



POLICY	
Policy Number: CORP2022-003	Date Approved: January 2016
Department: Corporate	Date Reviewed: May 2022
Code of Discipline, Corporate	

1. Policy Statement

The Town of Kirkland Lake (referred to as the “Corporation”) must ensure employees carry out their responsibilities in a professional, effective manner that is consistent with the values of the Corporation. Employees are expected to act in a manner, which reflects positively on themselves and the Municipality.

2. Purpose

All employees of the Corporation of the Town of Kirkland Lake share a common goal of providing the best possible service both within the Corporation and to the public, and to strive to reach the Corporation's goals and objectives.

In order to reach these goals, all management shall strive through personal leadership and motivation, to maintain an atmosphere of trust and open communication with employees. They shall operate from the premise that problems, which may arise from time to time, are best resolved through open dialogue between the employee and the supervisor.

It is also recognized that unions can, and should, play a vital role in attempting to resolve problems at the earliest stage possible. To this end, management is committed to meet and discuss problems with the appropriate union representative of bargaining unit employees.

In the pursuit of achieving the Corporation's goals and objectives, it may become necessary for management to contemplate some form of disciplinary action if circumstances warrant. If this situation should arise, it is the Corporation's position and philosophy that disciplinary action is designed to be corrective rather than punitive in nature. The effect of this would be to encourage employees to change unacceptable behavior, to deter similar acts of behavior and to motivate the employee towards achieving the overall goals of the Corporation.

For the most part, an employee shall be given the opportunity to improve unacceptable work performance or conduct insofar as this is reasonable and practical. However, there may be occasions where, due to the frequency or seriousness of an employee's misconduct, the most appropriate disciplinary measure is termination of employment by discharge. While it is hoped that these situations will be most rare, it is recognized that this action would be required in the event that the employer/employee relationship is no longer viable.

Employees engaging in behaviour that falls below the expected standard of conduct or performance will be subject to a disciplinary sanction appropriate in the circumstances. Generally, the Corporation views discipline as a positive process, which has the purpose of correcting unsatisfactory situations.

Discipline is formal action taken by the Corporation in response to an employee's undesirable conduct or performance, which must be corrected.

Progressive discipline is a series of disciplinary steps, which increase in severity. The intention of progressive discipline is to communicate the seriousness of the conduct or performance deficiencies and provide directions on how to correct the problematic behaviour.

Each situation is unique. The disciplinary sanction issued will be determined based on all the circumstances present. Serious conduct or performance deficiencies may result in immediate and significant disciplinary sanctions, up to and including termination.

The Corporation recognizes and is committed to complying with all human rights and occupational health and safety obligations in executing this policy.

In all actions involving disciplinary action, it is recognized that unionized employees have the right to access the grievance procedure as outlined in the respective collective agreement.

3. Scope

This policy applies to all employees of the Corporation. This policy applies with the necessary modifications required to comply with any applicable collective agreements.

4. Policy & Procedures

4.1 Application of Discipline Policy

Due to the variety of situations that may arise in an organization as diversified as the Corporation of the Town of Kirkland Lake, this document is intended to be a guideline only regarding the handling of disciplinary matters. However, it is important to recognize that, to the extent possible, a consistent approach to discipline is both appropriate and desirable.

To this end, the Administration and HR Department is available to discuss the appropriateness of contemplated disciplinary action.

4.2 Prerequisites for Discipline

An employee cannot, in most instances, be disciplined for, among other items, breach of Town of Kirkland Lake policy, violation of rules and/or regulations, or failure to perform satisfactorily unless it can be demonstrated that a reasonable employee should have been aware of what was expected.

Therefore, it is important to note that employees should be informed about the rules, regulations and policies governing all Town employees and specific information related to what is expected of the employee in the work environment. If an employee's behaviour is not acceptable, it must be pointed out to the employee what is expected of them and what the consequences of failing to comply with such expectations will be.

4.3 Disciplinary Conduct

All employees are expected to meet reasonable standards of job performance and personal and professional conduct. The degree of discipline issued will depend on the severity of the infraction, and will comply with any applicable collective agreements, contracts, laws or regulations.

