

**POLICY & PROCEDURE: DISCIPLINE**

**PURPOSE:** The Disciplinary Policy and Procedure describes the steps to be taken in the event that a person fails to meet the Parish Council's standards of attendance, behaviour and performance or for any breach of any of the terms and conditions of employment. It can also be applied to employee behaviour issues that are brought to the attention of the Council by members of the public. In addition it sets out the Council's expectations and criteria against which a decision on disciplinary action is taken.

**SCOPE:** This document applies to Employees of the Melbourn Parish Council. It does not apply to Service Providers under contract to the Parish Council.

**POLICY:****1. Principles**

- 1.1 This document is written with reference to the ACAS Code of Practice 1, published in 2009
- 1.2 We, Melbourn Parish Council, have a legal obligation to safeguard your rights to fair treatment concerning grievances, disciplinary matters and dismissal. We fulfil our obligation by the procedures detailed below. When an employee is a member of a recognised Trade Union and wishes to use an agreed Union procedure, that procedure will take precedence.
- 1.3 The disciplinary procedure below is designed to be fair and transparent to all and to ensure that you have a chance to put your side of the case where a disciplinary matter arises
- 1.4 Any breach of any of the terms of your employment, or other serious breach of contract, misconduct, inefficiency or neglect by you while carrying out your duties may be treated as a disciplinary matter.
- 1.5 Conduct outside working hours that, in our opinion, affects the performance of your duties or may bring the Parish Council into disrepute or adversely affect it may also be considered a reason for implementing the disciplinary procedure.
- 1.6 Before taking formal disciplinary action, managers will make every effort to resolve issues of poor performance or misconduct by informal discussions with employees. This may sometimes result in a need to record the required

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improvements in performance or changes in behaviour. The purpose of this is to make clear what the required changes are.

- 1.7 Where appropriate we will offer mediation as part of the informal process. This will be done using internal people unconnected with the issue or an outside resource.
- 1.8 Only where informal processes fail to bring about the desired improvement will the formal disciplinary procedure be implemented.
- 1.9 Disciplinary situations include misconduct and/or poor performance. Where issues of capability arise a slightly different process will be used.

### **PROCEDURE:**

#### **2. Informal Procedure**

- 2.1 If your work or conduct is considered unsatisfactory, an informal meeting may be arranged to explain any shortcomings and suggest ways of correcting them.
- 2.2 If any conduct or breach is considered sufficiently serious, we the Parish Council in Our absolute discretion may implement the formal procedure without reference to the informal procedure. For employees other than the Clerk or Assistant Clerk, We may choose to delegate the informal procedure to the Clerk.
- 2.3 If the informal procedure is adopted, the Parish Council or Clerk may write to you confirming the nature of the problem, agree objectives to remedy it and the timescale within which any breaches must be rectified. The informal warnings may be kept on your file for a period of six months and any further breaches may lead to the formal procedure being implemented.
- 2.4 We will only initiate the formal procedure if the informal procedure fails to result in the desired change or improvement or in the case of any matter that is considered sufficiently serious.

#### **3. Formal Procedure**

##### **3.1 Step 1 - Establish the facts**

Where required we, the Melbourn Parish Council, will carry out investigations of potential disciplinary matters without unreasonable delay to establish the facts of the case. In some instances this will require us to hold an investigatory meeting with the employee before proceeding to any disciplinary hearing. In others the investigatory stage may just be the collation of evidence for use at any disciplinary hearing. If the

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matter concerns potential misconduct, different people will carry out the investigation and disciplinary hearing where practicable.

Any investigatory meeting will not by itself result in any disciplinary action. The employee will be invited to attend the investigatory meeting and may be accompanied by a chosen companion (see below).

In some instances the employee may be suspended (with pay and without prejudice) pending the investigatory and any following disciplinary meeting. Where this occurs the period will be as brief as possible, be kept under review and will never be considered a disciplinary action.

### **3.2 Step 2 - Inform the employee of the problem**

Where We decide that there is a disciplinary case to answer, the employee will be notified of this in writing. The notification will describe the alleged misconduct or poor performance and its possible consequences. This is to allow the employee to prepare to answer the case at a disciplinary meeting. Copies of any written evidence, including any witness statements will be provided.

The notification will give details of the time and venue for the disciplinary meeting and advise the employee of their right to be accompanied.

### **3.3 Step 3 - Hold a meeting with the employee to discuss the problem**

Meetings will be held without delay, but with a reasonable interval to allow the employee to prepare their case. Managers and employees (as well as their companions) should make every effort to attend the meetings.

At the Meeting we will:

- Explain the complaint against the employee.
- Go through the evidence that has been gathered.
- Allow the employee to set out their case and answer any allegations that have been made.
- Give the employee the opportunity to ask questions, present evidence and call relevant witnesses.
- Give the employee the opportunity to raise points about any information from witnesses.

For employees other than the Clerk or Deputy Clerk the hearing will be conducted by a panel of three councillors who are not involved in the matter concerned. These will include at least one member of the HR Panel and will normally be chaired by the Chair or Vice Chair of the Parish Council.

If the problem affects the Clerk or Deputy Clerk the Chair or Vice Chair of the Parish Council should seek external advice on the most appropriate constitution of the panel.

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We will always give advance notice of our intention to call witnesses and expect that the employee will do the same. Where an employee is persistently unable or unwilling to attend a disciplinary meeting without good cause, we reserve the right to make a decision on the evidence available.

### 3.4 Step 4 - Decide on any appropriate action

Only after the meeting will a decision be made regarding disciplinary or any other action that is justified. Once this has taken place the employee will be informed in writing.

