

## Disciplinary & Grievance Policy

This procedure applies to staff employed by Wrockwardine Parish Council ('the Council') and Member's elected or co-opted to the Council. Its aim is to encourage high standards of conduct whilst at work or representing the Council and, to ensure consistent and fair treatment for everyone. This procedure complies with the dismissal and dispute resolution procedures as set out in the Employment Act 2008 and the ACAS Code of Practice APR 2009 and in accordance with the Equality Act 2010.

### Disciplinary Procedure

The Council's aim is to encourage improvement in individual conduct and performance and, this procedure sets out the action that will be taken when the Council's rules or acceptable standards are breached.

#### Principles

- No disciplinary action will be taken against an employee until the case has been fully investigated.
- At every stage in the procedure the employee will be advised of the nature of the complaint against him/her and will be given the opportunity to state his/her case before any decision is made.
- At all formal stages the employee will have the right to be accompanied by a trade union representative or 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 imposed.
- The procedure may be implemented at any stage if the employee's alleged misconduct warrants such action.

#### Procedure

The following list provides examples of **misconduct** which would normally give rise to formal disciplinary action:

- Unauthorised absence from work;
- Persistent short-term and/or frequent absences from work without a medical reason (see also the Sickness Absence Policy);
- Lateness for work or poor time keeping;
- Inappropriate standard of dress;
- Minor breaches of Health & Safety or other Council rules or procedures;
- Failure to perform their job to the standard expected or in line with their job description/objectives;
- Time wasting;

## WROCKWARDINE PARISH COUNCIL

- Disruptive behaviour;
- Misuse of the Council's facilities, e.g. telephone, computers, email or the internet;
- Refusal to carry out reasonable requests or instructions;
- Failure to follow an agreed Council procedure.

The list is not exhaustive and offences of a similar nature will result in disciplinary action being instigated.

The following list provides examples of **gross misconduct** which would normally give rise to formal disciplinary action:

- Theft, fraud, deliberate falsification of records, or other acts of dishonesty;
- Fighting, assault on another person;
- Deliberate damage to property of the Council;
- Gross incompetence in the conduct of work;
- Gross negligence which results in the Council or employees being put at risk;
- Being under the influence of illegal drugs or excessive alcohol;
- Acts of incitement towards or actual acts of discrimination, harassment or victimisation including on the grounds of sex, race, colour, ethnic origin, disability, sexual orientation, age, religion or belief;
- Serious acts of insubordination;
- Serious breach of duty to keep information of the Council, its service providers and its clients confidential;
- Unauthorised breach of the Councils Security Policy, Health & Safety Policy, Confidentiality or Email and Internet Policy;
- Any action, whether committed on or off the premises, that is likely to or does bring the Council into disrepute;
- Serious negligence which causes or might cause significant loss, damage or injury;
- Accepting bribes or incentive payments from suppliers;
- Unauthorised use of Council funds or credit;
- Working with an external agency to provide information which would be detrimental to and cause commercial risk to the Council.

The list is not exhaustive and other offences of a similar gravity will result in disciplinary action being instigated at Gross Misconduct level which carries a potential penalty of dismissal. Gross Misconduct is generally any conduct which places extreme pressure on the mutual trust which exists in an employment relationship.

### 1. Informal Action

Minor misconduct will be dealt with informally, usually in a confidential one-to-one meeting between the employee and the Chairman and/or Vice-Chairman. The matter could also be handled by nominated Members of the Council at an informal meeting. The employee should be given prior written notice of the meeting and the reason(s) for it. However, where the matter is more serious or, where informal action has not brought about the necessary improvement, formal action will then be used.

## 2. Formal Action

**2.1** The level of warning received for misconduct/gross misconduct will depend on how serious the Council considers the alleged actions to be and, the employee's previous conduct in all the circumstances. In the event of alleged gross-misconduct the formal process may commence at Stage 4 (see 2.4).

### 2.2 Disciplinary Letters

Where there is concern about an employee's conduct or behaviour then a letter will be issued to the employee advising them of the allegations and reasons why this is unacceptable. The letter will invite the employee to attend a meeting at which the alleged misconduct will be discussed and will inform the employee of their right to be accompanied to the meeting. The letter will specify at which stage the disciplinary procedure is being invoked (see 4 stages below) and, if invoked at Stage 4 for Gross Misconduct, the letter will warn that a potential outcome could be dismissal. The time, date and venue of the meeting will be advised along with any documents to be produced at the meeting.

### 2.3 Disciplinary Meetings

The time and location of a disciplinary meeting should be agreed with the employee and should be held in a private location with no interruptions. This should be without undue delay but allowing the employee to prepare their case e.g. within 5 days of the letter being sent, where practicably possible. At the meeting, the manager (or in the case of the Clerk being disciplined, the Chairman of the hearing panel) will state the complaint against the employee and go through the evidence which has been gathered. The employee should be allowed to ask questions, present evidence and call witnesses if advance notice has been given that they wish to do so.

