

## **Ditton Priors Parish Council**

### **Disciplinary & Grievance Procedure**

At time of need, the Parish Council will elect 3 Councillors, for each of the panels who will be available to sit on Discipline or Grievance and Appeals Panels (3 on each Panel). These members will be required to take advice regarding relevant processes and legal requirements. The panels will be granted delegated authority on a decision by decision basis. The first hearing will be chaired by the Vice Chairman and the Appeal Panel will be chaired by the Chairman. All members of the Panel must act in an impartial manner and treat meetings held under this procedure in an appropriate manner depending on the stage and nature of the meeting. If the Chairman or Vice Chairman have a partial interest in the detail under discussion, they will be replaced by another member. The Panels will elect the Chairman before the start of the proceedings.

If Necessary the Parish Council will invite another Parish Council to help support any procedure by providing parish councillors to sit on one of the three committees.

#### **A. DISCIPLINARY ISSUES**

In the first instance, any issues or complaints regarding the conduct of the member of staff will be raised by the clerk or a councillor in normal supervisory meetings, day-to-day contact or the annual appraisal. This should be done in a timely way – normally fairly immediately.

Where the issue is not resolved or if it is felt to be sufficiently serious, the clerk or councillor will consult with the Chairman and the Disciplinary panel to seek agreement for a **formal investigation** into the circumstances in hand. Where these are felt to constitute possible gross misconduct (see definitions below) or where the member of staff's presence might hinder the investigation in some significant way, the member of staff may be suspended on full pay pending investigation of the matter.

The investigation will be carried out by the clerk or an independent person appointed by the parish council and not involved in the panels or, if they are involved in the situation, by another competent and appropriate person appointed by the Disciplinary Panel. A full and impartial investigation into the concern or allegations should be undertaken, though "trawling" for views and additional issues must not take place.

Once the investigation is complete, the investigating officer will provide a **written report**, along with any witness statements or other documents, on the allegations or concerns. The report will highlight issues, facts and disparities in the evidence or statements, but will not recommend whether or not a formal hearing should take place nor take a view on the culpability of the member of staff.

The Disciplinary Panel will then decide whether or not a **formal hearing** should take place under the procedure. If not, the member of staff should be told as quickly as possible and support arranged for them to return to work if they have been suspended, or to assist them after the investigation. There may be general learning points from the investigation which the clerk or independent appointed competent person will address with the staff.

If the panel decides a hearing is necessary, it will give written notice to the member of staff, including full details of the allegations against them and any relevant witness statements and documentation (where any of this is of a confidential nature, special arrangements may be required). At least **seven calendar days notice** should be given.

The member of staff may be **accompanied** by a colleague or a trade union representative at the hearing. If the proposed time and date of the meeting are not suitable for the person's representative, an alternative time will be sought within one week.

At the disciplinary hearing, the member of staff will be **asked to respond** to the allegations and evidence put to them. They may question witnesses through the chair, who may make special

arrangements to keep the staff apart where the issues cover allegations such as bullying or harassment.

The staff member's representative may take part in the meeting, but may not answer questions put to the member of staff in their place.

Once the panel has listened to the member of staff's response, and has asked any questions, examined people and evidence as relevant, it should reach a decision on whether or not **disciplinary action** should be taken or not. The outcome should be reached as soon as is reasonably possible but no later than 28 days after the meeting.

Where any formal warning is given, the member of staff has a **right to appeal** against this by writing to the appeal panel within two calendar weeks of receiving the formal decision in writing. The appeal meeting will not rehear the whole case, but will consider the grounds for appeal and decide whether or not to confirm the action.

### **Levels of warning.**

The panel may decide on **any one** of the following levels of warning depending on the seriousness of the misconduct:

1. **First (verbal) warning** – which will be valid for six months during which time any further misconduct may be taken at a higher level.
2. **Second (written) warning** – which will be valid for nine months during which time any further misconduct may be taken at a higher level.
3. **Final (written) warning** – which will be valid for twelve months during which time any further misconduct, regardless of its severity, may result in summary dismissal or dismissal with notice of the member of staff.
4. **Dismissal** – in cases where there has been an accumulation of warnings under points 1 to 3, or where the misconduct has been serious enough to be considered as gross in its nature, the panel may dismiss staff without notice (in the case of gross misconduct – see below) or with notice (in the case of accumulated warnings). Pay-in-lieu of notice may be given in the latter circumstances.

