

CRANLEIGH PARISH COUNCIL

Disciplinary and Grievance Procedures

Principles

1. These procedures comply with the requirements of the Employment Act 2008 and the ACAS Code of Practice from 6 April 2009. It is not intended that these procedures will exactly cover situations of redundancy or prolonged ill-health of an employee but should be used as the basis for consulting the employee before a decision is made .
2. All employees are treated fairly and equally when disciplinary and grievance issues arise. Employees who are the subject of disciplinary procedures have the right to know in advance the complaint against them and, wherever possible, to have an opportunity to state their case before decisions are reached. Employees are expected to attend all disciplinary and grievance meetings.
3. Disciplinary action should not be taken until the facts have been established after a reasonable investigation.
4. Cases of minor misconduct or poor performance are best dealt with informally and confidentially unless previous informal action has failed to result in improvement.
5. Except in cases of gross misconduct, the aim of the disciplinary process is to identify the improvements expected from the employee and to give the employee the opportunity to improve. The disciplinary process is not just a way of imposing a punishment.
6. Dismissal from employment will not usually be the outcome of a first breach of discipline unless it amounts to gross misconduct.
7. The employee has the right to be accompanied by a trade union representative or a work colleague of their choosing at each stage of the disciplinary or grievance procedure, and the employee has the right to appeal against the decision made at the disciplinary or grievance meeting. Once the appeal is decided, there is no further right of appeal.
8. Where the resources of the Council are sufficient, discipline of members of staff should normally be dealt with by the Clerk to the Council or other senior members of the staff nominated by the Clerk and references to 'the Clerk' in this procedure include those staff.

Mediation

9. Before beginning disciplinary action, consider whether to refer the issue to an independent trained mediator. The mediator will help the parties to reach an agreement but will not judge whether one party is right or wrong. Mediation is particularly useful to rebuild relationships which have broken down, deal with personality clashes, resolve accusations of bullying and harassment and other such issues. Mediation can be used instead of a disciplinary or grievance procedure or may be brought in after a disciplinary or grievance procedure has started, in which case the procedure will be suspended while the mediation takes place.
10. Mediation is not a substitute for proper management or investigation of an incident or grievance but can help parties to reach an understanding. Its use should be considered in all cases, although it may not always be appropriate, particularly if one party does not agree.

Disciplinary Procedure

11. When a complaint about the conduct, capability or performance of the employee is made, the Clerk should immediately inform the council's personnel committee of the details of the complaint and, subject to the panel's instructions, will also inform the employee, confirming those details in writing within 24 hours and informing the employee of the right to be accompanied. The Clerk or personnel committee will, unless the complaint is rejected immediately or an investigation is needed, send a written notification to the employee to attend a formal disciplinary meeting with the Clerk or a panel of two councillors appointed by the personnel committee at which the complaint will be discussed. The date, time and place of the meeting shall be agreed between the employee and the Clerk or the panel and shall be held as soon as reasonably possible.
12. Where it is necessary for the complaint to be investigated, there need not be an informal initial meeting. The employee shall be given details of the outcome of the investigation at least 24 hours before the date set for the meeting. The Clerk or the panel shall be able to decide whether a written summary of the investigation will be sufficient, provided that the summary will enable the employee to know the detail of the complaint, or whether copies of all documents and witness statements should be provided.
13. At the meeting the Clerk will outline the complaint and the evidence obtained during any investigation. It may be necessary for witnesses to give evidence and to present documents. The employee shall be invited to answer the complaint and present any other evidence, including calling witnesses and presenting documents. Both the Clerk, the panel and the

employee shall be allowed to ask the witnesses questions. The meeting shall be recorded by a contemporaneous written note kept by or for the Clerk or by an audio recording, as agreed between the parties. The person accompanying the employee shall be permitted to advise the employee in private, give evidence and address the employer but shall not act as a representative without the consent in advance of the Clerk or the panel.

