

CHESWICK GREEN PARISH COUNCIL

Disciplinary Policy and Procedure

1 Purpose and scope

- 1.1 This procedure is designed to help and encourage all employees to achieve and maintain standards of conduct, attendance and job performance.
- 1.2 This procedure applies to all employees and workers of the Council. The aim is to ensure consistent and fair treatment for all employees and workers employed by the Council.

2 Principles

- 2.1 It is anticipated that minor breaches of discipline will be dealt with informally by discussion between the employee or worker concerned and their immediate Line Manager. This may be at a planned supervision meeting, or immediately upon attention being drawn to the issue/matter.
- 2.2 The procedure is designed to establish the facts quickly and to deal consistently and fairly with disciplinary issues, but no disciplinary action will be taken against an employee or worker, until the facts of the case have been appropriately or fully investigated.

In some cases, this will require the holding of an investigatory meeting with the employee or worker before proceeding to any disciplinary hearing. In others, the investigatory stage will be the collation of evidence by the employer for use at any disciplinary hearing.

- 2.3 At every stage of the formal procedure the employee or worker will be informed in writing of what is alleged and have the opportunity to state their case at a disciplinary hearing before any decision on action is made.
- 2.4 For formal action the employee or worker will be advised in writing of the nature of the complaint against him or her and will be given the opportunity to state his or her case before any decision is made at a disciplinary hearing.
- 2.5 At any stage of the formal procedure an employee or worker may be accompanied, if they wish, by a representative of their choice limited to a workplace colleague or if in a Union a full-time Trade Union Official or an appropriately trained Union Representative.
- 2.6 The disciplinary manager may be accompanied by an HR contractor to the Council to advise on procedure and who will record the notes of the disciplinary hearing.
- 2.7 Employees or workers will be provided, where appropriate, with written copies of evidence and relevant witness statements in advance of a disciplinary hearing. At all stages of the formal procedure the employee

should be provided with 3 working days' notice of a hearing date and of the right to be accompanied.

- 2.8 No employee will normally be dismissed for a first breach of discipline except in the case of gross misconduct, when the penalty may be summary dismissal.
- 2.9 The procedure may be implemented at any stage if the employee's alleged misconduct warrants this.

3 Disciplinary Procedure

3.1 Informal stage

Where the employee's / worker's conduct, behaviour or performance is falling below expectation, whether it is due to the employee doing something wrong unintentionally or failing to undertake the requirements of their job role. The immediate Line Manager will clarify the breaches in the Council's Code of Conduct with the employee/worker or where the employee's/worker's performance is falling below the necessary standard as determined by the Line Manager.

It may need to be determined if there are any mitigating circumstances, training needs or a requirement for additional support. The improvements required will be agreed with the employee along with timescales over which the necessary improvements will be monitored.

In cases where such discussion does not lead to the required improvement, or there has been a further breach of discipline, or where the matter is more serious and cannot be dealt with in an informal way, the following stages of the Formal Disciplinary Procedure should be followed.

3.2 First stage of formal procedure

This will normally be either:

- **An improvement note for unsatisfactory performance**

If performance does not meet acceptable standards, this will set out the performance problem, the improvement that is required, the timescale, any help that may be given and the right of appeal.

The individual will be advised that it constitutes the first stage of the formal procedure. A written record of the improvement note will be given to the employee/worker and a copy kept for six months on the employee's/worker's file, but will then be considered spent subject to achieving and sustaining satisfactory performance or;

- **A first warning for misconduct if conduct does not meet acceptable standards.**

This will be confirmed in writing and issued within 7 days of the hearing and set out the nature of the misconduct, the change in behaviour required and the right of appeal. The warning will also inform the employee that a final written warning may be considered if there is no sustained satisfactory improvement or change. A copy of the letter will be kept on the employee's personnel file, but it will be disregarded for disciplinary purposes after a period of six months.

3.3 Final written warning

If the offence is sufficiently serious, (for example because it is having, or is likely to have, a serious harmful effect on the reputation of the Council), it may be justifiable to move directly to a final written warning, or if there is further misconduct or a failure to improve performance during the currency of a prior warning, a final written warning may be given to the employee/worker.

The final written warning will be issued within 7 working days and give details of the complaint, the improvement required and the timescale. It will also warn that failure to improve may lead to dismissal (or some other action short of dismissal) and will refer to the right of appeal. That the final written warning will be kept on their employee's/worker's file, but will be disregarded for disciplinary purposes after twelve months' subject to achieving and sustaining satisfactory conduct or performance.

3.4 Dismissal or other sanction

If the offence is a matter of Gross Misconduct or if there is still further misconduct or failure to improve performance the final step in the procedure may be dismissal or some other action short of dismissal.

The Council will deal with any disciplinary action under these disciplinary procedures, including dismissal decisions, as set out in the attached **Appendix 1**. An employee/worker if dismissed will be provided in writing with the reasons for dismissal within 7 days of the hearing, the date on which the employment will terminate, and their right of appeal.

If some sanction short of dismissal is imposed, the employee will receive a letter confirming the action within 7 working days after the hearing, warning the employee that dismissal could still result if there is no satisfactory improvement, and will be advised of the right of appeal. A copy of the action imposed will be recorded on the employee's/worker's personal file, but will be disregarded for disciplinary purposes after eighteen months' subject to achieving and sustaining satisfactory conduct or performance.

If performance or conduct does not improve during the currency of the warning or there is a further breach of discipline, then the hearing will be reconvened and action escalated to dismissal.

