

BLUNDESTON & FLIXTON PARISH COUNCIL DISCIPLINARY POLICY

Introduction

1. This policy is based on and complies with the 2015 ACAS Code of Practice and also takes account of the ACAS guide on disciplinary procedures relating to the workplace.
2. We will use this procedure to help and encourage all employees to achieve and maintain standards of conduct, attendance and job performance.
3. The policy will be applied fairly, consistently and in accordance with the Equality Act 2010.

Principles

4. Wherever possible the Council will consider informal action, where appropriate, to resolve problems.
5. We will not take disciplinary action against you until the case has been fully investigated.
6. For formal action we will advise you of the nature of the complaint against you and we will give you the opportunity to state your case before any decision is made at a disciplinary meeting.
7. We will provide you, where appropriate, with written copies of evidence and relevant witness statements before a disciplinary meeting.
8. You will not be dismissed for a first breach of discipline, except in the case of gross misconduct, when the penalty is dismissal without notice and without payment in lieu of notice.
9. You have the right to appeal against any disciplinary action.
10. The procedure may be used at any stage if your alleged misconduct needs this.

Examples of misconduct

11. Misconduct is employee behaviour that can lead to the employer taking disciplinary action. The following list contains some examples of misconduct:
 - unauthorised absence
 - poor timekeeping
 - misuse of the Council's resources and facilities including telephone, email and internet
 - inappropriate behaviour
 - refusal to follow reasonable instructions
 - minor breaches council policies and procedures

This list is not exhaustive.

Examples of gross misconduct

12. Gross misconduct is misconduct that is so serious that it is likely to lead to dismissal without notice. The following list contains some examples of gross misconduct:
- bullying, discrimination and harassment
 - incapacity at work because of alcohol or drugs
 - violent behaviour
 - fraud or theft
 - gross negligence
 - serious breaches of council policies and procedures
 - serious and deliberate damage to property
 - use of the internet or email to access pornographic, obscene or offensive material
 - disclosure of confidential information
 - bringing the name of the Council into disrepute

This list is not exhaustive.

Examples of unsatisfactory work performance

13. The following list contains some examples of unsatisfactory work performance:
- inadequate application of management instructions/office procedures
 - inadequate IT skills
 - unsatisfactory management of staff
 - unsatisfactory communication skills.

This list is not exhaustive.

Suspension

14. We might consider suspending you while carrying out a disciplinary investigation if there is a serious issue or situation. Suspension is when we tell you to temporarily stop working. You would be on full pay throughout any suspension period.
15. We will consider each situation carefully before deciding to suspend you. Suspension will not be needed for most investigations. Suspension does not mean you have done anything wrong and will not be used to discipline you.
16. We understand being suspended might be stressful so we will:
- only suspend you if there's no other option
 - support you throughout the suspension period, always considering your mental health and wellbeing

Right to be accompanied

17. You have a statutory right to be accompanied by a companion where a disciplinary meeting could result in:
 - a formal warning
 - some other disciplinary action
 - confirmation of a formal warning or other disciplinary action (for example, at an appeal hearing)

18. The statutory right is to be accompanied by:
 - someone you work with
 - a trade union representative who's certified or trained in acting as a companion
 - an official employed by a trade union

However, if no such companion is available to you then the Council will consider a request by you to be accompanied by a relative or friend.

19. You should tell us as soon as possible if you would like a companion and who they will be so we can make arrangements in good time.

20. If you need any reasonable adjustments, for example for a disability, speak to the Chairman of the Parish Council.

21. You, and anyone accompanying you (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this procedure.

The Disciplinary Procedure

Disciplinary investigation

22. A formal disciplinary investigation may sometimes be required to establish the facts and whether there is a disciplinary case to answer.

23. If a formal disciplinary investigation is required, the Council's Chairman will appoint an independent councillor as the Investigator who will be responsible for undertaking a fact-finding exercise to collect all relevant information. If the Chairman considers that there are no councillors who are independent (for example, because they all have direct involvement in the allegations about the employee), it will appoint someone from outside the Council. The Chairman will inform the Investigator of the terms of reference of the investigation which will specify:
 - the allegations or events that the investigation is required to examine
 - whether a recommendation is required
 - how the findings should be presented. For example, an investigator will often be required to present the findings in the form of a written report
 - who the findings should be reported to and who to contact for further direction if unexpected issues arise or advice is needed.

24. The Investigator will be asked to submit their findings to the Chairman within 20 working days of appointment where possible. In cases of alleged unsatisfactory performance or of allegations of minor misconduct, the appointment of an investigator may not be necessary and the Council may decide to commence disciplinary proceedings at the next stage - the disciplinary meeting (see paragraphs 32-36).
25. The Chairman will notify the employee in writing of the alleged misconduct and details of the person undertaking the investigation. The employee may be asked to meet the Investigator as part of the disciplinary investigation. The employee will be given sufficient notice of the meeting with the Investigator so that he/she has reasonable time to prepare for it. The letter will explain the investigatory process and that the meeting is part of that process. The employee will be provided with a copy of the Council's disciplinary procedure. The Council will also inform the employee that when he/she meets with the Investigator, he/she will have the opportunity to comment on the allegations of misconduct.
26. Employees may be accompanied to a meeting with the Investigator as set out in paragraphs 17-21.
27. If there are other persons (e.g. employees, councillors, members of the public or the Council's contractors) who can provide relevant information, the Investigator should try to obtain it from them in advance of the meeting with the employee.
28. The Investigator has no authority to take disciplinary action. His/her role is to establish the facts of the case as quickly as possible and prepare a report that recommends to the Chairman whether or not disciplinary action should be considered under the policy.
29. The Investigator's report will contain his/her recommendations and the findings on which they were based. He/she will recommend either:
 - the employee has no case to answer and there should be no further action under the Council's disciplinary procedure
 - 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 a formal hearing should be convened under the Council's disciplinary procedure.
30. The Investigator will submit the report to the Chairman which will decide whether further action will be taken.
31. If the Council decides that it will not take disciplinary action, it may consider whether mediation would be appropriate in the circumstances.

