

GREAT GONERBY PARISH COUNCIL'S

GGPC 2 GRIEVANCE /DISCIPLINARY POLICY

INDEX

- 1. Introduction**
- 2. Grievance Policy**
- 3. Misconduct**
- 4. Gross Misconduct**
- 5. Grievance Investigation**
- 6. Grievance Notice**
- 7. Investigators Report**
- 8. The Grievance Meeting**
- 9. Disciplinary Action**
- 10. Appeal**
- 11.**

1. INTRODUCTION

1.1 The Purpose of this Policy

This policy applies to the Parish Council Employee/ councillors and the purpose is to help Parish council employees/ councillors improve unsatisfactory conduct and performance in their role. Wherever possible, the Parish council will try to resolve its concerns about employee/ councillors' behaviour informally, without starting the formal procedure set out below. This policy is based on and complies with the 2009 ACAS Code of Practice (<http://www.acas.org.uk/CHttpHandler.ashx?id=1047&p=0>)

1.2 The policy will be applied fairly, consistently and in accordance with the Equality Act 2010.

2 GRIEVANCE POLICY

This policy confirms:

- any grievance reported the Parish Council will appoint a disciplinary committee and investigator to determine the facts and fully review each case.
- the Parish council recognises that misconduct and unsatisfactory work performance are different issues. The grievance policy will also apply to work performance issues to ensure that all alleged instances of employee/ councillors' underperformance are dealt with fairly and in a way that is consistent with required standards. However, the disciplinary policy will only be used to when performance management proves ineffective. For more information see the ACAS publication "How to manage performance" at:

(http://www.acas.org.uk/media/pdf/g/7/Acas_how_to_manage_performance-accessible-version-Nov-2011.pdf)

- employees/ councillors will be informed in writing about the nature of the complaint against them and given the opportunity to state their response.
- employees/ councillors may be accompanied or represented by a representative (trade union or a work colleague) at any disciplinary or investigatory meeting. The representative or companion is permitted to address such meetings, to put the employee's/ councillor's case and confer with the employee/ councillor. The companion cannot answer questions put to the employee/ councillor, address the meeting against the employee/ councillor's wishes or prevent the employee/ councillor from explaining his/her case.
- the Parish council will give employee/ councillors reasonable notice of any meetings in this procedure. Employee/ councillor must make all reasonable efforts to attend. Failure to attend any meeting may result in it going ahead and a decision being taken. An employee/ councillor who does not attend a meeting will be given the opportunity to be represented and to make written submissions.
- If the employee/ councillor's companion is not available for the proposed date of the meeting, the employee/ councillor can request a postponement and can propose an alternative date that is within five working days of the original meeting date.
- any changes to specified time limits in the Parish council's procedure must be agreed by the employee/ councillor and the Parish council.
- information about an employee/ councillor's grievance matter will be restricted to those involved in the grievance process. A record of the reason for any grievance and disciplinary action and the action taken by the Parish council is confidential to the employee/ councillor. The employee/ councillor's disciplinary records. will be held by the Parish council in accordance with the Data Protection Act 1998
- recordings of the proceedings at any stage of the grievance procedure are prohibited, unless agreed as a reasonable adjustment that takes account of an employee/ councillor's medical condition.
- employee/ councillors have the right to appeal against any disciplinary action. The appeal decision is final
- if an employee/ councillor who is already subject to the Parish council's disciplinary procedure, raises a grievance, the grievance will normally be heard after the completion of the disciplinary procedure
- disciplinary action taken by the Parish council can include an oral warning, written warning, final written warning or dismissal
- except for gross misconduct when an employee/ councillor may be dismissed without notice, the Parish council will not dismiss an employee/ councillor on the first occasion that it decides there has been misconduct

- if an employee/ councillor is suspended following allegations of misconduct, it will be on full pay and only for such time as is necessary. Suspension is not a disciplinary sanction. The Parish council will write to the employee/ councillor to confirm any period of suspension and the reasons for it.
- the Parish council may consider mediation at any stage of the grievance procedure where appropriate (for example where there have been communication breakdowns or allegations of bullying or harassment). Mediation is a dispute resolution process that requires the Parish council's and the employee/ councillor's consent.

3. MISCONDUCT

Misconduct is employee/ councillor 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 Parish council's resources and facilities including telephone, email, internet
- inappropriate behaviour
- refusal to follow reasonable instructions
- breach of health and safety rules.

4. GROSS MISCONDUCT

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
- gross insubordination which includes failure to attend notified meetings without giving apologies.
- serious breaches of health and safety rules
- serious and deliberate damage to property
- use of the internet or email to access pornographic, obscene or offensive material
- disclosure of confidential information.

Examples of unsatisfactory work performance

- inadequate application of office procedures
- inadequate IT skills
- unsatisfactory management of staff
- unsatisfactory communication skills.

5. GRIEVANCE INVESTIGATION

When the grievance process is started, a disciplinary committee is created and an investigation will begin of the situation to determine the facts. The Parish council's disciplinary committee will appoint an Investigator who will be responsible for undertaking the disciplinary investigation. The appointed objective Investigator will be made known for the employee/ councillor and will normally be a Parish councillor. If the disciplinary committee considers that there are no Parish councillors who are independent (for example, because they all have direct involvement in the allegations about the employee/ councillor), it will appoint someone from outside the Parish council. The Investigator will be appointed as soon as possible after the allegations have been made. The Investigator will be asked to submit a report within 20 working days of appointment.

6. GRIEVANCE NOTICE

The disciplinary committee will first notify the employee/ councillor in writing of the alleged grievance and ask him/her to attend a meeting with the Investigator. The employee/ councillor 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/ councillor should be provided with a copy of the Parish council's grievance procedure. The Parish council will also inform the employee/ councillor that when he/she meets with the Investigator, he/she will have the opportunity to comment on the allegations of misconduct. Employee/ councillors may be accompanied or represented by a trade union representative or a work colleague at any investigatory meeting.