4 Examples of actions that could lead to disciplinary action

4.1 General Breaches

The following are examples (although not an exhaustive list) of actions which are liable to lead to disciplinary action against an employee: -

- failure to abide by the general health and safety rules and procedures;
- smoking in designated non-smoking areas;
- consumption of alcohol whilst on duty;
- persistent absenteeism;
- rudeness towards beneficiaries, members of the public or volunteers, objectionable or insulting behaviour, harassment, bullying or bad language;
- failure to devote their committed time, attention and abilities to Council's business and its affairs whilst at work;
- unauthorised use of E-mail, and Internet (Tweets, Facebook or other social media) that could bring the Council's name into disrepute;
- failure to carry out all reasonable instructions or follow the Council's policies or procedures;
- unauthorised use or negligent damage or loss of the Council's property;
- failure to report immediately any damage to property or premises caused by an employee/worker;
- any criminal conviction or offence that has a detrimental impact on the performance of your duties or the name of Council;
- if your work involves driving, failure to report immediately any type of criminal conviction, or any summons which may lead to your conviction or could damage the Council's reputation;
- loss of driving licence where driving on public roads forms an essential part of the duties of the post.

4.2 Serious Misconduct

- Is an instance of unsatisfactory conduct or misconduct and if, upon investigation, it is shown to be due to your extreme carelessness or has a serious or substantial effect upon the Council's operation or reputation. Employees/workers may be issued with a final written warning in the first instance.
- You may receive a final written warning as the first course of action if, an alleged gross misconduct disciplinary matter, upon investigation there is shown to be some level of mitigation resulting in it being treated as an offence just short of dismissal.

4.3 Gross misconduct

Occurrences of gross misconduct will normally result in summary dismissal i.e. without pay in lieu of notice and without any previous warning being issued. Any behaviour or negligence resulting in a fundamental breach of contractual terms that irrevocably destroys the trust and confidence necessary to continue the employment relationship will constitute gross misconduct. Examples of offences (not an exhaustive list) normally deemed as gross misconduct include serious instances of: -

- theft or fraud
- physical violence or persistent bullying
- deliberate and serious damage to property
- serious misuse of an organisation's property or name
- deliberately accessing internet sites containing pornographic, offensive or obscene material
- serious insubordination
- persistent unlawful discrimination or harassment
- action/acts bringing the Council's name into serious disrepute
- serious incapability at work brought on by alcohol or illegal drugs
- causing loss, damage or injury through serious negligence
- a serious breach of health and safety rules
- a serious breach of confidence.
- a serious breach of trust and confidence
- deliberate falsification of records

5 Suspension

Employees/workers accused of an act of gross misconduct, may be suspended from work on full pay, normally for no more than 5 working days, while the alleged offence is investigated.

Suspension is a holding measure and is not a disciplinary act in its own right. During this period of suspension, an employee will be prohibited from entering the Council's premises. If, on completion of the investigation and the full disciplinary procedure, the Council is satisfied that gross misconduct has occurred, the result will normally be summary dismissal without notice or payment in lieu of notice.

6 Appeals

If an employee/worker wishes to appeal against any disciplinary decision they must do so in writing to the Chairman of the Council within 5 working days of receipt of the letter giving details of the formal disciplinary action taken. The letter of appeal should outline the grounds and reasons for appeal.

All appeals will be heard by individuals with delegated authority to hear appeals by the Council. This list is attached as Appendix 2 to this procedure. At the appeal, any disciplinary penalty imposed will be reviewed by the person with delegated authority to hear the appeal and whose decision will be final

7 Right of Representation

Employees/workers have a statutory right to be accompanied by a companion where the disciplinary hearing could result in:

- a formal warning being issued; or
- the taking of some other disciplinary action; or
- the confirmation of a warning or some other disciplinary action (appeal hearings)

The statutory right is to be accompanied by a fellow worker, a Trade Union Representative, or an official employed by a Trade Union. A Trade Union Representative who is not an employed official must have been certified by their union as being competent to accompany an employee/worker.

If the representative of choice is not available to attend the date set for the hearing another date should be agreed within the following 5 working days from the original hearing date. The employee/worker should notify 48 hours prior to the hearing who will be accompanying them. The companion can help the employee/worker in presenting their case but cannot answer questions on the employee's/worker's behalf.

Adopted by the Council Date 11th December 2019

Policy to be reviewed Date May 2020

Appendix 1

Delegated Authority from the Council for actions under the Disciplinary Procedure

The operation of the disciplinary procedure is based on the following delegated authority for the various levels of disciplinary action. However, the list does not prevent a higher level of seniority undertaking any action at whatever stage of the disciplinary process.

IN THE CASE OF:	PERSON AUTHORISED TO TAKE DISCIPLINARY
Informal action	Staffing Panel
Written warning	Staffing Panel
Final written warning	the Vice Chairman to the Council
Dismissal	Chair of the Council + another Councillor

Adopted by the Council

Date 11th December 2019

Policy to be reviewed

Date May 2020

Appendix 2

Delegated Authority from the Council to hear Appeals

The operation of appeals is based on the following delegated authority for the various levels of Appeal Hearings and on the basis, that wherever possible the individuals hearing the Appeal would not have been previously involved in the disciplinary process.

APPEAL LEVEL	INDIVIDUAL WHO WILL HEAR THE APPEAL
Informal action	Staffing Panel
Written warning	Vice Chairman to the Council
Final written warning	Vice Chairman to the Council
Dismissal	Chair and another Councillor

Adopted by the Council Date 11th December 2019

Policy to be reviewed Date May 2020