

DISCIPLINARY PROCEDURE

Adopted September 2021

DISCIPLINARY PROCEDURE

1. Introduction

1.1 This disciplinary procedure is designed to help and encourage employees to achieve and maintain acceptable standards of conduct and job performance at all times, including the need to: -

- Fulfil the duties specified in their contract of employment.
- Be honest and act beyond suspicion of dishonesty.
- Maintain high standards of integrity and conduct to protect the council's image and reputation with the public.

1.2 It is the Council's policy to ensure that any disciplinary matter is dealt with fairly and that steps are taken to establish the facts. Employees should not be dismissed or subjected to disciplinary action without being provided with the following:-

- a written statement of the allegations
- a fair hearing before any decision is reached; and
- the right to an appeal hearing

1.3 This policy indicates the disciplinary procedure that will normally be followed in the event of misconduct. The following list provided examples of conduct that will normally be regarded as misconduct leading to disciplinary proceedings. The list is not exhaustive. These are examples only:-

- i Unsatisfactory time keeping.
- ii Time wasting.
- iii Absenteeism, including any absence from work during a working day without prior authorisation or instruction.
- iv Damage to, or unauthorised use of Council property
- v Failure to comply with rules, regulations and procedures, applicable to job requirements.
- vi Minor breaches of your contract of employment.
- vii Failure by an employee to perform the duties and responsibilities of his or her post

- to the standard expected by the Council.
- viii Obscene language or other offensive behaviour.
 - ix Insubordination or refusal to follow instructions.
 - x Any other conduct that from time to time is defined by the Council as amounting to misconduct or breach of Council General Rules.

2.0 Disciplinary Rules

2.1 General Rules

- Employees have an obligation to ensure that they conform to the requirements of an Equalities Policy and must not act in a manner which could be considered to be of an unlawful discriminatory nature against fellow employees, customers, or other people with whom they come into contact on the Council's business.
- Employees are expected to achieve and maintain a good standard of workmanship and cleanliness and to show a conscientious approach to the job or to the detail of that job to a standard that may reasonably be expected.
- To ensure maximum efficiency, employees are engaged on the basis that they must be prepared to undertake reasonable duties other than those for which they have been specifically engaged.
- A Council telephone must not be used for private purposes without prior permission.
- An orderly and courteous manner must be maintained in front of the public.
- The Council's time, material or equipment must not be used for any unauthorised use.
- All authorised notices displayed are expected to be read and observed.
- Employees are expected to act wholeheartedly in the interests of the Council at all times. Any conduct detrimental to its interests or its relations with its customers, suppliers, the general public or damaging to its public image shall be considered to be in breach of the Council's rules.
- Employees must not perform, arrange, or carry out any work or activity which could be considered to be in competition with or which adversely affect in any way the Council's interests.
- Employees must act in accordance with the Council's operating procedures and policies.
- Employees must take reasonable care of the health and safety of employees and third parties.
- Comply with all reasonable instructions given.
- Observe confidentiality.

2.2 Gross Misconduct

Gross misconduct, is misconduct which, in the Council's opinion, is serious enough to prejudice its business or reputation, or which irreparably damages the working relationship and trust between employer and employee. It is a serious breach of contract and may lead to summary dismissal, that is dismissal without notice on any compensation.

The following list provides examples of conduct that will normally be regarded by the Council as Gross Misconduct. This list is not exhaustive. These are examples only:

- Refusal or repeated failure by an employee to carry out his or her duties.
- Falsification of documents or information (including expense claims).
- Unauthorised disclosure of confidential information.
- Assault, physical violence or bullying whilst acting or purporting to act on behalf of the Council.
- Insulting, indecent or offensive behaviour towards a fellow employee or any other person whilst acting or purporting to act on behalf of the council.
- Serious or repeated harassment (including sexual and racial harassment).
- Bringing the organisation into serious disrepute.
- Incapacity at work due to the influence of alcohol, un-prescribed drugs or any other substance.
- Wilful damage to Council property.
- Deliberately accessing internet sites containing pornographic, offensive or obscene material.
- Theft, unauthorised use or possession of council property or fraud.
- Serious insubordination.
- Conduct bringing the Council into disrepute.
- Serious breach of health and safety rule.
- Any other conduct that from time to time is defined by the Council as amounting to gross misconduct.

