

DRINKSTONE PARISH COUNCIL

e-mail: clerk@drinkstoneparishcouncil.gov.uk

website: <https://drinkstoneparishcouncil.gov.uk>

DISCIPLINARY PROCEDURE

in respect of direct employees of Drinkstone Parish Council (DPC)

1. POLICY STATEMENT

1.1 The aims of this Disciplinary Procedure and its associated Disciplinary Rules are to set out the standards of conduct expected of all staff and to provide a framework within which managers can work with employees to maintain satisfactory standards of conduct and to encourage improvement where necessary. The standards of conduct expected of all employees are set out in the Disciplinary Rules which are appended to this procedure.

1.2 The aim is to ensure that any disciplinary matter is dealt with fairly and that steps are taken to establish the facts and to give employees the opportunity to respond before taking any formal action.

1.3 This procedure does not form part of any employee's contract of employment and it may be amended at any time. The DPC may also vary this procedure, including any time limits, as appropriate in any case.

2. WHO IS COVERED BY THE PROCEDURE?

The procedure applies to all employees regardless of length of service. It does not apply to agency workers or self-employed contractors.

3. WHAT IS COVERED BY THE PROCEDURE?

3.1 This procedure is used to deal with misconduct. It does not apply to cases involving genuine sickness absence, proposed redundancies or poor performance. In those cases, reference should be made to the appropriate policy or procedure.

3.2 Minor conduct issues can often be resolved informally between the employee and the Chairman. These discussions should be held in private and without undue delay whenever there is cause for concern. Where appropriate, a note of any such informal discussions may be placed on the employee's personnel file but will be ignored for the purposes of any future capability hearings. In some cases, an informal verbal warning may be given, which will not form part of disciplinary records. Formal steps will be taken under this procedure if the matter is not resolved, or if informal discussion is not appropriate (for example, because of the seriousness of the allegation).

3.3 An employee will not normally be dismissed for a first act of misconduct, unless the DPC decides it amounts to gross misconduct or the employee has not yet completed a probationary period.

3.4 If an employee has difficulty at any stage of the procedure because of a disability, he/she should discuss the situation with the Chairman as soon as possible.

4. CONFIDENTIALITY

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4.1 The aim is to deal with disciplinary matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.

4.2 The employee and anyone accompanying them (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this procedure.

4.3 The employee will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings, unless we believe that a witness's identity should remain confidential.

5. INVESTIGATIONS

5.1 The purpose of an investigation is for the DPC to establish a fair and balanced view of the facts relating to any disciplinary allegations, before deciding whether to proceed with a disciplinary hearing. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from the employee and any witnesses, and/or reviewing relevant documents. The DPC will appoint the Chairperson/Vice Chairperson or other Councillors to investigate and will set out a provisional timetable for the investigation, which will be communicated to all parties. The investigation will be thorough, impartial and objective. DPC reserves the ability to appoint an independent third party to investigate the allegations made.

5.2 Investigative interviews are solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held.

5.3 The employee does not normally have the right to bring a companion to an investigative interview. However, DPC may allow the employee to bring a companion if it helps to overcome any disability, or any difficulty in understanding English.

5.4 The employee must co-operate fully and promptly in any investigation. This will include informing DPC of the names of any relevant witnesses, disclosing any relevant documents and attending investigative interviews if required.

6. CRIMINAL CHARGES

6.1 Where the alleged conduct is the subject of a criminal investigation, charge or conviction DPC will investigate the facts before deciding whether to take formal disciplinary action.

6.2 DPC will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where the employee is unable or have been advised not to attend a disciplinary hearing or say anything about a pending criminal matter, DPC may have to take a decision based on the available evidence.

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6.3 A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if DPC considers that it is relevant to the employment.

7. SUSPENSION

7.1 In some circumstances DPC may need to suspend the employee from work. The suspension will be for no longer than is necessary to investigate the allegations and confirm the arrangements will be given in writing. While suspended the employee should not visit our premises or contact any of DPC's suppliers, contractors or staff, unless authorised to do so by the Chairperson or Vice Chairperson.

7.2 Suspension of this kind is not a disciplinary penalty and does not imply that any decision has already been made about the allegations. DPC will continue to pay full [basic] salary and benefits during the period of suspension.

8. NOTIFICATION OF A HEARING

8.1 Following any investigation, if DPC considers there are grounds for disciplinary action, the employee will be required to attend a disciplinary hearing. DPC will inform the employee in writing of the allegations, the basis for those allegations, and what the likely range of consequences will be if it is decided after the hearing that the allegations are true. DPC will also include the following where appropriate:

- (a) a summary of relevant information gathered during the investigation;
- (b) a copy of any relevant documents which will be used at the disciplinary hearing; and
- (c) a copy of any relevant witness statements, except where a witness's identity is to be kept confidential, in which case the employee will be given as much information as possible while maintaining confidentiality.

8.2 DPC will give written notice of the date, time and place of the disciplinary hearing. The hearing will be held as soon as reasonably practicable, but the employee will be given a reasonable amount of time to prepare his/her case based on the information given you.

9. THE RIGHT TO BE ACCOMPANIED

9.1 The employee may bring a companion to any disciplinary hearing or appeal hearing under this procedure. The companion may be either a trade union representative or a colleague. The employee must tell the Chairman/Vice Chairperson, who the chosen companion is, in good time before the hearing.

