10. ABSENCE THROUGH SICKNESS**

In the first instance, matters relating to Sickness Absence will be dealt with as welfare matters and will be outside the scope of the disciplinary process. A member of staff will be entitled to trade union representation throughout this phase. In the interests of clarity, in cases where it is suspected that an employee is absenting themselves from work because of alleged sickness, when they are not in fact ill, then such matters will be dealt with through the disciplinary process.

## **11. ALCOHOL AND/OR DRUG DEPENDENCY**

In the first instance matters relating to alcohol and/or drug dependency will be dealt with as welfare matters and employees will be given the opportunity to overcome their dependency. The Town Council recognises that alcohol or drug abuse is an illness which can be treated and is prepared to assist any employee who seeks or agrees to have help.

In the interests of clarify there is a difference between "drinking offences" and "problem drinking". An employee who is drunk at work, drinks at work or is found in possession of alcohol at work may be dealt with through the disciplinary process, depending on circumstances, whereas an employee whose work performance is affected by a dependency will be counselled in the first instance.

## **12. SUMMARY**

These Guidelines set the general standard of conduct expected of local government employees. The guide only provides examples of this standard and is in no way exhaustive. If any employee has any doubt as to interpretation of this guide, he/she should contact his/her supervisor immediately to seek the clarification.

Further examples of conduct are outlined in the Disciplinary Rules and a breach of the Town Council's rules will be dealt with under the Town Council's Disciplinary Procedure.

## **DISCIPLINARY RULES AND PROCEDURES**

This Procedure does not apply where the termination of employment is due to redundancy or on termination of fixed term and other temporary contracts.

### **1. INTRODUCTION**

These disciplinary rules and procedures are applicable to all Halewood Town Council employees. Halewood Town Council recognises the importance of treating employees fairly and consistently. This Procedure is designed to deal with allegations of misconduct or poor attendance or performance promptly, fairly and consistently. Its primary purpose is not to encourage the application of sanctions, but to encourage all employees to maintain high standards of conduct, attendance and performance, thereby enhancing services to the Community.

### **2. GENERAL PRINCIPLES**

In all cases the following principles must be applied when dealing with disciplinary matters:

- 2.1 An employee has the right to appeal against any disciplinary sanction imposed as a result of the application of this Procedure.
- 2.2 In the interests of natural justice, no employee or Member of the Council shall adjudicate at any appeal if they have been directly involved in the case at an earlier stage. Similarly, no Officer shall investigate and hear the same disciplinary case.
- 2.3 Employees are to be made aware of their right to representation either by a Trade Union representative or colleague at all stages of the Procedure. This right does not include the right to be accompanied/represented by a Solicitor or other legally qualified representative.
- 2.4 Any employee who has a disability as defined by the Disability Discrimination Act 1995, whose disability may disadvantage him/her during disciplinary proceedings, is entitled to be accompanied by a friend or adviser from outside of the Council at any meeting convened under this Procedure. This is particularly relevant where the disability may affect the employee's ability to understand or remember information, or where the disability may affect the employee's ability to communicate effectively.
- 2.5 No action shall be taken against Trade Union representatives who are the subject of allegations, until the matter has been discussed with a full time official of that Trade Union, who should be contacted as soon as is practically possible.

- 2.6 It is the responsibility of management to arrange any meetings necessary within this Procedure. It is the responsibility of the employee and his/her representatives to attend such meetings. Repeated adjournment or unnecessary delay of meetings shall not be allowed and all parties should make every effort to avoid such circumstances.
- 2.7 Observers will be allowed throughout the process but only for training and development purposes and with the agreement of all parties at the meeting.
- 2.8 No disciplinary hearing shall take place or disciplinary action be taken against any employee until all relevant facts have been gathered; so that the employee and/or his/her representative have had the opportunity to respond to the allegations. **A thorough investigation must take place prior to any Disciplinary Hearing. This will include interviewing witnesses where necessary.**
- 2.9 All information relating to the case shall be documented in writing, including the notes gathered during the investigation; a copy of which shall be made available to the employee and his/her representative prior to any disciplinary hearing taking place, or to any disciplinary action being taken.
- 2.10 Wherever possible, any appeal panel will be constituted to include at least one person senior, (or equal to), in authority to the original person who took the original disciplinary action.
- 2.11 In a large local authority, there is no role for elected members in the investigatory process (other than as witnesses), or in the initial disciplinary process (unless the Chief Executive is the Investigating Officer). The nature and size of Halewood Town Council, however, is such that it would be inappropriate to entirely exclude members from these processes. However, if a member has an involvement in the investigatory or disciplinary process, then that member is debarred from sitting on a disciplinary or appeals panel on that matter.
- 2.12 If the Town Manager is suspected of misconduct, the alleged misconduct should be brought to the attention of the Majority Group Leader of the Town Council, who should request the assistance of the principal authority's Principal HR Officer, or their nominated representative to investigate the circumstances of the alleged misconduct. If the suspicion of misconduct proves unfounded, or cannot be substantiated, the HR representative should inform the Majority Group Leader of the Town Council accordingly, and no further action shall be taken. If there is evidence to support an allegation of misconduct the HR representative shall report their findings to a Special Sub-Committee of the Town Council, (comprised of not less than three and not more than four

