

# Aston Clinton Parish Council

## Disciplinary Policy

Adopted: March 2024 Next Review: March 2026

### 1. Introduction

- 1.1 The Council's aim is to help and encourage all employees to achieve and maintain high standards of conduct whilst at work or representing the Council and to ensure consistent and fair treatment for all.
- 1.2 This policy is based on and complies with the [2015 ACAS Code of Practice](#). It also takes account of the [ACAS Guide on Discipline and Grievances at Work](#).
- 1.3 Wherever possible, the Council will try to resolve its concerns about employees' behaviour informally, without starting the formal procedure set out below.

### 2. Principles

- 2.1 The procedure is designed to establish the facts quickly and deal consistently with disciplinary issues.
- 2.2 No disciplinary action will be taken against an employee until the matter has been fully investigated.
- 2.3 Council recognises that misconduct and unsatisfactory work performance are different issues. The Disciplinary Policy will also apply to work performance issues to ensure that all alleged instances of employees' under performance are dealt with fairly and in a way that is consistent with required standards. However, the Disciplinary Policy will only be used when performance management proves ineffective. For more information, see [ACAS Performance Management](#).
- 2.4 At every stage employees will be informed, in writing, of what is alleged and have the opportunity to state their case. They will be provided, where appropriate, with written copies of evidence and relevant witness statements in advance of any disciplinary meeting.
- 2.5 Employees may be accompanied or represented by a companion (a workplace colleague, a trade union representative or a trade union official) at any investigatory, disciplinary or appeal meeting. The companion is permitted to address such meetings, to put the employee's case and confer with the employee. The companion cannot answer questions put to the employee, address the meeting against the employee's wishes or prevent the employee from explaining their case.
- 2.6 The Council will give employees reasonable notice of any meetings in this procedure. Employees must make all reasonable efforts to attend. Failure to attend any meeting may result in it going ahead and a decision being taken. An employee who does not attend a meeting will be given the opportunity to be represented and to make written submissions.
- 2.7 If the employee's companion is not available for the proposed date of the meeting, the employee can request a postponement and can propose an alternative date that is within five working days of the original meeting date, unless it is unreasonable not to propose a later date.
- 2.8 Information about an employee's disciplinary matter will be restricted to those involved in the disciplinary process. The employee's disciplinary records will be held by the Council in accordance with the Council's Data Protection Policy.
- 2.9 An employee will have the right to appeal against any disciplinary penalty imposed.

- 2.10 The disciplinary procedure may be implemented at any stage if the employee's alleged misconduct warrants such action.
- 2.11 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.
- 2.12 If an employee who is already subject to the Council's disciplinary procedure raises a grievance, the disciplinary process may be suspended temporarily in order to deal with the grievance. Where the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently
- 2.13 If an employee is suspended following allegations of misconduct, it will be on full pay and only for such time as is necessary. Suspension is not a disciplinary sanction. The Council will write to the employee to confirm any period of suspension and the reasons for it.

### **3. Examples of Misconduct & Gross Misconduct**

3.1 Misconduct is employee behaviour that can lead to the employer taking disciplinary actions. The following list provides some examples of misconduct (the list is not exhaustive and offences of a similar nature will result in disciplinary action being instigated):

- i. Unauthorised absence from work;
- ii. Persistent short term and/or frequent absences from work without a medical reason;
- iii. Lateness for work or poor timekeeping;
- iv. Inappropriate standard of dress;
- v. Minor breaches of health and safety rules and procedures;
- vi. Failure to perform your job to the standard expected or in line with your job description/objectives;
- vii. Disruptive behaviour;
- viii. Harassment or victimisation;
- ix. Misuse of Council's resources and facilities including telephone, email and internet;
- x. Refusal to carry out reasonable requests or instructions;
- xi. Failure to follow agreed Council procedure.

