

Brimpton Parish Council

Disciplinary Policy & Procedure

1. Introduction

This policy is designed to help Parish Council employees improve performance in their job and to set out how the Parish Council will deal with unsatisfactory conduct. Wherever possible, the Parish Council will try to resolve its concerns about employees' behaviour informally, without initiating the formal procedure set out below. The policy will be applied fairly, consistently and in accordance with the Equality Act 2010.

2. Scope of the Disciplinary Policy

The Parish Council recognises that misconduct and unsatisfactory work performance are different issues. None-the-less, 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.

Disciplinary action taken by the Parish 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 Parish 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 Parish Council will write to the employee to confirm any period of suspension and the reasons for it.

2.1. Examples of Misconduct

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

- unauthorised absence;
- poor timekeeping;
- misuse of the Parish Council's resources and facilities including telephone, email and website;
- inappropriate behaviour;
- refusal to follow reasonable instructions;
- breach of health and safety rules.

2.2. Examples of Gross Misconduct

Gross misconduct is misconduct that is so serious that it is likely to lead to dismissal without notice. This includes:

- bullying, discrimination and harassment;
- incapacity at work because of alcohol or drugs;

- violent behaviour;
- fraud or theft;
- gross negligence;
- gross insubordination;
- serious breaches of health and safety rules;
- serious and deliberate damage to property;
- use of the internet or email to access pornographic, obscene or offensive material;
- disclosure of confidential information.

2.3. Examples of Unsatisfactory Work Performance

Unsatisfactory work performance includes:

- inadequate application of Parish Council procedures;
- inadequate IT skills;
- failure to meet audit timetable;
- unsatisfactory communication skills;
- unsatisfactory management of contracts or contractors.

3. **Principles of Procedure**

3.1. The Parish Council will fully investigate the facts of each case. Employees will be informed in writing about the nature of the complaint against them and given the opportunity to state their case

3.2. Employees are entitled to be accompanied and, if they request, to be represented, by a companion, who will be permitted to address the disciplinary/appeal meetings, to present the employee's case for his /her disciplinary/appeal 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.

3.3. The Parish Council will give employees reasonable notice of the date of the disciplinary/appeal meetings. Employees and their companions must make all 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 five working days of the original meeting date.

3.4. Any changes to specified time limits must be agreed by the employee and the Parish Council.

3.5. An employee has the right to appeal against any decision regarding disciplinary action. The appeal decision is final

3.6. Information about disciplinary proceedings will be restricted to those involved in the disciplinary process. A record of the reason for disciplinary proceedings, its outcome and action taken is confidential and will be held by the Parish Council in accordance with the Data Protection legislation.

3.7. If no disciplinary action is taken, no record of the matter will be retained on the employee's personnel file.

3.8. 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.

4. Disciplinary Procedure

4.1. Investigation

4.1.1. As a first step there will be an investigation of the facts. The Parish Council will appoint an Investigator who will be responsible for undertaking the disciplinary investigation. The Investigator will normally be a councillor. If the Parish Council considers that there are no councillors who are independent (for example, because they all have direct involvement in the allegations about the employee), it will appoint someone from outside the Parish Council. The Investigator will be appointed as soon as possible after the allegations have been made. The Investigator will be asked to submit a report within 25 working days of appointment. In cases of alleged unsatisfactory performance or of allegations of minor misconduct, the appointment of an investigator may not be necessary and the Parish Council may decide to commence disciplinary proceedings at the next stage.

4.1.2. The Parish Council will first notify the employee in writing of the alleged misconduct and ask him/her to attend a meeting with the Investigator. The employee will be given at least five working days' notice of the meeting with the Investigator so that he/she has reasonable time to prepare for it. The letter will explain the Investigatory process and that the meeting is part of that process. The Parish Council will confirm to the employee that when he/she meets with the Investigator, he/she will have the opportunity to comment on the allegations of misconduct.

4.1.3. Employees may be accompanied or represented by a trade union representative or a work colleague at any investigatory meeting.

