



# SOMPTING PARISH COUNCIL

## POLICY ON: Discipline

### **Introduction**

The morale of the workforce of the Parish Council depends to a large extent on the ability to achieve and preserve high standards of co-operation and discipline. Most employees understand and accept that in any organisation there have to be rules of behaviour if its activities are to run smoothly in an orderly manner and beneficially for the safety and welfare of all. The purpose of this policy is to maintain acceptable performance levels and conduct.

Where a potential disciplinary issue relates to a job performance, full consideration will be given to dealing with the matter as a capability issue for which a separate policy applies. Where it is considered that the employee is capable of performing the duties in question, the matter will be dealt with under the disciplinary policy as a conduct issue. While disciplinary action may be involved, it is not the main objective of the exercise. It is preferred that discipline should be voluntary and self-imposed. It is equally the intent that disciplinary action be considered and applied fairly and equitably.

### **Scope**

This policy applies to all employees apart from the Parish Clerk, who is subject to the separate provisions.

### **Responsibilities**

Managers have the primary responsibility for ensuring that the rules and accepted standards of behaviour are known to all employees. A copy of this document is issued to all employees for their retention. For their part, employees are expected to familiarise themselves with the standards expected and to abide by them.

### **Principles and Objectives**

The procedure recognises a distinction between the relatively minor disciplinary offences and gross misconduct which may involve a fundamental breach of the employee's contract of employment. The procedure is designed to deal with offences in both of these categories.

The following principles have been followed in the formulation of this policy:

(a) The first objective of this policy is to help the employee whose conduct or performance gives cause for dissatisfaction to improve to the required level.

(b) The procedure is designed to work as quickly as possible, consistent with the thorough investigation of the circumstances of each case.

(c) The procedure may be implemented at any level of the stages of disciplinary action if the employee's alleged misconduct warrants such action.

(d) In cases of gross misconduct not leading to dismissal or where a final warning is issued as a result of repeated breaches of discipline, an employee may be demoted or transferred to an alternative post with any appropriate adjustment to pay.

(e) Before any disciplinary hearing, an employee will receive notice of the meeting in writing at least seven working days in advance and details of the alleged misconduct or unsatisfactory performance and the information which leads the manager to contemplate disciplinary action including all the documentation which will be produced at the hearing. If the employee intends to bring a companion (see notes for definition) to the hearing, he/she may ask for copies of the allegation and documentation to be sent to them at the same time. In the event of there being an allegation of harassment, bullying, violence or other sufficient grounds, the employer reserves the right to withhold the identity of any witnesses, if failing to, would hinder a full and fair hearing.

(f) At every stage of the procedure if the employee reasonably requests to be accompanied, the employee has a right to take companion (for role of companion see notes) with him/her to any of the following hearings:

- ❑ where it could result in the administration of a formal warning
- ❑ where it could result in some other disciplinary action being taken
- ❑ where it could result in an earlier warning or some other disciplinary action being confirmed

If the chosen companion is unable to attend on the day, the employee may ask for the hearing to be adjourned to an alternative time and date. This adjourned hearing must then take place within seven working days of the first hearing date.

Unless exceptional circumstances apply, only one request for an adjournment will be considered at each stage of the process.

(g) At every stage of the procedure the employee will have the opportunity to state their case and what is said will be taken into account by the manager in determining what action, if any, should be taken.

(h) At every stage of the procedure the employee has the right of appeal. The Appeals Panel will inform full Council of their decision either to allow the appeal

or confirm the action taken.

(i) The employee will normally be informed verbally of any formal disciplinary action as soon as possible following the conclusion of the hearing. In any event, the employee will always be informed in writing of the outcome of the hearing within five working days of the confirmation of action by full Council. If any disciplinary action is taken the employee will be told the reason for it, what action should be taken to avoid it happening again and the consequences of any further failure. Where possible, letters notifying employees of disciplinary action will be communicated to them at their place of work.