The actions considered as cause for disciplinary action include but not limited to:

- violation of the rules or policies of the Corporation;
- violation of any legal or regulatory requirements;
- misuse of the Corporation's resources;
- insubordination;
- neglect of duty;
- incompetence;
- failing to meet performance expectations;
- culpable absenteeism, including lateness;
- inappropriate comments or conduct including bullying, harassment or violence;
- theft;
- negative remarks against the Municipality, colleagues or members of Council;
- acting in a conflict of interest;

- aggressive or abusive conduct;
- dishonesty;
- making false allegations against colleagues or others;
- any action or inaction that harms or is perceived to harm the Corporation, or which may negatively impact fellow employees or members of the public;
- assaults a supervisor or members of the public;
- acts in contravention of the Corporation's policies on Conflict of Interest and Personal Use of Town Property;
- commits an indictable offence or an offence punishable under any statute of Canada or any Province or territory which affects ability to perform the duties of the position;
- steals or participates in the theft of public property;
- willfully causes waste, damage or destruction of any public property;
- operates a Town vehicle while employee's license is suspended;
- engages in workplace harassment, workplace sexual harassment or workplace violence;
- fraudulently obtains documentation required for approval of leave is absent without permission;
- tampers with attendance registers or time clocks to deliberately misrepresent attendance;
- acts in a manner likely to bring discredit to the Corporation;
- makes a false statement in relation to any matter affecting appointment or employment;
- makes or signs a false statement in relation to the performance of duties;
- sleeps on duty;
- falsifies expense or any other claim forms;
- reports for duty impaired or is unfit for duty due to the influence of alcohol or illegal drugs;
- consumes alcoholic beverages, legal drugs or illegal drugs that cause impairment while on duty, on or off of Town of Kirkland Lake premises. This includes paid and unpaid breaks for employees who are required by their jobs to operate vehicles and/or equipment, or work in safety sensitive areas (such as water distribution) while on duty;
- fails to account for, improperly withholds, misappropriates or misapplies any public money or property;

- fails to notify immediate manager of use of prescribed drugs causing impaired alertness and/or disorientation. Each employee is responsible for: determining any potential adverse effects of using prescribed or over-the-counter medication with his/her doctor or pharmacist, heading warning labels on medications re: impairment;
- breach of confidentiality by an employee who is entrusted with or has access to employee personal information or any other information deemed by the Corporation or by legislation to be confidential in nature;
- sustained, intemperate or unbalanced public criticism of either Corporate policy or procedures or the character or integrity of those responsible for the development or administration of policy or procedures;
- is discourteous or rude to members of the public or employees of other Branches or Departments;
- improperly uses the services of another employee during working hours or uses the property of the Corporation at any time for other than officially approved activities;
- disregards established safety practices;
- fails to promptly report a work accident;
- tampers with another employee's personal belongings or work assigned equipment, locker, toolbox, etc.;
- as a person in authority, condones or fails to take action when an employee has committed an infraction;
- misuse of Town computers or information systems by violating computer policy;
- departs early without reasonable explanation;
- interferes with the work of others;
- wastes time while on duty.

4.4 Role of Managers and Employees

It is the responsibility of employees to exhibit the required standard of conduct and performance. It is also the responsibility of employees to correct any problematic behaviour.

Managers have an important role in the discipline process. Managers are accountable for correcting the unacceptable behaviour of those employees who report to them. Managers must always act fairly and objectively. Managers must respond appropriately to all instances of unacceptable behaviour. By avoiding or delaying discipline, managers deprive employees of the opportunity to understand the acceptable standards of behaviour, and jeopardize the trust required to occupy a management role.

It is recognized that managers may implement non-disciplinary steps before formal discipline is issued. This may involve verbal or written reminders, cautions or clarifications through coaching or letters of instruction. The manager must clearly set out, in non-disciplinary language, the problematic behaviour, the rule, policy procedure or practice that applies, and the expected standard of conduct.

If an employee's actions are unacceptable and informal discussions have failed to correct the situation, it may be appropriate for the manager to consider some type of disciplinary action. It is extremely important that accurate records be kept by the supervisor with respect to all efforts to correct the undesired behaviour.

4.5 Union Representation

Subject to any specific collective agreement, unionized employees have the right to union representation at any meeting of a disciplinary nature.

4.6 Investigation

When a manager becomes aware of potential or actual disciplinary conduct, the manager will conduct an investigation reasonable in the circumstances to determine what occurred. A reasonable investigation may be as simple as confirming an employee reported to work late, or may be more complex and involve reviewing documents, interviewing witnesses, and any other step that may be required. The manager should engage higher levels of management to assist in the investigation when necessary.

The employee must be given an opportunity to explain and respond to the situation.

All steps taken in the investigation must be adequately documented.

The Corporation may implement interim measures during the investigation as required, such as placing the employee on a paid leave of absence.

4.7 Types of Disciplinary Action

Generally speaking, discipline falls into one of the following categories:

- a) Verbal Warning
- b) Written Warning
- c) Suspension
- d) Discharge

In imposing disciplinary action, it is important to note that generally such sanctions will be progressive. However, it may happen that an offence is so flagrant or serious that the only appropriate penalty is discharge without having

imposed any lesser penalty.

I. Verbal Warnings

A verbal warning should be applied to misconduct or performance issues of a relatively minor nature. This would include a statement of what the employee did wrong, how it could be corrected and the possible consequences if corrective action is not forthcoming from the employee. In most circumstances, this action will be sufficient to correct any inappropriate behaviour. A verbal warning must be documented.

