

St Mary Hoo Parish Council

Disciplinary Procedure

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1 Introduction

- 1.1 This policy is based on and complies with the 2015 ACAS Code of Practice <http://www.acas.org.uk/index.aspx?articleid=2174>. It also takes account of the ACAS guide on discipline and grievances at work.

The policy is designed to help any Council employees improve unsatisfactory conduct and performance in their job. Wherever possible, the Council will try to resolve its concerns about employees' behaviour informally, without starting the formal procedure set out below.

- 1.2 The policy will be applied fairly, consistently and in accordance with the Equality Act 2010.

- 1.3 This policy confirms:

- the Council will fully investigate the facts of each case
- the Council recognises that misconduct and unsatisfactory work performance are different issues. The disciplinary policy will also apply to work performance issues to ensure that all alleged instances of employees' underperformance are dealt with fairly and in a way that is consistent with required standards. However, the disciplinary policy will only be used when performance management proves ineffective. For more information see ACAS "Performance Management" at <https://www.acas.org.uk/index.aspx?articleid=6608>
- employees will be informed in writing about the nature of the complaint against them and given the opportunity to state their case
- employees may be accompanied or represented by a companion – a workplace colleague, a trade union representative or a trade union official - at any investigatory, disciplinary or appeal meeting. The companion is permitted to address such meetings, to put the employee's case and confer with the employee. The companion cannot answer questions put to the employee, address the meeting against the employee's wishes or prevent the employee from explaining his/her case
- the Council will give employees reasonable notice of any meetings in this procedure. Employee must make all reasonable efforts to attend. Failure to attend any meeting may result in it going ahead and a decision being taken. An employee who does not attend a meeting will be given the opportunity to be represented and to make written submissions
- if the employee's companion is not available for the proposed date of the meeting, the employee can request a postponement and can propose an alternative date that is within five working days of the original meeting date
- any changes to specified time limits in the Council's procedure must be agreed by the employee and the Council

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- information about an employee's disciplinary matter will be restricted to those involved in the disciplinary process. A record of the reason for disciplinary action and the action taken by the Council is confidential to the employee. The employee's disciplinary records will be held by the Council in accordance with the General Data Protection Regulation (GDPR)
- recordings of the proceedings at any stage of the disciplinary procedure are prohibited, unless agreed as a reasonable adjustment that takes account of an employee's medical condition
- employees have the right to appeal against any disciplinary decision. The appeal decision is final
- if an employee who is already subject to the Council's disciplinary procedure raises a grievance, the grievance will normally be heard after the completion of the disciplinary procedure
- disciplinary action taken by the Council can include an oral warning, written warning, final written warning or dismissal
- except for gross misconduct when an employee may be dismissed without notice, the Council will not dismiss an employee on the first occasion that it decides there has been misconduct
- if an employee is suspended following allegations of misconduct, it will be on full pay and only for such time as is necessary. Suspension is not a disciplinary sanction. The Council will write to the employee to confirm any period of suspension and the reasons for it,
- the Council may consider mediation at any stage of the disciplinary procedure where appropriate (for example where there have been communication breakdowns or allegations of bullying or harassment). Mediation is a dispute resolution process that requires the Council's and the employee's consent.

2 Examples of misconduct

Misconduct is employee behaviour that can lead to the employer taking disciplinary action.

The following list contains some examples of misconduct: The list is not exhaustive.

- poor timekeeping
- inappropriate behaviour
- refusal to follow reasonable instructions

3 Examples of gross misconduct

Gross misconduct is misconduct that is so serious that it is likely to lead to dismissal without notice. The following list contains some examples of gross misconduct: The list is not exhaustive

- bullying, discrimination and harassment

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- violent behaviour
- fraud or theft
- disclosure of confidential information.

4 Examples of unsatisfactory work performance

The following list contains some examples of unsatisfactory work performance: The list is not exhaustive.

- inadequate application of management instructions/office procedures
- inadequate IT skills
- unsatisfactory communication skills

5 Disciplinary investigation

The Council will thoroughly investigate the issue fairly and follow the rules of ACAS.

6 The disciplinary meeting

6.1 If the Council decides that there is a case to answer, the employee will be invited, in writing, to attend a disciplinary meeting.