members), convened specifically for the purpose. The Sub-Committee will determine what disciplinary action, if any, is appropriate.

Matters dealt with under this Procedure shall be treated as confidential. All records and correspondence shall be filed and stored in a proper manner and shall be bound by the provisions of the Data Protection Act 1998 where appropriate.

### **3. INFORMAL STAGE**

- 3.1 It is accepted that there may be issues of a minor nature which would be more appropriately dealt with by informal means. This may involve counselling and/or coaching, or an informal warning being given to the employee. In such cases, it may also be appropriate to consider informal advice, coaching and counselling as a means of achieving the improvement required. It will be for management to determine whether this should be the case. It is important that employees understand what needs to be done, how performance or conduct will be reviewed and over what period. Employees should also be informed of what action may be taken should their performance or conduct fail to improve.

If minor misconduct is repeated or continues the formal stages of the Procedure should be invoked.

- 3.2 There is no automatic right for Trade Unions to be consulted or involved regarding issues dealt with under the informal stage of this Procedure.
- 3.3 Use of the informal stage can give the employee some opportunity to improve thereby removing the need for the use of formal stages within the Procedure.
- 3.4 Informal actions are not part of the Disciplinary Procedure. However, employees must be informed of the consequences of their behaviour or conduct failing to improve.

### **4. FORMAL STAGE**

- 4.1 Where a Line Manager becomes aware of an allegation of misconduct which is not considered minor, or where informal warnings or advice have not been effective, the formal stage of the Procedure should be used.
- 4.2 Care must be taken at this stage to ensure that possible welfare and other issues are recognised and dealt with using the appropriate procedures.
- 4.3 In cases where allegations involve potential sexual/physical abuse or inappropriate sexual activity involving employees and children or vulnerable adults or potential financial irregularities, this Disciplinary

Procedure will be used in conjunction with other appropriate procedures and agencies. This could include the principal authority's child protection procedures, Child Protection Units of the principal authority and the Police.

- 4.4 Provided that the above care has been exercised, an appropriate Investigating Officer shall be identified by the Town Manager or his/her nominee. In determining an appropriate investigating officer, account shall be taken of all of the relevant circumstances including the seriousness of the allegations, and the grade and seniority of the employee whose conduct is to be investigated. The Investigating Officer can be advised by an employee from the principal authority's Human Resources (HR) Section, and shall commence a formal investigation of the allegations.
- 4.5 At the appropriate time and without any unnecessary delay an investigatory meeting shall be arranged. A letter should be sent to the employee[s] detailing the allegations to be discussed at the investigatory meeting. A copy of this letter must be sent to the appropriate Trade Union representative (if known). At the investigatory meeting the employee[s] shall be entitled to Trade Union representation or to be accompanied by a colleague.
- 4.6 The investigatory meeting shall be attended by the Investigating Officer who will chair the meeting, the employee, his/her representative [should the employee wish this], and if required, an employee from the principal authority's HR Section. At the meeting the employee must be given the opportunity to respond to all of the allegations.
- 4.7 The Investigating Officer, together with the appropriate employee from the principal authority's HR Section shall interview any witnesses that he/she considers appropriate or relevant to the case. These interviews can be conducted either prior to, or following the investigatory meeting. Witnesses have no right to be accompanied by any other party, at any meeting convened as part of this Procedure.
- 4.8 It may be necessary to re-interview the employee[s] who is subject to the allegations to clarify points. If so, the Procedure regarding attendance (as outlined in 4.6), should be replicated.
- 4.9 A formal record of all interviews undertaken during the investigation must be kept. Interviewees must be informed that the interview will be noted and that those notes may be produced as evidence at a later stage.
- 4.10 When the Investigating Officer (advised by the principal authority's Human Resources Section), is satisfied that the investigation is complete, he/she must determine whether there may be a case to answer.

