

MENDLESHAM PARISH COUNCIL

DISCIPLINARY PROCEDURE

1. INTRODUCTION

- 1.1 It is in the interests of the Parish Council and its employees to maintain fair and consistent standards of conduct and performance. This procedure is designed to clarify the rights and responsibilities of the Parish Council, recognised Trade Unions and employees with regard to disciplinary measures.
- 1.2 The actions established aim to be corrective i.e. it seeks an improvement in the performance of the employee rather than to be punitive.
- 1.3 At all times the Parish Council and Chair/Vice Chair will consider any disciplinary matter in the absence of the public and the press.

2. EMPLOYEES WITHIN SCOPE

- 2.1 This scheme will apply to all employees, except that it will not apply on termination of employment:
 - at the end of a fixed term contract
 - on grounds of redundancy
 - of an employee still serving a probationary period.

3. PRINCIPLES

The following principles will apply in this procedure.

- 3.1 The procedure will not replace the normal managerial responsibility for making employees aware of shortcomings in performance or conduct. In these circumstances it is expected that managers will counsel employees accordingly and employees will be informed that a written note of the counselling will be made by the manager and placed on the individual's personal file (with a copy to the employee). Only where such attempts to bring about improvements have failed, or where the infringement of established standards is more serious, should the formal disciplinary procedure be implemented.
- 3.2 In all cases involving capability/performance there should be informal followed by formal counselling with appropriate target setting and agreed managerial support before reaching the dismissal stage. The principles of the Disability Discrimination Act 1996 will be adhered to where appropriate.
- 3.3 With the exception of cases of gross misconduct, the disciplinary procedure is invoked, primarily to make an employee aware that the Parish Council is concerned with their conduct or performance and to assist the person to improve to an acceptable level.

- 3.4 The procedure will operate as quickly as possible consistent with the thorough investigation of the case and agreeing with the employee that they have sufficient time for preparation.
- 3.5 The employee will always be informed in writing of any disciplinary action to be taken and the reasons for it, indicating the specific areas for improvement and will be given the opportunity to state his or her case before any decision is made.
- 3.6 Normally, the formal procedure will commence with the issuing of a first formal warning, however, the disciplinary procedure may be invoked at any stage depending on the seriousness of the case.
- 3.7 Each formal warning will normally apply for 12 months. A shorter period of 3 or 6 months may be applied by agreement between the parties involved in response to particular circumstances. Should the employee improve to an acceptable level and maintain the improvement for the duration of the warning, this will result in the deletion of the warning from their record, together with any background documents.
- 3.8 No disciplinary action will be taken against an employee until the case has been fully investigated.

4. INVESTIGATION

- 4.1 When any disciplinary case is being considered, the Chair or if inappropriate the Vice Chair will be responsible for fully investigating the facts and circumstances of each case.
- 4.2 If deemed appropriate the Chair and/ or Vice Chair will conduct a preliminary interview involving the employee who will be told that it is a "preliminary interview". Where practical the employee will be given the opportunity to have a trade union representative or other representative present.
- 4.3 If during the course of an investigation the person(s) conducting the interview considers that a serious breach of discipline may have occurred, he or she may, in consultation with the convened Finance & General Purposes Committee, suspend the employee with pay with no loss of pension rights. Any decision to suspend will be confirmed in writing and will be a precautionary, not a disciplinary action. Periods of suspension will be kept to the minimum necessary to allow proper investigation.
- 4.4 If on completion of the investigation the person conducting it believes on reasonable grounds that the employee has committed the alleged act of misconduct, but in view of its nature and of the employee's previous record an oral warning would be sufficient, he or she may administer it without proceeding further. A note of that warning will be made and referred to if the employee commits a further act of misconduct.
- 4.5 If for good cause the employee is unable to attend the hearing it will be adjourned to another date. If the employee is unable to attend the rearranged hearing, it will exceptionally proceed in his or her absence with the employee's representative given the opportunity to present the employee's case. Any submission by the employee in writing or by the representative will be considered.

