



Sprotbrough and Cusworth Parish Council

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POLICY TITLE

Disciplinary Policy

ADOPTION DATE

20th February 2020

POLICY AIM

The aims of this disciplinary procedure are to:

- allow the Council to set standards of performance and behaviour;
- make sure that employees are treated fairly and consistently when dealing with shortfalls;
- help maintain and improve standards;
- provide a means of deciding when dismissal is justified. Dismissal is the last resort when all else has failed or when the employee's breach is a very serious one;
- comply with legislation as part of the Employment Act 2008 and be consistent with ACAS Code of Practice relating to Discipline and Grievance.

POLICY

Introduction

1. This policy is based on and complies with the 2015 ACAS Code of Practice. It also takes into account of the ACAS guide on discipline and grievances at work (February 2019). The policy is designed to help Council employees improve unsatisfactory conduct and performance in their job.
2. The policy will be applied fairly, consistently and in accordance with the Equality Act 2010.
3. This policy confirms:
 - 3.1 The Council will fully investigate the facts of each case.
 - 3.2 The Council recognises that misconduct and unsatisfactory work performance are different issues.
 - 3.3 Wherever possible, the Council will try to resolve its concerns about employees' behaviour informally, without starting the formal procedure set out below.
 - 3.4 The disciplinary policy will only be instigated when all informal attempts by the Council to resolve matters have been exhausted.

- 3.5 Employees will be informed in writing about the nature of the complaint against them and given the opportunity to state their case.
- 3.6 Employees may be accompanied or represented by a workplace colleague, a trade union representative or a trade union official at any disciplinary, investigatory 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 his/her case.
- 3.7 The Council will give employees at least 7 working days' notice of any meetings in this procedure. Employee must make all reasonable efforts to attend. Failure to attend any meeting may result in the meeting going ahead and a decision being taken.
- 3.8 An employee who does not attend a meeting will be given the opportunity to be represented and to make written submission.
- 3.9 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
- 3.10 Any changes to specified time limits in the Council's procedure must be agreed by the employee and the Council.
- 3.11 Information about an employee's disciplinary matter will be restricted to those involved in the disciplinary process.
- 3.12 A record of the reason for disciplinary action and the action taken by the Council is confidential to the employee. The employee's disciplinary records will be held by the Council in accordance with the General Data Protection Regulation (GDPR).
- 3.13 Audio recordings of the proceedings at any stage of the disciplinary procedure are prohibited, unless agreed as a reasonable adjustment that takes account of an employee's medical condition.
- 3.14 Employees have the right to appeal against any disciplinary action. The appeal decision is final.
- 3.15 Disciplinary action taken by the Council can include an oral warning, written warning, final written warning or dismissal.
- 3.16 Except for gross misconduct when an employee may be dismissed without notice, the Council will not dismiss an employee on the first occasion that it decides there has been misconduct.
- 3.17 If an employee is suspended following allegations of misconduct, it will be on full pay and only for such time as is deemed 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.
- 3.18 At any stage of the disciplinary procedure, where appropriate, the Council may consider mediation, a dispute resolution process that will require the Council and the employee to consent.
- 3.19 Refer to section 3.9 of the grievance procedure, where an employee raises a grievance when they are already subject to the Council's disciplinary procedure.

Examples of misconduct

4. Misconduct is employee behaviour that can lead to the employer taking disciplinary action. The following list contains some examples but is not an exhaustive list of misconduct:
 - 4.1 unauthorised absence.
 - 4.2 poor timekeeping.
 - 4.3 misuse of the Council's resources and facilities.
 - 4.4 inappropriate behaviour.
 - 4.5 refusal to follow reasonable instructions.
 - 4.6 breach of health and safety rules.

Examples of gross misconduct

5. Gross misconduct is misconduct that is so serious that it is likely to lead to dismissal without notice. The following list contains some examples of gross misconduct:
 - 5.1 bullying, discrimination and harassment.
 - 5.2 incapacity at work because of alcohol or drugs.
 - 5.3 violent behaviour.
 - 5.4 fraud or theft.
 - 5.5 gross negligence.
 - 5.6 gross insubordination.
 - 5.7 serious breaches of health and safety rules.
 - 5.8 serious and deliberate damage to property.
 - 5.9 use of the internet or email to access pornographic, obscene or offensive material.
 - 5.10 disclosure of confidential information.