(j) The employee may request that copies of all correspondence are forwarded to his/her companion, and, whether or not they are involved, that the appropriate trade union representative is informed at all stages that action is being taken.

(k) Employees may request written confirmation that expired warnings have been removed from their personal record files.

(l) If as a result of an investigation, no disciplinary action is taken, any written reference to the allegation and hearing shall be totally removed from the employee's file.

(m) At the appeal stage, where new unseen evidence is introduced by one party, the other party must be given the opportunity to consider and comment upon it, even if this means adjourning the hearing to another day.

(n) The Parish Clerk will on request provide the appropriate trade union representatives with statistics as to the numbers of staff against whom disciplinary action has been taken.

(o) It is vital that all proceedings and records are kept confidential. All documents will be held in accordance with the Data Protection Act 1998.

(p) The procedure outlined below applies unless the violent, abusive or otherwise unacceptable behaviour of one party makes it unreasonable to follow it, stress and anxiety about the process is not sufficient.

**NOTES:**

1. An "offence" or "misconduct" for the purposes of this procedure are regarded to be a failure to achieve current required standards of behaviour including job performance (where this is not a capability issue) in relation to any aspect of employment.

2. In all cases where the term 'days' is used to explain timescales, this should be taken to mean normal 'working days' from Monday to Friday regardless of the actual days and hours of work of the employee subject to the disciplinary action.

3. "Companion" is a fellow worker or any trade union official, regardless of whether or not he/she is from the employer's officially recognised trade union.

Legal Representatives, whether or not acting in an official capacity, are not companions and therefore have no right to accompany. At the hearing the companion may address the hearing and ask to confer privately with the employee for a reasonable time. However he/she may not answer questions on the employee's behalf.

"Disciplinary Officer" is the person who has taken disciplinary action against an employee.

## **The Procedure**

### **Investigatory Meeting**

If the manager intends to hold a meeting with an employee with a view to considering disciplinary action the employee should be given not less than 5 days notice. The employee will be entitled to bring a companion to that meeting. It is important to establish the facts and to keep a clear record of the meeting which the employee is entitled to have copies of within 5 days from the date of the meeting. Where training is indicated, the manager should ensure that the appropriate training is made available.

### **Stage 1 Written Warning**

If in the opinion of the manager conduct or performance do not meet acceptable standards a hearing will be arranged between the manager and the employee at which the employee may be given a formal **STAGE 1 WRITTEN WARNING**. The warning will contain the following details:

- (a) The reason for the warning.
- (b) Confirmation that it is stage 1 of the disciplinary procedure.
- (c) In cases of unsatisfactory performance any improvement expected and the timescale within which the improvement is required.
- (d) That continued unsatisfactory conduct or repetition of the offence will lead to further action under the disciplinary procedure.
- (e) That the employee has a right to appeal against the warning.
- (f) That a copy of the warning will be kept on the employee's file for a period of six months, at the end of which, subject to satisfactory conduct/performance, it will be removed, although this will be subject to the discretion of the Parish Clerk, having regard to the nature of the offence.

### **Stage 2 Written Warning**

If in the opinion of the manager the offence is serious, or if a further offence occurs, a hearing will be arranged between the manager and the employee at

which a **STAGE 2 WRITTEN WARNING** will normally be issued. Managers need to ensure that advice is sought before issuing a Stage 2 warning.

The warning will contain the following details:

- (a) The reason for the warning
- (b) Confirmation that it is stage 2 of the disciplinary procedure
- (c) In cases of unsatisfactory performance any improvement expected and the timescale within which the improvement is required.
- (d) That continued unsatisfactory conduct or repetition of the offence will lead to further action under the disciplinary procedure.
- (e) That he/she has the right of appeal against the warning.
- (f) That a copy of the warning will be kept on his/her file for a period of six months, at the end of which, subject to satisfactory conduct/performance, it will be removed, although this will be subject to the discretion of the Parish Clerk having regard to the nature of the offence.

