



# Langton Matravers Parish Council

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## Disciplinary Procedure

### Purpose and scope

This procedure is designed to help and encourage all council employees to achieve and maintain high standards of conduct whilst at work or representing The Council. The aim is to ensure consistent and fair treatment for all. This procedure will apply to all employees unless it conflicts with contractual or statutory requirement, which will take precedence.

### Principles

- No disciplinary action will be taken against an employee until the case has been fully investigated
- At every stage in the procedure the employee will be advised 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 all formal stages the employee will have the right to be accompanied by an agreed nominated representative other than a solicitor or legal representative
- No employee will be dismissed for a first breach of discipline except in the case of gross misconduct when the penalty of dismissal without notice or payment in lieu of notice may be applied.
- An employee will have the right to appeal against any disciplinary penalty imposed.
- Penalties may be implemented at any Level if the employee's alleged misconduct warrants such action.

### Examples of Gross Misconduct

The following list provides examples of offences which are normally regarded as gross misconduct:

- Gross incompetence in the conduct of work
- Serious acts of insubordination

- Misrepresentation of skills, experiences, qualifications
- Failure to notify the Council of a conviction for an indictable offence
- Serious negligence which causes or might causes significant loss, damage or injury
- Deliberate damage to property of the Council, its workers or members
- Serious breach of duty to keep information confidential
- Serious breaches of Health and Safety or other Council rules, policies or procedures
- Serious misuse of the Council's facilities (e.g. telephones, computers, email or the internet)
- Unauthorised use of Council funds or credit
- Theft, fraud, deliberate falsification of records, or other acts of dishonesty
- Fighting, assault on another person.
- Being under the influence of illegal drugs or excessive alcohol
- Acts of incitement towards or actual acts of discrimination and/or harassment
- Unauthorised entry to computer records
- Any action that is likely to or does bring the Council into disrepute
- Accepting bribes or incentive payments from suppliers

This list is not exhaustive and other offences of a similar gravity will result in disciplinary action being instigated at Gross Misconduct level which carries a potential penalty of dismissal.

### **Stage 1 - Informal Action**

Minor misconduct will be dealt with informally usually in a confidential one-to-one meeting between the employee and the Parish Clerk. In the case where the Clerk is the individual against whom there is a complaint or allegation the matter will be handled by the Council's Staff Employment, Discipline and Complaints Committee (SEDACC). However, where the matter is more serious or informal action has not brought about the necessary improvement the following procedure will be used:

### **Stage 2 – Disciplinary meeting**

A letter will be given to the employee advising him/her of the allegation(s) and reasons why this is unacceptable. The letter should invite the employee to attend a meeting with SEDACC at which the alleged misconduct will be discussed and will inform the employee of their right to be accompanied to the meeting. In the event of gross misconduct or failure to improve following a

final warning the employee will be advised that a possible outcome of the disciplinary meeting could be dismissal. The time, date and venue of the meeting will also be advised. Any documents to be produced at the meeting will also be provided.

At the meeting the Chairman of SEDACC will state the complaint against the employee and go through the evidence which has been gathered. The employee will also be allowed to ask questions, present evidence and call witnesses if advance notice has been given that they will do so. If the employee is unable to attend the meeting due to unforeseeable circumstance beyond their control (e.g. illness) then the council will rearrange the meeting. However, if the employee fails to attend the meeting without good reason the meeting will be held in the employee's absence.

### **Outcomes**

SEDACC will consider all the facts and write to the employee within 14 working days informing them of the agreed outcome. Possible outcomes are as follows.

- There is no case to answer
- Verbal Warning only
- Written Warning
- Final Warning
- Dismissal (with notice or summary) or other sanctions

### **Level 1 - Verbal Warning**

- In the instance of a first complaint that conduct does not meet acceptable standards, the employee will normally be given a formal verbal warning. He or she will be advised of;
- the reason for the warning,
- that it is the first level of the disciplinary procedure,
- the improvement that is required and the timescales for achieving this improvement,
- a review date and any support available (where applicable) and
- his or her right of appeal.

A brief note of the verbal warning will be kept but it will be removed from the council's records after 6 months, subject to satisfactory conduct of the employee over the six month period.