II. Written Warning

A written warning should be applied in the event that the employee previously received a verbal warning and failed to correct the behaviour, or if the misconduct is serious enough to warrant a written warning.

III. Suspension

A suspension is the temporary removal of an employee from the place of work usually for a specified period of time. A suspension should be applied if the employee previously received a written warning and failed to correct the behaviour, or if the misconduct is serious enough to warrant a suspension. Suspensions are with pay, unless a provision in the employment contract or applicable collective agreement permits suspensions without pay. Suspensions may increase in severity. An employee may be issued a short-term suspension of 1-3 days, or a long-term suspension of greater than 3 days.

Note that administrative suspensions with pay pending the outcome of an investigation are non-disciplinary in nature and not subject to this policy.

Suspensions must be immediately reported to both the Department Head and to the Town CAO.

IV. Discharge

In the event that it is not possible to continue the Employer/employee relationship, it may be appropriate for the Corporation to consider discharging an employee. Discharge may be an appropriate sanction if an infraction is of a major nature; or it may be appropriate if an infraction is the latest in a series of offences, which have been dealt with through progressive stages of the disciplinary process. These offences may or may not be related and may by themselves, not warrant discharge. However, when examined as a whole, the employee's record may indicate that the continuation of the employment relationship is not appropriate.

Discharge is the most serious sanction that the Employer can impose. The

decision to proceed should be taken only after very careful consideration of all the available information and only when it is determined that the employee is no longer suitable for continued employment. It should be noted that only a Department Head could discharge an employee. This can only occur after a full discussion has taken place with the CAO and the Human Resource Supervisor and will be at the discretion of the CAO, subject to legal advice.

A letter of discharge should set out the facts and reasons the Corporation relied on in coming to the decision to terminate.

V. *Other Penalties*

The Corporation reserves the right to impose any other sanctions it deems appropriate such as demotion or transfer, where permissible by any applicable collective agreement, employment contract or law. When such sanctions are contemplated, the CAO shall be consulted.

4.8 Documenting Discipline Issued

The records of an employee's performance/behaviour must be as complete and detailed as possible.

At the time the employee is disciplined, the employee must be given a letter that, at minimum, states:

- The disciplinary sanction issued;
- The behaviour giving rise to the discipline;
- A description of the unacceptable behaviour, including when it occurred;
- An explanation of why the behaviour is unacceptable, including specific references to the policy or rule violated;
- Any other factors considered, such as previous discipline history;
- An explanation on how to correct the behaviour;
- Any relevant dates, including the date of the incident and the date discipline was issued;
- The name of the manager implementing the discipline;
- If applicable, a statement that further unacceptable behaviour will result in discipline up to and including termination.

The record must be objective; all discipline records forwarded to the employee's Personal File in the HR Office shall be clearly dated and identified in the subject line as follows:

- a) "Discipline"- suspension (or whatever it actually is);
- b) Last three digits of S.I.N./surname.

4.9 Factors Affecting the Degree of Penalty

In all cases where disciplinary action is contemplated, it is important to ascertain that the corrective measure to be applied is consistent with the particular circumstances surrounding the infraction.

- a) Seriousness of the infraction, including the actual offence and the effect of that offence on the Corporation;
- b) Uniformity of application, meaning the Corporation takes a consistent approach to similar offences in similar circumstances; Momentary Aberration or Premeditated Act, meaning whether or not the action arose because of an impulsive act or whether it was premeditated;
- c) Provocation, meaning whether or not an employee was provoked into action;
- d) Misunderstanding, or whether the employee reasonable knew about the expected standard of behaviour;
- e) Seniority, meaning an employee's length of service;
- f) Past Performance, meaning the employee's previous record and discipline history;
- g) Whether the employee acknowledges their behaviour and apologizes;
- h) Any other factor that applies in the circumstances.

4.10 Documenting Performance/Behavioural Problems

Throughout the discussion of the various types of disciplinary actions available to supervisors, the importance of making and keeping records has been emphasized. It is part of the supervisor's responsibility and duty to keep records of an employee's performance and/or conduct. Further, copies of all disciplinary documentation shall be forwarded to the CAO.

A record of the disciplinary action must be placed on the Personal File of the employee concerned. However, nothing of a disciplinary nature should be placed on the employee file without the knowledge of the employee.

If an employee declines to acknowledge the content of the document to be placed on their file, a notation should be made to this effect prior to filing the document.

4.11 One Penalty for One Offence

An employee may not be disciplined more than once for the same incident.

4.12 Consultation with the CAO

Further information or clarification concerning disciplinary action is available by contacting the CAO at the Town Hall.