

Disciplinary Policy and Procedure

1. Purpose and Scope

- 1.1 This procedure is designed to help and encourage all employees of the Council to achieve and maintain standards of conduct, attendance and job performance.
- 1.2 This procedure applies to all employees and workers the Council may employ. The aim is to ensure consistent and fair treatment for all employees and workers employed by the Council.

2. Principles

- 2.1 It is anticipated that minor breaches of discipline will be dealt with informally by discussion between the employee or worker concerned and their immediate Line Manager. This may be at a planned supervision meeting, or immediately upon attention being drawn to the issue.
- 2.2 The procedure is designed to establish the facts quickly and to deal consistently and fairly with disciplinary issues, but no disciplinary action will be taken against an employee or worker until the facts of the case have been appropriately investigated.
- 2.3 In some cases, this will require the holding of an investigatory meeting with the employee or worker before proceeding to any disciplinary hearing. In other cases, the investigatory stage will be the collation of evidence by the employer for use at any disciplinary hearing.
- 2.4 At every stage of the formal procedure the employee or worker will be informed in writing of what is alleged and can state their case at a disciplinary hearing before any decision on action is made.
- 2.5 For formal action the employee or worker will be advised in writing of the nature of the complaint against him or her and will be given the opportunity to state his or her case before any decision is made at a disciplinary hearing.
- 2.6 At any stage of the procedure an employee or worker may be accompanied, if they wish, by a representative of their choice, limited to a workplace colleague or, if a Union member, a full-time Trade Union Official or an appropriately trained Union Representative.
- 2.7 The disciplinary panel may be accompanied by an HR contractor to the Council to advise on procedure, who will record the notes of the disciplinary hearing.
- 2.8 Employees or workers will be provided, where appropriate, with written notice and copies of evidence and relevant witness statements in advance of a disciplinary hearing. At all stages of the formal procedure the employee should be provided with 5 working days' notice of a hearing date and of the right to be accompanied.
- 2.9 No employee will normally be dismissed for a first breach of discipline except in the case of gross misconduct, when the penalty may be summary dismissal.
- 2.10 The procedure may be implemented at any stage if the employee's alleged misconduct warrants this.

3. Disciplinary Procedure

3.1 Informal Stage

Where the employee's or worker's conduct, behaviour or performance is falling below expectations, whether due to the employee doing something wrong unintentionally or failing to undertake the requirements of their job role, the immediate Line Manager will clarify the breach, or where performance is falling below the necessary standard as determined by the Line Manager.

It may need to be determined whether there are any mitigating circumstances, training needs or a requirement for additional support. The improvements required will be agreed with the employee, along with timescales over which the necessary improvements will be monitored. Where such discussions do not lead to the required improvement, or there has been a further breach of discipline, or where the matter is more serious and cannot be dealt with informally, the following stages of the Formal Disciplinary Procedure should be followed.

3.2 Mediation

Before resorting to the formal procedures, and if considered more appropriate, both parties may agree to resolving the matter through a process of mediation/conciliation. Mediation is a tool to deal with disagreements between individuals in the workplace. It is a voluntary process that the Parish Council can use to help resolve conflict, and is a form of alternative or informal dispute resolution, being less formal than disciplinary procedures. Where both parties agree to mediation, the Council will seek the services of an external expert to organise the mediation process to reach a conclusion agreeable to all parties involved. Honeybourne Parish Council follows guidance from ACAS for mediation; the latest guidance can be found at [acas.org.uk](https://www.acas.org.uk).

3.3 First Stage of Formal Procedure

This will normally be either:

- An improvement note for unsatisfactory performance. If performance does not meet acceptable standards, this will set out the performance problem, the improvement required, the timescale, any help that may be given, and the right of appeal. The individual will be advised that it constitutes the first stage of the formal procedure. A written record will be given to the employee/worker and a copy kept for six months on their file, after which it will be considered spent, subject to achieving and sustaining satisfactory performance; or
- A first warning for misconduct, if conduct does not meet acceptable standards. This will be confirmed in writing and issued within 7 days of the hearing, setting out the nature of the misconduct, the change in behaviour required and the right of appeal. The warning will also inform the employee that a final written warning may be considered if there is no sustained satisfactory improvement or change. A copy will be kept on the employee's personnel file, but will be disregarded for disciplinary purposes after six months.

