

## Loddon Parish Council Disciplinary and Dismissal Policy

### 1. Purpose & Scope

- 1.1 The purpose of this disciplinary policy is to help the Council deal fairly and consistently with disciplinary and performance issues and to ensure that employees are aware of the process for handling such matters.
- 1.2 This procedure does not apply during probationary periods.

### 2. General principles

- 2.1 In all cases the Council will initially deal with minor instances of misconduct and initial unsatisfactory levels of performance informally by way of counselling, guidance, instruction or informal cautioning. This will usually take the form of a confidential meeting with the employee's Line Manager and/or Clerk. In the case of the Clerk being the individual against whom there is a complaint or allegation, the matter will be dealt with by the Chairman. The outcome of the meeting will be confirmed in writing, and will detail the issue(s) discussed, what needs to be done and how and when it will be reviewed.
- 2.2 If a problem continues or the Council judge it to be sufficiently serious, the following procedure will apply.
- 2.3 Before making any formal disciplinary decision under this procedure the Council will carry out the following steps:
  - a) The Council will carry out a prompt investigation keeping the employee updated as much as practicable. The Council will confirm with the employee whether any meeting they are asked to attend is investigatory or disciplinary. In serious cases, where practicable, different Managers or Council Members should carry out the investigation and the disciplinary hearing.
  - b) The Council will confirm in writing the complaint made against the employee and set out the possible outcomes of the disciplinary hearing. Relevant evidence may, where appropriate, include witness statements. The letter will confirm the time, date and location of the disciplinary hearing, which the employee is obliged to attend. The letter will also confirm that employees have the right to be accompanied at the disciplinary hearing. If an employee does not understand the letter, the employee should ask their Line Manager for an explanation.
  - c) The Council will give employee(s), together with any permitted person that the employee may choose as a companion, reasonable time to prepare their response. A permitted person should be another member of staff, or member of a trade union.
  - d) At the hearing the Council will explain their case and give the employee the opportunity to put their case in respect of the allegations made against them.
- 2.4 The employee has the right to appeal against any formal action taken against them under the procedure. See Appeals below (clause 7).

- 2.5 This disciplinary procedure should be understood as incorporating provisions relating to discipline in any other Council policies as follows:
- a) Bullying and harassment
  - b) Health and safety
  - c) Equal Opportunities
  - d) Sickness and Absence
  - e) Expenses
- 2.6 Each stage of this procedure will be carried out without unreasonable delay.
- 2.7 The Council will keep records of any action taken under these disciplinary procedures.
- 3. Examples of Misconduct & Gross Misconduct**
- 3.1 The following are examples of **misconduct**, which would normally give rise to formal disciplinary action:
- a) Unauthorised absence from work
  - b) Persistent short-term and/or frequent absences from work without a medical reason
  - c) Lateness for work or poor time-keeping
  - d) Minor breaches of Health & Safety, or any other Council rules or procedures
  - e) Failure to perform their job to the standard expected, or in line with their job description or in a timely manner
  - f) Disruptive behaviour
  - g) Misuse of the Council's equipment (e.g. telephone, computers, email or the internet)
  - h) Refusal to carry out reasonable requests
  - i) Failure to follow an agreed Council procedure or policy
  - j) Any action or behaviour which could be detrimental to the Council's reputation.
- 3.2 This list is *not* exhaustive, and any offence of a similar nature could result in disciplinary action being taken.
- 3.3 The following are examples of behaviour which fall within the definition of **gross misconduct**, which could lead to dismissal or summary dismissal (without notice):
- a) refusal to accept and act on reasonable requests from Line Manager or other member of management
  - b) serious negligence that could or does result in unacceptable loss, damage or injury
  - c) fighting, assault, harassment or threatening or bullying behaviour
  - d) theft, fraud, deliberate discriminating behaviour, accepting or offering a bribe, falsification of Council records or any dishonesty involving the Council, its employees
  - e) deliberate and/or serious breach of any Council policy
  - f) deliberate or reckless damage to property belonging to the Council, its employees, customers or authorised visitors
  - g) being unfit to work due to misuse of alcohol or illegal drugs
  - h) unauthorised disclosure of confidential information
  - i) any action likely to seriously endanger the health and safety of the employee or any other person
  - j) any action or behaviour which could seriously damage the Council's reputation
- 3.4 The above list is *not* exhaustive. It illustrates the type of conduct that will normally merit dismissal for a first offence. Other types of offence may also be treated as gross misconduct, depending on the seriousness of the particular situation.