### **Stage 3 Final Written Warning**

If in the opinion of the manager there is still a failure to improve and conduct or performance continues to be unsatisfactory, or if the misconduct is sufficiently serious to warrant only one written warning, but insufficiently serious to justify dismissal (in effect both first and final written warning) the manager will bring this to the attention of the Parish Clerk who, after consultation with the Chairman of Finance and General Purposes Committee, will meet with the employee and may issue a **FINAL WRITTEN WARNING** to the employee. This warning will contain the following details:

- (a) The reason for the warning.
- (b) Confirmation that it constitutes a final warning and that dismissal will result if there is a repetition or no satisfactory improvement.
- (c) In cases of unsatisfactory performance any improvement expected and the timetable within which the improvement is required.
- (d) That the employee has a right of appeal against the warning (see Section 7).
- (b) That a copy of this final written warning will be kept on the employee's personal file and remain current for a period of twelve months at the end of which, subject to satisfactory conduct/performance, it will normally be removed, although this will be subject to the discretion of the Parish Clerk having regard to the nature of the offence.

When the conduct is so serious, verging on gross misconduct, that it cannot be disregarded for future disciplinary purposes, the Parish Clerk should make it

clear that the final written warning can never be removed and that any repetition will lead to dismissal.

#### **Stage 4 Dismissal**

If the employees conduct or performance continues to be unsatisfactory and the employee still fails to reach the prescribed standards and in cases of gross misconduct, DISMISSAL will normally result. Only the Parish Clerk, in consultation with the Chairman of Finance and General Purposes Committee, can take the decision to dismiss. In addition to the information required to be given under paragraph 3(e) above, details of the allegation, and right to bring a companion the Parish Clerk will notify the employee that dismissal is being contemplated. If the Parish Clerk is absent for a prolonged period the Chairman of the Council can act in his/her place.

If it is decided to dismiss the employee, the employee must be provided within five days of the meeting with written reasons for dismissal, notification of the date on which employment will terminate and details of his/her right of appeal.

The employee will not be dismissed for their 'first offence' unless that constitutes gross misconduct. The following list, which is not exhaustive, provides examples of offences that are normally regarded as gross misconduct.

Theft, fraud, deliberate falsification of records

Fighting, assault on another person

Deliberate damage to Council property or that of employees

Being seriously incapable of doing work due to the influence of alcohol or illegal drugs

Deliberate action or omission which damages the Council's reputation, particularly with regard to the public

Serious negligence which causes unacceptable loss, damage or injury

Unauthorised removal or use of Council property

Sexual misconduct at work including sexual harassment

Serious act of insubordination including failure to carry out reasonable instructions and serious breaches of Council rules, policies or procedures which include: health and safety; bullying; discrimination

An employee who may have committed an act of gross misconduct may be suspended from work on full pay while the Parish Clerk investigates the alleged misconduct. Suspension is NOT an indication of guilt or innocence but allows an employer to investigate the matter.

## **Appeals**

### **A. Appeals against Stage 1, 2 and 3 Warnings**

(i) An employee may appeal under this procedure. The appeal must:

1. set out the grounds on which it is made;
2. be made in writing by the employee or by his/her companion;
3. be delivered to the Chairman of the Council within ten working days of the employee receiving the warning.

(ii) Within seven working days of receipt of an appeal, an appeal hearing will be held. The Appeal Panel will consist of the disciplining officer's immediate manager acting as chair, the Parish Clerk and the 3 Members of the panel.

(iii) The appeal decision will be given verbally to the employee as soon as possible after the hearing, and confirmed in writing within five working days of the decision.

(iv) If the appeal is allowed, whatever disciplinary sanction was imposed will be removed from the employee's personal record or another one imposed in its place.

(v) The Appeal Panel's decision is final and there is no further right of appeal.