3.2 Gross Misconduct is misconduct that is so serious that it is likely to lead to dismissal without notice. The following list provides examples of offences which are normally regarded as gross misconduct (this list is not exhaustive and other offences of a similar gravity will result in disciplinary action being instigated at gross misconduct level which carry a potential penalty of dismissal):

- i. Theft, fraud, deliberate falsification of records, or other acts of dishonesty;
- ii. Bullying, discrimination and harassment;
- iii. Being under the influence of illegal drugs or excessive alcohol at work;
- iv. Violent behaviour;
- v. Gross negligence which results in the Council or employees being put at risk;
- vi. Gross insubordination;
- vii. Serious breaches of Council policies and procedures e.g. Health & Safety Policy, Equality & Diversity Policy, Data Protection Policy and any policies regarding the use of technology;

- viii. Serious and deliberate damage to property of the Council, its employees or members;
- ix. Use of the internet or email to access pornographic, obscene or offensive material;
- x. Disclosure of confidential information;
- xi. Gross incompetence in the conduct of work;
- xii. Unauthorised entry to computer records;
- xiii. Any action whether committed on or off the premises, which is likely to or does bring the Council into disrepute;
- xiv. Accepting bribes or incentive payments from suppliers;
- xv. Unauthorised use of Council funds or credit.

#### **4. Suspension**

- 4.1 If allegations of gross misconduct or serious misconduct are made, the Council may suspend the employee while further investigations are carried out. Suspension will be on full pay. Suspension does not imply any determination of guilt or innocence as it is merely a measure to enable further investigation.
- 4.2 While on suspension the employee is required to be available during normal working hours in the event that the Council needs to make contact. The employee must not contact or attempt to contact or influence anyone connected with the investigation in any way or to discuss the matter with any other employee or councillor.
- 4.3 The employee must not attend work. The Council will make arrangements for the employee to access any information or documents required to respond to any allegations.

#### **5. Examples of Unsatisfactory Work Performance**

- 5.1 The following list contains examples of unsatisfactory work performance; the list is not exhaustive.
  - i. Inadequate application of management instructions/office procedures;
  - ii. Inadequate IT skills;
  - iii. Unsatisfactory management of staff;
  - iv. Unsatisfactory communication skills.

#### **6. The Procedure**

- 6.1 Preliminary inquiries: The Council may make preliminary inquiries to establish the basic facts of what has happened in order to understand whether there may be a case to answer under the disciplinary procedure.
- 6.2 If the employee's manager believes there may be a disciplinary case to answer, the Council may initiate a more detailed investigation undertaken to establish the facts of a situation or to establish the perspective of others who may have witnessed misconduct.
- 6.3 Informal procedures: Where minor concerns about conduct become apparent, it is the manager's responsibility to raise this with the employee and clarify the improvements required. A file note will be made and kept by the manager. The informal discussions are not part of the formal disciplinary procedure. If the conduct fails to improve, or if further matters of conduct become apparent, the manager may decide to formalise the discussions and invite the employee to a first stage disciplinary hearing.