3.5 Following investigation and a disciplinary hearing, if the Council is satisfied that the employee has committed gross misconduct, the Council will be entitled to dismiss the employee without notice or payment in lieu of notice.

#### **4. CONDUCT OF MEETINGS, INCLUDING APPEALS**

4.1. All disciplinary meetings, including appeals, will be held during working hours at the place of employment. If an employee is invited to attend a disciplinary meeting, the employee must take all reasonable steps to attend. If, without good cause, an employee is persistently unable or unwilling to attend, the Council will hear the matter in the employee's absence and make a decision based on the evidence available.

4.2. Three members will conduct hearings together with the Clerk or another appointed Officer. At the meeting, the Clerk/Officer will explain the role of all those in attendance. The Clerk/Officer will then explain the case against the employee and go through the evidence that has been gathered. The employee will be given the opportunity to respond in full. This will include time to ask questions and present evidence. The employee must give the Council advance written notice if the employee intends to call any witnesses.

4.3. The Council may, at its discretion, adjourn a disciplinary meeting to further investigate any matters, which come to light during a disciplinary meeting.

##### **4.4. Right to be accompanied in formal hearings**

In any formal disciplinary hearings, including appeals, employees have a statutory right to make a reasonable request to be accompanied by a fellow worker or trade union official of their choice. As this is an internal process, there is no provision to have any external person present, e.g. partner, family member, solicitor etc. The employee's companion may address the hearing to put the employee's case, sum up or respond on the employee's behalf to any view expressed at the hearing. He or she may confer with the employee during the hearing but does not have the right to answer questions on the employee's behalf or address the hearing if the employee do not want him or her to do so, or prevent anyone, including the employee, from making his or her contribution to the hearing.

##### **4.5. Note taking**

A note taker will be provided for every hearing, which arises as a result of a disciplinary process. In order to respect employee confidentiality, either the Clerk or another appointed Officer will act as the note taker. A hard copy of the notes will be agreed and signed by both parties.

#### **5. Warnings & Dismissal**

##### **5.1. First written warning**

a) The Council may issue a first written warning if an employee's conduct or performance does not meet the Council's standards.

b) A first written warning will normally be issued by the employee's immediate manager or a nominated deputy. Where, at the conclusion of the disciplinary hearing, the Council decide to issue such a warning, the employee will be informed of the following:

- i. the nature of the misconduct or poor performance that has led to the warning
- ii. the action or improvement (if any) which is required
- iii. if appropriate, the timescale for taking any such action
- iv. the consequences if the employee does not take the required action or fails to improve or if there is further misconduct

- v. when the warning will cease to have effect, subject to satisfactory conduct or performance. This will normally be after 6 months, but a longer period may be stated in exceptional cases
- vi. the right of appeal

## **5.2. Final written warning**

- a) The Council may issue a final written warning if:
  - i. the required improvement is not achieved within the timescale stated in the first written warning
  - ii. further misconduct or poor performance occurs while a first warning is still in effect, whether or not involving a repetition of the conduct or poor performance which was the subject of a previous warning
  - iii. the seriousness of the misconduct or poor performance merits it, regardless of whether the Council have issued any previous warnings.
- b) A final written warning will normally be issued by the Clerk of the Council or in the case of the Clerk, by the Chairman. Where, at the conclusion of the disciplinary meeting, the Council decide to issue a final written warning, the employee will be informed of the following:
  - i. the nature of the misconduct or poor performance that has led to the final warning, including any prior warning(s) which have been taken into account
  - ii. the action or improvement (if any) which is required of the employee
  - iii. if appropriate, the timescale for implementing any such action
  - iv. the fact that this is a final warning and that the next stage of the procedure will be dismissal
  - v. when the warning will cease to have effect, subject to satisfactory conduct [or performance]. This will normally be after 12 months, but a longer period may be stated in exceptional cases
  - vi. the right of appeal.

