

Flax Bourton Parish Council

GRIEVANCE PROCEDURE & DISCIPLINARY POLICY

July 2023

This document describes the procedure which aims to facilitate a speedy, fair and consistent solution to an individual employee's employment grievance or disciplinary status. Where appropriate, the opportunity for mediation will be put forward at any stage of a grievance or disciplinary procedure.

GRIEVANCE PROCEDURE

Introduction

It is the Parish Council's policy to ensure that employees with a grievance relating to their employment can use a procedure which can help to resolve grievances as quickly and as fairly as possible. The Grievance Policy should not be used to complain about dismissal or disciplinary action.

Informal discussions

If an employee has a grievance about their employment, they should communicate this either verbally or in writing to the Parish Council. We hope that the majority of concerns will be resolved at this stage.

Formal procedure

If an employee feels that the matter has not been resolved through informal discussions, they may raise the matter formally with the Parish Council. The employee must apply in writing to the Chair of the Parish Council stating the factual background and the grounds of their grievance. The Chair shall report your application to the Council. The employee will be invited to attend a meeting to discuss their grievance, held in private in absence of members of the public. The grievance will then be considered and a decision reached by the Council. The Council may resolve to form a Grievance Panel, made up of three Councillors, to carry out further investigations and hold further grievance meetings before reaching a decision. The employee will be notified in writing of the decision.

Appeals

If the employee is dissatisfied with the decision of the Council/Grievance Panel, they shall have a right of appeal. The appeal must be made in writing, within seven days of receipt of the decision, to the Chair of the Parish Council stating the grounds of the appeal. The Chair shall report the employee's appeal to an Appeals Panel of the Council, which shall comprise of members who have not been involved in the Grievance process.

The employee will be invited to a meeting with the Appeals Panel, held in private in absence of members of the public. The Appeals Panel will consider and reach a decision on the employee's appeal, which will be communicated to the employee in writing. The decision of the Appeals Panel shall be a final decision and the employee will have no further right of appeal.

Right to be accompanied

The employee has the right to be accompanied at all formal stages of the grievance procedure by a work colleague or trade union representative in accordance with section 10 of the Employment Relations Act 1999. The Parish Council may, at its discretion, allow the employee to bring a companion who is not a work colleague or union representative (for example a family member) if this will help overcome a disability.

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DISCIPLINARY POLICY

PURPOSE OF THE POLICY

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

THE 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) All meetings will be held in private, in the absence of members of the public.
- d) At all formal stages, the employee will have the right to be accompanied at any formal disciplinary hearing or appeal by a work colleague or trade union representative in accordance with section 10 of the Employment Relations Act 1999. The Parish Council may, at its discretion, allow the employee to bring a companion who is not a work colleague or union representative (for example a family member) if this will help overcome a disability
- e) 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
- f) 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
- g) An employee will have the right to appeal against any disciplinary penalty imposed
- h) The procedure may be implemented at any stage if the employee's alleged misconduct warrants such action.

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

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- 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 separately.

GROSS MISCONDUCT

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 policies and procedures
- Any action, whether committed on or off Council premises, that is likely to or does bring the Council into disrepute
- Serious negligence which causes or might causes 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 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.

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INFORMAL ACTION

Minor misconduct will be dealt with informally usually in a confidential one-to-one meeting between the employee and the Chair. In the case of the Clerk being the individual against whom there is a complaint or allegation, the matter will be handled discreetly by the Chair and involve an informal meeting initially. However, where the matter is more serious or informal action has not brought about the necessary improvement the Formal Action Procedure below will be used.

INVESTIGATION

Before instigating the formal procedure, the employee may be invited to an investigatory meeting and asked to comment on any allegations made against them or provide relevant information. No disciplinary action will be taken as a result of an investigatory meeting.

FORMAL ACTION

The level of warning which may be received for misconduct/gross misconduct will depend on how serious the Council considers the alleged actions to be and the previous conduct in all the circumstances.

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. The employee will be advised of;

- 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)
- 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 six months, subject to satisfactory conduct of the employee over the six-month period

2. First written warning

If there is a concern about an employee's conduct or performance, then a WRITTEN WARNING will be given to the employee advising them of the allegation(s) and reasons why this is unacceptable. Such warnings will be recorded, but disregarded after twelve months of satisfactory service. The employee will also be informed that a final written warning may be considered if there is no sustained satisfactory improvement or change and that dismissal may be considered in the event of serious misconduct or poor performance

3. Final written warning

If the offence is serious and a first warning is not appropriate, or there is no improvement in standards following the issue of a first written warning, or if a further offence of a similar kind occurs, a FINAL WRITTEN WARNING will be given which will include the reason for the warning and a note that if no improvement or change results within twelve months or a further disciplinary offence occurs with 12 months, the employee may be subject to dismissal. A copy of this final written

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warning will be kept in the office and by a member of the employment committee but it will be removed from council records after twelve months (unless in exceptional cases the period may be longer subject to a maximum of two years) but only subject to satisfactory conduct of the employee for the one year/two-year period

4. Disciplinary meetings

If a decision is made to implement the formal procedure, the employee will be invited to attend a meeting with a Disciplinary Panel made up of two Councillors. The employee will receive written notification, within 14 days, of the date, time and place of the meeting and a statement setting out details of the allegation(s) and copies of all statements or documents that the Parish Council will refer to at the meeting. The meeting will be held in a private location with no interruptions.

At the meeting the Chair will state the complaint against the employee and go through the evidence which has been gathered. The employee will be invited to put forward any mitigating circumstances, ask questions, present evidence and call witnesses if advance notice has been given that they will do so.

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

The Disciplinary Panel will consider the facts and reach a decision which will be communicated to the employee in writing.

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, SUSPENSION or DISMISSAL may result. Only the appropriately convened hearing panel can take the decision to suspend or 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 suspension pending disciplinary investigation, dismissal with notice or summary dismissal (i.e. without any notice), Final Written Warning with/without demotion, loss of pay or loss of seniority.

If SUSPENDED PENDING DISCIPLINARY INVESTIGATION, the employee will be paid their normal rate of pay although access to premises, equipment or systems may be denied. The employee will have regular contact with a nominated person agreed by the Council. The Council nominated investigator from outside of the Parish Council, who compiles evidence for the disciplinary hearing, will play no part in the subsequent decision-making to ensure impartiality.

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

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meeting. In this situation, written notification setting out the reasons for dismissal will be sent, within 14 days, to the employee offering the opportunity for an appeal hearing.

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.

An employee who wishes to appeal against a disciplinary decision should inform the Chair 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 they think that they might have been disadvantaged due to this.

The Appeal will be heard by a separate panel of elected members, which shall comprise of members who have not been involved in the Disciplinary process, who will view the evidence with impartiality.

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. The companion cannot however answer questions on the employee's behalf or address the hearing without the employee permission or prevent the employee explaining their case.

NOTE-TAKING

A note-taker (but not a member of the Disciplinary or Appeal panels) will be provided to every meeting/hearing which arises as a result of a disciplinary process in case of an Employment Tribunal. These will respect employee/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

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progressed. In exceptional circumstances, it is pragmatic to deal with the two disputes concurrently but in line with SLCC recommendations, advice will be sought if this arises from the appropriate body.

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.