## **7. Disciplinary Investigation**

- 7.1 A formal disciplinary investigation may sometimes be required to establish the facts and whether there is a disciplinary case to answer.
- 7.2 If a formal disciplinary investigation is required, the Council's Finance & Staffing Committee will appoint an Investigator who will be responsible for undertaking a fact-finding exercise to collect all relevant information. The Investigator will be appointed as soon as possible after the allegations have been made.
- 7.3 In cases of alleged unsatisfactory performance or of allegations of minor misconduct, the appointment of an Investigator may not be necessary, and the Council may decide to commence disciplinary proceedings at the next stage (the disciplinary meeting (see point 8)).
- 7.4 The Investigator will be independent and will normally be a councillor. If the Finance & Staffing Committee considers that there are no councillors who are independent (for example, because they all have direct involvement in the allegations about the employee), it will appoint someone from outside the Council.
- 7.5 The Finance & Staffing Committee will inform the Investigator of the terms of reference of the investigation. The terms of reference should specify:
  - the allegations or events that the investigation is required to examine;
  - whether a recommendation is required;
  - how the findings should be presented (e.g. an Investigator will often be required to present the findings in the form of a written report);
  - who the findings should be reported to and who to contact for further direction if unexpected issues arise or advice is needed.
- 7.6 The investigator will be asked to submit a report within 20 working days of appointment where possible.
- 7.7 The Finance & Staffing Committee will notify the employee in writing of the alleged misconduct and details for the person undertaking the investigation. The employee may be asked to meet the Investigator as part of the disciplinary investigation. The employee will be given at least five working days' notice of the meeting with the Investigator so that they have reasonable time to prepare for it.
- 7.8 The letter will explain the investigatory process and that the meeting is part of that process. The employee will be provided with a copy of the Council's Disciplinary Policy. The Council will also inform the employee that when they meet with the Investigator they will have the opportunity to comment on the allegations of misconduct.
- 7.9 Employees may be accompanied by a companion (a workplace colleague, a trade union representative or a trade union official) at any investigatory meeting.
- 7.10 If there are other persons (for example employees, councillors, members of the public or the Council's contractors) who can provide relevant information, the Investigator should try to obtain it from them in advance of the meeting with the employee.
- 7.11 The Investigator has no authority to take disciplinary action. Their role is to establish the facts of the case as quickly as possible and prepare a report that recommends to the Finance & Staffing Committee whether or not disciplinary action should be considered under the policy.
- 7.12 The Investigator's report will contain their recommendations and the findings on which they were based. They will recommend either:
  - the employee has no case to answer and there should be no further action under the Council's disciplinary procedure;

- the matter is not serious enough to justify further use of the disciplinary procedure and can be dealt with informally; or
  - the employee has a case to answer and there should be action under the Council's disciplinary procedure.
- 7.13 The Investigator will submit the report to the Finance & Staffing Committee which will decide whether further action is to be taken.
- 7.14 If the Finance & Staffing Committee decides that it will not take disciplinary action, it may consider whether mediation would be appropriate in the circumstances.

## **8. The Disciplinary Meeting**

- 8.1 If the Finance & Staffing Committee decides that there is a case to answer, it will arrange a meeting to formally hear the allegations.
- 8.2 No councillor with direct involvement in the matter shall be appointed to hear the allegations. The employee will be invited, in writing, to attend a disciplinary meeting. The Finance & Staffing Committee's letter will confirm the following:
- The names of its Chair and other two members;
  - details of the alleged misconduct, its possible consequences and the employee's statutory right to be accompanied at the meeting;
  - a copy of the information provided to the committee, which may include the investigation report, supporting evidence and a copy of the Council's disciplinary procedure;
  - the time and place for the meeting. The employee will be given reasonable notice of the hearing so that they have sufficient time to prepare for it;
  - that witnesses may attend on the employee's and the Council's behalf, and that both parties should inform each other of their witnesses' names at least two working days before the meeting;
  - that the employee may be accompanied by a companion (a workplace colleague, a trade union representative, or a trade union official).
- 8.3 The purpose of the disciplinary meeting hearing is for the allegations to be put to the employee and then for the employee to give their perspective. It will be conducted as follows:
- The Chair will introduce the members of the Finance & Staffing Committee to the employee and explain the arrangements for the hearing;
  - The Chair will set out the allegations and invite the Investigator to present the findings of the investigation report (if there has been a previous investigation)
  - The Chair will invite the employee to present their account;
  - The employee (or the companion) will set out their case and present evidence including any witness and/or witness statements;
  - Any member of the Finance & Staffing Committee and the employee (or the companion) may question the Investigator and any witness;
  - The employee (or companion) will have the opportunity to sum up.
- 8.4 The Chair will provide the employee with the Finance & Staffing Committee's decision with reasons, in writing, within five working days of the meeting. The Chair will also notify the employee of the right to appeal the decision.
- 8.5 The disciplinary meeting may be adjourned to allow matters that were raised during the meeting to be further investigated by the committee.

