

# **Longdon Parish Council**

## **Disciplinary and Grievance Procedure**

### **Purpose and scope**

The council's aim is to help and encourage all employees to achieve and maintain high standards of conduct whilst at work or representing the council. The aim is to ensure consistent and fair treatment for all. This procedure is prepared in accordance with the dismissal and dispute resolution procedures as set out in the Employment Act 2008 and the ACAS Code of Practice APR 2009. For procedures relating to conduct of Councillors, the Parish Council holds a separate policy.

### **Principles**

The procedure is designed to establish the facts quickly and to deal consistently with disciplinary or grievance issues. No disciplinary action will be taken until the matter has been fully investigated.

At every stage employees will be informed in writing of what is alleged and have the opportunity to state their case at a disciplinary meeting and be represented or accompanied, if they wish, by a trade union representative or a work colleague.

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

An employee has the right to appeal against any disciplinary penalty.

The procedure may be implemented at any stage if the employees alleged misconduct warrants such an action.

### **The procedure for misconduct**

It is policy that the following procedure should be followed when an employee is being disciplined or dismissed. The procedure provides that in normal cases a series of warnings will be given before discipline or dismissal is contemplated. The stages of the procedure that apply when discipline or dismissal is being contemplated comply with the statutory dismissal and grievance procedures and are based on the ACAS protocol. Matters which may be dealt with under this disciplinary and dismissal procedure include discipline and dismissal for the following reasons (although this list is not exhaustive and offences of a similar nature will result in disciplinary action being instigated):

- Unauthorised absences from work
- Persistent short term and/or frequent absences from work without a medical reason
- Lateness for work or poor timekeeping

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- Minor breaches of Health and Safety of other Society rules and procedures
- Sub-standard performance
- Failure to perform your job to the standard expected or in line with your job description/objectives
- Time wasting
- Disruptive behaviour
- Harassment or victimisation
- Misuse of council facilities including computer facilities (e.g. e-mail and the Internet)
- Refusal to carry out reasonable requests or instructions.
- Smoking in unauthorised areas
- Failure to follow an agreed Council procedure.

Minor cases of misconduct and most cases of poor performance may be dealt with by informal advice, coaching and counselling. In the case of the Clerk being the individual against whom there is a complaint or allegation, the matter should be handled discreetly by members of the Employment Committee and involve an informal meeting initially. An informal oral warning may be given, which does not count as part of the formal (or statutory) disciplinary procedure. No formal record of this type of warning will be kept. If there is no improvement or the matter is serious enough, the employee will be invited to a disciplinary meeting at which the matter can be properly discussed. The employee will be allowed to bring a colleague or Trade Union representative to the meeting. The outcome of the meeting will be communicated to the employee. There are four possible outcomes:

*Oral warning*

In the case of minor infringements the employee may be given a formal oral warning by the Chairman (or deputy if Chairman is unavailable) of the council. A note of the oral warning will be kept on file but will be disregarded for disciplinary purposes after six months. The employee has the right to appeal against a formal oral warning.

*Written warning*

If the infringement is more serious or there is no improvement in conduct after a formal oral warning the employee will be given a formal written warning giving details of the complaint, the improvement or change in behaviour required, the timescale allowed for this, the right of appeal and the fact that a final written warning may be given if there is no sustained satisfactory improvement or change. A copy of the written warning will be kept on file but will be disregarded for disciplinary purposes after 12 months.

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### *Final written warning*

Where there is a failure to improve or change behaviour during the currency of a prior formal written warning, or where the infringement is sufficiently serious, the employee may be given a final written warning. This will give details of the complaint, warn that failure to improve may lead to dismissal and refer to the right of appeal. The final written warning will be kept on file but will normally be disregarded for disciplinary purposes after 12 months.

### *Dismissal*

If the conduct or performance still fails to improve the final step will be to contemplate dismissal. The employer must follow the "Standard Disciplinary and Dismissal Procedure" which is a statutory requirement. Failure to do so will usually result in a finding of automatically unfair dismissal.