3.4 Final Written Warning

If the offence is sufficiently serious (for example because it is having, or is likely to have, a serious harmful effect on the reputation of the Council), it may be justifiable to move directly to a final written warning, or if there is further misconduct or a failure to improve performance during the currency of a prior warning, a final written warning may be given to the employee/worker.

The final written warning will be issued within 7 working days and will give details of the complaint, the improvement required and the timescales. It will also warn that failure to improve may lead to dismissal (or some other action short of dismissal) and will refer to the right of appeal. The final written warning will be kept on the employee's/worker's file but will be disregarded for disciplinary purposes after twelve months, subject to achieving and sustaining satisfactory conduct or performance.

3.5 Dismissal or Other Sanction

If the offence is a matter of gross misconduct, or if there is still further misconduct or failure to improve performance, the final step in the procedure may be dismissal or some other action short of dismissal.

Delegated authority from the Council to take disciplinary action under these procedures, including dismissal decisions, is set out in Appendix 1. An employee/worker who is dismissed will be provided in writing with reasons for dismissal within 7 days of the hearing, the date on which employment will terminate, and their right of appeal.

If some sanction short of dismissal is imposed, the employee will receive a letter confirming the action within 7 working days of the hearing, warning that dismissal could still result if there is no satisfactory improvement, and advising of the right of appeal. A copy of the action imposed will be recorded on the employee's/worker's personal file but will be disregarded for disciplinary purposes after eighteen months, subject to achieving and sustaining satisfactory conduct or performance.

If performance or conduct does not improve during the currency of the warning, or there is a further breach of discipline, the hearing will be reconvened and action escalated to dismissal.

4. Examples of Actions That Could Lead to Disciplinary Action

4.1 General Breaches

The following are examples (although not an exhaustive list) of actions which are liable to lead to disciplinary action against an employee:

- Failure to abide by general health and safety rules and procedures.
- Poor timekeeping.
- Misuse of the Council's resources and facilities, including telephone, email and internet (including social media), that could bring the Council's name into disrepute.
- Inappropriate behaviour.
- Refusal to follow reasonable instructions or the Council's policies or procedures.
- Making covert recordings in the workplace.
- Unauthorised use, or negligent damage or loss, of the Council's property.
- Any criminal conviction or offence that has a detrimental impact on the performance of your duties or the name of the Council.
- Where your work involves driving, failure to report immediately any type of criminal conviction or summons which may lead to your conviction or could damage the Council's reputation.
- Loss of driving licence where driving on public roads forms an essential part of the duties of the post.

4.2 Serious Misconduct

An instance of unsatisfactory conduct or misconduct which, upon investigation, is shown to be due to the employee's/worker's extreme carelessness, or which has a serious or substantial effect upon the Council's operations or reputation. Employees/workers may be issued with a final written warning in the first instance, or as the first course of action where some level of mitigation is found following investigation.

4.3 Gross Misconduct

Gross misconduct will normally result in summary dismissal, i.e. without pay in lieu of notice and without any previous warning being issued. Any behaviour or negligence resulting in a fundamental breach of

contractual terms that irrevocably destroys the trust and confidence necessary to continue the employment relationship will constitute gross misconduct, including serious instances of:

- Theft or fraud.
- Physical violence or persistent bullying.
- Deliberate and serious damage to property.
- Serious misuse of the organisation's property or name.
- Deliberately accessing internet sites containing pornographic, offensive or obscene material.
- Serious insubordination.
- Persistent unlawful discrimination or harassment.
- Actions bringing the Council's name into serious disrepute.
- Serious incapability at work brought on by alcohol or illegal drugs.
- Causing loss, damage or injury through serious negligence.
- Serious breach of health and safety rules.
- A serious breach of confidence.
- Deliberate falsification of records.

5. Suspension

- 5.1 If allegations of gross misconduct or serious misconduct are made, the Council may suspend the employee while further investigations are carried out. Suspension will be on full pay. Suspension does not imply any determination of guilt or innocence; it is merely a measure to enable further investigation.
- 5.2 While on suspension, the employee/worker is required to be available during normal working hours in the event that the Council needs to make contact. The employee must not contact or attempt to contact or influence anyone connected with the investigation, or discuss the matter with any other employee or councillor.
- 5.3 The employee/worker must not attend work. The Council will make arrangements for the employee/worker to access any information or documents required to respond to the allegations.