## **9 Disciplinary Action**

- 9.1 If the Finance & Staffing Committee decides that there should be disciplinary action, it may be any of the following:

9.1.1 First Written Warning: If the employee's conduct has fallen beneath acceptable standards, a first written warning will be issued. The first written warning will set out:

- the reason for the written warning; the improvement required (if appropriate) and the time period for improvement;
- that further misconduct/failure to improve will result in more serious disciplinary action;
- the employee's right of appeal;
- that a note confirming the written warning will be placed on the employee's personnel file, that a copy will be provided to the employee and that the warning will remain in force for a specified period of time, (e.g. 12 months).

9.1.2 Final Written Warning: If the offence is sufficiently serious, or if there is further misconduct or a failure to improve sufficiently during the currency of the prior warning, the employee will be given a final written warning. A final written warning will set out:

- The reason for the final written warning, the improvement required, (if appropriate) and the time period for improvement;
- that further misconduct/failure to improve will result in more serious disciplinary action, up to and including dismissal;
- the employee's right of appeal
- that a note confirming the final written warning will be placed on the employee's personnel file, that a copy will provide it to the employee and that the warning will remain in force for a specified period of time, (e.g.12 months).

9.1.3 Dismissal: Council may dismiss:

- For gross misconduct;
- if there is no improvement within the specified time period in the conduct which has been the subject of a final written warning;
- if another misconduct has occurred and a final written warning has already been issued and remains in force.

9.2 Council will consider very carefully a decision to dismiss. If an employee is dismissed, they will receive a written statement of the reasons for their dismissal, the date on which the employment will end, and details of their right of appeal.

9.3 If the Finance & Staffing Committee decides to take no disciplinary action, no record of the matter will be retained on the employee's personnel file. Action taken as a result of the disciplinary meeting will remain in force unless it is modified as a result of an appeal.

## **10. The Appeal**

10.1 An employee who is subject of disciplinary action will be notified of the right of appeal. Their written notice of appeal must be received by the Council within five working days of the employee receiving written notice of the disciplinary action and must specify the grounds for appeal.

10.2 Appeals may be raised on a number of grounds, for example:

- a failure by the Council to follow its disciplinary policy;
- the disciplinary decision was not supported by the evidence;
- the disciplinary action was too severe in the circumstances of the case;
- new evidence has come to light since the disciplinary meeting.

10.3 Where possible, the appeal will be heard by three members of the Council who have not previously been involved in the case. This includes the Investigator.

- 10.4 The Appeal Panel will appoint a Chair from one of its members.
- 10.5 The employee will be notified in writing, within 10 working days of receipt of the appeal, of the time, date and place of the meeting. The employee will be advised they may be accompanied by workplace colleague or a trade union representative.
- 10.6 At the appeal meeting, the Chair will:
- introduce the panel members to the employee;
  - explain the purpose of the meeting, which is to hear the employee's reasons for appealing against the disciplinary decision;
  - explain the action that the appeal panel may take.
- 10.7 The employee (or companion) will be asked to explain the grounds for appeal.
- 10.8 The Chair will inform the employee that they will receive the decision of the panel's reasons, in writing, within five working days of the appeal hearing.
- 10.9 The Appeal Panel may decide to:
- uphold the disciplinary decision of the Finance & Staffing Committee,
  - substitute a less serious sanction; or
  - decide that no disciplinary action is necessary.
- 10.10 If it decides to take no disciplinary action, no record of the matter will be retained on the employee's personnel file.
- 10.11 If an appeal dismissal is upheld, the employee will be paid in full for the period from the date of dismissal and continuity of the service will be preserved.
- 10.12 The Appeal Panel's decision is final.