## **5.3. Dismissal**

- a) The Council may dismiss an employee if:
  - i. the required improvement is not achieved within the timescale stated in the final written warning
  - ii. further misconduct or poor performance occurs while a final written warning is still in effect, whether or not involving a repetition of the conduct or poor performance which was the subject of a previous warning
  - iii. gross misconduct or gross incompetence has occurred
- b) Unless dismissal is for gross misconduct, the employee will be dismissed with notice.
- c) A decision to dismiss an employee will be taken, if following a formal disciplinary hearing, the allegations are upheld. If the decision to dismiss is upheld following the hearing then, as soon as is reasonably practicable after the end of the disciplinary meeting, the Clerk/Chairman will confirm in writing:
  - i. the reason for the employee's dismissal
  - ii. where applicable, the length of notice the employee is being given
  - iii. the date on which the employee's employment will terminate
  - iv. inform the employee of their right to appeal

- d) In exceptional circumstances, the Council may seek the employee's agreement to a transfer, demotion or suspension without pay instead of dismissal. If the employee is transferred, demoted or suspended without pay, the Council may also issue the employee with a final warning.

## **6. SUSPENSION**

- 6.1. Depending on the circumstances, it may be appropriate to suspend the employee from work on full pay in order that the investigation can take place. Suspension on full pay does not amount to a disciplinary sanction. Only the Council has the power to suspend an employee.
- 6.2. Whilst suspended pending disciplinary investigation, regular contact with a nominated person at the Council will be maintained, although access to premises, equipment or systems may be denied.

## **7. APPEALS**

- 7.1. If the employee is dissatisfied with a disciplinary decision that has been taken, the employee can appeal against that decision. Appeals should be in writing, setting out the reasons for the appeal, and should be delivered to the Chairman of the Council within five working days of the disciplinary decision.
- 7.2. The Council will then invite the employee to an appeal meeting which will normally take place within five working days of receipt of the employee's appeal. The Appeal will be heard by a separate panel of elected members (Staff Appeals Panel), who have not been involved in the original disciplinary hearing, and who will be expected to view the evidence with impartiality.
- 7.3. The appeal meeting may take place after the disciplinary decision has taken effect. If the employee is appealing against dismissal and the employee's appeal is upheld, the employee will normally be treated as having continued in employment pending the hearing of the appeal and will be reinstated with back pay. However, if the employee's appeal is not successful, the original date of the employee's dismissal will stand.
- 7.4. The employee has the right to be accompanied to an appeal.
- 7.5. The Appeal decision is final.

## **8. GRIEVANCES RAISED DURING A DISCIPLINARY PROCESS**

- 8.1. If, in the course of a disciplinary process, a grievance is raised that is related to the case, the Council will suspend the disciplinary procedure for a short period while the grievance is dealt with and resolved. Depending on the nature of the grievance, the Council may need to consider bringing in a competent independent third party to deal with the disciplinary process.

## **9. CRIMINAL CHARGES OR CONVICTIONS**

- 9.1. If an employee is charged with or convicted of a criminal offence that does not directly impact on their employment, this will not automatically give rise to a disciplinary situation.
- 9.2. Consideration needs to be given to how a charge or conviction may affect an employee's ability to undertake his or her job duties, and their relationships with the Council, colleagues or customers. If deemed necessary, the Council will review whether it is appropriate for an employee to remain in the Council's employment, and appropriate advice will be sought.

## **10. STATUS OF THIS POLICY**

This policy does not give contractual rights to individual employees. The Council reserves the right to alter any of its terms at any time although the Council will notify the employee in writing of any changes.

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**This policy was adopted by Loddon Parish Council at its meeting held on 12<sup>th</sup> March 2020.**

Signed:

Dated:

Date for next review: March 2023