

# LONGCOT PARISH COUNCIL

## DISCIPLINARY PROCEDURE

### Issue History

Date of Adoption	Reference in Minute Book	Details of Change Made
12/02/2015	31/15	Procedure valid from 12 February 2015

### Purpose and scope

- 1 This procedure is designed to help and encourage all employees to achieve and maintain standards of conduct, attendance and job performance. The Council's rules (a copy of which is held by the Clerk) and this procedure apply to all employees. The aim is to ensure consistent and fair treatment for all in the organisation. The procedure is based on a model disciplinary procedure published in 2014 in an ACAS document entitled "Discipline and Grievances at Work – the ACAS Guide".
- 2 The procedure (see section headed Procedure below) has been written to apply to all employees. At the time of writing the Council has only one (the Clerk).

### Principles

Any disciplinary action will be conducted in accord with the following general principles:

- 1 Informal action will be considered, where appropriate, to resolve problems.
- 2 No disciplinary action will be taken against an employee until the case has been fully investigated.
  - a. The initial investigation will normally be carried out by the Clerk or, if the Clerk is the subject of the investigation, by the Chairman.
  - b. The Chairman may delegate the investigation to another councillor but that councillor must not be a member or alternate of either the Staffing or the Appeals Committee.
  - c. If during the course of the investigation, the investigator wishes to interview the employee who is the subject of the complaint; the employee must cooperate but may be accompanied at any interview by a trade union representative, a work colleague (if appropriate) or a friend.
- 3 For formal action the employee will be advised in writing of the nature of the complaint against him or her and, where appropriate, given written copies of evidence and relevant witness statements in advance of the disciplinary meeting.
- 4 At all stages of the procedure, the employee will have the right to be accompanied by a trade union representative, a work colleague (if appropriate) or a friend.
- 5 The employee will be given the opportunity to state his or her case before any decision is made at a disciplinary hearing.
- 6 The hearing will be held in front of the Staffing Committee who may be accompanied, in appropriate cases, by an expert in Human Relations.
- 7 If the case is found to be proven the outcome will be one of those listed in the Procedure Section below.
- 8 No employee will be dismissed for a first breach of discipline except in the case of gross misconduct, when the penalty will be dismissal without notice or payment in lieu of notice.
- 9 An employee has the right to appeal against any disciplinary decision:
  - a. An employee who wishes to appeal, must do so within five working days.
  - b. The appeal will be heard by the Appeals Committee

- c. At the appeal any disciplinary penalty imposed will be reviewed.
  - d. The Appeals Committee's findings are final.
- 10 The procedure may be implemented at any stage if the employee's alleged misconduct warrants this.

## Procedure

### First stage of formal procedure

- 1 This will normally lead to either:
  - a. An improvement note for unsatisfactory performance if the employee's performance does not meet acceptable standards. This will set out the performance problem, the improvement that is required, the timescale, any help that may be given and the right of appeal.

The individual will be advised that the improvement note constitutes the first stage of the formal procedure and that a record of the improvement note will be kept by the Clerk or, in the event that the subject of the warning is the Clerk, by the Chairman for [*period to be specified*], but will then, subject to achieving and sustaining satisfactory performance, be considered spent.

or

- b. A first warning for misconduct: if the employee's conduct does not meet acceptable standards.

This will be in writing and set out the nature of the misconduct, the change in behaviour required and the right of appeal.

The warning will also inform the employee that a final written warning may be considered if there is no sustained satisfactory improvement or change.

A record of the warning will be kept by the Clerk or, in the event that the subject of the warning is the Clerk, by the Chairman. It will be disregarded for disciplinary purposes after [*a specified period*]; subject to achieving and sustaining satisfactory conduct or performance.

### Final Written Warning

- 1 If the offence is sufficiently serious, or if there is further misconduct or a failure to improve performance during the currency of a prior warning, a final written warning may be given to the employee.
- 2 This will give details of the complaint, the improvement required and the timescale. It will also warn that failure to improve may lead to dismissal (or some other action short of dismissal) and will refer to the right of appeal.
- 3 A copy of this written warning will be kept by the Clerk or, in the event that the subject of the warning is the Clerk, by the Chairman. It will be disregarded for disciplinary purposes after [*a specified period*]; subject to achieving and sustaining satisfactory conduct or performance.

### Dismissal or other sanction

- 1 If there is still further misconduct or failure to improve performance the final step in the procedure may be dismissal or some other action short of dismissal such as demotion or disciplinary suspension. Dismissal decisions can only be taken by the Council Chairman acting on the advice of the Staffing Committee.
- 2 The employee will be provided in writing with reasons for dismissal, the date on which the employment will terminate, and the right of appeal.

\* The period will be specified in the letter and will be dependent on the nature of the failing but will be typically 6 or 12 months

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- 3 In the event that the employee appeals against the Staffing Committee's findings and/or sentence, the Council Chairman can only confirm the final decision when the Appeals Committee has reported.
- 4 If some sanction short of dismissal is imposed, the employee will receive details of the complaint, will be warned that dismissal could result if there is no satisfactory improvement, and will be advised of the right of appeal.
- 5 A copy of this written warning will be kept by the Clerk or, in the event that the subject of the warning is the Clerk, by the Chairman. It will be disregarded for disciplinary purposes after [a specified period\*]; subject to achieving and sustaining satisfactory conduct or performance.
- 6 If a person is accused of an act of gross misconduct, that person may be suspended from work on full pay, normally for no more than five working days, while the alleged offence is investigated. If, on completion of the investigation and the full disciplinary procedure, the organisation is satisfied that gross misconduct has occurred, the result will normally be summary dismissal without notice or payment in lieu of notice.
- 7 The following list provides some examples of offences which the Council would normally regard as gross misconduct (the list is not intended to be exhaustive):
  - theft or fraud
  - physical violence or bullying
  - deliberate and serious damage to property
  - serious misuse of an organisation's property or name
  - deliberately accessing internet sites containing pornographic, offensive or obscene material
  - serious insubordination
  - unlawful discrimination or harassment
  - bringing the organisation into serious disrepute
  - causing loss, damage or injury through serious negligence
  - a serious breach of health and safety rules
  - a serious breach of confidence.
- 8 After the meeting the employee will be informed of the Staffing Committee's decision within 5 working days. The Staffing Committee's decision will be confirmed to the employee in writing.
- 9 If the employee wishes to appeal against the Staffing Committee's decision, (s)he must inform the Council within 5 working days of receiving the decision.
- 10 Appeals can only be made on the following grounds:
  - The employee thinks the finding, or action plan, is unfair
  - New evidence has come to light
  - The employee thinks that the procedure was not applied properly
- 11 If the employee notifies the Council that (s)he wishes to appeal, the employee will be invited to attend a disciplinary appeal meeting with the Council's Appeals Committee†. The employee must take all reasonable steps to attend that meeting. The employee has the right to be accompanied to a disciplinary appeal meeting by a fellow employee, a Trade Union representative or by a friend.
- 12 A disciplinary appeal meeting will normally be convened within 7 working days of the Council receiving notice that the employee wishes to appeal pursuant to paragraph 9 above. If the

\* The period will be specified in the letter: it is unlikely to be less than 12 months

† The Appeals Committee consists of 3 councillors who are not members of the Staffing Committee and are neither the Chairman nor the vice chairman of the Council.

meeting time is inconvenient for the employee or his or her companion, the employee may ask to postpone the meeting by up to 5 working days.

- 13 After the disciplinary appeal meeting the employee will be informed of the Council's final decision within 5 working days. The Council's decision will be confirmed to the employee in writing.

Reviewed November 2018  
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