9.2 A companion is allowed reasonable time off from duties without loss of pay but no one is obliged to act as a companion if they do not wish to do so.

9.3 If the choice of companion is unreasonable DPC may require you to choose someone else, for example:

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(a) if in DPC's opinion the companion may have a conflict of interest or may prejudice the hearing; or

(b) if the companion works at another site and someone reasonably suitable is available at the site at which you work; or

(c) if the companion is unavailable at the time a hearing is scheduled and will not be available for more than five working days.

9.4 DPC may, at its discretion, allow a companion who is not a colleague or union representative (for example, a family member) where this will help overcome a disability, or where there is difficulty understanding English.

10. PROCEDURE AT DISCIPLINARY HEARINGS

10.1 If the employee or his/her companion cannot attend the hearing DPC should be informed immediately and DPC will arrange an alternative time. The employee must make every effort to attend the hearing, and failure to attend without good reason may be treated as misconduct in itself. In the event of failure to attend without good reason or persistent non-attendance (for example for health reasons), DPC may have to take a decision based on the available evidence.

10.2 The hearing will be chaired by the DPC Chairperson/Vice Chairperson.

10.3 At the disciplinary hearing DPC will go through the allegations and the evidence that has been gathered. The employee will be able to respond and present evidence. The companion may make representations and ask questions but should not answer questions on behalf of the employee. Employee and companion may confer privately any time during the hearing.

10.4 The employee may ask relevant witnesses to appear at the hearing, provided sufficient advance notice is given to arrange their attendance. The employee will be given the opportunity to respond to any information given by a witness. However, will not normally be permitted to cross-examine witnesses unless, in exceptional circumstances, DPC decides that a fair hearing could not be held otherwise.

10.5 DPC may adjourn the disciplinary hearing if it needs to carry out any further investigations such as re-interviewing witnesses in the light of any new points the employee has raised at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

10.6 DPC will inform the employee in writing of its decision and the reasons for it. Where possible DPC will also explain this information in person.

11. DISCIPLINARY PENALTIES

11.1 The usual penalties for misconduct are set out below. No penalty should be imposed without a hearing. DPC aims to treat all employees fairly and consistently, and a penalty imposed on another employee for similar misconduct will usually be

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taken into account but should not be treated as a precedent. Each case will be assessed on its own merits.

11.2 Stage 1 - First written warning. It will usually be appropriate for a first act of misconduct where there are no other active written warnings on the employee's disciplinary record.

11.3 Stage 2 - Final written warning. It will usually be appropriate for:

(a) misconduct where there is already an active written warning on the employee's record; or

(b) misconduct that DPC considers sufficiently serious to warrant a final written warning even though there are no other active warnings on the record.

11.4 Stage 3 - Dismissal. It will usually only be appropriate for:

(a) any misconduct during the probationary period;

(b) further misconduct where there is an active final written warning on the record; or

(c) any gross misconduct regardless of whether there are active warnings on your record. Gross misconduct will usually result in immediate dismissal without notice or payment in lieu of notice (summary dismissal). Examples of gross misconduct are set out in our Disciplinary Rules.

11.5 Alternatives to dismissal. In some cases, DPC may at its discretion consider alternatives to dismissal. These will usually be accompanied by a final written warning.

Examples include: (a) A period of suspension without pay. (b) Retake training as required. (c) Loss of future pay increment.

12. THE EFFECT OF A WARNING

12.1 Written warnings will set out the nature of the misconduct, the change in behaviour required, the period for which the warning will remain active, and the likely consequences of further misconduct in that active period.

12.2 A first written warning will usually remain active for six months and a final written warning will usually remain active for 12 months. The employees conduct may be reviewed at the end of a warning's active period and if it has not improved sufficiently DPC may decide to extend the active period.

12.3 After the active period, the warning will remain permanently on the employees personnel file but will be disregarded in deciding the outcome of future disciplinary proceedings.

13. APPEALS AGAINST DISCIPLINARY ACTION

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13.1 If the employee feels that the disciplinary action taken is wrong or unjust he/she should appeal in writing, stating the full grounds of appeal, to the Chairman and/or Vice Chairman, within one week of the date on which the employee was informed of the decision.

13.2 If appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if the appeal is successful the employee will be reinstated with no loss of continuity or pay.

13.3 If the employee raises any new matters in the appeal, DPC may need to carry out further investigation. If any new information comes to light DPC will provide him/her with a summary including, where appropriate, copies of additional relevant documents and witness statements. The employee will have a reasonable opportunity to consider this information before the hearing, and the employee or the companion may comment on any new evidence arising during the appeal before any decision is taken.

13.4 DPC will give the employee written notice of the date, time and place of the appeal hearing.

13.5 The appeal hearing may be a complete re-hearing of the matter, or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light. This will be at DPC's discretion depending on the circumstances of the case. In any event the appeal will be dealt with as impartially as possible.

13.6 Where possible, the appeal hearing will be conducted impartially by councillors forming an Appeals Committee who have not been previously involved in the case.

13.7 DPC may adjourn the appeal hearing if it needs to carry out any further investigations in the light of any new points raised at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

13.8 Following the appeal hearing DPC may:

- (a) confirm the original decision;
- (b) revoke the original decision; or
- (c) substitute a different penalty.

13.9 DPC will inform the employee in writing of the final decision as soon as possible. Where possible DPC will also explain this to the employee in person. There will be no further right of appeal.