

Birdingbury Parish Council

Disciplinary, Dismissal and Grievance Policy – adopted 7th October 2022 Review due October 2024

1. Introduction

It is policy that the following procedure should be followed when an employee is being disciplined or dismissed. The procedure provides that in normal cases a series of warnings will be given before discipline or dismissal is contemplated. The stages of the procedure that apply when discipline or dismissal is being contemplated comply with the statutory dismissal and grievance procedures and are based on the ACAS protocol.

Matters which may be dealt with under this disciplinary and dismissal procedure include discipline and dismissal for the following reasons:

- Misconduct
- sub-standard performance
- harassment or victimisation
- misuse of council facilities including computer facilities (eg e-mail and the Internet)
- poor timekeeping
- unauthorised absences

Minor cases of misconduct and most cases of poor performance may be dealt with by informal advice, coaching and counselling. An informal oral warning may be given, which does not count as part of the formal (or statutory) disciplinary procedure. No formal record of this type of warning will be kept.

If there is no improvement or the matter is serious enough, the employee will be invited to a disciplinary meeting at which the matter can be properly discussed. The employee will be allowed to bring a colleague, friend or relative to the meeting. The outcome of the meeting will be communicated to the employee. The possible outcomes are:

Oral warning

In the case of minor infringements, the employee may be given a formal oral warning by the Chair (or Vice-chair if the Chair is unavailable). A note of the oral warning will be kept on file but will be disregarded for disciplinary purposes after six months. The employee has the right to appeal against a formal oral warning.

Written warning

If the infringement is more serious or there is no improvement in conduct after a formal oral warning the employee will be given a formal written warning giving details of the complaint, the improvement or change in behaviour required, the timescale allowed for this, the right of appeal and the fact that a final written warning may be given if there is no sustained satisfactory improvement or change. A copy of the written warning will be kept on file but will be disregarded for disciplinary purposes after 12 months.

Final written warning

Where there is a failure to improve or change behaviour during the currency of a prior formal written warning, or where the infringement is sufficiently serious, the employee may be given a final written warning. This will give details of the complaint, warn that failure to improve will lead to dismissal and refer to the right of appeal. The final written warning will be kept on file but will normally be disregarded for disciplinary purposes after twelve months.

Dismissal

If the conduct or performance still fails to improve the final step will be to contemplate dismissal. The employer must follow the "Standard Disciplinary and Dismissal Procedure"

which is a statutory requirement. Failure to do so will usually result in a finding of automatically unfair dismissal.

2. The Standard Disciplinary and Dismissal Procedure

Step 1: Employer gives employee a written statement and calls a hearing.

The employer will set out in writing the alleged conduct, characteristics or other circumstances which lead her/him to contemplate dismissing or taking disciplinary action against the employee. The employer will inform the employee, in the written statement of the basis on which they have made the allegations. If possible, the employer will provide the employee with copies of any relevant evidence. The employer will invite the employee to a hearing to discuss the matter and will inform them who will be attending on behalf of the Council. The employer will be the Chair (or Vice-chair) of the Council and one other Councillor who may be accompanied by a Human Resources Adviser or other appropriate person.

Step 2: Meeting is held, and employer informs employee of the outcome

The meeting will take place before any action, other than suspension on full pay, is taken. The meeting will be held without undue delay but only when the employee has had a reasonable opportunity to consider a response to the employer's written statement and any further verbal explanation the employer has provided. The employee must take all reasonable steps to attend the meeting. After the meeting the employer will inform the employee of their decision and notify the employee of their right to appeal against the decision if not satisfied with the employer's decision. The employee must appeal to complete the statutory procedure.

Step 3: Appeal against the disciplinary decision if necessary

If the employee wishes to appeal, they must inform the Chair/Vice Chair as shown in the statement of employment particulars, in writing, within fourteen calendar days. The employer will then invite the employee to attend a further meeting. The employee must take all reasonable steps to attend the meeting. Two councillors from a neighbouring parish who have not been previously involved in the disciplinary procedure will hear the appeal. They may be accompanied by a Human Resources Adviser or other appropriate person. The appeal hearing may take place before or after dismissal or disciplinary action has taken effect. After the appeal hearing the employer will inform the employee of their final decision and will confirm it in writing as soon as practicable.

Gross misconduct

If after investigation it is confirmed that the employee has committed one of the following offences (the list is not exhaustive), they will normally be dismissed:

- theft
- fraud and deliberate falsification of records
- physical violence
- serious bullying or harassment
- deliberate damage to property
- serious insubordination
- misuse of an organisation's property or name
- bringing the employer into serious disrepute
- serious incapability whilst on duty brought on by misuse of alcohol, prescribed or illegal drugs
- serious negligence which causes or might cause unacceptable loss, damage or injury
- serious infringement of health and safety rules
- serious breach of confidence (subject to the Public Interest (Disclosure) Act 1998)

While the alleged gross misconduct is being investigated, the employee may be suspended, during which time they will be paid. Any decision to dismiss will be taken by the employer only after a full investigation. The Standard Disciplinary and Dismissal Procedure applies to dismissals for gross misconduct.