### **The Standard Disciplinary and Dismissal Procedure**

Step 1. Initial Formal Investigation. This requires a manager/investigating officer to meet with the member of staff and key witnesses. They should review relevant documentation and produce a report identifying findings and whether there is a case to answer at a disciplinary hearing. Present the case to a disciplinary panel where appropriate. A Meeting will be arranged to discuss the issue and agree level of action to be taken. This may be as follows:

- No formal warning
- Oral warning
- First Written Warning and implement action plan
- Final Written Warning and implement action plan

If the case is deemed to be of a serious nature, then it may proceed to a full disciplinary hearing

Step 2: Employer gives employee a written summary of the case and calls a hearing. The employer will set out in writing the alleged conduct, characteristics or other circumstances which lead him/her to contemplate dismissing or taking disciplinary action against the employee. The employer will inform the employee, in the written statement of the basis on which they have made allegations. If possible the employer will provide the employee with copies of any relevant evidence. The employer will invite the employee to a hearing to discuss the matter and will inform them who will be attending on behalf of the Council. The employer will be represented by two members of the Employment Committee who may be accompanied by a Human Resources Advisor.

Step 3: A disciplinary hearing is held and the employer informs employee of the outcome Disciplinary policy. The meeting will take place before any action, other than suspension on full pay, is taken. The meeting will be held without undue delay but only when the employee has had a reasonable opportunity to

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consider a response to the employer's written statement and any further verbal explanation the employer has provided. The employee must take all reasonable steps to attend the meeting. After the meeting the employer will inform the employee of their decision and notify the employee of their right to appeal against the decision if not satisfied with it. The employee must appeal to complete the statutory procedure.

Step 4: Appeal against the disciplinary decision if necessary. If the employee wishes to appeal they must inform their immediate manager as shown in the statement of employment particulars, in writing, within a reasonable time. The employer will then invite the employee to attend a further meeting. The employee must take all reasonable steps to attend the meeting. The Chair and one other Councillor who have not been previously involved, will hear the appeal. In exceptional circumstances two councillors from a neighbouring parish who have not been previously involved in the disciplinary procedure will hear the appeal. They may be accompanied by a Human Resources Advisor. The appeal hearing may take place before or after dismissal or disciplinary action has taken effect. After the appeal hearing the employer will inform the employee of the final decision of the appeal panel and will confirm it in writing as soon as practicable.

### **Gross misconduct**

If after investigation it is confirmed that the employee has committed one of the following offences (the list is not exhaustive), they will normally be dismissed:

- theft
- fraud and deliberate falsification of records
- physical violence
- serious bullying or harassment
- deliberate damage to property
- serious insubordination
- misuse of an organisation's property or name
- bringing the employer 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
- serious breach of confidence (subject to the Public Interest (Disclosure) Act 1998).

While the alleged gross misconduct is being investigated, the employee may be suspended, during which time the employee will be paid. Any decision to dismiss will be taken by the employer only after a full investigation.

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The Standard Disciplinary and Dismissal Procedure applies to dismissals for gross misconduct.

### **Modified Dismissal Procedure**

In a few cases of gross misconduct the employer may be justified in dismissing immediately without conducting an investigation. In these cases a two-step "Modified Dismissal Procedure" will be followed, otherwise the dismissal will be automatically unfair.

#### **Step 1: Employer gives written statement**

The employer must give the employee a written statement setting out the conduct that has resulted in the dismissal and informing them of the right to appeal against the decision to dismiss. The employee must appeal to complete the statutory procedure.

#### **Step 2: Appeal against the disciplinary decision**

If the employee wishes to appeal they must inform their immediate manager as shown in the statement of employment particulars. A meeting must be held (in accordance with the general principles set out above). The employer must inform the employee of the decision of the agreed panel following the meeting.

### **Grievance raised during a Disciplinary**

In some circumstances when a disciplinary process has commenced an employee chooses to exercise his/her right to raise an internal grievance about the employment relationship with the council or individual Members. In line with ACAS advice, disciplinary matters are placed on hold until grievances have been aired and actions towards a resolution have been progressed. In exceptional circumstances, it is pragmatic to deal with the two disputes concurrently but caution is advised and specialist advice should be sought if this arises.

### **Criminal Charges or Convictions**

If an employee is charged with or convicted of a criminal offence this does not automatically give rise to a disciplinary situation. Consideration needs to be given to how a charge or conviction may affect an employee's ability to undertake his or her job duties and their relationships with the employer, colleagues, subordinates or customers.

### **Abuse of this policy**

Any abuse in the application of this policy will be dealt with in accordance with the Council's Disciplinary Policy and Procedure and may possibly result in disciplinary action being taken, up to and including dismissal.