Examples of unsatisfactory work performance

6. The following list contains some examples of unsatisfactory work performance:
 - 6.1 inadequate application of procedures.
 - 6.2 unsatisfactory management of staff.
 - 6.3 unsatisfactory communication skills.

Disciplinary investigation

7. The Clerk or Deputy Clerk if matters concern the Clerk, will collate all relevant information & report matters to the Parish Council.
8. If the Parish Council deems it necessary the Clerk/Deputy Clerk will liaise with the Chair of Performance Review and Staffing/Chair of Council & a meeting of the Performance Review and Staffing Committee will be called.
9. In line with agreed Council policy, it may be necessary to engage an external HR professional for appropriate support.
10. The Clerk/Deputy Clerk, will notify the employee in writing of the alleged misconduct and ask him/her to attend a meeting of the Performance Review and Staffing Committee.
11. The employee will be given at least 7 working days' notice of the meeting. The letter will explain the process and the employee should be provided with a copy of the Council's disciplinary procedure.

12. The Council will inform the employee when he/she will have the opportunity at the meeting to comment on the allegations of misconduct.
13. Employees may be accompanied or represented by a workplace colleague or a trade union Official.
14. The Clerk/Deputy Clerk has no authority to take disciplinary action. His/her role is to establish the facts of the case as quickly as possible and prepare a report that recommends to the Parish Council whether or not disciplinary action should be taken.
15. The Clerk/Deputy Clerk's report will contain his/her recommendations and the findings on which they were based.
16. Any recommendation will be either:
 - 16.1 the employee has no case to answer and there should no further action under the Council's disciplinary procedure.
 - 16.2 the matter is not serious enough to justify further use of the disciplinary procedure and can be dealt with informally.
 - 16.3 the employee has a case to answer and there should be action under the Council's disciplinary procedure.
17. If the Council decides that it will not take disciplinary action, it may consider whether mediation would be appropriate in the circumstances.

The disciplinary meeting

18. If the Parish Council decides that there is a case to answer the Performance Review and Staffing Committee will hear matters. The employee will be invited, in writing, to attend a disciplinary meeting. The letter will confirm the following:
 - 18.1 the names of its Chairperson and other members;
 - 18.2 details of the alleged misconduct, its possible consequences and the employee's statutory right to be accompanied at the meeting;
 - 18.3 a copy of the investigation report, all the supporting evidence and a copy of the Council's disciplinary procedure;
 - 18.4 the time and place for the meeting. The employee will be given reasonable notice of the hearing (at least 7 working days);
 - 18.5 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 five working days before the meeting;
 - 18.6 that the employee and the Council will provide each other with all supporting evidence at least five working days before the meeting. If witnesses are not attending the meeting, witness statements will be submitted to the other side at least five working days before the hearing; and
 - 18.7 that the employee may be accompanied by a companion - a workplace colleague, or a trade union official.
19. The disciplinary meeting will be conducted as follows:
 - 19.1 the Chairperson will introduce the members of the committee to the employee.
 - 19.2 the Clerk/Deputy Clerk will present the findings of the investigation report.
 - 19.3 the Clerk/Deputy Clerk will set out the Council's case and present supporting evidence (including any witnesses and/or witness statements).

- 19.4 the employee (or the companion) will set out his/her case and present evidence (including any witnesses and/or witness statements).
- 19.5 any member of the committee and the employee (or the companion) may put questions via the Chair.
- 19.6 the employee (or the companion) will have the opportunity to sum up his/her case.
- 19.7 the Chairperson will provide the employee with the committee's recommendations to the Parish Council with reasons, in writing, within five working days of the meeting. The letter will notify the employee of the right to appeal the decision.
- 19.8 the disciplinary meeting may be adjourned if necessary, to allow matters that were raised during the meeting to be investigated further.
- 19.9 The draft minutes of the Performance Review and Staffing Committee shall be sent to all Parish Council Members in readiness for the next available Parish Council meeting.

Disciplinary action

20. If the Parish Council then decides that there should be disciplinary action, it may be any of the following:

Oral warning

21. An oral warning is issued for most first instances of minor misconduct. The Council will notify the employee:
 - 21.1 of the reason for the warning, the improvement required (if appropriate) and the time period for improvement.
 - 21.2 that further misconduct/failure to improve will result in more serious disciplinary action.
 - 21.3 of the right to appeal.
 - 21.4 that a note confirming the oral 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 six months.