Modified Dismissal Procedure

In a few cases of gross misconduct the employer may be justified in dismissing immediately without conducting an investigation. In these cases, a two-step "Modified Dismissal Procedure" will be followed, otherwise the dismissal will be automatically unfair.

Step 1: Employer gives written statement

The employer must give the employee a written statement setting out the conduct that has resulted in the dismissal and informing them of the right to appeal against the decision to dismiss. The employee must appeal to complete the statutory procedure.

Step 2: Appeal against the disciplinary decision

If the employee wishes to appeal they must inform the Chair/Vice Chair as shown in the statement of employment particulars. A meeting must be held (in accordance with the general principles set out above). After the meeting, the employer must inform the employee of their decision following the meeting.

3. General Principles

The following principles apply to the Standard Dismissal and Disciplinary Procedure and the Modified Dismissal Procedure set out above:

- (a) The person who has authority to discipline an employee in accordance with this procedure is the Chair/Vice Chair as shown in the statement of employment particulars.
- (b) The employee has the right to be accompanied to any meeting by a representative or a colleague.
- (c) Each step in the procedure will be taken without unreasonable delay and hearings will be held at reasonable times and locations.
- (d) Meetings will be conducted in a manner that enables both employer and employee to explain their cases.
- (e) Records will be kept detailing the nature of any breach of disciplinary rules or unsatisfactory performance, the defence or mitigation, the action taken and the reasons for it, whether an appeal was lodged, its outcome and any subsequent developments. These records will be kept confidential.

4. Grievance Procedure

It is policy to ensure that any employee with a grievance has access to a procedure, which can lead to a speedy resolution of the grievance in a fair manner. Most routine complaints and grievances are best resolved informally in discussion with the Chair/Vice Chair as shown in statement of employment particulars. Where the grievance cannot be resolved informally it will be dealt with under the following procedure that complies with the statutory standard three-step grievance procedure.

The Standard Grievance Procedure

Step 1:

Employee gives written statement of grievance The employee must put their grievance in a written statement of grievance and send a copy to the Chair/Vice Chair as shown in statement of employment particulars. Where the grievance is against the Chair/Vice Chair the matter should be raised with the Monitoring Officer.

Step 2:

Meeting is held and employer informs employee of the outcome The employer will invite the employee to attend a meeting to discuss the grievance. The meeting will only take place

once they have informed the employer of the basis for the grievance they have set out a written statement, and the employer has had a reasonable opportunity to consider what response to make. The employee must take all reasonable steps to attend the meeting. The employer will be the Chair (or Vice-chair) and one other Councillor who may be accompanied by a Human Resources Adviser or other appropriate person. After the meeting the employer must inform the employee of the decision taken in response to the grievance and notify them of their right to appeal if they are not satisfied with the employer's decision. The employee must appeal to complete the statutory procedure.

Step 3:

Appeal if necessary If the employee wishes to appeal they must inform the employer. The employer will then invite the employee to attend another meeting. The employee must take all reasonable steps to attend. Two councillors from a neighbouring parish who have not been previously involved in the disciplinary procedure will hear the appeal. They may be accompanied by a Human Resources Adviser or other appropriate person. After the meeting the employer must inform the employee of the decision taken.

5. The Modified Grievance Procedure

The Modified Grievance Procedure will apply in relation to the grievance only if:

- The employee no longer works for the employer.
- The employee has agreed with the employer in writing that it will apply.
- The employee raised it before they left, but the standard procedure wasn't completed, or it was not raised until after the employee left.

There are two steps within the Modified Grievance Procedure:

Step 1: Employee gives written statement of grievance

The employee must put their grievance in a written statement and send a copy to the employer.

Step 2: Employer gives written response

The employer must write back to the employee giving their response to the points raised.

6. Principles Applicable to the Standard and Modified Grievance Procedure

- (a) Each step in the grievance procedure should be carried out without unreasonable delay. The times and locations of meetings should be reasonable.
- (b) Meetings must be conducted in a way that allows both parties to explain their case.
- (c) Records should be kept detailing the nature of the grievance raised, the employer's response, any action taken and the reasons for it. These records should be kept confidential.
- (d) The employee has the right to be accompanied to the hearing by a friend or colleague.
- (e) There are some cases in which the statutory procedure does not have to be followed or does not have to be followed in full, for example where the grievance is about the fact the employer intends to dismiss the employee. In these cases, the employer will not necessarily follow the statutory procedures set out above.
- (f) If an employee wishes to seek resolution of a grievance, s/he must contact the Chair/Vice Chair as shown in statement of employment particulars.