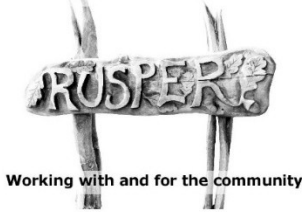


Rusper Parish Council



Rusper Parish Council
c/o Rusper Village Stores
East Street
Rusper, RH12 4PX
Tel: 07380 468256
clerk@rusper-pc.gov.uk
www.rusper-pc.gov.uk

DISCIPLINARY POLICY

Introduction

1. This policy is based on and complies with the 2015 ACAS Code of Practice.
2. It also takes account of the ACAS Guide on Discipline and Grievances at Work.
3. The policy is designed to help Council employees improve unsatisfactory conduct and performance in their job. Wherever possible, the Council will seek to resolve concerns about an employee's behaviour informally, without invoking the formal procedure set out below.
4. The policy will be applied fairly, consistently and in accordance with the Equality Act 2010.
5. This policy applies to employees of the Council only and does not apply to councillors, who are subject to the Council's adopted Code of Conduct.
6. The Council delegates responsibility for employee disciplinary matters to the Staffing Committee in accordance with its Terms of Reference.
7. Meetings relating to staffing matters will normally be held in confidential session in accordance with the Public Bodies (Admission to Meetings) Act 1960 due to the confidential nature of employment matters.
8. This policy confirms that:
 - informal coaching and supervision will be considered, where appropriate, to improve conduct and/or attendance;
 - the Council will fully investigate the facts of each case;
 - the Council recognises that misconduct and unsatisfactory work performance are different issues. The disciplinary procedure may also apply to work performance issues where performance management has proved ineffective;
 - employees will be informed in writing about the nature of any complaint against them and given the opportunity to state their case;
 - employees will be provided, where appropriate, with written copies of evidence and relevant witness statements in advance of a disciplinary hearing;
 - employees may be accompanied by a workplace colleague, trade union representative or trade union official at any investigatory, disciplinary or appeal meeting;

- the Council will give reasonable notice of meetings under this procedure. Employees must make all reasonable efforts to attend. Failure to attend may result in the meeting proceeding in their absence;
- where the employee's companion is unavailable on the proposed meeting date, the employee may request a postponement of up to seven calendar days unless it would be unreasonable not to agree a later date;
- any changes to specified timescales must be agreed by both the employee and the Council;
- information relating to disciplinary matters will be kept confidential and processed in accordance with the UK General Data Protection Regulation and Data Protection Act 2018;
- audio or video recordings of proceedings are prohibited unless agreed as a reasonable adjustment;
- employees have the right of appeal against disciplinary decisions;
- where an employee raises a grievance during disciplinary proceedings, the Council may decide to suspend the disciplinary procedure temporarily;
- disciplinary sanctions may include a first written warning, final written warning or dismissal;
- this procedure may be implemented at any stage where the alleged misconduct warrants it;
- except in cases of gross misconduct, employees will not normally be dismissed for a first act of misconduct;
- suspension will be on full pay and for no longer than necessary. Suspension is not a disciplinary sanction; and
- mediation may be considered at any stage where appropriate.

Examples of Misconduct

9. Misconduct is behaviour that may justify disciplinary action. Examples include, but are not limited to:
 - unauthorised absence;
 - poor timekeeping;
 - misuse of Council resources or facilities, including telephone, email and internet;
 - inappropriate behaviour;
 - refusal to follow reasonable instructions; and
 - breaches of health and safety rules.

Examples of Gross Misconduct

10. Gross misconduct is conduct so serious that it may justify dismissal without notice. Examples include, but are not limited to:

- bullying, discrimination or harassment;
- incapacity at work due to alcohol or drugs;
- violent behaviour;
- fraud or theft;
- gross negligence;
- gross insubordination;
- serious breaches of Council policies and procedures;
- deliberate or serious damage to property;
- accessing pornographic, obscene or offensive material using Council systems; and
- unauthorised disclosure of confidential information.

Suspension

11. If allegations of serious misconduct or gross misconduct are made, the Council may suspend the employee on full pay while investigations are carried out. Suspension is a neutral act and does not imply guilt.

12. During suspension, the employee must remain available during normal working hours. The employee must not seek to influence witnesses or discuss the matter with employees, councillors or others connected with the investigation, except through their representative or where authorised by the Council.

13. During suspension, the employee must not attend the workplace unless authorised. The Council will make arrangements for access to any documents or information reasonably required by the employee.

Examples of Unsatisfactory Work Performance

14. Examples of unsatisfactory performance include, but are not limited to:

- inadequate application of office procedures or management instructions;
- inadequate IT skills;
- unsatisfactory management of staff; and
- poor communication skills.

The Procedure

Preliminary Enquiries

15. The Council may make preliminary enquiries to establish the basic facts of a matter before deciding whether formal action is required.
16. If the employee's line manager, the Clerk, or the Staffing Committee (as appropriate) believes there may be a disciplinary case to answer, a formal investigation may be initiated.

