

Weston in Gordano Parish Council

Disciplinary Procedure for Employees

PURPOSE AND SCOPE

This procedure is designed to help and encourage all Council employees to achieve and maintain high standards of conduct whilst at work or when representing the Council. The aim is to ensure consistent and fair treatment for all employees. 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 (April 2009) and its relevant amendments. This procedure will apply to all employees unless it conflicts with contractual or statutory requirements, which will take precedence. It will be applied fairly, consistently and in accordance with the Equality Act 2010 and its relevant amendments.

PRINCIPLES

- a) No disciplinary action will be taken against an employee until the case has been fully investigated.
- b) At every stage in the procedure the employee will be advised of the nature of the complaint against them and will be given the opportunity to state their case before any decision is made.
- c) At all formal stages, the employee will have the right to be accompanied by an agreed nominated representative (other than a solicitor / legal representative) or trade union representative during the disciplinary interview.
- d) 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.
- e) An employee will have the right to appeal against any disciplinary penalty imposed.
- f) The procedure may be implemented at any stage if the employee's alleged misconduct warrants such action.

THE PROCEDURE FOR MISCONDUCT and GROSS MISCONDUCT

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

- Unauthorised absence from work
- Persistent short-term and/or frequent absences from work without a medical reason
- Lateness for work or poor time keeping.
- Inappropriate standard of dress
- Minor breaches of Health and Safety or other Council rules or procedures
- Failure to perform your job to the standard expected or in line with your job description/objectives.
- Time wasting
- Disruptive behaviour
- Misuse of the council's facilities (e.g., telephones, computers, email or the internet)
- Refusal to carry out reasonable requests or instructions.
- Smoking in unauthorised areas
- Failure to follow an agreed council procedure.
- Failure to notify the Council of a criminal conviction or charge.

This list is not exhaustive, and offences of a similar nature will result in disciplinary action being instigated N.B. persistent or frequent absence on medical grounds and long-term sickness absence will be dealt with using a procedure for Incapacity.

The following list provides examples of offences which are normally regarded as **gross misconduct**:

- Theft, fraud, deliberate falsification of records, or other acts of dishonesty
- Fighting, assault on another person
- Deliberate damage to property of the council, its workers, or members
- Gross incompetence in the conduct of work.

- Failure to act on the findings of a disciplinary procedure or outcome in the case of misconduct being found.
- 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 entry to computer records
- Serious breach of the council's Health & Safety Policy, or Acceptable Usage 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 Parish Council funds or credit
- Working with an external agency to provide information which would be detrimental to and cause commercial risk to the council.
- Failure to notify the Council of a conviction for an indictable offence.

This list is not exhaustive. Gross misconduct is conduct which fundamentally undermines the trust and confidence inherent in the employment relationship.

1 INFORMAL ACTION

Minor misconduct will normally be dealt with informally through a confidential one-to-one meeting between the employee and a representative of the Council, normally a member of the Employment Committee where established. Where the Clerk is the subject of the allegation, the matter will be handled discreetly by Members appointed for that purpose. If informal action does not result in improvement, or where the matter is more serious, the formal procedure will be used. Any Member involved in informal resolution will take no further part in any subsequent investigation, disciplinary hearing, or appeal

2 FORMAL ACTION

2.1 The level of warning issued will depend on the seriousness of the misconduct and the employee's previous conduct. In cases of alleged gross misconduct, the procedure may commence at Stage 4.

2.2 Disciplinary Letters

A disciplinary letter will set out:

- The allegation(s)
- Why the conduct is unacceptable
- The stage of the procedure being invoked
- The right to be accompanied
- The time, date and venue of the meeting
- Any documentation to be relied upon

Where Stage 4 is invoked, the letter will warn that dismissal may be an outcome.

2.3 Disciplinary Meetings

Meetings will be arranged within 14 days and held privately. At the meeting the Chair of the Employment Committee (or another appointed Member who has not been involved in the investigation) will state the complaint. The employee may ask questions, present evidence and call witnesses (with prior notice). Failure to attend without good reason may result in the meeting proceeding in the employee's absence.

2.4 Outcomes and Penalties of Formal Action

Stage 1 - Verbal Warning

In the instance of a first complaint that conduct does not meet acceptable standards, the employee will normally be given a formal VERBAL WARNING. They will be advised of;

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- the reason for the warning,
- that it is the first stage of the disciplinary procedure,
- the improvement that is required and the timescales for achieving this improvement,
- a review date and any support available (where applicable) and
- their right of appeal.

