



STANTONBURY
PARISH
COUNCIL

DISCIPLINARY PROCEDURE

Version 3

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Version Control

V1	Created by Working Group	21/01/19
V2	Reviewed and agreed by HR Committee	17.04.19
V3	Reviewed and approved by Full Council	17.04.19

Procedure

Disciplinary Investigation

The Council's Human Resources committee will appoint an Investigator who will be responsible for undertaking the investigation (a fact-finding exercise to collect all relevant information). The Investigator will be independent and will normally be a Councillor. If the HR committee 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 Investigator will be appointed as soon as possible after the allegations have been made. The HR committee will inform the Investigator of the terms of reference of the investigation. The terms of reference should deal with the following:

- What the investigation is required to examine
- Whether a recommendation is required
- How the findings should be presented
- Who the findings should be reported to and who to contact for further direction if unexpected issues arise or advice is needed.

The Investigator will submit a report within 20 working days of appointment. 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 (see The Disciplinary Meeting section).

The HR committee will first notify the employee in writing of the alleged misconduct and ask him/her to attend a meeting with the Investigator. The Investigator will write to the employee. The employee will be given at least five working days' 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 should be provided with a copy of the Council's disciplinary procedure.

Employees may be accompanied by a workplace colleague, trade union representative or trade union official at any investigatory meeting.

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.

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 to prepare a report that recommends to the HR committee whether or not disciplinary action should be taken.

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
- The employee has a case to answer and there should be action under the Council's disciplinary procedure.

The Investigator will submit the report to the HR committee which will decide whether further action will be taken.

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.

If the HR committee decides that there is a case to answer, it will appoint a HR sub-committee of Three Councillors. The HR sub-committee will appoint a Chairman from one of its members. The Investigator shall not sit on the sub-committee. 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 disciplinary meeting will be conducted as follows:

- The Chairman will introduce the members of the sub-committee to the employee
- The Investigator will present the findings of the investigation report
- The Chairman will set out the Council's case and present supporting evidence (including any witnesses)
- The employee will set out his/her case and present evidence (including any witnesses)
- Any member of the sub-committee and the employee may question the investigator and any witness
- The employee or companion will have the opportunity to sum up his/her case
- The Chairman will provide the employee with the sub-committee's decision with reasons, in writing, within five working days of the meeting.
- The disciplinary meeting may be adjourned to allow matters that were raised during the meeting to be investigated by the sub-committee.

Disciplinary Action

If the sub-committee decides that there should be disciplinary action, it is authorised to impose any of the following sanctions:

No Action

If the sub-committee decides to take no action, no record of the matter will be retained on the employee's personnel file

Oral Warning

An oral warning is issued for most first instances of minor misconduct. The Council will notify the employee:

- Of the reason for the 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
- Of the right to appeal
- That a note confirming the oral warning will be placed on the employee's personnel file
- The oral warning will remain in force for six months

Written Warning

If there is a repetition of earlier misconduct which had resulted in an oral warning, or for different and more serious misconduct, the employee will normally be given a written warning. A 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 to appeal
- That a note confirming the written warning will be placed on the employee's personnel file
- The written warning will remain in force for twelve months

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 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 to appeal
- That a note confirming the final written warning will be placed on the employee's personnel file
- The final written warning will remain in force for eighteen months

Dismissal

The Council may dismiss:

- For gross misconduct (normally dismissed without notice)
- 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

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 the details of his/her right of appeal.

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

The Appeal

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.

The grounds for appeal include;

- 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 will be heard by a panel of three Councillors who have not previously been involved in the case. This includes the Investigator. The appeal panel will appoint a Chairman from one of its members.

The employee will be notified, in writing, within ten days of the 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 (a workplace colleague, a trade union representative or a trade union official).

At the appeal meeting, the Chairman 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 decision of the HR sub-committee
- Explain the action the appeal panel may take

The employee will be asked to explain the grounds for appeal

The chairman will inform the employee that he/she will receive the decision and the panel's reasons, in writing, within five working days of the appeal hearing

The appeal panel may decide to uphold the decision of the HR sub-committee, substitute a less serious sanction or decide that no disciplinary action is necessary. If it decides to take no action, no record of the matter will be maintained on the employee's personnel file

The appeal panel decision is final.