Informal Procedure

17. Where minor concerns arise, it is the responsibility of the employee's line manager, the Clerk, or the Staffing Committee (as appropriate) to discuss these concerns informally with the employee and clarify the improvements required. A file note may be kept. Informal discussions do not form part of the formal disciplinary procedure.

Disciplinary Investigation

18. A formal investigation may be undertaken to establish the facts and determine whether there is a case to answer.
19. The Staffing Committee shall appoint an Investigator who will normally be an independent councillor. Where no suitable councillor is available, an external investigator may be appointed.
20. The Investigator shall be provided with written terms of reference setting out:
 - the allegations to be investigated;
 - whether recommendations are required;
 - the format of the findings; and
 - who the findings should be reported to.
21. The Investigator will normally submit their report within 35 calendar days unless otherwise agreed by both parties.
22. The Staffing Committee will notify the employee in writing of:
 - the allegations;
 - the identity of the Investigator;
 - the investigatory process; and
 - the employee's right to be accompanied.
23. Employees may be accompanied at investigatory meetings by a workplace colleague, trade union representative or trade union official.
24. The Investigator may interview witnesses and gather evidence relevant to the allegations.
25. The Investigator has no authority to impose disciplinary sanctions and will only establish facts and make recommendations.

26. The Investigator shall recommend one of the following:
- there is no case to answer and no further action should be taken;
 - the matter should be dealt with informally; or
 - there is a case to answer and a disciplinary hearing should be convened.
27. The Staffing Committee will consider the Investigator's report and decide whether further action is required.

Disciplinary Hearing

28. Where there is a case to answer, the Staffing Committee shall appoint a Staffing Sub-Committee of three councillors to hear the matter. The Investigator shall not be a member of the Sub-Committee.
29. No councillor directly involved in the matter shall sit on the Sub-Committee.
30. The employee shall receive written notice of the hearing including:
- details of the allegations;
 - the possible consequences;
 - copies of relevant documents and evidence;
 - the date, time and place of the hearing;
 - the right to be accompanied; and
 - details of witnesses.
31. Witness statements may be submitted in writing where attendance at the hearing is not reasonably practicable.
32. The hearing procedure shall normally be:
- introductions by the Chairman;
 - presentation of the Investigator's report;
 - presentation of the employee's case;
 - questioning by all parties; and
 - summing up by the employee or companion.
33. The hearing may be adjourned if further investigation is necessary.
34. The Sub-Committee shall provide its decision and reasons in writing within seven calendar days and notify the employee of the right of appeal.

Disciplinary Action

First Written Warning

35. Where misconduct is established but is not sufficiently serious to justify a final written warning, the employee may receive a first written warning.
36. The warning shall set out:
- the nature of the misconduct;
 - required improvements;
 - the timescale for improvement;
 - the consequences of further misconduct; and
 - the right of appeal.
37. A copy of the warning shall be retained on the employee's personnel file for a specified period, normally 12 months.

Final Written Warning

38. A final written warning may be issued:
- where misconduct is sufficiently serious; or
 - where there is repeated misconduct following a first written warning.
39. The final written warning shall set out:
- the nature of the misconduct;
 - required improvements;
 - the consequences of further misconduct; and
 - the right of appeal.
40. A copy of the final written warning shall normally remain on file for 12 months.

Dismissal

41. The Council may dismiss an employee:
- for gross misconduct;
 - for repeated misconduct following a final written warning; or
 - where required improvements have not been achieved.
42. Employees dismissed shall receive written reasons for dismissal, the date employment ends and details of the right of appeal.

43. Any decision to dismiss the Clerk shall be subject to ratification by Full Council, excluding any members previously involved in the disciplinary process.
44. If no disciplinary action is taken, no record of the matter shall be retained on the employee's personnel file.

Appeals

45. Employees have the right to appeal against disciplinary action.
46. Written notice of appeal must be submitted within seven calendar days of receiving the decision unless otherwise agreed by both parties.
47. Grounds for appeal may include:
 - failure to follow procedure;
 - insufficient evidence;
 - excessive sanction; or
 - new evidence becoming available.
48. The appeal will normally be heard by three councillors who have had no previous involvement in the matter. Where this is not possible due to the size of the Council, the Council shall take all reasonable steps to ensure fairness and impartiality.
49. The employee shall receive written notice of the appeal hearing within 14 calendar days of the appeal being received.
50. At the appeal hearing:
 - the Chairman will explain the purpose of the meeting;
 - the employee or companion may present the grounds of appeal; and
 - the panel may uphold, reduce or remove the disciplinary sanction.
51. The employee shall normally receive the appeal decision in writing within five working days.
52. If an appeal against dismissal is upheld, continuity of service shall be preserved and back pay provided.
53. The decision of the appeal panel is final.