

Dunsford Parish Council: Disciplinary Procedure and Grievance Policy,

Reviewed & Adopted: [March 2019]

DISCIPLINARY PROCEDURE

1. Introduction

This disciplinary procedure is designed to help and encourage employees to achieve and maintain acceptable standards of conduct and job performance at all times, including the need to:

- Fulfil the duties specified in their contract of employment
- Be honest and act beyond suspicion or dishonesty
- Maintain high standards of integrity and conduct to protect the council's image and reputation with the public

1.1 This policy indicates the disciplinary procedure that will normally be followed in the event of misconduct. The following list provides examples of conduct that will normally be regarded as misconduct leading to disciplinary proceedings. The list is not exhaustive. These are examples only:

- Unsatisfactory time keeping
- Absenteeism, including any absence from work during a working day without prior authorisation or instruction
- Failure to comply with rules and regulations applicable to job requirements
- Failure by an employee to perform the duties and responsibilities of his or her post to the standard expected by Dunsford Parish Council
- Insubordination
- Any other conduct that from time to time is defined by the Council as amounting to misconduct

1.2 For first instances of minor misconduct the Chair of Council (the Chair) may speak to the employee informally before implementing a formal disciplinary procedure. However, there is no obligation for the Chair to do this.

2. Scope

The procedure applies to all employees of Dunsford Parish Council, hereinafter referred to as '**the Council**'.

3. Verbal warnings

Verbal Warnings are issued for most first instances of general misconduct depending on the seriousness of the offence. If the employee is given a Verbal Warning, he or she will be warned of the likely consequences of any further disciplinary offences or a failure to improve his or her conduct to the satisfaction of the council. A note confirming the Verbal Warning will be placed on the employee's personal file and a copy will be provided to the employee. A Verbal Warning will normally remain in force for six months. The Verbal Warning stage of the procedure may be omitted if the offence is of a sufficiently serious nature.

4. First Written Warning

In the case of a serious offence or repetition of an earlier minor offence the employee will normally be given a First Written Warning. A First Written Warning will be issued by the Chair and will set out:

- The nature of the offence and the improvement required (if appropriate) and over what period;
- The likely consequences of any further offence or failure by the employee to improve his/her conduct to an acceptable standard;

That further offences will result in more serious disciplinary action; and

The employee's right of appeal. A First Written Warning will normally remain in force for six months.

The First Written Warning stage of the procedure may be omitted if the offence is of a sufficiently serious nature.

5. Final Written Warning

If further misconduct occurs within the time period specified in a First Written Warning, or if the misconduct is sufficiently serious the employee will be given a Final Written Warning. A Final Written Warning will be issued by the Chair and will set out:

The nature of the offence and the improvement required (if appropriate) and over what period;

The likely consequences of any further offence or failure by the employee to improve his/her conduct to an acceptable standard;

That further offences will result in more serious disciplinary action up to and including dismissal; and

The employee's right of appeal.

Final Written Warnings may also be issued in circumstances where the misconduct does not amount to gross misconduct but is sufficiently serious enough to warrant only one written warning.

A Final Written Warning will normally remain in force for 12 months.

6. Standard Council Disciplinary Procedure

6.1 In the case of further misconduct within the time period specified in any Final Written Warning or if the misconduct is sufficiently serious and the Council deems it to be appropriate to contemplate the dismissal, demotion or suspension (without pay) of the employee the following formal Disciplinary Procedure will be followed.

6.2 The Council will investigate the alleged misconduct and will establish the facts surrounding the complaint as necessary, taking into account the statements of any available witnesses.

6.3 The Council will set out in writing the alleged conduct or other circumstances which lead the Council to contemplate dismissing the employee or taking disciplinary action against the employee and the basis for the allegation and will send the employee a copy of the statement inviting the employee to attend a disciplinary meeting to discuss the matter. The employee will be provided with a reasonable opportunity to consider his or her response to the information provided in the statement before attending the meeting. The employee must take all reasonable steps to attend the meeting.

6.4 Disciplinary meetings will normally be convened within five working days of the Council sending the employee the written statement referred to in 6.3 above. The employee may be accompanied to any disciplinary meeting by an agreed companion or by a representative of a trade union. The Council will be represented by a sub-committee appointed by the Council of three members one of whom will be the Chair except that no councillor with direct involvement in the matter will be appointed to the sub-committee.

6.5 If the time or date proposed for the meeting is inconvenient (either for the employee or for the employee's companion should he or she wish to be accompanied to the meeting pursuant to 6.4 above) the employee may ask to postpone the meeting by up to five working days.

6.6 The meeting may be adjourned to allow matters raised during the course of the meeting to be investigated, or to afford the sub-Committee time to consider their decision.

6.7 After the meeting the Council will inform the employee of their decision and any applicable sanction within five working days. The meeting may be reconvened for this purpose. The decision will be confirmed to the employee in writing.