6. Appeals

- 6.1 If an employee/worker wishes to appeal against any disciplinary decision, they must do so in writing to the Chair of the Council within 5 working days of receipt of the letter giving details of the formal disciplinary action taken. The letter of appeal should outline the grounds and reasons for the appeal.
- 6.2 All appeals will be heard by individuals with delegated authority to hear appeals, as set out in Appendix 2 to this procedure. At the appeal, any disciplinary penalty imposed will be reviewed by the panel with delegated authority to hear the appeal, whose decision will be final.

7. Right of Representation

- 7.1 The statutory right is to be accompanied by a fellow worker, a Trade Union Representative, or an official employed by a Trade Union. A Trade Union Representative, who is not an employed official, must have been certified by their union as competent to accompany an employee/worker.
- 7.2 If the representative of choice is not available to attend the date set for the hearing, another date should be agreed within the following 5 working days from the original hearing date. The employee/worker should notify the Chair of the Council 48 hours prior to the hearing as to who will be accompanying them. The

companion can help the employee/worker in presenting their case but cannot answer questions on their behalf.

8. Retention of Records

8.1 Warnings will normally be disregarded after the periods below, subject to achieving and sustaining satisfactory conduct or improvement in behaviour:

Record	Retention Period
Notes made during the informal stage	6 months
First formal written warning	6 months
Final written warning	18 months

9. Voice Recordings of Investigation, Disciplinary and Appeal Meetings

9.1 It is not the Council's practice to allow voice recordings in the workplace, including investigation meetings and disciplinary/appeal hearings, as this is believed to be in breach of the implied terms of trust and confidence under the employment contract.

9.2 Making any covert recordings in the workplace will be treated as gross misconduct and appropriate action will be taken under the Council's Disciplinary Policy and Procedure.

10. Probationary and Short-Term Contracts

10.1 New employees will normally serve a probationary period of three months from their start date, which the Council may extend by up to one further month where needed to properly assess performance or conduct. The probationary period, and any extension, will be confirmed to the employee in writing.

10.2 The Council retains discretion in respect of these disciplinary procedures to take account of an employee's/worker's length of service and to vary the procedures accordingly. Employees on a short-term or probationary contract may only be in receipt of a final written warning before dismissal, but will retain the right to formal disciplinary meetings and the right to appeal against any decision taken.

10.3 Line Managers should ensure that probationary reviews take place at appropriate intervals during the probationary period, with clear, documented feedback, so that any decision about continued employment is made in good time and on a properly evidenced basis.

11. Grievance Raised During a Disciplinary Process

11.1 The ACAS Code of Practice on Disciplinary and Grievance Procedures states that a disciplinary process "may be suspended in order to deal with the grievance."

11.2 If the grievance is so bound up with the discipline that it would not make sense to consider them separately, as the grievance forms part of the defence to the charge, the Council will consider the merit in hearing and deciding them together. Where the Council decides to combine the grievance and disciplinary hearings, both sides should be allowed additional preparation time resulting from the grievance being raised. In deciding whether to delay the disciplinary proceedings, the Council will consider how long that delay is likely to be.

11.3 If there is no connection between the grievance and the disciplinary issue, the Council is not obliged to put the disciplinary process on hold while the grievance is heard (including any appeal), and will arrange a separate meeting for the grievance to be heard.

Appendix 1: Delegated Authority for Action Under the Disciplinary Procedure

The operation of the disciplinary procedure is based on the following delegated authority for various levels of disciplinary action, as detailed in the Terms of Reference of the Staffing Committee. This list does not prevent a higher level of seniority undertaking any action at whatever stage of the disciplinary process.

Stage	Person(s) Authorised to Take Disciplinary Action
Informal action	Nominated Line Manager; Chairperson of the Council Staffing Committee
Final written warning	Chairperson of the Council Staffing Committee and two further Committee Members
Dismissal	Chairperson of the Council Staffing Committee and two further Committee Members

Appendix 2: Delegated Authority to Hear Appeals

The operation of appeals is based on the following delegated authority for the various levels of appeal hearing, on the basis that, wherever possible, the individuals hearing the appeal will not have been previously involved in the disciplinary process.

Appeal Level	Person(s) Who Will Hear the Appeal
Written warning	Chairperson of the Council plus two council members not previously involved in the issue of the written warning and independent of the review panel.
Final written warning	Chairperson of the Council plus two council members not previously involved in the decision to issue the final written warning and independent of the review panel.
Dismissal	Appeal panel made up of three council members not previously involved in the disciplinary process.