

New Mills Town Council (NMTC)

Disciplinary Conduct & Capability Policy

(Presented for Adoption – TBC 2025)



1. Introduction

- 1.1 This policy outlines the Council's approach to addressing employee conduct (disciplinary) and performance (capability) concerns in a fair, consistent and lawful manner.
- 1.2 Effective handling of such matters ensures high-quality service delivery, good working relationships and protection of the Council's reputation and workforce wellbeing.
- 1.3 While informal resolution will be prioritised where appropriate, some matters will require formal action as described in this policy and associated procedures.
- 1.4 The policy is reviewed periodically to reflect legal changes, case law and emerging best practices.

2. Operation

- 2.1 The purpose of this policy is to support employees in achieving and maintaining acceptable standards of conduct and performance.
- 2.2 Where concerns relate to wilful misconduct, deliberate refusal to follow reasonable instructions, or negligent work, the **Disciplinary Procedure** will apply.
- 2.3 Where concerns relate to an employee's **inability or lack of capability** (e.g. insufficient skills, knowledge or aptitude), the **Capability Procedure** may be followed.
- 2.4 If it is determined that underperformance is due to negligence or deliberate non-compliance, the Disciplinary Procedure may be used instead.
- 2.5 The Council may also consider dismissal for **Some Other Substantial Reason (SOSR)**, including:
 - Irretrievable breakdown of working relationships.
 - Legal or professional restrictions preventing job duties.
 - Long-term inability to carry out work (e.g. due to imprisonment or loss of required certification).
- 2.6 HR advice must be sought before progressing any formal action.
- 2.7 Managers have discretion to determine the appropriate stage of the process, based on the seriousness of the issue and the evidence available.
- 2.8 This policy applies to all New Mills Town Council employees.

3. Principles of the Policy

- 3.1 **Informal Resolution** – Managers are encouraged to deal with concerns early through informal conversations and coaching. These may be documented, but are not part of formal disciplinary records.
- 3.2 **Nature of Allegations** – Employees will be informed in writing of concerns regarding conduct or capability, and given an opportunity to respond.
- 3.3 **Right to be Accompanied** – Employees have the statutory right to be accompanied at formal hearings by a trade union representative or work colleague.
- 3.4 **Confidentiality** – All disciplinary and capability proceedings are confidential. Any breach of confidentiality may itself constitute misconduct.
- 3.5 **Advice and Guidance** – Managers must consult HR when taking formal action, particularly when considering suspension.
- 3.6 **Timeliness** – All proceedings should be managed promptly. Employees will be informed of any delays and expected to attend scheduled meetings.
- 3.7 **Grievances During Proceedings** – Grievances related to the process will generally be handled as part of the ongoing disciplinary or capability matter.
- 3.8 **Officers' Roles** – Investigations will be undertaken by individuals with no prior involvement in the case. Hearings will be conducted by impartial officers in line with the Council's scheme of delegation.
- 3.9 **Suspension from Duty** – Suspension is a neutral act and not a disciplinary sanction. It will only be used when alternatives are not viable and will be reviewed regularly. Employees will remain on full pay and must be available during working hours.

4. Examples Of Misconduct

- Unauthorised absence
- Poor timekeeping
- Misuse of Council resources (e.g. phone, email, internet)
- Inappropriate behaviour
- Failure or refusal to follow reasonable instructions (including incompetence, inability, or wilful neglect)
- Breach of health and safety rules

5. Examples Of Gross Misconduct

- Bullying, harassment, or discrimination
- Intoxication while at work
- Violent behaviour
- Fraud or theft

- Gross negligence
- Gross insubordination
- Serious breaches of Council policy (e.g. data protection, equality)
- Accessing offensive or inappropriate material
- Disclosure of confidential information

6. Examples Of Unsatisfactory Performance

- Failure to apply agreed procedures or instructions
- Inadequate IT or communication skills
- Ineffective staff management
- Repeated errors despite support
- **Inability to meet the physical requirements of the role**, where these are an essential part of the job, and where all reasonable adjustments have been considered in accordance with the Equality Act 2010

7. Procedure

7.1 Preliminary Enquiries

Used to gather basic facts and assess whether a formal investigation is required.

7.2 Informal Process

Managers may raise concerns verbally and follow up in writing. If improvement does not occur, the formal process may begin.

7.3 Formal Investigation

Conducted by an independent investigator (usually a councillor uninvolved in the matter) appointed by the Staffing Committee. Findings are reported in writing within 20 working days if possible.

7.4 Disciplinary Meeting

If there is a case to answer, a Staffing Sub-Committee of three impartial councillors will hear the case. The employee will receive:

- Written notice of allegations
- Relevant evidence and report
- Notice of right to be accompanied

At the meeting:

- The Investigator presents findings
- The employee responds
- Both sides may ask questions
- A written decision will follow within five working days

7.5 Disciplinary Sanctions

First Written Warning

- For minor or first-time issues
- Outlines required improvements and timeframes
- Lasts typically 12 months

Final Written Warning

- For more serious issues or repeat misconduct
- Warns that further breaches may lead to dismissal
- Typically remains on file for 12 months

Dismissal

- For gross misconduct
- Or repeated misconduct after a final warning
- The decision includes reasons, final day of employment, and appeal rights

8. Appeals

- Employees may appeal in writing within five working days of the decision.
- Grounds may include:
 - Procedural irregularity
 - Disproportionate outcome
 - New evidence
- Appeals will be heard by councillors not previously involved.
- Decisions may uphold, vary or overturn the original outcome and are final.
- If dismissal is overturned, pay and service will be reinstated.

9. Capability And Physical Requirements

- 9.1 In cases where an employee appears unable to meet the physical requirements of their role, New Mills Town Council will obtain appropriate medical or occupational health advice to determine the nature and extent of any limitations.
- 9.2 The Council recognises its legal duty to consider and implement reasonable adjustments for employees with a disability or health condition, as defined by the Equality Act 2010. No formal action under the Capability Procedure will be taken until all appropriate support options have been explored.
- 9.3 Where reasonable adjustments or redeployment cannot enable the employee to meet the essential requirements of the role, the matter may be progressed under the Capability Procedure. Any decision will be taken with sensitivity, fairness, and in consultation with HR and relevant medical professionals.