14. At the conclusion of the meeting the Clerk or the panel will review the evidence and arguments presented and decide the outcome. Wherever possible, the employee will be informed of the outcome before the parties leave the meeting venue, and in any event as soon as possible. The possible outcomes will be considered in the light of the employee's length of service with the council, previous disciplinary record, general conduct during the employment, action taken previously in similar cases, seriousness of the complaint, the employee's explanation, any other relevant information and the general reasonableness of the outcome.
15. In cases where the Clerk or the panel finds that the employee has committed gross misconduct the usual decision will be that the employee will be dismissed without notice or pay in lieu of notice. Before arriving at that decision the Clerk or the panel will consider whether any other outcomes are appropriate. Where the Clerk or the panel decides that the conduct falls short of gross misconduct, the Clerk or the panel shall consider whether there should be no penalty or if a first or final written warning is appropriate and, if so, shall issue such a warning. The Clerk or the panel will not, save in exceptional circumstances, usually consider dismissal for a first discipline offence which does not amount to gross misconduct, but where the employee has received a previous written warning the Clerk or the panel will consider whether the employee should receive a final written warning or should be dismissed. Where the employee has, within the preceding 12 months, received a final written warning, the Clerk or the panel will consider whether the employee should be dismissed without a further warning.
16. In cases where the complaint against the employee concerns capability or performance of the duties under the contract of employment rather than misconduct, the Clerk or the panel may give the employee a written warning containing details of the improvements required, the timescale for achieving the improvements, the date when the performance will be reviewed and the support which the employee will receive, e.g. by training. A failure by the employee to improve performance after a written warning may lead to a final written warning after a further meeting, and further failure to improve may lead to the dismissal of the employee. Such a dismissal will usually be with notice or pay in lieu of notice.

17. The employee has a right to appeal against any outcome of the disciplinary procedure. The employee must give written notice to the Clerk of his intention to appeal and his grounds of appeal within five working days of the decision appealed against, and the appeal meeting will occur as soon as possible after receiving that notice. Wherever possible, the appeal will consist of a re-hearing before an appeal panel consisting of at least two councillors who have not previously been involved. The procedure for the appeal meeting shall, so far as possible, be the same as that for the initial disciplinary meeting and the employee shall have the same right to be accompanied, to call witnesses, to question witnesses and to present evidence. Notice of the date, time and place of the appeal meeting will be given to the employee in writing.
18. Where any party is prevented from attending a disciplinary meeting or appeal meeting by unforeseen circumstances beyond their control, the hearing will be rearranged. Where the employee fails to attend a meeting without reasonable excuse the Clerk, the panel or appeal panel shall be able to proceed with the meeting and make a decision.
19. Actions amounting to gross misconduct will usually result in the dismissal of the employee without notice. Where the council reasonably considers gross misconduct has occurred, before conducting a disciplinary meeting or investigation the employee may be suspended with or without pay at the discretion of the employer. The Clerk shall write, on behalf of the council, to the employee setting out the details of the gross misconduct and shall invite the employee to attend an disciplinary meeting, if the employee wants one. The procedure for an investigation, a disciplinary meeting and an appeal meeting shall be the same as that set out in this procedure. Once a decision has been made after an appeal meeting, there shall be no further right of appeal.
20. The following are examples of gross misconduct. This list is not and cannot be regarded as exhaustive or exclusive:
 - a. Fighting, physical assault, threatening behaviour or dangerous horseplay on the employer's premises or on any premises where the employee may be working.
 - b. Refusing to carry out a reasonable instruction of a supervisor, manager, the Clerk or an authorised councillor.
 - c. Any serious breach of contract, particularly a breach of the covenants concerning confidentiality or the support or promotion of the council's business contained within the contract of employment.