- 4.11 If the Investigating Officer is satisfied that there is no case to answer, the employee must be informed of this decision, in writing, within 7 days of the Investigating Officer reaching that conclusion.
- 4.12 In circumstances where the Investigating Officer determines that there may be a case to answer, a Disciplinary Hearing must be arranged.
- 4.13 In the course of an investigation an employee may possibly raise a grievance about the conduct of the manager handling the case. Depending upon the circumstances, it may be appropriate to suspend the investigation for a short period until the grievance can be considered.

## **5. DISCIPLINARY HEARINGS**

If a Disciplinary Hearing is arranged, the Investigating Officer must produce a summary of his/her findings. A copy of this will be made available to all parties at least 7 days prior to the Disciplinary Hearing taking place. Any written evidence that is to be produced at the Disciplinary Hearing must also accompany this summary.

- 5.1 If, following a thorough investigation, a Disciplinary Hearing is considered appropriate, such a hearing must be convened at the earliest possible opportunity.
- 5.2 The employee shall be given at least 7 days notice, in writing of a Disciplinary Hearing (unless otherwise mutually agreed).
- 5.3 Present at the hearing will normally be:
- the employee
  - the employee's representative
  - the Investigating Officer and, (if used), the principal authority's Human Resources Officer who assisted during the investigation
  - the Chair of the hearing
  - a representative from the principal authority's Human Resources Section to advise the Chair
  - any witnesses called by either party
- 5.4 The Disciplinary Hearing shall follow the Procedure outlined at Appendix A. The employee chairing the hearing shall be responsible for ensuring that it is conducted in a fair, reasonable and proper manner. If the Disciplinary Hearing is not chaired by the Town Council's Majority Group Leader, he/she shall nominate an appropriate Member to chair the hearing

- 5.5 All parties should have sight of any documentary evidence that is to be presented at the disciplinary hearing at least 7 days prior to the meeting taking place.
- 5.6 Only in exceptional circumstances, and at the discretion of the Chair, will documentary evidence that has not been disclosed as outlined in section 5.5, be allowed to be submitted at the Disciplinary Hearing.

## **6 FORMS OF DISCIPLINARY ACTION**

- 6.1. After the Disciplinary Hearing, management shall notify the employee concerned, in writing, within 5 working days whether any disciplinary action is to be taken. Time limits for warnings will be effective from the date the decision is notified to the employee.

In reaching a decision upon any appropriate disciplinary action, the member chairing the hearing shall consider the need to act reasonably in all the circumstances and shall take into account the extent to which standards have been breached, the employee's disciplinary and general record, precedent, position, length of service and any other relevant or mitigating factors or special circumstances which might make it appropriate to adjust the severity of the penalty.

### **6.2 Oral Warning (Stage 1 )**

For relatively minor offences the employee will be given an oral warning, and shall be advised of the reason for the warning and that this will be noted on their personal file. The employee shall be informed that this is the first stage of the Disciplinary Procedure and shall be advised of their right of appeal.

The warning will be disregarded for disciplinary purposes following the completion of six month's satisfactory service from the date of the decision.

### **6.3 Written Warning (Stage 2 )**

If a more serious offence is committed, or further minor misdemeanours occur, or there is no improvement before a warning has elapsed, a written warning should be issued, and a copy placed on the employee's personal file. The warning shall give details of the misconduct or breach and the improvement in conduct or behaviour that is required and shall include a statement specifying that this is Stage 2 of the Disciplinary Procedure. Also, that if there is no satisfactory improvement, further action under Stage 3 may be necessary. The letter will also inform the employee of the right of appeal against the warning. The warning will be disregarded for



disciplinary purposes after the completion of twelve months satisfactory service from the date of the decision.

#### 6.4 Final Written Warning (Stage 3)

If serious misconduct occurs, or the performance of the employee, following the issue of a written warning, remains unsatisfactory, a Final Written Warning may be given.