5. DISCIPLINARY INTERVIEWS

- 5.1 The employee will be given a minimum of 5 working days written notice of the disciplinary interview and the reason for it arising. This may be reduced with the agreement of both parties.
- 5.2 At each stage of the formal procedure the employee will be entitled to be accompanied by a trade union official or other representative.
- 5.3 The interview may be adjourned by the Chair/ Vicechair or at the request of the employee at any time for the purposes of allowing further information to be obtained or to allow consultation with the representatives involved. Any adjournment will normally be for a stated period.

6. THE PROCEDURE

The stages of the disciplinary procedure are as follows:

6.1 FIRST FORMAL WARNING

A formal warning at this stage represents the outcome of investigation and discussion into an employee's conduct or performance. If a first formal warning is issued, the individual concerned will be advised to this effect both verbally and in writing by the person conducting the hearing, indicating the duration of the warning, the reasons for the warning, the specific areas for improvement and the right of appeal.

6.2 FINAL WARNING

If there is no significant and sustained improvement in the employee's conduct or performance, then the next stage of the procedure is the final warning. If a final warning is issued, the individual concerned, will be advised to this effect by the person conducting the hearing, both verbally and in writing, indicating the duration of the warning, the reasons for the warning, the specific areas for improvement and right for appeal.

6.3 DISMISSAL

If there is no significant and sustained improvement in the employee's conduct or performance during the period of final warning, then following thorough investigation by the Chair/Vice Chair, the next stage of the procedure will be dismissal. This stage will also be invoked in cases of gross misconduct. If the person involved in a disciplinary interview decides that an employee should be dismissed, the Chair shall after consultation with the full Parish Council formally dismiss the employee. If an employee is dismissed he/she will be advised in writing within 5 working days of the principle reasons for the dismissal, the notice period which will apply to him/her, the right of appeal and also of any other entitlements.

7. GROSS MISCONDUCT

- 7.1 In cases where Gross Misconduct is alleged and established on the balance of probabilities, the employee will be liable to summary dismissal.
- 7.2 Offences which constitute Gross Misconduct are of such a serious nature that they cannot be condoned by allowing the employee to continue in employment. Examples of Gross Misconduct include:
- Theft
 - Grossly negligent behaviour endangering employees, the public or property
 - Deliberate contravention of health and safety procedures
 - Assault
 - Gross instances of bullying, intimidation, sexual or racial harassment
 - Criminal offences (including those committed outside the course of employment if they affect the employees ability to carry out the job or those unacceptable to other employees)
 - Unauthorised removal of the Council's property
 - Dishonesty
 - Falsification of timesheets or expenses claims
 - Falsification of Qualifications
 - More serious cases of being under the influence of alcohol or drugs at work

This list is neither exhaustive nor exclusive and in addition there may be other offences or behaviour which would constitute Gross Misconduct.

8. APPEALS

- 8.1 If an employee wishes to appeal against any formal disciplinary action, he/she must do so in writing to the Chair of the Parish Council within 21 working days of the decision stating the grounds for the appeal.
- 8.2 An appeal against a first warning shall be considered by the convened Finance & General Purposes Committee unless any members of such committee have already been involved, in which case it shall be considered by three separate members of the Parish Council.
- 8.3 In cases of a final warning or dismissal, the appeal shall be considered by an Appeals Panel of elected members to be determined by the Parish Council.
- 8.4 The employee will be notified of the appeal hearing at least 10 working days in advance of it occurring.
- 8.5 If the employee is dissatisfied with the outcome of the appeal the matter shall be referred in writing to the National Association of Local Councils and the Society of Local Council Clerks. Their joint decision shall be binding upon both parties.

- 8.6 The employee will be notified that if they are still aggrieved, they may have an entitlement to refer the matter to an Employment Appeals Tribunal.