- d. Malicious damage to property of the council, a colleague, a visitor, a client or a supplier or the property of any establishment where the employee may be working.
 - e. Violation of Health and Safety Regulations.
 - f. Theft of property belonging to the council or councillors, its suppliers, visitors, clients or employees or any establishment where the employee may be working.
 - g. Theft from the council, false or dishonest claims to the council or falsification of any of the council's accounting documents
 - h. Unauthorised consumption of alcoholic drink on the council's premises or any place of work, or the possession of, use of or dealing in (even without possession) controlled drugs on the council's premises or any place of work. The exception is for prescribed drugs or common non-prescription drugs of which the council has provided details or has been informed.
 - i. Being on the council's premises or place of work under the influence of either alcohol or drugs.
 - j. An act or incitement to an act of unlawful discrimination on the grounds of race, disability, sex, sexual orientation, religion or age.
 - k. Serious negligence leading to unacceptable losses to the council.
 - l. Any criminal acts which occur which are relevant to this employment.
 - m. Failure to disclose to the council criminal convictions which are not spent (other than non-imprisonable road traffic offences) or any arrest, summons, charge or indictment.
 - n. The downloading of pornography, explicit sexual or violent images, violence or terrorist related material and other similar material from the Internet, and the use of e-mail to send any messages of a sexually explicit nature or which constitute unlawful discrimination or harassment, or incitement to hatred on any grounds whatsoever.
 - o. The excessive use of the Council's computer equipment or Internet access for personal use not forming part of the employee's work or the Council's business.
21. The council shall be entitled to search any employee's bags, possessions, motor vehicle or person in a non-intimate manner if there is reason to believe that thefts are occurring of confidential information, goods, tools, materials, money or private belongings, or the employee is suspected of possession of banned substances such as drugs and alcohol.

22. In a case of alleged gross misconduct, the council may suspend the employee, with or without pay, pending an investigation into the facts of the case.
23. The Clerk shall keep written records of any disciplinary and appeal procedures, including any evidence and recordings, for a period of not less than five years after the conclusion of the proceedings. The information shall be kept and access to it controlled in accordance with the Data Protection Act 1998 and any guidance from the Information Commissioner. The employee shall be given copies of records of meetings within 14 days of the conclusion of the meeting.

Grievance Procedure

24. If an employee has any questions or grievances relating to the employment, the employee may seek redress orally or in writing in the following manner.
25. In the first instance the employee should normally refer the grievance to the Clerk or line manager and the matter will be discussed informally. If the Clerk has a grievance, this must be referred to the chairman or leader of the council.
26. If the grievance is not thereby resolved or if the employee considers that the employee has not been fairly treated, the employee may write to the Clerk, or, if the Clerk, to the chairman or leader of the council, setting out details of the grievance and the reasons for dissatisfaction.
27. On receipt of a written grievance the chairman or leader of the council may refer the grievance to the personnel committee who shall appoint a panel of two councillors to deal with the grievance.
28. The Clerk or the grievance panel shall invite the employee to a meeting to discuss the grievance, to be held as soon as possible. The employee has the right to be accompanied by a trade union representative or work colleague of their choice. The aim of the meeting will be to resolve the grievance. The meeting shall be recorded by a contemporaneous written note kept by the Clerk or a member of the panel or an audio recording, as agreed between the parties. The person accompanying the employee shall be permitted to advise the employee in private, give evidence and address the employer but shall not act as a representative without the consent in advance of the Clerk or the panel.
29. Once the meeting has finished, the Clerk or the grievance panel will respond in writing to the employee's grievance, and such a response will normally be sent to the employee within five days.

30. If the grievance is still not resolved or if the employee still feels that the employee has not been fairly treated, the employee may appeal. Wherever possible, the appeal meeting will be before an appeal panel consisting of at least two councillors who have not previously been involved. The procedure for the appeal hearing shall, so far as possible, be the same as that for the initial grievance meeting. Notice of the date, time and place of the hearing will be given to the employee in writing. The employee must give written notice to the Clerk of his intention to appeal and his grounds of appeal within five working days of receiving written notice of the decision following the grievance meeting, and the appeal meeting will be heard as soon as possible thereafter. At an appeal meeting the employee has the right to be accompanied by a trade union representative or work colleague of their choice. Once the meeting has finished, the appeal panel will respond in writing to the employee's grievance, and such a response will normally be sent to the employee within five working days. There will be no further right of appeal.
31. The Clerk shall keep written records of any grievance procedures, including any evidence and recordings, for a period not less than five years after the conclusion of the proceedings. The information shall be kept and access to it controlled in accordance with the Data Protection Act 1998 and any guidance from the Information Commissioner.
32. Actions in these disciplinary and grievance procedures required to be undertaken by the Clerk may be undertaken by any councillor or other employee nominated by the Clerk, the personnel committee, any appeal panel or the full council.

Procedures correct at 6 April 2009

Confirmed that procedures were still current March 2012.

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Reviewed by full Council and agreed. November 2015

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