

# SUTTON-IN-CRAVEN PARISH COUNCIL

## DISCIPLINARY PROCEDURE POLICY

### **Purpose and Aim**

The council's aim is to encourage improvement in individual conduct or performance. This procedure sets out the action which should be taken when disciplinary rules are breached by employees and how to resolve grievances.

### **Principles**

The procedure is there to establish the facts quickly and to deal consistently with disciplinary or grievance issues. No disciplinary action will be taken until the matter has been fully investigated.

At every stage employees will be fully informed in writing of what is alleged and have every opportunity to state their case at a disciplinary meeting and to be represented or accompanied, if they wish, by either a trade union representative or a work colleague.

An employee has the right to appeal against any disciplinary penalty.

It is policy that the following procedure should be followed when an employee is either being disciplined or dismissed. The procedure provides that in normal cases a series of warnings will be given before discipline or dismissal is considered. The stages of the procedure that apply when discipline or dismissal is being considered 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 (e.g. e-mail and the Internet)
- poor timekeeping
- unauthorised absences

Minor cases of misconduct and most cases of poor performance would 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 needs to 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 or Trade Union representative to the meeting. The outcome of the meeting will be communicated to the employee. There are the following possible outcomes:

### **Oral warning**

In the case of minor infringements, the employee may be given a formal oral warning by the

Chairman (Vice Chairman of the Council if the Chairman 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 long term satisfactory improvement or change. A copy of the written warning will be kept on file but will be disregarded for disciplinary purposes after one year.

### **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 may 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 one year.

### **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" (see below), which is a statutory requirement. Failure to do so will usually result in a finding of automatically unfair dismissal.

### **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 him/her 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 Chairman (or Vice Chairman) of the Council and one other Councillor or the Clerk.

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 it. 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 Clerk as their immediate manager, in writing, within a reasonable time. 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 who have not been previously involved will hear the appeal.

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 the final decision of the appeal panel 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 alcohol 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 the employee 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 Clerk. A meeting must be held (in accordance with the general principles set out above). The employer must inform the employee of the decision of the agreed panel following the meeting.

### **Abuse of this policy**

Any abuse in the application of this policy will be dealt with in accordance with The Council's Disciplinary Policy and Procedure and may possibly result in disciplinary action being taken, up to and including dismissal.

### **General Principles**

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

1. The person who has authority to discipline you in accordance with this procedure is the Clerk (the Chairman of the Parish Council if application applies to the clerk).
2. The employee has the right to be accompanied to any meeting by a representative or a colleague.
3. Each step in the procedure will be taken without unreasonable delay and hearings will be held at reasonable times and locations.
4. The employee will be informed in writing if at any stage in the procedure the employee is likely to be dismissed.
5. Meetings will be conducted in a manner that enables both employer and employee to explain their cases.
6. 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.