### 3.5 OUTCOMES

Depending on the seriousness of the matter and all the circumstances, any of the above stages may be omitted.

**3.5.1 VERBAL Warning** - In the case of minor offences, you will be given a **formal verbal warning**. The nature of the offence and the likely consequences of further offences or a failure to improve will be explained to you. Details of the verbal warning will be placed on your personnel file but will be disregarded after a period of six months.

**3.5.2 WRITTEN Warning** - In the case of more serious offences or a repetition of earlier minor offences, you will be given a **written warning** and will be informed of the likely consequences of further offences. A copy of the written warning will be placed on your personnel file but will be disregarded after a period of twelve months.

**3.5.3 FINAL WRITTEN Warning** - In the case of a further repetition of earlier offences or in the event that you fail to improve or if the offence, whilst falling short of gross misconduct, is serious enough to warrant only one written warning, you will be given a **final written warning** and will be informed that any reoccurrence may lead to your employment being terminated.

In the case of **gross misconduct** and/or if the appropriate stages of the formal procedure have been exhausted, your employment will normally be terminated. **Gross Misconduct** is defined in Section 3.7 below.

### 3.6 APPEAL

If you do not agree with the result of any disciplinary decision, you will have the right of appeal provided it is made in writing to the Clerk or Chair/Vice Chair (as appropriate) to the Council within three working days of you being notified. You must set out in full the grounds on which you are appealing the decision, stating whether it is because you disagree with the findings of misconduct or the sanction that was imposed.

3.6.1 The Clerk or Chair/Vice Chair will appoint 3 Councillors who were not involved in the initial hearing to form an Appeals Panel. These will not be drawn from the HR Panel.

3.6.2 On receipt of notice of your appeal, the Appeals Panel shall be entitled to seek such other submissions, verbally or in writing, from you or such other persons as appropriate.

3.6.3 You have the right to a hearing, which will be by way of a review of the decision and not a full re-hearing. You have the right to have a companion present at the appeal hearing as you did with the original disciplinary hearing.

3.6.4 Where you have been dismissed, the date of your dismissal will stand if the appeal is rejected and the date of the termination of your employment will not be the date that your appeal was rejected.

### 3.7 GROSS MISCONDUCT

**Gross Misconduct** is conduct or an offence where the magnitude is regarded as sufficiently serious that the employment of the person concerned should be immediately terminated. The following is a **non-exhaustive** list of examples of offences that the Parish Council may regard as amounting to Gross Misconduct:

a) Accepting any bribes or gifts that could be construed as bribes.
b) Attendance at work while intoxicated or influenced by drugs that have not been prescribed to you by a medical practitioner.
c) Being abusive or rude to clients or customers.
d) Breach of rules and regulations relating to health & safety matters that may constitute a danger to the health & safety of yourself, your fellow workers or anyone visiting the premises or properties of the Parish Council.
e) Bringing the Parish Council into disrepute by conduct whether at work or outside.
f) Conviction for any offence that is incompatible with your employment, which may place the Parish Council in disrepute or which causes the Parish Council to lose trust and confidence in you.
g) Damaging the Parish Council's property or the property of an employee with deliberate intent.
h) Discrimination against, or harassment of, any fellow worker or client or customer on the grounds of sex, race, sexual orientation or disability.
i) Dishonesty at work whether or not it will cause loss to the Parish Council.
j) Dishonesty outside work that may bring the Parish Council into disrepute or is incompatible with your employment.
k) Failing to adhere to any statutory or regulatory requirements where such failure is wilful or amounts to gross negligence or incapability.
l) Failing to correctly fill out your application or any documents relating to your employment that affect your qualifications for a job, your ability to carry out the job, or may affect the Parish Council's trust and confidence in you.
m) Falsification of any of the Parish Council's documents whether or not they give you a pecuniary advantage or whether it is likely to cause loss to the Parish Council.
n) Insubordination to your superiors that is incompatible with your position. Insubordination will be regarded as incompatible if it occurs before fellow workers.

o) Misuse of any Parish Council vehicle. It will be a dismissible offence if you drive a Parish Council vehicle while intoxicated. It may be a dismissible offence if damage is caused to a Parish Council vehicle by reckless or negligent conduct on your part.
p) Negligent behaviour which may be gross or which may affect the Parish Council's trust and confidence in your ability to carry out your job.
q) Misuse of any confidential information belonging to the Parish Council or of information that the Parish Council considers may cause the Parish Council harm or bring it into disrepute.
r) Violent behaviour towards fellow workers or clients or customers. This will include physical and verbal behaviour or conduct or words that may be regarded as intimidating.
s) Theft or reasonable suspicion of theft or other criminal offence.
t) Absence from work that is unauthorised.
u) Receiving a custodial sentence regardless of the length of that sentence.
v) Inappropriate use of the Parish Council's telephones &/or e-mail system &/or the Internet.
w) Downloading pornographic and other inappropriate material from the Internet.

### 3.8 Notes on being accompanied at the meeting

Employees can choose to be accompanied at any disciplinary or appeal meeting that could result in a formal warning or some other disciplinary action. The companion may be a fellow worker, a trade union representative, or an official employed by a trade union.

The employee must make their request to be accompanied clear. The person must not be someone whose presence would prejudice the hearing or be from a remote location if someone suitable and willing is available locally.

The companion will be allowed to address the hearing to put and sum up the employee's case, respond on their behalf to any views expressed at the meeting and confer with the worker during the hearing. However, they cannot answer questions on the worker's behalf, address the hearing if the employee does not wish it or prevent the employer from explaining their case.

**Document Approval:**



**(Chair to Melbourn Parish Council)**

**Date of Parish Council Meeting: 9 January 2017**

*Review Policy: Every 12 months*