The Final Written Warning must give details of the misconduct or breach and the improvement in conduct or behaviour that is required, and make clear to the employee that any further unsatisfactory reports of work performance or any misconduct during the lifetime of the warning may result in dismissal. The employee will also be advised of their right of appeal against the warning. The Final Written Warning will remain on the employee's personal file for a period of 24 months from the date of the decision. The warning will be disregarded for disciplinary purposes after the completion of 24 months' satisfactory service from the date of the decision.

#### 6.5 Dismissal

Dismissal will only be considered when the Majority Group Leader of the Town Council, or his/her nominee who has chaired the Disciplinary Hearing, has reasonable grounds for concluding that an employee is guilty of gross misconduct. Or that the employee has shown a failure to improve or has committed further acts of misconduct during the lifetime of a Final Written Warning. If the Majority Group Leader of the Town Council, or his/her nominee, is of the opinion that dismissal is appropriate then he/she is empowered to dismiss the employee accordingly.

The employee shall be informed as soon as possible of the reasons for dismissal, the date upon which the dismissal will take effect, any appropriate period of notice (or pay in lieu of notice) and of their right of appeal against the decision to dismiss. These details shall be confirmed to the employee in writing as soon as is practicable and, no later than five working days after the date of the decision to dismiss.

#### 6.6 Action Short of Dismissal

Where dismissal would normally be considered, but there are exceptional circumstances, action short of dismissal may be considered by the Majority Group Leader of the Town Council, or his/her nominee. The following penalties can be used in conjunction with a Final Written Warning and could be either:

[a] suspension without pay for up to 10 days; or

[b] demotion on a permanent basis to another job with no protection of remuneration.

The decision in this regard must be confirmed to the employee in writing and must give details of the misconduct or breach, and must also inform the employee that any further unsatisfactory reports of work performance or any further misconduct during the lifetime of the Final Written Warning may result in dismissal. The employee shall also be advised of their right of appeal.

## **7 GROSS MISCONDUCT AND SUSPENSION**

Gross Misconduct is an act or omission on the part of the employee of such seriousness that the Council is justified in no longer tolerating the employee's continued presence in the workplace.

Some examples of Gross Misconduct that could lead to summary dismissal for a first offence are; theft; dishonesty; fraud; falsification of records; physical violence or threatening physical violence; serious bullying; harassment of any kind eg. racial or sexual; sexual offences; deliberate damage to Town Council or other property; serious insubordination including failure to follow a reasonable instruction; misuse of the Town Council's property or name; bringing the Town Council into serious disrepute; serious incapability whilst on duty brought on by alcohol or illegal drugs; serious negligence which causes, or might cause, unacceptable loss, damage or injury; serious infringement of health and safety rules or serious breach of confidence (subject to the Public Interest Disclosure Act).

As a result of the Anti-Bribery Act 2010, any employee being found to have deliberately accepted a bribe or gift in contravention of the Town Council's statement on accepting such gifts (Appendix "C") will also be classed as having committed Gross Misconduct.

This list is not intended to be exhaustive and similar or other serious offences may be considered to be Gross Misconduct.

(It should be noted in this respect that a racist incident shall be defined as any incident, which is perceived to be racist either by the victim or by any other person)

In addition, any employee found unauthorised on licensed premises during working hours will face disciplinary action that could include summary dismissal.

When an issue of alleged Gross Misconduct has arisen, arrangements should be made for the employee to be suspended from duty on full contractual pay as soon as is practically possible, pending a proper investigation of the matter. Prior to any

suspension of an employee advice must be sought from the principal authority's Human Resources Section.

There may also be occasions when it is felt that the continued presence of the employee at work could impede the investigation. In such circumstances the employee should be suspended on full pay in accordance with this Procedure.

Before suspension takes place efforts should be made to determine if there may be a case to answer. This should be done as a matter of urgency.

At any suspension meeting, wherever possible, the employee should be accompanied by their Trade Union representative. The employee should be told of the reason for the suspension, although no discussion of the case should take place at this time. The employee should also be advised that suspension in itself is not a disciplinary act.

The reason for the suspension should be confirmed in writing to the employee within 3 working days of the suspension meeting and a copy of the letter shall be sent to the employee's Trade Union representative.