## **Level 2 - Written Warning**

If the offence is a serious one, or if further to previous formal disciplinary action, a written warning will be given to the employee by the Chairman of SEDACC. This will give details of the complaint, the improvement required and the timescale. It will warn that action under level 3 will be considered if there is no satisfactory improvement and will advise of the right of appeal. A copy of this written warning will be kept on file but it will be disregarded for disciplinary purposes after 12 months' subject to satisfactory conduct.

## **Level 3 - Final Written Warning**

If conduct/performance is still unsatisfactory or the misconduct is sufficiently serious, a final written warning will be given to the employee. This will give details of the complaint, will warn that dismissal may result if there is no satisfactory improvement and will advise of the right of appeal. A copy of this final written warning will be kept on file but it will be disregarded for disciplinary purposes after 12 months' subject to satisfactory conduct. .

## **Level 4 - Dismissal and Other Sanctions**

If conduct/performance is still unsatisfactory or where SEDACC finds gross misconduct has occurred, dismissal may result. Penalties at this stage include dismissal with notice, summary dismissal (i.e. without any notice) and a final written warning with/without: demotion, loss of pay or loss of seniority. If dismissal is the outcome, the employee will be advised of the date on which employment will terminate. In all cases the employee has a right of appeal.

Very exceptionally, if an offence of gross misconduct is extremely serious, an employee can be dismissed without a meeting. In this situation, a letter setting out reasons for dismissal will be sent, within 14 days, to the employee offering the opportunity for an appeal hearing.

## **Suspension**

If the employee is accused of an act of gross misconduct, they may be suspended from work on full pay while the council investigates the alleged offence. Only SEDACC or the full Council have the power to suspend. This enables a swift and thorough investigation to occur. Whilst suspended pending disciplinary investigation regular contact with a nominated person agreed by the council will be maintained although access to premises, equipment or systems may be denied.

Suspension will usually only be considered if there is a serious allegation of misconduct and:

- working relationships have severely broken down.
- the employee could tamper with evidence, influence witnesses and/or sway the investigation into the allegation,
- there is a risk to other employees, Councillors, property or members of the public,
- the employee is the subject of criminal proceedings which may affect whether they can do their job or
- there is a risk that the role will not be performed to a sufficient standard which could result in the Council being held in disrepute

When considering suspension, the Council will carefully consider all other options. Alternatives to suspension could include the employee temporarily:

- being moved to a different area of the workplace
- working from home
- changing their working hours
- being placed on restricted duties
- working under supervision
- being transferred to a different role within the organisation (the role should be of a similar status to their normal role, and with the same terms and conditions of employment).

### **Stage 3 - Appeals**

An employee who wishes to appeal against a disciplinary decision should write to the Chair of SEDACC within five working days giving reasons for the appeal. An appeal may be raised if:

- The employee thinks the finding or penalty is unfair
- The employee thinks that the procedure was not applied properly and he/she thinks that they might have been disadvantaged due to this.

The Appeal will be heard by The Staff Appeals Committee (SAC). The employee will have the right to be accompanied by an agreed representative. The outcome of the appeal and reasons for it will be advised to the employee within 14 days of the meeting in writing. At the appeal hearing any disciplinary penalty imposed will be reviewed but it cannot be increased. The decision taken at the appeal hearing will be final.

### **Relevant Committees**

SEDACC and SAC will be elected annually by the full Council. In situations where individual members are implicated in the dispute or have undertaken an investigatory role then they will not be able to sit on that specific panel.

### **Confidentiality**

So far as is reasonably, the council will keep the details of misconduct confidential between those investigating the misconduct and the employee. If it is necessary to investigate the matter with any other employee or person, those other parties will be advised, where appropriate, as to the confidentiality of the matter. However the Council will inform the police, Government departments and/or other organisations of any reportable matters, as may be required by law.

### **Note taking**

The Clerk will take appropriate notes of any disciplinary meetings which he/she calls. A note-taker from the council will be provided to all committee hearings and appeals. These notes will be placed in a confidential file and kept for as long as is reasonable.

### **Grievances raised during Disciplinary Procedure**

Where a matter is subject to both a disciplinary and grievance procedure then the grievance process will normally take precedence.

Adopted by resolution of the Council, 9th November 2017

Reviewed and approved without change by resolution of the Council, 10th May 2018

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