

# HAUGHLEY PARISH COUNCIL

## DISCIPLINARY POLICY

Adopted 4<sup>TH</sup> May 2021

It is the Council's policy to help and encourage all Council employees to achieve and maintain high standards of conduct whilst at work or representing the council. The aim of this Policy is to ensure consistent and fair treatment for all. This procedure 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

### 1. Principles

- 1.1 No disciplinary action will be taken against an employee until the case has been fully investigated
- 1.2 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.
- 1.3 At all formal stages the employee will have the right to be accompanied by a Councillor, SLCC representative or work colleague during the disciplinary interview.
- 1.4 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.
- 1.5 An employee will have the right to appeal against any disciplinary penalty imposed.
- 1.6 The procedure may be implemented at any stage if the employee's alleged misconduct warrants such action.

This Policy does not form part of any employee's contract of employment. It may be amended at any time and the Council may depart from it depending on the circumstances of any case.

### 2. Who is covered by the procedure?

This procedure applies to all employees regardless of length of service.

### 3. Disciplinary procedure for managing misconduct and gross misconduct

#### 3.1 Misconduct

The following list provides examples of **misconduct** which will 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) Inappropriate standard of dress
- (e) Minor breaches of Health and Safety or other rules or procedures
- (f) Failure to perform your job to the standard expected or in line with your job description/objectives
- (g) Time wasting

- (h) Disruptive behaviour
- (i) Misuse of the Council's facilities (e.g. telephones, computers, email or the internet)
- (j) Refusal to carry out reasonable requests or instructions
- (k) Smoking in unauthorised areas
- (l) Failure to follow an agreed Council Procedure

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 with using the procedure set out in the sickness and absence policy.

### 3.2 Gross Misconduct

This is generally any conduct which places extreme pressure on the mutual trust which exists in an employment relationship. The following list provides examples of offences which are normally regarded as **gross misconduct**:

- (a) Theft, fraud, deliberate falsification of records, or other acts of dishonesty
- (b) Fighting, assault on another person
- (c) Deliberate damage to property of the Council, its workers or members
- (d) Gross incompetence in the conduct of work
- (e) Gross negligence which results in the Council or employees being put at risk.
- (f) Being under the influence of alcohol or illegal drugs
- (g) 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
- (h) Serious acts of insubordination
- (i) Serious breach of duty to keep information of the Council, its service providers and its clients confidential
- (j) Unauthorised entry to computer records
- (k) Serious breach of the Council's Health & Safety Policy
- (l) Any action, whether committed on or off the premises, that is likely to or does bring the Council into disrepute
- (m) Serious negligence which causes or might cause significant loss, damage or injury
- (n) Accepting bribes or incentive payments from a company, body or individual
- (o) Unauthorised use of Council funds or credit
- (p) Working with an external agency to provide information which would be detrimental to and cause commercial risk to the Council

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.

## 4. Informal Action

4.1 Minor misconduct will be dealt with informally usually in a confidential one-to-one meeting between the employee and line manager.

4.2 In the case of the Clerk being the individual against whom there is a complaint or allegation the matter should be handled discreetly by members of the Council and involve an informal meeting initially. However, where the matter is more serious or

informal action has not brought about the necessary improvement the following procedure will be used:

## **5. Formal Action**

- 5.1 The level of warning an employee may receive for misconduct/gross misconduct will depend on how serious the Council considers the alleged actions to be and your previous conduct in all the circumstances.
- 5.2 In the event of alleged gross misconduct the formal process may commence at Stage 4 – see 9.4

## **6. Disciplinary Letters**

- 6.1 If there is a concern about an employee's conduct or behaviour then a letter will be given to the employee advising him/her of the allegation(s) and reasons why this is unacceptable.
- 6.2 The letter should invite the employee to attend a meeting at which the alleged misconduct will be discussed and will inform the employee of their right to be accompanied to the meeting.
- 6.3 The letter will specify at which stage the disciplinary procedure is being invoked (see 4 stages below) and if invoked at Stage 4 for Gross Misconduct the letter will warn that a potential outcome could be dismissal.
- 6.4 The time, date and venue of the meeting will also be advised. Any documents to be produced at the meeting will also be provided.

## **7. Right to be accompanied**

- 7.1 You may bring a companion to any disciplinary meeting or appeal meeting under this procedure. The companion may be either a SLCC representative (Clerk only), a colleague or another professional. You must tell the person holding the disciplinary meeting who your chosen companion is, in good time before the meeting.
- 7.2 At the meeting, your companion may make representations to us and ask questions, but should not answer questions on your behalf. You may confer privately with your companion at any time during the meeting.
- 7.3 Acting as a companion is voluntary and your colleagues are under no obligation to do so. If they agree to do so they will be allowed reasonable time off from duties without loss of pay to act as a companion.
- 7.4 If your choice of companion is unreasonable, the Counvil may ask you to choose someone else, for example:
  - (a) if in the Council's opinion your companion may have a conflict of interest or may prejudice the meeting; or
  - (b) if your companion works at another site and someone reasonably suitable is available at the site at which you work; or
  - (c) if your companion is unavailable at the time a meeting is scheduled and will not be available for more than five working days afterwards.