Written warning

22. If there is a repetition of earlier misconduct which resulted in an oral warning, or for different and more serious misconduct, the employee will normally be given a written warning. A written warning will set out:
 - 22.1 the reason for the written warning, the improvement required (if appropriate) and the time period for improvement.
 - 22.2 that further misconduct/failure to improve will result in more serious disciplinary action
 - 22.3 the employee's right of appeal.
 - 22.4 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 12 months.

Final written warning

23. If there is further misconduct during the period of a written warning or if the misconduct is sufficiently serious, the employee will be given a final written warning. A final written warning will set out:
 - 23.1 the reason for the final written warning, the improvement required (if appropriate) and the time period for improvement.
 - 23.2 that further misconduct/failure to improve will result in more serious disciplinary action up to and including dismissal.
 - 23.3 the employee's right of appeal.
 - 23.4 that a note confirming the final 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 18 months.

Dismissal

24. The Council may dismiss:
 - 24.1 for gross misconduct.
 - 24.2 if there is no improvement within the specified time period in the conduct which has been the subject of a final written warning.
 - 24.3 if another instance of misconduct has occurred and a final written warning has already been issued and remains in force.
25. The Council will consider very carefully a decision to dismiss. If an employee is dismissed, he/she will receive a written statement of the reasons for his/her dismissal, the date on which the employment will end and details of his/her right of appeal.
26. If the Parish Council decides to take no disciplinary action, no record of the matter will be retained on the employee's personnel file. Action imposed as a result of the disciplinary meeting will remain in force unless and until it is modified as a result of an appeal.

The Appeal

27. An employee who is the subject of disciplinary action will be notified of the right of appeal. His/her 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.
28. The grounds for appeal can include such matters as;
 - 28.1 a failure by the Council to follow its disciplinary policy
 - 28.2 the committee's decision was not supported by the evidence
 - 28.3 the disciplinary action was too severe in the circumstances of the case
 - 28.4 new evidence has come to light since the disciplinary meeting.
29. The Appeal will be heard by a panel of three members of the Performance Review and Staffing Committee who have not previously been involved in the case. If there are insufficient members of the committee who have not previously been involved then 3 Members of the Parish Council will constitute the appeal panel. The appeal panel will appoint a Chairperson from one of its members.
30. The employee will be notified, in writing, within 10 working days of receipt of the notice of appeal of the time, date and place of the appeal meeting. A

- copy of the original investigation report and all the supporting evidence including a copy of the Council's disciplinary procedure will be sent to the employee.
31. The employee will be advised that he/she may be accompanied by a companion - a workplace colleague or a trade union official.
 32. At the appeal meeting, the Chairperson of the appeal panel will:
 - 32.1 introduce the panel members to the employee
 - 32.2 explain the purpose of the meeting, which is to hear the employee's reasons for appealing against the decision of the Performance Review and Staffing committee
 - 32.3 explain the action that the appeal panel may take.
 33. The employee (or his companion) will be asked to explain the grounds for appeal.
 34. The Chairperson will inform the employee that he/she will receive the decision and the panel's reasons, in writing, within five working days of the appeal hearing.
 35. The appeal panel may decide to uphold the decision of the committee, substitute a less serious sanction or decide that no disciplinary action is necessary. If it decides to take no disciplinary action, no record of the matter will be retained on the employee's personnel file.
 36. If an appeal against dismissal is upheld, the employee will be paid in full for the period from the date of dismissal and continuity of service will be preserved.
 37. The appeal panel's decision is final.

IMPLEMENTATION

All Councillors and Staff have responsibility to ensure this policy is implemented and followed.

Failure to do so may result in Disciplinary Action being taken against staff or Councillors being reported to Doncaster Council Monitoring Officer under the Code of Conduct.

MONITORING

The policy will be monitored in the following ways:

Monitoring Activity	Person Responsible
Any breach of the policy to be reported to the Clerk/ Deputy Clerk	Anyone
Reports will be investigated and remedial action taken if required	Clerk/ Deputy Clerk

POLICY CONSULTATION

A copy of the policy has been given to all staff.

POLICY REVISION DATE

Policy reviewed August 2024

Next review date August 2025

This document shall be reviewed annually; or upon any changes to legislation; or subject to the requirements of Sprotbrough and Cusworth Parish Council.

RELATED POLICIES AND STRATEGIES

Grievance Policy
Staff Appraisal and training Policy
Councillor Code of Conduct