A brief note of the verbal warning will be kept but it will be removed from the council's records after 6 months, subject to satisfactory conduct of the employee over the six month period.
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Stage 2 - Written Warning

If the offence is a serious one, or if further to previous formal disciplinary action, a WRITTEN WARNING will be given to the employee by the employment committee chairman. This will give details of the complaint, the improvement required and the timescale. It will warn that action under Stage 3 will be considered if there is no satisfactory improvement and will advise of the right of appeal. A copy of this written warning will be kept on file but it will be disregarded for disciplinary purposes after 12 months' subject to satisfactory conduct.

Stage 3 – Final Written Warning

If there is still a failure, by the employee, 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 will give details of the complaint, will warn that dismissal will result if there is no satisfactory improvement and will advise of the right of appeal. A copy of this final written warning will be kept in the office and by a member of the employment committee but it will be removed from council records after 12 months, unless in exceptional cases where the period may be extended—up to a maximum of two years—subject to satisfactory conduct but only subject to satisfactory conduct of the employee for the 1 year / 2 year period.

Stage 4 – Dismissal or other sanctions

If conduct is still unsatisfactory and the employee still fails to reach the prescribed standards, or where the Parish Council believes Gross Misconduct has occurred, DISMISSAL may result. Only the appropriately convened hearing panel can take the decision to dismiss an employee. The employee will be given a written statement of allegations against them, invited to a meeting and then be notified in writing of the reasons for the decision taken at the hearing. Penalties at this stage may include dismissal with notice or summary dismissal (i.e. without any notice), Final Written Warning with or without demotion, a reduction in 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 a 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 will be sent, within 14 days, to the employee offering the opportunity for an appeal hearing.

2.5 SUSPENSION

If the employee is accused of an act of gross misconduct, they may be suspended from work on full pay while the council investigates the alleged offence. Only the appropriately convened committee has the power to suspend. This enables a swift and thorough investigation to occur. Whilst suspended pending disciplinary investigation regular contact with a nominated person agreed by the council will be maintained although access to premises, equipment or systems may be denied. The council-nominated investigator from outside of the employment committee and appeals panel who compiles evidence for the disciplinary hearing will play no part in the subsequent decision-making to ensure impartiality. Any Member involved in a decision to suspend will not subsequently act as investigating officer or sit on the disciplinary or appeal panel.

APPEALS

The Appeals stage of the disciplinary process is part of the Code of Practice to which an employee has a right. It can be exercised after any of the stages of disciplinary action for Misconduct/Poor Performance or Gross Misconduct. The Appeals Committee will have had no prior involvement in the investigation or disciplinary hearing.

An employee who wishes to appeal against a disciplinary decision should inform the Chair of the employment committee within five working days, in writing and giving reasons for the appeal. An Appeal may be raised if:

- The employee thinks the finding or penalty is unfair.
- New evidence has come to light.
- The employee thinks that the procedure was not applied properly and believes they were disadvantaged as a result.

The Appeal will be heard by a separate panel of elected members from Banwell Parish Council outside of the employment committee who have not been involved in the original disciplinary hearing, who will review the evidence impartially. The employee will have the right to be accompanied by an agreed representative or accredited Trade Union official at the appeal hearing. The outcome of the appeal and reasons for it will be advised to the employee within 14 days of the meeting in writing. At the Appeal hearing any disciplinary penalty imposed will be reviewed but it cannot be increased. The decision taken at the Appeal hearing will be final.

THE RIGHT TO BE ACCOMPANIED

At each formal stage of disciplinary interview an employee has the right to be accompanied and can make a reasonable request for such a person to accompany them. An employee can ask for an agreed nominated representative (but not a solicitor or legal representative) or a trade union representative / an appropriately accredited official employed by a trade union to accompany them, to give support and help them prepare for the disciplinary interview. As this is an internal process there is no provision to have any external person accompany or represent an employee e.g. partner, parent, solicitor etc. The companion can address the hearing, sum up the employee's case, respond on behalf of the employee to any views expressed at the meeting, confer with the employee. However, the companion cannot answer questions on the employee's behalf, address the hearing without permission, or prevent the employee from presenting their case.

HEARING PANELS

Disciplinary hearings will be undertaken by an Employment Committee, and any appeal will be heard by an Appeals Committee, both of which shall be appointed by the Parish Council, normally at the Annual Parish Council Meeting, having regard to the size of the Council and the need to ensure fairness, impartiality, and separation of roles.

Members appointed to the Employment Committee and the Appeals Committee must be mutually exclusive and must not have been involved in the investigation of the matter, nor have any conflict of interest.