## **8. APPEALS PROCEDURE**

- 8.1 Any appeal against disciplinary action must be submitted to the Officer or Member who chaired the meeting in writing within 10 working days of the employee receiving written confirmation of the disciplinary action. It must clearly outline the reasons for the appeal.
- 8.2 Appeal Hearings will normally be held within two months of the receipt of the appeal. Sufficient notice of the hearing shall be given to enable the employee to be represented at the appeal should they so wish.
- 8.3 Wherever possible, any appeal panel will be constituted to include at least one person senior, (or equal to), in authority to the original person who took the original disciplinary action.
- 8.4 Postponement of an appeal hearing shall not be allowed unless there are exceptional circumstances.
- 8.5 Appeals against dismissal and against action short of dismissal under this procedure will be heard by a special sub-committee of the Town Council convened specifically for that purpose.
- 8.6 Appeals against Final Written Warnings and Written Warnings will be heard by a special sub-committee of the Town Council convened specifically for that purpose.

- 8.7 Appeals against oral warnings will be heard by a special sub-committee of the Town Council convened specifically for that purpose.
- 8.8 In all cases of appeal both parties will be required to submit a Statement of case detailing the evidence to be presented. Such statements must be submitted within one month of the receipt of the appeal by the Council. Only in exceptional circumstances, and at the discretion of the Chair of the Appeal hearing, will documentary evidence that has not been included with the Statement of Case be allowed at the Appeal Hearing.
- 8.9 The employee and their representative shall, wherever possible, be advised of the outcome at the conclusion of the appeal hearing. Where this is not possible, the outcome will be communicated in writing within five working days of the hearing.
- 8.10 The decision of the appeal hearing shall be final. There shall be no further internal right of appeal

## **9. PROBATIONARY EMPLOYEES**

Probationary employees are by definition working within a trial period to assess their suitability for permanent employment. They are not entitled to the full provisions of this Disciplinary Procedure.

## **HALEWOOD TOWN COUNCIL**

### **GRIEVANCE PROCEDURE** **(Amended January 2010)**

#### **1. Introduction**

This Procedure is designed to provide a fair and clear method by which individual employees can raise a grievance regarding their employment with the Town Council.

No employee shall be victimised or suffer any detriment as a direct result of raising a grievance under this procedure. However, action may be taken against an employee whom it is later proven raises a false, vexatious or malicious complaint.

Issues which might be covered by this procedure include:

- Terms and conditions of employment (but not grading)
- Health & safety
- Working practices
- Organisational changes
- Treatment at work

#### **2. General**

If you have a grievance relating to your employment, which meets one of the above criteria, the following grievance procedure will operate:

- 2.1 Whenever possible, grievances should be resolved informally via discussion and agreement between the employee and the Line Manager. There may be occasion's when this is not possible due to the grievance arising from alleged actions of the immediate Line Manager. In this case it should be escalated to the Town Manager, or if involving him/her, to the Leader of the Majority Group of the Town Council.
- 2.2 Managers must deal with grievances as quickly as possible following receipt of formal notification of a grievance. If at any stage the grievance cannot be dealt with within 10 working days, contact will be made with the employee or their representative to notify them of the reason for the delay. All stages of the Grievance Procedure must be dealt with as quickly as is reasonably practical.
- 2.3 At all formal stages of the Grievance procedure, (after informal attempts to resolve the matter have failed) the employee is entitled to be represented or accompanied by a member of their family, a colleague or a representative of their Trade Union, (providing they are not attending in a legal capacity).
- 2.4 Employees who have left the employment of the Town Council have a right to raise a grievance. Under the Employment Act 2002 (Dispute Resolution) Regulations 2004,

the ex-employee can either raise a grievance through the “modified” two-step process or through the Council’s Grievance Procedure. The modified procedure shortens the process as the individual sets their grievance out in writing and the ex-employer must set out a formal response. It does not provide an appeals framework. Ex-employees who wish to raise a grievance via the modified process should set out their grievance in writing including the basis for it and confirm that they wish to follow the modified process. This should be sent to the Town Manager, or if the grievance involves him/her, to the Leader of the Majority Group of the Town Council. If ex-employees wish to raise a grievance using the Council’s Grievance procedure they should follow the process as outlined at 4.1.

2.5 Matters dealt with under this Procedure shall be treated as confidential. All records and correspondence shall be filed and stored in a proper manner and shall be bound by the provisions of the Data Protection Act 1998 where appropriate.

### 3. Procedure

A grievance can only be pursued formally following informal attempts to resolve the matter between the employee and his/her Line Manager or, where it is not appropriate.