If the employee is unable to attend the meeting due to reasons beyond their control (e.g. illness) then the Council will reasonably rearrange the meeting. However, if the employee fails to attend the meeting without good reason the meeting can be held in the employee's absence

### 2.4 Outcomes and Penalties

#### Stage 1 – Oral Warning

In the instance of a first complaint that conduct does not meet acceptable standards, the employee will be given a formal oral warning and advised of:

3. The reason for the warning;
4. That it is the first stage of the disciplinary procedure;
5. The improvement required and the timescales for achieving this improvement;
6. A review date;
7. Any support available (where applicable);
8. Their right of appeal.

A brief note of the oral warning will be kept but it will be spent after 6 months, subject to satisfactory conduct.

## **Stage 2 – Written Warning**

Where the offence is a serious one or, if it follows a previous formal disciplinary action, a written warning will be given to the employee. This should:

- Give details of the complaint;
- The improvement required and the timescales for achieving this improvement;
- Warn that action under Stage 3 would be considered if there is no satisfactory improvement;
- Advise of the right of appeal.

A copy of this written warning will be kept on file but would be disregarded for disciplinary purposes after 12 months subject to satisfactory conduct.

## **Stage 3 – Final Written Warning**

Where there is still a failure to improve and conduct or performance is still unsatisfactory or, the misconduct is sufficiently serious, a final written warning will be given to the employee. This should:

- Give details of the complaint;
- Warn that dismissal may result if there is no satisfactory improvement;
- Give the timescales for the improvement;
- Advise of the right of appeal.

A copy of the final written warning will be kept by the Chairman but it will be spent after 12 months (in exceptional cases the period may be longer) subject to satisfactory conduct.

## **Stage 4 – Dismissal or other sanctions**

Where the conduct remains unsatisfactory and the employee fails to reach the prescribed standards or, where the Council reasonably believes gross misconduct has occurred, dismissal may result. Only an appropriately convened Hearing Panel, at Council's agreement, can take the decision to dismiss an employee. The employee should be:

- Given a written statement of allegations against him/her;
- Invited to a meeting;
- Be notified in writing of the reasons for the decision taken at the meeting.

Penalties at this stage may include dismissal with notice; summary dismissal i.e. without any notice; final written warning with/without demotion; loss of pay or loss of seniority. If dismissal is the outcome, the employee will be advised of the date on which employment will terminate. In all cases the employee has the right of appeal.

Very exceptionally, if an offence of gross misconduct is extremely serious an employee can be dismissed immediately without a meeting. In this situation a letter setting out reasons for dismissal should be sent to the employee offering the opportunity for an appeal hearing.

## 2.5 Suspension

If an employee is accused of an act of gross misconduct, they may be suspended from work on full pay whilst the Council investigates the alleged offence. Only Full Council has the power to suspend an employee on the basis that it will enable a swift and thorough investigation to occur. Whilst suspended, a nominated Member of the Council will keep in regular contact with the employee although access to premises, equipment or systems may be denied. The investigator who compiles evidence for the disciplinary hearing must play no part in the subsequent decision-making to ensure impartiality.

## 2.6 Appeal

An employee who is the subject of disciplinary action will be notified of their right of appeal.

Their written notice of appeal must be received by the Council within 5 working days of the employee receiving written notice of the disciplinary action and must specify the grounds for appeal. Grounds for appeal include:

- A failure by the Council to follow its disciplinary policy;
- The Council's decision was not supported by evidence;
- The disciplinary action was too severe in the circumstances of the case;
- New evidence has emerged since the disciplinary meeting.

The appeal will be heard by a panel of three members of the Council who have not previously been involved in the case. The Appeal Panel will appoint a Chairman from one of its members.

The employee will be notified in writing within 10 working days of receipt of the appeal request of the time, date and place of the appeal meeting. The employee will be advised that they may be accompanied by an agreed trade union representative or work colleague.

At the appeal the Chairman will:

- Introduce the panel members to the employee;
- Explain the purpose of the meeting, which is to hear the employee's reasons for appealing against the decision of the committee;
- Explain the action that the appeal may take;
- Ask the employee (or companion) to explain the grounds for appeal.

The Chairman will inform the employee that they will receive the decision and the panel's reasons in writing within five working days of the appeal hearing.

The appeal panel may decide to uphold the decision of the Committee, 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 employees personnel file. 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.

The Appeal Panel's decision is final.

## Grievance Procedure

### Introduction

This policy is based on, and complies with, the 2009 ACAS Code of Practice. It aims to encourage and maintain good relationships between the Council and its employees by treating grievances seriously and resolving them as quickly as possible. It sets out the arrangements for employees to raise their concerns, problems or complaints about their employment with the Council. The policy will be applied fairly, consistently and in accordance with the Equality Act 2010.