6.2 The letter will confirm the following:

- the names of its Chairman and other two members
- details of the alleged misconduct, its possible consequences and the employee's statutory right to be accompanied at the meeting
- the time and place for the meeting. The employee will be given reasonable notice of the hearing (at least 15 working days) so that he /she has sufficient time to prepare for it
- that witnesses may attend on the employee's and the Council's behalf and that both parties should inform each other of their witnesses' names at least five working days before the meeting
- that the employee and the Council will provide each other with all supporting evidence at least five working days before the meeting. If witnesses are not attending the meeting, witness statements must be submitted to the other side at least five working days before the hearing
- that the employee may be accompanied by a companion - a workplace colleague, a trade union representative or a trade union official

6.3 The disciplinary meeting will be conducted as follows:

- the Chairman will set out the Council's case and present supporting evidence (including any witnesses and/or witness statements)

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- the employee (or the companion) will set out his/her case and present evidence (including any witnesses and/or witness statements)
- the employee (or companion) will have the opportunity to explain what happened
- the Chairman will provide the employee with the decision with reasons, in writing, within five working days of the meeting. The Chairman will also notify the employee of the right to appeal the decision
- the disciplinary meeting may be adjourned to allow matters that were raised during the meeting to be investigated.

7 Disciplinary Action

If the Council decide that there should be disciplinary action, it may be any of the following:

7.1 Oral warning

An oral warning is issued for most first instances of minor misconduct. The Council will notify the employee:

- of the reason for the warning, the improvement required (if appropriate) and the time period for improvement
- that further misconduct/failure to improve will result in more serious disciplinary action
- of the right to appeal
- that a note confirming the oral warning will be placed on the employee's personnel file, that a copy will be provided to the employee and that the warning will remain in force for six months.

7.2 Written warning

If there is a repetition of earlier misconduct which resulted in an oral warning, or for different and more serious misconduct, the employee will normally be given a written warning. A written warning will set out:

- the reason for the written warning, the improvement required (if appropriate) and the time period for improvement
- that further misconduct/failure to improve will result in more serious disciplinary action
- the employee's right of appeal
- that a note confirming the written warning will be placed on the employee's personnel file, that a copy will be provided to the employee and that the warning will remain in force for 12 months.

7.3 Final written warning

If there is further misconduct during the period of a written warning or if the misconduct is sufficiently serious, the employee will be given a final written warning. A final written warning will set out:

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- the reason for the final written warning, the improvement required (if appropriate) and the time period for improvement that further misconduct/failure to improve will result in more serious disciplinary action up to and including dismissal
- the employee's right of appeal
- that a note confirming the final written warning will be placed on the employee's personnel file, that a copy will be provided to the employee and that the warning will remain in force for 18 months.

7.4 Dismissal

The Council may dismiss:

- for gross misconduct
- if there is no improvement within the specified time period, in the conduct which has been the subject of a final written warning
- if another instance of misconduct has occurred and a final written warning has already been issued and remains in force.

The Council will consider very carefully a decision to dismiss. If an employee is dismissed, he/she will receive a written statement of the reasons for his/her dismissal, the date on which the employment will end and details of his/her right of appeal.

If the Council decides to take no disciplinary action, no record of the matter will be retained on the employee's personnel file. Action imposed as a result of the disciplinary meeting will remain in force unless and until it is modified as a result of an appeal

7.5 The appeal

- (a) An employee who is the subject of disciplinary action will be notified of the right of appeal.
- (b) His/her written notice of appeal must be received by the Council within five working days of the employee receiving written notice of the disciplinary action and must specify the grounds for appeal.
- (c) The grounds for appeal include;
 - a failure by the Council to follow its disciplinary policy
 - the sub-committee's decision was not supported by the evidence
 - the disciplinary action was too severe in the circumstances of the case
 - new evidence has come to light since the disciplinary meeting.
- (d) The Appeal will be heard by the Council.
- (e) 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 a companion which may be a trade union representative or a trade union official.

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- (f) At the appeal meeting, the Chairman will:
- explain the purpose of the meeting, which is to hear the employee's reasons for appealing against the decision
 - explain the action that the appeal may take.
- (g) The employee (or companion) will be asked to explain the grounds for appeal.
- (h) The Chairman will inform the employee that he/she will receive the decision and the Council's reasons, in writing, within five working days of the appeal hearing.
- (i) The Council may decide to uphold the decision, substitute a less serious sanction or decide that no disciplinary action is necessary. If it decides to take no disciplinary action, no record of the matter will be retained on the employee's personnel file.
- (j) If an appeal against dismissal is upheld, the employee will be paid in full for the period from the date of dismissal and continuity of service will be preserved.
- (k) The appeal panel's decision is final.