



BRIDGWATER WITHOUT PARISH COUNCIL

Disciplinary Procedure

adopted by the Parish Council 30th July 2015

1 Introduction

- 1.1 This procedure is designed to help and encourage all employees to achieve and maintain acceptable standards of conduct and job performance. The aim is to ensure consistent and fair treatment for the individual. In accordance with the Employment Rights Act 1996, Human Rights Act 1998 and the ACAS Code of Practice on Disciplinary Procedures this procedure sets out the framework for resolving issues relating to misconduct and unsatisfactory performance.
- 1.2 This procedure will apply to all employees unless it conflicts with contractual or statutory requirement, which will take precedence.

2 General Principles

- 2.1 The procedure is not a substitute for good management practices and should only be invoked when initial attempts to improve conduct have been made following discussions between the employee and their manager. However, where there has been a serious first time breach of disciplinary rules or gross misconduct the formal procedure should be actioned immediately.
- 2.2 No disciplinary action will be taken against an employee until the circumstances have been fully investigated.
- 2.3 At every stage in the procedure the employee will be advised of the nature of the complaint against him or her and will be given the opportunity to state his or her case before any decision is made.
- 2.4 The employee has the right to be represented at disciplinary hearings and appeals.
- 2.5 In all instances of alleged misconduct the employee will be given at least 5 working day's notice of the requirement to attend a hearing or appeal. Should the employee fail to attend without an acceptable reason, then the Chair of the hearing or appeal may proceed in the employee's absence.
- 2.6 Any disciplinary action taken will depend on the nature of the offence, the past recorded behaviour of the employee concerned, the consequence to the Council of the offence and any explanation presented by the employee.
- 2.7 Employees' have the right to appeal against any disciplinary warnings and dismissal.

3 Roles and Responsibilities

- 3.1 Where a minor disciplinary issue arises the line manager or the Parish Clerk will normally consider the matter and will resolve it if they can without recourse to the formal procedure.

- 3.2 Allegations of more serious misconduct or where a previous warning has been given but the required improvement has not been made, should immediately be referred to the Parish Clerk who will then be responsible for nominating an Investigating Officer. If the misconduct relates to the Parish Clerk this should be referred to the Personnel Committee.
- 3.3 The Officer who carries out an investigation should not participate in any subsequent decision to take action under the procedure. Likewise, the Officer hearing the case should not be involved in the investigation beforehand. It is important that respective roles are identified at an early stage so that those roles are not compromised. The Investigating Officer need not be the employee's supervisor or line manager although this would normally be the case.
- 3.4 Only the Parish Clerk has the right to suspend an employee and provide verbal or written warnings for minor misconduct. If the misconduct relates to the Parish Clerk this duty should be undertaken by the Chair of the Personnel Committee.

4 Representation

- 4.1 Employees have the right to representation at hearings and appeals relating to any stage of the formal procedure. This can be a trade union representative, non-union employee representative or a work colleague.
- 4.2 Representatives have the right to address the hearing or appeal. They may also ask questions and present the employee's case. However they have no right to answer questions on the employee's behalf.

Informal Procedure

5 Informal Advice & Guidance

- 5.1 Where a minor breach of acceptable/established standards of conduct occurs which does not justify formal disciplinary action, the Line Manager will advise the employee concerned of the conduct or standard expected in the future. In many cases this will provide sufficient encouragement for the employee not to commit further acts of misconduct.
- 5.2 The employee will be offered guidance, support and where appropriate additional training to achieve the necessary standards. Representation will not normally be appropriate. Managers should make a note of such informal advice and guidance and should set out in writing the required improvements and standards of conduct that are expected in the future. Records of informal advice/counselling should be kept on employee's personal files.
- 5.3 However, the formal procedure will apply when: -
- previous informal advice or warnings have proved ineffective;
 - the allegation is of a serious nature;
 - a number of minor allegations are made which taken together constitute a serious breach of discipline.

The Formal Procedure

6 Suspension

- 6.1 In some circumstances the Parish Clerk (or the chair of the Personnel Committee if the misconduct relates to the Parish Clerk) may consider suspension, with pay, pending further investigation or until the disciplinary hearing takes place. Suspension may be appropriate where: cases potentially involve gross misconduct; relationships have broken down; there is a risk to the employer's property or to other people. An employee should be advised that suspension in itself does not constitute disciplinary action.
- 6.2 An employee should be advised of the reasons for suspension. The period of suspension should not normally last for more than 20 working days, however where necessary this period can be extended.
- 6.3 The decision whether suspension is necessary can be reviewed at anytime in the disciplinary process.