### **B. Procedure at Appeal Panels**

(i) All present will be introduced.

(ii) The chair will explain the purpose of the hearing and how it will be conducted.

(iii) The disciplining officer will outline the allegations and evidence in support including calling witnesses, and producing documentation relevant to the case.

(iv) The employee will then be invited to respond to the allegations. The companion/employee may ask questions, call relevant witnesses, and produce relevant documentation. The disciplining officer will question the employee and any witnesses on any points arising.

(v) Following general questioning and discussion, the employee/companion will be given an opportunity to sum up in response to the allegations and to outline any other factors to be taken into account. The disciplining officer will summarise the main points raised, all parties will then leave.

(vi) The Panel will then consider what they have heard and decide whether a different disciplinary sanction should be substituted. The Panel may decide that the sanction is higher than that originally imposed. If a sanction is to be substituted, the Panel will record:

1. the reason for the sanction;
2. the nature of the sanction;
3. in appropriate cases, what improvement is expected from the employee and the timescale within which the improvement is required;
4. that continued unsatisfactory performance or conduct or repetition of the offence would lead to further disciplinary action.

(vii) The employee will be told the Panel's decision verbally as soon as possible, to be confirmed in writing within five working days.

### **C. Appeal against dismissal to the Appeal Panel**

(i) An employee may appeal against DISMISSAL to the Appeal Panel via the Chairman of the Council. The appeal, must:

1. set out the grounds on which it is made;
2. be made in writing by the employee or by his/her companion;
3. be delivered to the Chairman within ten working days of receipt of the dismissal decision.
4. include copies of all papers which the employee wishes to use at the Appeal Hearing
5. include details of any witnesses the employee wishes to call.

(ii) The Parish Clerk will pass a copy of the relevant papers to the Chairman of the Council who will arrange for the appeal to be heard by the Appeal Panel as soon as possible and, where practicable, within 14 working days of receipt of the appeal.

(iii) The appeal will be by way of a rehearing of the dismissal hearing. Therefore, all the evidence which was heard and available at the dismissal hearing will be considered by the Appeals Panel together with any evidence (either in support of or against the decision to dismiss), which a party wishes to bring to the attention of the Appeals Panel.

(iv) The Joint Staff Committee will give their decision to the employee as soon as possible, such decisions to be confirmed in writing within five working days of their decision.



(v) If the appeal is allowed, the employee is to be reinstated but may be subject to such reasonable conditions as the Appeals Panel considers appropriate. This may include imposing a Stage 1 J 2 or 3 Warning in substitution for the dismissal. There is no further right of appeal.

#### **D. Procedure at Appeals Panel**

The Appeals Panel is composed of three elected members. The Appeals Panel is the final appeal within the Council in all disciplinary matters.

(i) All present will be introduced.

(ii) The Panel Chair will explain the purpose of the hearing, how it will be conducted and what powers the Appeals Panel has.

(iii) The Parish Clerk (dismissing officer) will outline the allegations and evidence in support including calling witnesses, and producing documentation relevant to the case.

(iv) The employee will then be invited to respond to the allegations. The companion/employee may ask questions, call relevant witnesses, and produce relevant documentation. The Parish Clerk will question the employee and any witnesses on any points arising.

(v) Following general questioning and discussion, the employee/companion will be given an opportunity to sum up in response to the allegations and to outline any other factors to be taken into account. The Parish Clerk will summarise the main points raised. No new evidence will be allowed at the summing up stage of the hearing without the Appeal Panel's approval. In the event that this occurs the other side will have a right of reply. All parties will then leave the Appeal Panel to deliberate in private.

(vi) The Appeal Panel will consider the evidence and if there is a need for clarification, both parties will be invited to return.

(vii) The Panel will give their decision to the employee as soon as possible, such decisions to be confirmed in writing within five working days of their decision.

#### **Monitoring and Review**

This Policy will be monitored and reviewed by the Parish Clerk.