### 4. First Formal Stage

4.1 If an employee wishes to pursue the grievance formally, he/she must provide written details of the complaint which should include the resolution sought by the employee. This must be provided within ten working days of the meeting between the employee and the Line Manager.

4.2 Upon receipt of this written notification an appropriate person shall be designated to investigate the grievance. This shall be the Town Manager, unless the grievance directly involves him/her. In this case the Leader of the Majority Group of the Town Council will decide upon the appropriate person. It is the responsibility of the person nominated to investigate the grievance to ensure that a full and proper investigation takes place and to interview all appropriate parties prior to reaching any conclusions. The investigation shall be concluded within ten working days wherever practically possible and the conclusions of the investigation and reasons for any decision shall be communicated to the employee in writing. If it is not possible to conclude the investigation or respond to the grievance within this period, the employee shall be given an explanation for the delay and informed of when a response can be expected.

### 5. Second and Final Formal Stage

5.1 If the employee continues to be aggrieved, he/she can request that the matter be placed before a Grievance Panel consisting of Elected Members of the Town Council. Any such request must be received within ten working days of the employee receiving notification of the decision in 4.2 above. If an Elected Member has been involved in the

previous investigation stage involving the Town Manager in 4.2 above, then he/she cannot be involved as part of a subsequent Grievance Panel.

5.2 Both the Management side and the Employee/Trade Union side will be required to submit a statement of case outlining the respective cases prior to a Grievance Panel being arranged. The statement must outline the case and include copies of any documentation that is intended to be used as evidence at the Grievance Panel.

5.3 The decision of the Grievance Panel shall be provided to the employee within five working days of the meeting where practical. A copy of this shall be sent to the employee's Trade Union Representative.

5.4 The decision of the Grievance Panel shall be final. There shall be no further internal right of appeal.

## **APPENDIX A**

### **HALEWOOD TOWN COUNCIL**

#### **DISCIPLINARY HEARING PROCEDURE**

1. At the commencement of the meeting the Officer chairing the Disciplinary Hearing will ensure that no unauthorised persons are present.
2. The Investigating Officer[s] will outline the case and his/her recommendations, together with any documentation he/she is putting to the Panel in support of his/her case. Any such documentation should also be provided to the employee[s] and Trade Union representative in advance of the meeting.
3. The employee or his/her Trade Union representative may ask questions of the Investigating Officer[s].
4. The members of the Panel will then have the opportunity to ask questions of the Investigating Officer[s].
5. The Investigating Officer[s] will call his/her witness [if any] who will give evidence and who will be questioned by the Investigating Officer[s].
6. The employee or his/her Trade Union representative may question the witness.
7. The members of the Panel may question the witness.
8. The Investigating Officer[s] may re-examine the witness. The witness will leave the room.
9. The Procedure relating to the first witness will then be repeated for any further witnesses called by the Investigating Officer[s].
10. The employee or his/her Trade Union representative will then outline his/her case prior to calling his/her witness. Any documentation should be provided to the Panel and the Investigating Officer prior to the meeting.
11. The Investigating Officer may ask questions of the employee/Trade Union representative.
12. The members of the Panel may ask questions of the employee/Trade Union representative.



13. The employee/Trade Union representative will call his/her first witness [if any] who will give evidence and be questioned by the employee/Trade Union representative.
14. The Investigating Officer[s] may question the witness.
15. The Panel members may question the witness.
16. The employee/Trade Union representative may re-examine the witness. The witness will then leave the room.
17. The Procedure will then be repeated for any further witnesses called by the employee/Trade Union representative.
18. The Investigating Officer[s] will then summarise the case.
19. The employee/Trade Union representative will then summarise his/her case.
20. The Chair of the Disciplinary Panel will ask the employee and his/her Trade Union representative whether he/she feels he/she has had an adequate opportunity to put his/her side of the case to the Panel.
21. All participants will withdraw from the room whilst the Panel deliberates.
22. Either party may be recalled by the Panel to clarify issues. If this is required, both parties will be asked to return to the room irrespective of whether the question is to be asked of only one of the parties.
23. Following the deliberations of the Panel, the decision will be conveyed to the employee as soon as possible. In any event this must be within 5 working days of the Disciplinary Hearing. The decision will be confirmed in writing, except for verbal warnings.