7 Investigation

- 7.1 Before any decision can be made about whether or not a disciplinary hearing is necessary, an investigation must take place. The Parish Clerk (or the Personnel Committee, in relation to matters concerning the Parish Clerk) should appoint an appropriate investigating officer, who could be an external adviser, who will report back with their findings and make recommendations as to whether a disciplinary hearing should be convened.
- 7.2 The responsibilities of the Investigating Officer are to collect evidence by interviewing any relevant witnesses and gathering all documentation. An Investigatory Interview should be held with the employee concerned whereby the employee is given 5 working days notice, in writing, outlining the general nature of the allegation. The purpose of the interview is to present the findings of the investigation to the employee and allow them to answer or shed light on the potential allegations to assist the investigating officer to decide if he or she should recommend a disciplinary hearing and/or whether any further investigation is needed.
- 7.3 For the benefit of the employee and the Council any investigation must be concluded within a reasonable timescale. If there is a delay in completing the investigation it is the responsibility of the Investigating Officer to regularly update the employee or their representatives on the progress of the investigation.
- 7.4 Once the Investigating Officer has gathered all the relevant facts and reviewed the evidence, a report should be drafted to the Parish Clerk (or Personnel Committee) recommending one of the following:
- take no further action and inform the employee accordingly;
 - advise the arrangement of counselling, training, extra supervision or written advice as appropriate;
 - arrange a disciplinary hearing.

8 Arranging a Hearing

- 8.1 If, following the recommendations of the Investigating Officer, the Parish Clerk/Personnel Committee concludes that a hearing is required then the necessary arrangements should be made by the Parish Clerk/Personnel Committee. The employee should be given at least 5 working days notice in writing. The letter should include a clear written statement of the allegation and should enclose any documentary evidence being relied upon and a reminder of the employee's right to be represented.
- 8.2 The Investigating Officer is responsible for presenting the case and making arrangements for any witnesses that he or she relies upon, to attend the meeting.
- 8.3 The employee is responsible for arranging any representation they choose to have and any witnesses that they may wish to call. Details of any witnesses the employee intends to call and a copy of all documents that the employee may wish to refer to at the hearing must be submitted to the Investigating Officer at least 3 working days prior to the hearing.

9 Conducting a hearing

- 9.1 The Panel for a hearing would normally comprise of the Parish Clerk (or three members of the Personnel Committee, in relation to matters concerning the Parish Clerk) and an independent HR representative to advise, as appropriate.
- 9.2 The objective is: -
- to hear the evidence in respect of the allegation, the employee's response and to decide whether the allegation is substantiated or not;
 - if the allegation is substantiated, determine the disciplinary sanction to be applied in light of the seriousness of the offence and having regard to previous relevant disciplinary history.
- 9.3 The procedure to be followed is: -
- introduce Panel members and specify their roles;
 - clarify the purpose of the hearing and state the allegation;
 - presentation of the case by the investigating officer with witnesses called as necessary;
 - questions by employee and/or their representative;
 - questions by the Panel;
 - employee and/or their representative to state their case with witnesses called as necessary;
 - questions from investigating officer;
 - questions from Panel;
 - investigating officer to sum up;
 - employee/representative to sum up;
 - panel adjourn to make their decision;
 - hearing reconvened and the employee/representative informed of the decision and, if necessary, their rights of appeal.
- 9.4 Requests for an adjournment can be made at any stage and it is up to the Chair to decide whether or not a request should be granted.

- 9.5 The decision of the Panel must be confirmed to the employee in writing within 5 working days. The letter should clearly set out:-
- the Panel’s decision;
 - the length of time that any warning will be active for;
 - the expected improvement in conduct;
 - any assistance that will be provided to achieve this;
 - the employee’s right to appeal.

10 Levels of Disciplinary Action

- 10.1 In determining the appropriate disciplinary action, regard should be given to the employee’s previous record, the gravity of the offence and any explanation given.
- 10.2 Although the procedure implies a sequential approach there may be certain circumstances where the matter needs to be considered immediately under Stages 2, 3 or 4.

Stage 1	Oral Warning	For a minor offence, a formal verbal warning (confirmed in writing) making it clear that further misconduct will render the employee liable to further disciplinary action including more severe consequences.
Stage 2	First Written Warning	For a more serious offence or where a previous warning to the employee has not resulted in the required improvement to their conduct.
Stage 3	Final Written Warning	For a sufficiently serious offence, which might warrant only one written warning but is insufficiently serious to justify dismissal, or where previous warnings have been ineffective.
Stage 4	Dismissal with notice	For an act or acts of misconduct, other than gross misconduct, by an employee who is under a final written warning. The employee will be liable to dismissal with notice or pay in lieu of notice.
Dismissal without notice		In cases where gross misconduct is established the employee will be liable to summary dismissal, that is without notice or pay in lieu of notice.