Where the size of the Council, availability of Members, or the circumstances of the case make it impracticable for Members to undertake the investigation independently of the hearing and appeal panels, the Parish Council will appoint an external investigating officer. This may include an independent clerk, HR professional, or other suitably qualified person, appointed following advice from the Society of Local Council Clerks (SLCC), Avon Local Councils Association, National Association of Local Councils, or ACAS, or via the Council's insurer.

The investigating officer will act solely to establish the facts of the case and will have no involvement in any subsequent disciplinary hearing or appeal.

Members of the relevant committee or panel must be present throughout the hearing and remain until a decision is reached.

NOTE-TAKING

A note-taker will be provided for all formal disciplinary and appeal hearings and for any investigation meetings where appropriate. The note-taker will be a person who is independent of the decision-making process and will not be a Member of the Employment Committee or Appeals Committee, nor the investigating officer. Where practicable, the note-taker may be an independent clerk, or another suitably qualified person.

In cases where an external investigating officer has been appointed, note-taking arrangements will be agreed to ensure the separation of roles is maintained and that the investigating officer plays no part in the decision-making process.

Notes will provide an accurate record of proceedings and will be retained in accordance with the Council's data protection and document retention policies. All records will respect employee and employer confidentiality.

GRIEVANCES RAISED DURING DISCIPLINARIES

In some circumstances when a disciplinary process has commenced an employee chooses to exercise their right to raise an internal grievance about the employment relationship with the council or individual Members. In line with SLCC and ACAS advice, disciplinary matters will be 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 in line with SLCC recommendations, advice will be sought from the appropriate body 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 will be given to how a charge or conviction may affect an employee's ability to undertake their job duties and their relationships with the employer, colleagues, subordinates or customers.

Version number	Purpose/change	Author	Date
0.1	Initial draft	LS	Dec 2025
0.2	Approved	LS	Jan 2026
0.3			

Appendix A Protocol for Disciplinary & Grievance Hearings by the Employment Committee

INTRODUCTION

The Employment Committee has delegated authority to determine matters at the formal stage of the Disciplinary and Grievance Procedures. The Appeals Committee has delegated authority to determine any appeal arising from those procedures.

When undertaking these functions, the relevant Committee is acting in a quasi-judicial capacity and must observe the principles of natural justice. This does not require the formality of a court of law, but requires that: -

- (i) there needs to be a proper procedure. (see below).
- (ii) the Clerk must be able to present their case and to question the employer either directly or through their representative.
- (iii) members of the Committee should be present throughout the hearing and remain until a decision is reached.

ROLE OF THE PARTIES

The employee is the Parish Clerk, who has the right to present their case in person to the Committee, with or without representation in accordance with the Council's policies.

The Council's case will be presented by way of a written investigation report prepared by an external investigating officer appointed by the Parish Council. The investigating officer may attend the hearing to clarify factual matters if required but will take no part in the decision-making process.

Members of the Employment Committee and Appeals Committee must not have been involved in the investigation and must act impartially at all times.

PROCEDURE

A written investigation report will be prepared by the external investigating officer and circulated to Committee Members and the Clerk in advance of the hearing, together with all documentation relied upon.

The general procedure for the hearing will be as follows: -

- (a) the Clerk (or their representative) will present their case first;
- (b) Members of the Committee may ask questions of the Clerk;
- (c) the Council's case will be presented by reference to the investigation report;
- (d) the Clerk (or their representative) may ask questions or respond to matters arising from the investigation report;
- (e) Members of the Committee may ask further questions of all parties;
- (f) the Council's case will be summarised;
- (g) the Clerk (or their representative) will summarise their case;
- (h) all parties will withdraw; and
- (i) the Committee will deliberate in private and reach its decision.

The Committee may adjourn the hearing if further clarification, evidence, or advice is required.

DECISION

The Committee will reach its decision based on:

- the investigation report,
- evidence presented at the hearing,
- representations made by the Clerk, and
- the Council's adopted policies.

The decision, reasons, and any sanction imposed will be confirmed to the Clerk in writing within a reasonable timescale, together with details of the right of appeal.

APPEALS

Any appeal will be heard by the **Appeals Committee**, whose Members will have had no prior involvement in the investigation or disciplinary hearing.

The appeal will consider whether:

- the procedure was followed correctly;
- the decision reached was reasonable; and/or
- any new evidence has come to light.

The decision of the Appeals Committee will be final.

CONFIDENTIALITY

All proceedings, documentation, and records relating to disciplinary or grievance hearings will be treated as confidential and managed in accordance with the Council's data protection and document retention policies.