

# **BROOKENBY DISCIPLINARY POLICY**

## **Parish Council**

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### **INTRODUCTION**

This policy is based on and complies with the ACAS Code of Practice (2017) and in accordance with the Equality Act 2010.

This policy should be read in conjunction with the Performance Policy.

Wherever possible, Council will try to resolve its concerns about an employee's behaviour and attitude informally and will consider mediation at any stage of the disciplinary procedure where appropriate.

### **1. DEFINITIONS:**

Councillors recognise that misconduct and unsatisfactory work performance are different issues:

- Misconduct is employee behaviour that can lead to the employer taking disciplinary action.
- Gross misconduct is misconduct that is so serious that it could result in dismissal without notice.

### **2. DISCIPLINARY INVESTIGATION:**

- Any disciplinary investigation will be carried out by an independent investigator who will be selected by the Parish Council.
- The employee will be informed, in writing, of the alleged misconduct and will be invited by the investigator to attend a meeting. At the meeting the employee will be told that he or she will have the opportunity to comment on the allegations.
- The investigator is to establish the facts of the case as quickly as possible and prepare a report of his or her findings for the Council personnel committee. They will decide whether:
  - The employee has no case to answer and no further action under the council's disciplinary procedure will be taken or
  - The matter is not serious enough to justify further use of the disciplinary procedure and can be dealt with informally or
  - The employee has a case to answer and there should be action under the council's disciplinary procedure

### **3. THE DISCIPLINARY MEETING**

If the investigator decides that there is a case to answer, he or she will inform the personnel sub-committee who will discuss any further disciplinary action required.

The employee will be informed of:

- The time and place for the meeting and will be given reasonable notice (at least ten working days) so that he / she has sufficient time to prepare.
- His or her rights to a copy of the investigator's report, and all the supporting evidence.
- His / her statutory rights to be accompanied at the meeting by either a trade union representative or a work colleague and that witnesses may be called. Members of the personnel sub-committee and the employee are to inform each other of the names of their witnesses and provide each other with all supporting evidence at least five working days before the meeting. If witnesses are not attending the meeting, witness statements are to be submitted to the other side at least five working days beforehand.

The disciplinary meeting will be conducted as follows:

- The personnel committee members will introduce themselves to the employee
- The investigator will present the findings of their report and will present supporting evidence and any witnesses.
- The employee (or their companion) will set out his / her case and present evidence (including any witnesses)
- A member of the committee and the employee (or the companion) may question any witness.
- The employee (or their companion) will have the opportunity to sum up his / her case.
- A member of the personnel committee will provide the employee with the committee's decision, with reasons, in writing, within five working days of the meeting and will also notify the employee of the right to appeal the decision
- The disciplinary meeting may be adjourned to allow matters that were raised during the meeting to be further investigated

#### 4. DISCIPLINARY ACTION

If members of the personnel committee decide that the case is proven and there should be disciplinary action, it may be any of the following:

- **Verbal Warning:** A verbal warning is issued for the first instance of minor misconduct. Members of the personnel committee will notify the employee:
  - The reason for the warning; the improvement required the time period allowed for improvement; and that further misconduct or failure to improve will result in more serious disciplinary action
  - Of the right of appeal
  - That a note confirming the warning will be placed on his / her personnel file and that he / she will be given a copy, the warning to remain in force for six months.
- **Written warning:** A written warning will be issued:
  - If there is a repetition of earlier misconduct which resulted in a verbal warning and will remain in force for 12 months. or

- For different and more serious misconduct,  
A written warning will mirror the verbal warning,
- **Final written warning:** If there is further misconduct during the period of a written warning or if the misconduct is sufficiently serious, the employee will be given a final written warning.
  - A final written warning will mirror the written warning, and will remain in force for 18 months. In addition it will add that further misconduct / failure to improve will result in more serious disciplinary action up to and including dismissal
- **Dismissal:** If dismissal is considered, members of the personnel committee will recommend to Council who may dismiss:
  - For gross misconduct or
  - If there is no improvement within the specified time period in the conduct which has been the subject of a final written warning or
  - If another instance of misconduct has occurred and a final written warning has already been issued and remains in force.

Councillors are to consider very carefully a decision to dismiss. If an employee is dismissed, he/she is to receive a written statement of the reasons for his/her dismissal, the date on which the employment will end, and details of his/her right of appeal'

If Councillors decide to take no disciplinary action, no record of the matter will be retained on the employee's personnel file. Action imposed as a result of the disciplinary meeting will remain in force unless and until it is modified as a result of an appeal.

## 5. THE APPEAL:

- Notice of appeal: Written notice of appeal must be received by Council within five working days of the employee receiving written notice of the disciplinary action and must specify the grounds for appeal as under:
  - A failure by the Council to follow its disciplinary policy
  - The sub-committee's decision was not supported by the evidence
  - The disciplinary action was too severe in the circumstances of the case
  - New evidence has come to light since the disciplinary meeting.
- The Appeal Hearing: The appeal will be heard by a panel of three members of Council who will not have been involved in the case. The appeal panel will be chaired by the Chairman of the Parish Council.
- The employee will be notified, in writing, within 10 working days of receipt of the notice of appeal of the time, date and place of the appeal meeting. The employee will be advised that he/she may be accompanied by a companion, either a trade union representative or a work colleague.
- Appeal Procedure: at the appeal meeting, the Chairman will:
  - Introduce the panel members to the employee
  - Explain the purpose of the meeting.

- Explain the action that the appeal panel may take.
- Ask the employee (or his companion) to explain the grounds for appeal.
- Decisions of the panel:
  - The Chairman will inform the employee that he / she will receive the decision and the appeal panel's reasons, in writing, within five working days.
  - Members of the appeal panel may decide to uphold the original decision of the personnel sub-committee, substitute a less serious sanction or decide that no disciplinary action is necessary.
  - If members of the appeal panel decide to take no disciplinary action, no record of the matter will be retained on the employee's personnel file.
  - If an appeal against dismissal is upheld, the employee will be paid in full for the period from the date of dismissal and continuity of service will be preserved.

The appeal panel's decision is final.