If there are other persons (eg employee/ councillors, Parish councillors, members of the public or the Parish 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/ councillor.

7. INVESTIGATORS REPORT

The Investigator has no authority to take disciplinary action. His/her role is to establish the facts of the allegations as quickly as possible and prepare a report that recommends to the disciplinary 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/ councillor has no case to answer and there should be no further action under the Parish council's grievance procedure
- the matter is not serious enough to justify further use of the grievance procedure and can be dealt with informally or
- the employee/ councillor has a case to answer and there should be action under the Parish council's grievance procedure.

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

If the Parish council decides that it will not take disciplinary action, it may consider whether mediation would be appropriate in the circumstances.

8. THE GRIEVANCE MEETING

If the disciplinary committee decides that there is a case to answer, the investigator and employee/ councillor will be invited, in writing, to attend a grievance meeting. The grievance notice letter will confirm the following:

- the names of the disciplinary committee
- details of the alleged grievance, its possible consequences and the employee/ councillor's statutory right to be accompanied at the meeting
- a copy of the investigation report, all the supporting evidence and a copy of the Parish council's disciplinary procedure
- the time and place for the meeting. The employee/ councillor will be given reasonable notice of the hearing (at least 15 working days) so that he /she has sufficient time to prepare for it
- that witnesses (representatives/ companion) may attend on the employee/ councillor's and the Parish council's behalf and that both parties should inform each other of their witnesses' names at least five working days before the meeting.
- that the employee/ councillor and the Parish council will provide each other with all supporting evidence at least five working days before the meeting. If witnesses are not attending the meeting, witness statements will be submitted to the other side at least five working days before the hearing
- that the employee/ councillor may be accompanied by a companion, either a trade union representative or a work colleague

The disciplinary meeting will be conducted as follows:

- the disciplinary committee will introduce the members to the employee/ councillor
- the investigator will present the findings of the investigation report
- the disciplinary committee will set out the Parish council's case and present supporting evidence (including any witnesses)
- the employee/ councillor (or the companion) will set out his/her case and present evidence (including any witnesses)
- any member of the disciplinary committee and the employee/ councillor (or the companion) may question the Investigator and any witness
- the employee/ councillor (or the companion) will have the opportunity to sum up his/her case
- the disciplinary committee will provide the employee/ councillor with the decision with reasons, in writing, within five working days of the meeting. The disciplinary

committee will also notify the employee/ councillor of the right to appeal the decision

- the grievance meeting may be adjourned to allow matters that were raised during the meeting to be further investigated.

9. DISCIPLINARY ACTION

Following the grievance meeting, if the disciplinary committee decides to take no disciplinary action, no record of the matter will be retained on the employee/ councillor's personnel file. Action imposed as a result of the grievance meeting will remain in force unless and until it is modified as a result of an appeal.

Should the disciplinary committee decide that there should be disciplinary action, it may be any of the following:

9.1 Oral warning

An oral warning is issued for most first instances of minor misconduct. The Parish council will notify the employee/ councillor:

- 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/ councillor's personnel file, that a copy will be provided to the employee/ councillor and that the warning will remain in force for six months.

9.2 Written warning

If there is a repetition of earlier grievance which resulted in an oral warning, or an additional grievance upheld, the employee/ councillor 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/ councillor's right of appeal
- that a note confirming the written warning will be placed on the employee/ councillor's personnel file, that a copy will be provided to the employee/ councillor and that the warning will remain in force for 12 months.

9.3. Final written warning

If there is further grievance during the period of a written warning or if the grievance upheld is sufficiently serious, the employee/ councillor 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/ councillor's right of appeal
- that a note confirming the final written warning will be placed on the employee/ councillor's personnel file, that a copy will be provided to the employee/ councillor and that the warning will remain in force for 18 months.

9.4. Dismissal

The Parish 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 grievance is upheld has occurred and a final written warning has already been issued and remains in force.

The Parish council will consider very carefully a decision to dismiss. If an employee/ councillor 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.

10. APPEALS

An employee/ councillor 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 Parish council within five working days of the employee/ councillor receiving written notice of the disciplinary action and must specify the grounds for appeal.

10.1. The grounds for appeal include;

- a failure by the Parish council to follow its grievance process/ policy
- the disciplinary 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.
- Any conflict of interest

The Appeal will be heard by an appeal panel consisting of the Chairman or Vice Chairman and a panel of the parish who have not previously been involved in the case plus the Investigator. There may be insufficient members of the appeal panel who have not previously been involved. If so, the appeal panel will be a committee of three members of the Parish council who may include members of the disciplinary committee who the chairman or Vice chairman will appoint.

The employee/ councillor 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/

councillor will be advised that he/she may be accompanied by a companion, either a trade union representative or a work colleague.

At the appeal meeting, the Chairman or Vice Chairman will:

- introduce the panel members to the employee/ councillor
- explain the purpose of the meeting, which is to hear the employee/ councillor's reasons for appealing against the decision of the staffing sub-committee
- explain the action that the appeal panel may take.

The employee/ councillor (or his companion) will be asked to explain the grounds for appeal.

The Chairman or Vice Chairman will inform the employee/ councillor 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 disciplinary 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/ councillor's personnel file.

If an appeal against dismissal is upheld, the employee/ councillor will be paid in full for the period from the date of dismissal and continuity of service will be preserved.

The appeal panel's decision is final.

Bibliography :

This policy is based on and complies with the 2009 ACAS Code of Practice

(<http://www.acas.org.uk/CHttpHandler.ashx?id=1047&p=0>)