Many problems can be raised and settled during the course of everyday working relationships. Employees should aim to settle most grievances informally by meeting with Members.

This policy confirms that:

- Employees have the right to be accompanied or represented at a grievance meeting or appeal by a trade union representative or work colleague. The companion will be permitted to address the grievance/appeal meetings, to present the employee's case and to 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 the employee reasonable notice of the date of the grievance/appeal meeting. Employees and their companion must make reasonable efforts to attend. 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 5 working days of the original meeting date.
- Any changes to specified time limits must be agreed by the employee and the Council.
- An employee has the right to appeal against the decision about their grievance. The appeal decision is final.
- Information about an employee's grievance will be restricted to those involved in the grievance process. A record for the reason for the grievance, its outcome and action taken is confidential to the employee. The employee's grievance records will be held by the Council in accordance with the Data Protection Act 1998.
- If an employee who is already subject to a disciplinary process raises a grievance, the grievance will normally be heard after completion of the disciplinary process.
- If a grievance is not upheld, no disciplinary action will be taken against the employee if they raised the grievance in good faith.

The Council may consider mediation at any stage of the grievance procedure where appropriate (e.g. where there have been communication breakdowns or allegations of bullying or harassment). Mediation is a dispute resolution process which requires the Council's and the employee's consent.

## Informal Grievance Procedure

The Council and its employees benefit if grievances are resolved informally and as quickly as possible. As soon as a problem arises, the employee should raise it with the Chairman or Vice-Chairman to see if an informal solution is possible. Both should try to resolve the matter at this stage. If the employee does not want to discuss the grievance with the Chairman (e.g. because it concerns the Chairman) the employee should contact another member of the Council.

## Formal Grievance Procedure

If it is not possible to resolve the grievance informally, the employee may submit a formal grievance, in writing to the Chairman and Vice-Chairman of the Council.

The Chairman and Vice-Chairman will appoint a committee of three Members to investigate the grievance. The committee will appoint a Chairman from one of its members. No councillor with direct involvement in the matter shall be appointed to the committee. The committee will investigate the matter before the grievance meeting and, this may include interviewing others e.g. employees, councillors or members of the public.

### 1. Notification

Within 10 working days of the Council receiving the employee's grievance the employee will be asked in writing to attend a grievance meeting. The Committees letter will include the following:

- The names of the Chairman and other members.
- A summary of the employee's grievance based on their written submission.
- The date, time and place for the meeting. The employee will be given reasonable notice of the meeting which should be within 25 working days of when the Council received the grievance.
- The employees right to be accompanied by a trade union representative or work colleague.
- A copy of the Council's Grievance Policy.
- Confirmation that if necessary, witnesses may attend on the employee's behalf and that the employee should provide the names of the witnesses at least five working days before the meeting.
- Confirmation that the employee will provide the Council with any supporting evidence at least five working days before the meeting.

### 2. The Grievance meeting

At the grievance meeting:

- The Chairman will introduce the members of the Committee to the employee;
- The employee (or companion) will set out the grievance and present evidence;
- The Chairman will ask the employee what action they want the Council to take;
- Any member of the Committee and the employee (or the companion) may question any witness;

- The employee (or companion) will have the opportunity to sum up the case.

The Chairman will provide the employee with the Committees decision, in writing, within five working days of the meeting. The letter will notify of the action, of any, that the Council will take and of the employees right of appeal.

A grievance meeting may be adjourned to allow matters that were raised during the meeting to be investigated by the Committee.

### 3. The Appeal

If an employee decides that their grievance has not been satisfactorily resolved by the Committee, they may submit a written appeal to the Council. An appeal must be received by the Council within 5 working days of the employee receiving the Committees decision and must specify the grounds of appeal.

Appeals may be raised on a number of grounds e.g.:

- A failure by the Council to follow its grievance policy;
- The decision was not supported by evidence;
- The action proposed by the sub-committee was inadequate or inappropriate;
- New evidence has come to light since the grievance meeting.

The appeal will be heard by a panel of three Members of the Council who have not previously been involved in the case. The appeal panel will appoint a Chairman from one of its members.

The employee will be notified, in writing, within 10 working days of receipt of the appeal of the time, date and place of the appeal meeting. The meeting will take place within 25 working days of the Council's receipt of the appeal. The employee will be advised that they may be accompanied by a trade union representative or work colleague.

At the Appeal meeting the Chairman will:

- Introduce the panel members to the employee;
- Explain the purpose of the meeting, which is to hear the employee's reasons for appealing against the decision of the previous Committee;
- Explain the action that the appeal panel may take;
- Ask the employee (or companion) to explain the grounds of the appeal.

The Chairman will inform the employee that they will receive the decision and the panels reasons in writing within five working days of the appeal meeting.

The appeal panel may decide to uphold the decision of the Committee or substitute its own decision.

The decision of the appeal panel is final.