The disciplinary meeting

32. If the Chairman decides that there is a case to answer, it will appoint a sub-committee of three councillors, to formally hear the allegations. The sub-committee will appoint its own Chairman from one of its members. The Investigator shall not sit on the sub-committee.
33. No councillor with direct involvement in the matter shall be appointed to the sub-committee. The employee will be invited, in writing, to attend a disciplinary meeting. The sub-committee's letter will confirm the following:
 - the names of its Chairman and other two members
 - details of the alleged misconduct, its possible consequences and the employee's statutory right to be accompanied at the meeting
 - a copy of the information provided to the sub-committee which may include the investigation report, supporting evidence and a copy of the Council's disciplinary procedure
 - the time and place for the meeting - the employee will be given reasonable notice of the hearing so that he /she has sufficient time to prepare for it
 - that witnesses may attend on the employee's and the Council's behalf and that both parties should inform each other of their witnesses' names at least two working days before the meeting
 - that the employee may be accompanied as set out in paragraphs 17-21
34. The purpose of the disciplinary meeting hearing is for the allegations to be put to the employee and then for the employee to give their perspective. It will be conducted as follows:
 - the Chairman of the sub-committee will introduce the members of the sub-committee to the employee and explain the arrangements for the hearing
 - the Chairman of the sub-committee will set out the allegations and invite the Investigator to present the findings of the investigation report (if there has been a previous investigation)
 - the Chairman of the sub-committee will invite the employee to present their account
 - the employee (or the companion) will set out his/her case and present evidence (including any witnesses and/or witness statements)
 - any member of the sub-committee and the employee (or the companion) may question the Investigator and any witness
 - the employee (or companion) will have the opportunity to sum up
35. The Chairman of the sub-committee will provide the employee with the sub-committee's decision with reasons, in writing, within five working days of the meeting. The Chairman of the sub-committee will also notify the employee of the right to appeal the decision.
36. The disciplinary meeting may be adjourned to allow matters that were raised during the meeting to be further investigated by the sub-committee.

Disciplinary action

37. If the sub-committee decides that there should be disciplinary action, it may be any of the following:

a) First written warning

If the employee's conduct has fallen beneath acceptable standards, a first written warning will be issued. A first written warning will set out:

- the reason for the written warning, the improvement required (if appropriate) and the time period for improvement
- that further misconduct/failure to improve will result in more serious disciplinary action
- the employee's right of appeal
- that a note confirming the written warning will be placed on the employee's personnel file, that a copy will be provided to the employee and that the warning will remain in force for a specified period of time (generally 12 months).

b) Final written warning

If the offence is sufficiently serious, or if there is further misconduct or a failure to improve sufficiently during the currency of a prior warning, the employee will be given a final written warning. A final written warning will set out:

- the reason for the final written warning, the improvement required (if appropriate) and the time period for improvement
- that further misconduct/failure to improve will result in more serious disciplinary action up to and including dismissal
- the employee's right of appeal
- that a note confirming the final written warning will be placed on the employee's personnel file, that a copy will be provided to the employee and that the warning will remain in force for a specified period of time (generally 12 months).

c) Dismissal

The Council may dismiss:

- for gross misconduct
- if there is no improvement within the specified time period, in the conduct which has been the subject of a final written warning
- if another instance of misconduct has occurred and a final written warning has already been issued and remains in force.

38. The Council will consider very carefully a decision to dismiss. If an employee is dismissed, he/she will 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 the sub-committee decides to take no disciplinary action, no record of the matter will be retained on the employee's personnel file. Action taken as a

result of the disciplinary meeting will remain in force unless it is modified as a result of an appeal.

The appeal process

39. An employee who is the subject of disciplinary action will be notified of the right of appeal. His/her written notice of appeal must be received by the Council within five working days of the employee receiving written notice of the disciplinary action and must specify the grounds for appeal.
40. The grounds for appeal include;
 - a failure by the Council to follow its disciplinary policy
 - the sub-committee's disciplinary 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.
41. Where possible, the appeal will be heard by a panel of three members of the Council who have not previously been involved in the case, including the Investigator. There may be insufficient members of the Council who have not previously been involved in which case the appeal panel may, by necessity, be allowed to include members of the sub-committee. The appeal panel will appoint its own Chairman from one of its members.
42. 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 as set out in paragraphs 17-21.
43. At the appeal meeting, the Chairman of the appeal panel will:
 - introduce the panel members to the employee
 - explain the purpose of the meeting, which is to hear the employee's reasons for appealing against the disciplinary decision
 - explain the action that the appeal panel may take.
44. The employee will be asked to explain the grounds for appeal.
45. The Chairman of the appeal panel will inform the employee that he/she will receive the decision and the panel's reasons, in writing, usually within five working days of the appeal hearing.
46. The appeal panel may decide to uphold the disciplinary decision of the staffing committee, substitute a less serious sanction or decide that no disciplinary action is necessary. If it decides to take no disciplinary action, no record of the matter will be retained on the employee's personnel file.

47. 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.
48. The appeal panel's decision is final.

This policy was adopted by the council at its meeting held on 17 February 2025
Date of next review – February 2026
Reviewed February 2026
Next Review February 2027