## **APPENDIX B**

### **DEALING WITH CRIMINAL OFFENCES**

**Criminal convictions or charges against an employee should not be treated as automatic reasons for dismissal or disciplinary action.** Careful and full consideration must be given as to whether the offence is of relevance to the individual's employment, or if the offence makes the employee's presence in the workplace unacceptable to colleagues and/or customers of the Council.

Where it appears that a criminal offence has been committed and that the offence may have relevance to the individual's employment, an investigation should be conducted in accordance with the Council's Disciplinary Procedure.

It will be the decision of Line Managers as to whether matters proceed as outlined above. In such cases, advice should be sought from the Head of Human Resources and/or Legal Services.

In the case of a conviction that results in an employee being imprisoned, as full and thorough an investigation as is possible must be undertaken. Employees who are imprisoned will not be entitled to salary/wage payments, as they are not available for work. In such circumstances it is possible for a disciplinary hearing to proceed in the employee's absence. The employee will, of course, be entitled to be represented at any hearings conducted under this Procedure.

Any evidence provided by the police may be submitted at any proceedings conducted within this Procedure and Police Officers may be invited to attend disciplinary hearings as witnesses.

**As stated in the ACAS Code of Practice on Disciplinary and Grievance Procedures, an employee should not be dismissed solely because a criminal charge against them is pending, or because they are absent from work as a result of being remanded in custody.**

**ANTI-BRIBERY STATEMENT**

The Town Council is committed to applying the highest standards of ethical conduct and integrity to its business activities. When acting on behalf of the Town Council you are responsible for maintaining the Town Council's reputation and for conducting business honestly and professionally.

The integrity and reputation of the Town Council depends on the honesty, fairness and integrity brought to the job by everyone associated with the Town Council.

The Town Council will not tolerate any form of bribery, whether direct or indirect, by, or of, its employees, officers, agents or consultants or any persons or companies acting for it or on its behalf.

The Elected Members and Town Manager are committed to implementing and enforcing effective systems throughout the Company to prevent, monitor and eliminate bribery, in accordance with its obligations under the Bribery Act 2010.

The Town Council's Anti-Bribery Policy outlining its position on preventing and prohibiting bribery is set out in the latest edition Code of Conduct & Disciplinary Procedures.

The Town Council's Anti-Bribery procedures apply to all employees, as well as agency workers, consultants and contractors both in the UK and overseas.

All employees and any other individuals acting on behalf of the Town Council are required to familiarise themselves with and comply with the Town Council's Anti-Bribery Procedures.

A bribe is defined as a financial advantage or other reward that is offered to, promised to, given to, or received by an individual or company to induce or influence that individual or company to perform its public or corporate functions or duties in an improper manner (ie not in good faith, not impartially, or not in accordance with a position of trust).

All employees and any other person acting on behalf of the Town Council are prohibited from offering, giving, soliciting or accepting any bribe, whether cash or other form of inducement to or from any person or company in order to gain any commercial, contractual or regulatory advantage for the Town Council in a way which is unethical or in order to gain any personal advantage, monetary or otherwise, for themselves or anyone connected with them.

The Town Council will continue to provide bona fide hospitality to clients and incur promotional expenditure. However, all such expenditure must be transparent, proportionate, reasonable and authorised in advance, in accordance with the Town Council's anti-bribery procedures.

In the course of providing services to clients, or in dealings with suppliers, or any other person having similar connections to the Company, employees should under no circumstances accept money, gifts or other forms of reward with a value exceeding £25 without prior consent from the Town Manager. All such reported gifts shall be recorded.

Inevitably, decisions as to what is acceptable may not always be easy. If anyone is in doubt as to whether a potential act constitutes bribery, the matter should be referred to the Town Manager before proceeding.

Any breach of the Town Council's Anti-Bribery procedures will normally be treated as Gross Misconduct.

Employees should also note that bribery is a criminal offence.

The Town Council will not conduct business with third parties including clients, suppliers, agents or representatives who are not prepared to support its anti-bribery objectives.

The Town Council depends on all employees, and those acting for the organisation, to assist in the prevention of bribery. Therefore, all employees and others acting for, or on behalf of, the Town Council are expected to report any suspected bribery to the Town Council following the Town Council's Anti-Bribery procedures.

All employees will receive the support of the Town Council if they report instances of suspected bribery in good faith even if, following an investigation, it is found that no bribery took place.

**If an individual is guilty of an offence under the Act they can receive a prison sentence of up to 10 years and a fine of £5,000.**