4.1.4. If there are other persons (eg employees, councillors, members of the public or the Parish Council's contractors) who can provide relevant information, the Investigator should try to obtain it from them in advance of the meeting with the employee. The Investigator has no authority to take disciplinary action. His/her role is to establish the facts of the case as quickly as possible and prepare a report that recommends to the staffing committee whether disciplinary action should be taken. The Investigator's report will contain his/her recommendations and the findings on which they were based. He/she will recommend:

- the employee has no case to answer and there should be no further action under the Parish Council's disciplinary procedure;
- the matter is not serious enough to justify further use of the disciplinary procedure and can be dealt with Informally; or
- the employee has a case to answer and there should be action under the Parish Council's disciplinary procedure.

4.1.6. The Investigator will submit the report to the Parish Council which will decide whether further action will be taken. If the Parish Council decides that it will not take disciplinary action, it may consider whether mediation would be appropriate in the circumstances.

4.2. Disciplinary Meeting

4.2.1. If the Parish Council decides that there is a case to answer, it will appoint a staffing sub-committee of three councillors. The staffing sub-committee will appoint a Chairman from one of its members. The Investigator shall not sit on the sub-committee. No councillor with direct involvement in the matter shall be appointed to the sub-committee. The employee will be invited, in writing, to attend a disciplinary meeting. The sub-committee's 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;
- a copy of the investigation report, all the supporting evidence and a copy of the Parish Council's disciplinary procedure;
- the time and place for the meeting. The employee will be given at least 15 days notice of the hearing so that he /she has sufficient time to prepare for it;
- that witnesses may attend on the employee's and the Parish 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 Parish 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 will be submitted to the other side at least five working days before the hearing;

4.2.2. The disciplinary meeting will be conducted as follows:

- the Chairman will introduce the members of the sub-committee to the employee;
- the investigator will present the findings of the Investigation report;
- the Chairman will set out the council's case and present supporting evidence (including any witnesses);
- the employee (or the companion) will set out his/her case and present evidence (including any witnesses);
- any member of the sub-committee and the employee (or the companion) may question the Investigator and any witness;
- the employee (or the companion) will have the opportunity to sum up his/her case;
- the Chairman will provide the employee with the sub-committee's 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 by the sub-committee.

4.3. Disciplinary Action

If the sub-committee decides that there should be disciplinary action, it may be any of the following:

4.3.1. 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.

4.3.2. 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.

4.3.3. 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:

- 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.

4.3.4. The Parish 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. The Parish Council may dismiss the employee if:

- they are found guilty of gross misconduct
- there is no Improvement within the specified time period in the conduct which has been the subject of a final written warning
- another instance of misconduct has occurred and a final written warning has already been issued and remains in force.

4.4. Personnel Records

Action imposed because of the disciplinary meeting will remain on the employee's personnel file unless and until it is modified as a result of an appeal.

5. Appeal

5.1. Right of Appeal

An employee who is the subject of disciplinary action will be notified of their Right of Appeal. His/her written notice of appeal must be received by the Parish Council within five working days of the employee receiving written notice of the disciplinary action and must specify the grounds for Appeal.

5.1.1. 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.

5.2. Appeal Panel

The Appeal will be heard by a panel of three members of the Parish Council who have not previously been involved in the case, if this is possible. This includes the Investigator. There may be insufficient members of the Parish Council who have not previously been involved. If so, the appeal panel will be a committee of any members of the Parish Council who have not previously been involved in the case and any other independent person who can be co-opted on to the committee. The appeal panel will appoint a Chairman from one of its members.

5.3. Appeal Hearing

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, either a trade union representative or a 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 staffing sub-committee;
- explain the action that the appeal panel may take.

The employee (or his companion) will be asked to explain the grounds for appeal. The Chairman will inform the employee that he/she will receive the decision and the panel's reasons in writing within five working days of the appeal hearing.

5.4. Appeal Outcome

The appeal panel may decide to uphold the decision of the staffing committee, substitute a less serious sanction or decide that no disciplinary action is necessary. 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.