6.8 If the employee wishes to appeal against the decision, he or she must notify the Council in writing within five working days of receiving written notice of the decision.

6.9 If the employee notifies the Council that he or she wishes to appeal, the employee will be invited to attend an Appeal meeting before a panel to be formed of three Council members, the Appeal panel will not include any Councillor who sat on the initial sub-Committee.

The employee must take all reasonable steps to attend that disciplinary appeal meeting. The employee has the right to be accompanied to a disciplinary appeal meeting by a fellow employee or by a representative of a trade union.6.10

A disciplinary appeal meeting will normally be convened within seven working days of the Council receiving notification that the employee wishes to appeal pursuant to 6.8 above. If the meeting date is inconvenient for the employee or the employee's companion, he or she may ask to postpone the meeting by up to five working days. It should be noted that:

- (i) Any new evidence that the employee wishes to put forward will be considered, as will any new evidence from the Council. The original disciplinary penalty will be reviewed.
- (ii) The disciplinary appeal sanction originally imposed cannot be increased upon appeal.
- (iii) The disciplinary appeal meeting will not necessarily take place before any disciplinary sanction imposed by the Council takes effect. If the employee's appeal is against dismissal and the appeal is successful, the employee will be reinstated and continuity of employment will be preserved.
- (iv) The Appeal meeting may be adjourned to allow matters raised during the course of the meeting to be investigated, or to afford the Appeal panel time to consider its decision.

6.11 After the disciplinary appeal meeting the Council will inform the employee of its final decision within five working days. The Appeal meeting may be reconvened for this purpose. The decision will be confirmed to the employee in writing.

7. Council Dismissal Procedure for use in Gross Misconduct

7.1 The following list provides examples of conduct that will normally be regarded by the Council as Gross Misconduct. This list is not exhaustive.

These are examples only:

- Refusal or repeated failure by an employee to carry out his or her duties
- Falsification of documents or information (including expense claims)
- Unauthorised disclosure of confidential information
- Assaulting a fellow employee or any other person whilst acting or purporting to act on behalf of the Council
- Insulting, indecent or offensive behaviour towards a fellow employee or any other person whilst acting or purporting to act on behalf of the Council
- Serious or repeated harassment (including sexual and racial harassment)
- Incapacity at work due to the influence of alcohol, non-prescription drugs or any other substance
- Wilful damage to council property
- Theft, unauthorised use or possession of council property or theft of the property of a fellow employee
- Conduct bringing the council into disrepute
- Misappropriation of funds
- Any other conduct that from time to time is defined by the Council as amounting to gross misconduct

7.2 If any employee is accused of any Gross Misconduct, he or she may be suspended from work on full pay pending the outcome of an investigation into the alleged offence(s). Such a period of suspension will not normally exceed 10 working days unless there are exceptional circumstances.

7.3 The Council will investigate the matter and will establish the facts surrounding the complaint as necessary, taking into account the statements of any available witnesses. As part of that investigation the employee will be interviewed.

7.4 If the Council believes the employee is guilty of gross misconduct his or her employment will be terminated summarily without notice or pay in lieu of notice.

7.5 The Council will send the employee a statement, setting out the allegations of misconduct that led to the employee's dismissal and the Council's basis for thinking that the employee is guilty of

that misconduct. The date on which the employment terminated will be confirmed to the employee and the employee may be reminded of any continuing obligations he or she may have following the termination of employment. This statement will also explain the employee's right to appeal against the Council's decision.

7.6 If the employee wishes to appeal against the Council's decision, he or she must notify the Council in writing within five working days of receiving notice of the Council's decision pursuant to 7.5 above.

7.7 If the employee appeals the Council will invite the employee to attend an Appeal meeting before a panel to be formed of three Council members. The employee must take all reasonable steps to attend the meeting. The employee has the right to be accompanied to a disciplinary appeal meeting by an agreed companion or by a representative of a trade union.

7.8 A disciplinary appeal meeting will normally be convened within seven working days of the Council receiving notice from the employee that he or she wishes to appeal pursuant to 7.6 above. If the date of the meeting is inconvenient for the employee or his or her companion the employee may ask to postpone the meeting by up to five working days. It should be noted that:

(i) Any new evidence that the employee wishes to put forward will be considered, as will any new evidence from the Council. The original disciplinary penalty will be reviewed.

(ii) The disciplinary sanction originally imposed cannot be increased upon appeal.

(iii) The disciplinary appeal meeting will not necessarily take place before any disciplinary sanction imposed by the Council takes effect. If the employee's appeal is against dismissal and the appeal is successful, the employee will be reinstated and continuity of employment will be preserved.

(iv) The appeal meeting may be adjourned to allow matters raised during the course of the meeting to be investigated, or to afford the Appeal panel members time to consider its decision.

7.9 After the disciplinary appeal meeting the employee will be informed of the Council's final decision within five working days. The Appeal meeting may be reconvened for this purpose. The Council's decision will be confirmed to the employee in writing.