3.0 Scope & Explanation of Terms

- 3.1 This Procedure applies to all employees regardless of status or length of service, except to employees in their probationary period. It is for guidance and does not form part of your contract of employment. This Procedure does not apply to cases involving genuine sickness absence; proposed redundancies; or poor performance and competence.

If you have difficulty at any stage of the procedure because of a disability or language you should discuss the situation with the Council.

If you believe that disciplinary action is being taken against you for a reason that does not relate to your conduct, or for a reason which is discriminatory, you should submit a grievance in writing under the Grievance Procedure before the appeal hearing takes place.

- 3.2 For first instances of minor misconduct, the Parish Clerk (or Personnel Committee in the case of the Clerk) may speak to the employee informally before implementing a formal disciplinary procedure. However, there is no obligation to do this.

4.00 Confidentiality

The Council's aim during an investigation or disciplinary procedure is to deal with matters as sensitively as possible and with due respect for the privacy of the individuals involved. All employees must treat as confidential

any information communicated to them in connection with an investigation or disciplinary matter. You nor any person accompanying you are not permitted to make any electronic recordings of any investigative meetings, disciplinary or appeal hearings.

5.00 Investigation

The purpose of an investigation is for the Council to establish a fair and balanced view of the facts before deciding whether to proceed with a disciplinary hearing. This may involve reviewing any relevant document, interviewing you and any witnesses, and taking witness statements.

Investigation interviews are solely for the purpose of fact finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held.

You do not normally have the right to bring anyone to an investigation interview, however the Council may agree to you bringing a companion if it helps you to overcome a difficulty caused by a disability or language.

You must cooperate fully and promptly in any investigation. This will include informing us of the names of any relevant witnesses, disclosing any relevant documents to us and attending any investigation interviews.

Investigations will be carried out by a Personnel sub committee.

6.00 Suspension

In cases of alleged gross misconduct, where the employee's continued presence at work may hinder an investigation, the Council may need to suspend them from work while an investigation or disciplinary procedure is on-going. The suspension will be for no longer than necessary and will be confirmed in writing. While suspended you should not visit council premises, or contact its customers, suppliers, employees or contractors unless authorised by Council.

Suspension of this kind is not a disciplinary sanction and does not imply that any decision has already been made about your case. You will continue to receive your full basic salary and benefits during the period of suspension.

7.00 Written Information

Following any investigation, if we consider there are grounds for disciplinary action, we will inform you in writing of the allegations against you and the basis for these allegations. This will normally include: -

- a summary of relevant information gathered during the investigation;
- documents which will be used at the disciplinary hearing; and
- a written statement which will be used at the hearing, except where a witness's identity is to be kept confidential, in which case we will give you as much information as possible, while maintaining confidentiality.

You have a right to be accompanied at a disciplinary or appeal hearing

8.00 Disciplinary Sanctions

Verbal Warnings

Verbal Warnings are issued by the Parish Clerk/Personnel Committee for most first instances of general misconduct, depending on the seriousness of the offence. If the employee is given a Verbal Warning he or she will be warned of the likely consequences of any further disciplinary offences or a failure to improve his or her conduct to the satisfaction of the Council. A note confirming the Verbal Warning will be placed on the employees personnel file. A Verbal Warning will normally remain in force for 6 months, but remain permanently on your Personnel record.

The Verbal Warning stage of the procedure may be omitted if the offence is of a sufficiently serious nature.

First Written Warning

In the case of a more serious offence or repetition of an earlier minor offence the employee will normally be given a First Written Warning. A First Written Warning will be issued by the Parish Clerk Personnel Committee and will set out:

- i. the nature of the offence and the improvement required (if appropriate) and over what period;
- ii. the likely consequences of any further offence or failure by the employee to improve his/her conduct to an acceptable standard;
- iii. that further offences will result in more serious disciplinary action; and
- iv. the employee's right of appeal.

A first Written Warning will normally remain in force for 12 months, but remain permanently on your Personnel Record. The First Written Warning stage of the procedure may be omitted if the offence is of a sufficiently serious nature.

Final Written Warning

If further misconduct occurs within the time period specified in a First Written Warning, or if the misconduct is sufficiently serious the employee will be given a Final Written Warning. A Final Written Warning will be issued by the Parish Clerk/ Personnel Committee and will set out:

- v. the nature of the offence and the improvement required (if appropriate) and over what period;
- vi. the likely consequences of any further offence or a failure by the employee to improve his/her conduct to an acceptable standard;
- vii. that further offences will result in more serious disciplinary action up to and including dismissal; and
- viii. the employees right of appeal.