## **8. Disciplinary Meetings**

- 8.1 The time and location of a disciplinary meeting should be agreed with the employee and it should be held in a private location with no interruptions. This will normally be without undue delay but allowing the employee to prepare their case e.g. within 5 days of the letter being sent, where practically possible.
- 8.2 At the meeting the Chairman will state the complaint against the employee and go through the evidence which has been gathered.
- 8.3 The employee will also be allowed to ask questions, present evidence and call witnesses if advance notice has been given that they will do so.
- 8.4 If the employee is unable to attend the meeting due to unforeseeable reasons out of their control (e.g. illness) then the Council will reasonably rearrange the meeting. However, if the employee fails to attend the meeting without good reason the meeting can be held in the employee's absence.

## **9. Outcomes and Penalties**

### **9.1 Stage 1 - Oral Warning**

In the instance of a first complaint that conduct does not meet acceptable standards, the employee will normally be given a formal ORAL WARNING. He or she will be advised of

- (a) the reason for the warning,
- (b) that it is the first stage of the disciplinary procedure,
- (c) the improvement that is required and the timescales for achieving this improvement,
- (d) together with a review date and any support available (where applicable) and
- (e) his or her right of appeal.

A brief note of the oral warning will be kept but it will be spent after 6 months, subject to satisfactory conduct.

### **9.2 Stage 2 - Written Warning**

If the offence is a serious one, or if further to previous formal disciplinary action, a WRITTEN WARNING will be given to the employee by the Clerk/Chairman. This will

- (a) give details of the complaint, the improvement required and the timescale.
- (b) It will warn that action under Stage 3 will be considered if there is no satisfactory improvement
- (c) It will advise of the right of appeal.

A copy of this written warning will be kept on file but it will be disregarded for disciplinary purposes after 12 months subject to satisfactory conduct.

### **9.3 Stage 3 – Final Written Warning**

If there is still a failure to improve and conduct or performance is still unsatisfactory, or the misconduct is sufficiently serious, a FINAL WRITTEN WARNING will normally be given to the employee. This will

- (a) give details of the complaint, will warn that dismissal will result if there is no satisfactory improvement
- (b) will advise of the right of appeal.

A copy of this final written warning will be kept by the Clerk (or in the case of the Clerk being disciplined by the Chairman) but it will be spent after 12 months (in exceptional cases the period may be longer) subject to satisfactory conduct.

#### 9.4 Stage 4 – Dismissal or other sanctions

If conduct is still unsatisfactory and the employee still fails to reach the prescribed standards, or where the Council reasonably believes Gross Misconduct has occurred, DISMISSAL may result. Only the appropriately convened hearing panel can take the decision to dismiss an employee. The employee will be

- (a) given a written statement of allegations against him/her
- (b) 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 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 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 meeting. In this situation a letter setting out reasons for dismissal would be sent to the employee offering the opportunity for an appeal hearing.

### 10. Suspension

- 10.1 If an employee is accused of an act of gross misconduct, he or she may be suspended from work on full pay while the Council investigates the alleged offence.
- 10.2 Only an appropriately convened panel has the power to suspend. This enables a swift and thorough investigation to occur.
- 10.3 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.

*The Investigator who compiles evidence for the disciplinary hearing must play no part in the subsequent decision-making to ensure impartiality.*

### 11. 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 Chairman within five working days, in writing and giving reasons for the appeal. An Appeal may be raised if:

- (a) The employee thinks the finding or penalty is unfair
- (b) New evidence has come to light
- (c) The employee thinks that the procedure was not applied properly.

Where possible the Appeal will be heard by a separate panel of elected Members who have not been involved in the original disciplinary hearing, who will view the evidence with impartiality. The employee will have the right to be accompanied by a colleague or SLCC (Clerk only) representative or lay member at the appeal hearing.

The outcome of the Appeal and reasons for it will be advised to the employee as soon as possible after the meeting and be confirmed 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.*

## **12. Grievances raised during Disciplinary**

12.1 In some circumstances when a disciplinary process has commenced an employee chooses to exercise his/her right to raise an internal grievance about the employment relationship with the Council or individual Members.

12.2 In line with ACAS advice, disciplinary matters will be placed on hold until grievances have been aired and actions towards a resolution have been progressed. In exceptional circumstances the Council may decide to deal with the two disputes concurrently.

## **13. Criminal charges or Convictions**

13.1 If an employee is charged with or convicted of a criminal offence this does not automatically give rise to a disciplinary situation.

13.2 Consideration will be given to how a charge or conviction may affect an employee's ability to undertake his or her job duties and his or her relationships with, colleagues, subordinates, the Council and others.