### **Types of misconduct**

The following lists provide examples of the types of misconduct which exist – i.e., ordinary or gross. It is illustrative and not exhaustive and staff breaking rules set out in other procedures or simply not following reasonable instructions may still face disciplinary action.

1. **Misconduct** is any relatively less serious breach of organisation rules or procedures arising from the member of staff's behaviour. Examples could be persistent lateness with no credible reason; less serious inappropriate behaviour such as swearing in the workplace; failure to follow instructions deliberately; some degree of rudeness to work colleagues, councillors or the public; minor infringements of health and safety rules.
2. **Gross misconduct** is where there is a very serious breach in the mutual trust required in any job contract and these can be sufficiently serious to warrant immediate dismissal. Examples of this are:
  - 1 theft, fraud, deliberate falsification of records
  - 2 fighting, assault on another person
  - 3 deliberate damage to organisational property
  - 4 serious incapability through alcohol or being under the influence of illegal drugs

- 5 serious negligence which causes unacceptable loss, damage or injury
- 6 serious act of insubordination
- 7 unauthorised entry to computer records.

Gross misconduct, if held to have occurred, will normally be grounds for **immediate dismissal**.

## **Appeals**

Where disciplinary action of any nature is decided on, the member of staff has a legal right to appeal against this. This should be addressed to the Chair of the Appeals Panel and sent to him to arrive no later than two working weeks after the panel communicated its decision.

The Appeals Panel will hold a session with the staff member if felt appropriate and its decision will be final.

## **B. GRIEVANCES**

### **Informal stage**

Where a member of staff wishes to raise a complaint or concern about a matter relating to their terms and conditions or other issue to do with their employment, such as their treatment by someone in the course of their work, their workload or their duties, these should be raised in the first instance with the clerk. If this is not successful, or if the clerk is the subject of the complaint, the issue may be raised with the Chair of the Council.

### **Formal process**

If this does not resolve the matter, or if the member of staff feels unable to take these steps for any reason, they may lodge a formal grievance by writing to the Line Manager.

### **First stage**

The Line Manager will then arrange a meeting **within 14 calendar days** of receiving the written notice of grievance. The Chairman or Vice-Chairman of the Council will also attend. At the meeting, the member of staff, who may be accompanied by a colleague or trade union representative, will be given an opportunity to explain further their grievance and the remedy they are seeking. The clerk, in conjunction with the Chairman/Vice-Chairman, will then provide a formal, written response as soon as possible and following any appropriate investigation, and no later than **28 calendar days** following the meeting.

### **Second stage**

If the member of staff remains unhappy with the response, they may take the grievance to the Disciplinary & Grievance Panel by writing to the Chair of the Panel within 14 days of receiving the written response from the first stage. The Panel will hold a hearing within a further 14 calendar days and provide a response within a further 28 days.

### **Third stage**

If the member of staff continues to be unhappy, they may then take the grievance to the Appeal Panel by writing to the Chair of the Appeal Panel within 14 days of receiving the written response from the second stage. The Panel will hold a hearing within a further 14 calendar days and provide a response within a further 28 days. **Its decision will be final.**

## **Concurrent Grievances and Disciplinary Issues**

Where a member of staff lodges a formal grievance at the same time as a formal disciplinary process is underway, the Chair of the Disciplinary & Grievance Panel will decide in conjunction with the clerk and the Chair of the Council or independent person if there are overlapping issues and if there are the grievance process will be carried out first.

### **Variation**

Depending on the nature of the issues at hand, the Parish Council may alter the people involved in hearing and deciding on either grievances or disciplinary issues where this ensures maximum objectivity.

## **C. PERFORMANCE ISSUES**

Where the clerk has a concern about the performance of a member of staff's duties, i.e., their capability rather than their conduct, they will raise this with the member of staff through normal supervision and appraisal. Guidance and training will be provided if appropriate. If this is not successful in remedying the underperformance, the clerk will use the same process as set out under the Disciplinary rules in A above. However, in the case of performance issues, there must be at least three stages of warning given with appropriate time between each to show improvement. Likewise, performance and conduct issues should be kept separate – a warning given under the Disciplinary process will not count towards a warning given under the Performance Process, or vice versa.

Where the Clerk to the Council is involved in any of the above situations, her role of calling the meetings/hearings and the responsibility for sending out the paperwork will be undertaken by an independent person.

The policy was reviewed 9.5.19

Reviewed July 2020

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