8. General

Procedural Information

8.1 Verbal Warnings and Written Warnings will normally be issued by the Chair. Disciplinary proceedings raised under the Standard Council disciplinary procedure will also normally be investigated and any meetings to discuss the disciplinary proceedings conducted by the Chair.

8.2 Where disciplinary proceedings are instigated against the Clerk or any other employee relations matters are to be considered these will be dealt with by a panel of three Council members, one of whom shall be appointed Chair, if the Chair of Council is not one of the three. Verbal Warnings and Written Warnings will be given by the Chair of that panel. Any disciplinary appeal meeting will be conducted by a panel of three new members of the Council who did not sit on the original panel.

GRIEVANCE POLICY

It is the Council's policy to ensure that any employee with a grievance has access to a procedure, which can lead to a swift resolution of the grievance in a fair manner. Most routine complaints and grievances are best resolved informally in discussion with the Chair. Where the grievance cannot be resolved informally it will be dealt with under the following procedure.

1. The Grievance Procedure

1.1 The employee must put their grievance in a written statement and send a copy to the Council Chair. Where the grievance is against the Chair, the statement should be sent to the Vice Chair of the council.

1.2. The council will appoint a Grievance Panel comprising three councillors. The Grievance Panel will appoint a Chair from one of its members. No councillor with direct involvement in the matter shall be appointed to the Grievance Panel.

1.3 The Grievance Panel will investigate the matter before meeting the employee, which may include interviewing others (ie other councillors, members of the public, or council contractors).

1.4 When the investigation has been concluded, the council will invite the employee to attend a meeting to discuss the grievance. The employee will be given at least 5 working days' notice in writing of the date of the meeting.

The letter will include the following: -

- a. The names of the Panel's Chair and two other members.
- b. A summary of the employee's grievance based on his/her written submission.
- c. The date and place of the meeting.
- d. The employee's right to be accompanied or represented at the meeting by a trade union representative or an agreed companion.
- e. A copy of the Council's Grievance Policy.
- f. Confirmation that, if necessary, witnesses may attend on the employee's behalf and that the employee must provide the names of his/her witnesses at least 5 working days before the meeting.
- g. Confirmation that the employee will provide the council with all supporting evidence at least 5 working days before the meeting.

2. Conducting a Grievance Meeting

2.1 The objective of the meeting is to hear the evidence in respect of the employee's grievance and to decide whether or not the grievance is substantiated.

2.2 The procedure to be followed is: -

- a. The Chairman introduces members of the Grievance Panel and specifies their role.
- b. The employee or his/her representative sets out the grievance, including calling any witnesses.
- c. Members of the Panel may question the employee and any witness.
- d. The employee has the opportunity to sum up his/her case.
- e. The meeting is adjourned to allow the Grievance Panel to reach a decision.
- f. The meeting is reconvened and the employee is informed of the decision.
- g. The Grievance Panel writes to the employee informing him/her of its decision within 5 working days.

2.3 The letter must clearly set out: -

- a. The Panel's decision;
- b. The employee's right to appeal.

3. Arranging an Appeal

3.1 If the employee wishes to appeal, he/she must inform the Chair in writing within 5 working days of receiving the Grievance Panel's decision. The correspondence must state the grounds for appeal.

3.2 The grounds for appeal include:

- a. Failure by the Council to follow its Grievance Policy.
- b. The Grievance Panel's decision was not supported by the evidence.
- c. The Grievance Panel's action was inadequate/inappropriate.
- d. New evidence has come to light since the grievance hearing.

3.3 The Council will invite the employee to attend a further meeting. The employee will be notified, in writing, within 10 working days of receipt of the notice of appeal of the time, date and place of the appeal meeting. The employee will be advised that he/she may be accompanied by an agreed companion or trade union representative. It is the responsibility of each side to prepare themselves for the appeal including arranging for any witnesses to attend.

4. Conducting an Appeal

4.1 The appeal will be heard by three councillors who have not been previously been involved in the case.

4.2 The objective is: -

To review the decision of the Grievance Panel and decide whether or not that decision is warranted.

4.3 The Appeal Panel will appoint a Chair from among its members. The procedure of the Appeal Hearing is as follows: -

- a. The Chair explains the purpose of the meeting, which is to hear the employee's reasons for appealing against the decision of the Grievance Panel.
- b. The employee puts his/her case, including calling any witnesses.
- c. The Chair of the Grievance Panel puts the case for the decision it took in respect of the employee and calls any witnesses.
- d. The Appeal Panel has the opportunity to ask questions of both parties and witnesses.
- e. The appeal is adjourned to allow the Appeal Panel to reach a decision.
- f. The appeal is reconvened and both parties are informed of the decision.
- g. The Appeal Panel writes to both parties informing them of its decision within 5 working days.
- h. The decision of the Appeal Panel is final.