Final Written Warnings may also be issued in circumstances where the misconduct does not amount to gross misconduct, but is sufficiently serious enough to warrant only one written warning. A Final Written Warning will normally remain in force for 24 months.

Dismissal

The Council may dismiss you in the following circumstances:-

- i. misconduct during any probationary period; or
- ii. misconduct where there is an actual final written warning on your record; or
- iii. given misconduct regardless of whether you have received any previous warnings.

Given misconduct will usually result in summary dismissal without notice or payment in lieu of notice. In cases not involving gross misconduct you will be given your full contractual notice period, or payment in lieu of notice.

9.00 Disciplinary Process (including Appeal Process)

- 9.1 In any case where misconduct at any level is alleged which cannot be dealt with informally, the Council will investigate the alleged misconduct and will establish the facts surrounding the complaint as necessary, taking into account the statements of any available witnesses.
- 9.2 In any case where investigation has shown that misconduct which cannot be dealt with informally or gross misconduct is likely to have occurred or, re-occurred, and the Council deems it appropriate to contemplate a disciplinary sanction, a disciplinary hearing will be held.
- 9.3 The Council will set out in writing the alleged conduct or other circumstances which lead the Council to contemplate dismissing the employee or taking disciplinary action against the employee and the basis for the allegation and will send the employee a copy of the statement inviting the employee to attend a disciplinary meeting to discuss the matter. The employee will be provided with a reasonable opportunity to consider his or her response to the information provided in the statement before attending the meeting. The employee must take all reasonable steps to attend the meeting, and failure to attend without good reason may be treated as misconduct on itself.
- 9.4 Disciplinary meetings will normally be convened within 10 working days of the Council sending the employee the written statement referred to in 5.3 above. The employee may be accompanied to any disciplinary meeting. The Council will be represented by the Parish Clerk or Personnel Committee.
- 9.5 If the time or date proposed for the meeting is inconvenient (either for the employee or for the employees companion should he or she wish to be accompanied to the meeting pursuant to 5.4 above) the employee may ask to postpone the meeting by up to 5 working days.
- 9.6 The purpose of the disciplinary hearing is to review the evidence and to enable you to respond to any allegations that may be made against you. If you have a companion, he or she 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 hearing.

- 9.7 It will not normally be necessary for witnesses to be questioned or cross examined at the disciplinary hearing but in exceptional cases, we may decide that a fair hearing could not be held otherwise.
- 9.8 The meeting may be adjourned to allow matters raised during the course of the meeting to be investigated, or to afford the Council time to consider their decision.
- 9.9 After the meeting the Council will inform the employee of their decision and any applicable sanction within 5 working days. The meeting may be reconvened for this purpose. The decision will be confirmed to the employee in writing.
- 10.00 If the employee wishes to appeal against the decision he or she must notify the Council in writing within 5 working days of receiving written notice of the decision, stating your full grounds of appeal.

The employee will be invited to attend a disciplinary appeal meeting. The employee must take all reasonable steps to attend that disciplinary appeal meeting. The employee has the right to be accompanied to a disciplinary appeal meeting by a representative of a trade union or colleague.

- 10.1 The Council will need to appoint councillors who have not been involved in the process to date to ensure that the hearing is heard impartially.
- 10.2 A disciplinary appeal meeting will normally be convened within 10 working days of the Council receiving notification that the employee wishes to appeal.

If the meeting date is inconvenient for the employee's companion he or she may ask to postpone the meeting by up to 5 working days.

- i. Any new evidence that the employee wishes to put forward will be considered, as will any new evidence from the Council. The original disciplinary penalty will be reviewed.
- ii. The disciplinary appeal sanction originally imposed cannot be increased upon appeal.
- iii. The disciplinary appeal meeting will not necessarily take place before any disciplinary sanction imposed by the Council takes effect. If the employee's appeal is against dismissal and the appeal is successful the employee will be reinstated and continuity of employment will be preserved.
- iv. The meeting may be adjourned to allow matters raised during the course of the meeting to be investigated, or to afford the Council time to consider its decision.

After the disciplinary appeal meeting the Council will inform the employees of its final decision within 5 working days. The meeting may be reconvened for this purpose. The decision will be confirmed to the employee in writing.

