

COLNEY HEATH PARISH COUNCIL

- ✉ **Postal Address:** Highfield Park Visitor Centre, Hill End Lane AL4 0RA
☎ **Telephone:** (01727) 825 314
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DISCIPLINARY PROCEDURE

1. Introduction and Principles

Colney Heath Parish Council recognises that discipline is necessary for example to manage the Council's services effectively, to rectify misconduct, to encourage improvement, to safeguard the health and safety at work of all employees and to maintain appropriate standards of conduct or performance.

The Parish Council therefore adopts a fair and systematic approach to the enforcement of standards of conduct and performance affecting all employees by utilising the Parish Council Disciplinary Procedure below which also explains to whom and how employees can apply if dissatisfied with any disciplinary decision and the further steps available by way of appeal.

Our approach and procedure conforms to the ACAS Code of Practice and none of the action taken by the Parish Council is ever intended to breach the underlying principle of fairness and equity of treatment for all employees.

The formal Disciplinary Procedure, which is non-contractual, is intended to ensure that employees are dealt with fairly in relation to any alleged breach of our standards of conduct, performance or behaviour and applies to all employees who have satisfactorily completed their period of probationary service.

In using the Procedure, which is based on the principles of fairness and equity, the Parish Council will ensure that:-

- conduct or performance concerns are addressed as quickly as possible to avoid further action being required;
- issues are dealt with promptly and consistently;
- investigations are carried out fairly, thoroughly and properly;
- employees are informed of the problems and given an opportunity to comment and put their case;
- employees have the right to be accompanied at any formal meetings as part of the Procedure with the exception of an investigatory meeting.

Minor faults will be dealt with informally by the Clerk with a view to agreeing a course of action to remedy the situation, but where the matter is more serious the formal procedure will apply.

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Nothing in the Procedure is intended to prevent the Clerk (or the Chairman or Vice-Chairman in the case of the Clerk) raising any work performance or conduct issue with an employee at any time and the Procedure may be entered into at or advanced to any stage depending on the seriousness of the offence(s). The Disciplinary Procedure will be followed in all appropriate cases following satisfactory completion of the probationary service period.

2. Procedure

(a) Scope

The Disciplinary Procedure applies to all employees of Colney Heath Parish Council once the probationary service period is successfully completed.

(b) Responsibility

The Clerk is responsible as appropriate for:-

- ensuring that workplace rules and standards of conduct are clearly known, understood and followed;
- securing satisfactory work performance and conduct;
- ensuring employees are suitably trained for their role;
- supporting employees to attain and maintain the required work performance standards; and/or
- investigating and/or instigating disciplinary action in accordance with this Procedure.

Where disciplinary proceedings are instigated against the Clerk, the following Procedure will still be followed but the actions prescribed for the Clerk will be the responsibility of a Panel of three Members with professional advice and assistance engaged if appropriate.

(c) Disciplinary Rules

The Parish Council believes that it is necessary for the efficient and safe performance of work and the maintenance of good relations between employees and management to have clear disciplinary rules examples of which are set out below. If an employee is found to have breached a disciplinary rule, they will render themselves liable to disciplinary action under the Council's Disciplinary Procedure.

The following list of examples of the Council's disciplinary rules is not to be regarded as exclusive or exhaustive and acts of misconduct not falling within one or more of the rules or set out elsewhere may also give rise to disciplinary action.

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Subject to this, examples of breaches of the Parish Council's disciplinary rules which may lead to disciplinary action are:-

- failure to comply with a reasonable order, instruction or contractual requirement;
- failure to comply with a Parish Council work rule or procedure;
- failure to comply with a health and safety requirement;
- failure to wear protective clothing provided for an employee's safety;
- failure to wear an acceptable standard of dress and/or any uniform or protective clothing or equipment provided;
- failure to maintain satisfactory personal hygiene at all times whilst engaged on Parish Council duties;
- using Parish Council plant or equipment which the employee is not authorised to use;
- any act which may result in an action against the Parish Council for negligence or for breach of duty of care;
- immoral, indecent or other unwanted conduct which causes offences and/or brings discredit to the Parish Council;
- discussing or disclosing to a third party confidential information obtained during the course of your employment without the prior permission of the Clerk;
- horseplay or unnecessarily boisterous conduct in the workplace;
- late attendance and/or poor timekeeping;
- absence from work without proper cause, notification or certification;
- while purporting to be absent sick, working or indulging in activities inconsistent with the reason for absence or not conducive to recovery;
- corrupt or improper practice;
- committing an act outside work, or being convicted for a criminal offence, which is liable to adversely affect the employee's performance and/or relationships with the Parish Council or customers;
- a breach of trust and confidence which may damage the interests of the Parish Council;
- loss, damage to or misuse of the Parish Council facilities, plant, equipment, property, assets or funds through wilfulness, negligence or carelessness;
- use of the Parish Council's property or equipment for personal use without the prior permission of the Clerk;
- failure to follow the Parish Council security procedures and rules;
- unauthorised entry or use of our computer systems and the Internet;
- theft of, misappropriation of, failure to account for or falsely claiming entitlement to the Parish Council's stocks, property or funds;
- falsification of the Parish Council's records or documents;
- unauthorised alteration, mutilation, destruction or retention of the Parish Council's records or documents;

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- possessing, dispensing or using alcoholic beverages, drugs or controlled substances (except in accordance with documented medical authorisation) whilst at work;
- any form of unwanted and/or abusive behaviour, bullying or victimisation or other offensive behaviour or harassment on grounds of any protected characteristic under the Equality Act 2010;
- failure to observe the Parish Council's equal opportunities policy and obligations;
- failure to report or record any matter which an employee has duty to report or record;
- contravention of the Council's social media policy and rules;
- reckless, improper, disorderly or generally unacceptable conduct at or during work in the workplace or at any other work site;
- any act of misconduct other than or coming within one or more of the above examples or stated elsewhere in your Principal Statement of Particulars of Employment.

The Parish Council reserves the right to add, amend or delete the above disciplinary rules when necessary and employees advised appropriately.

Acts of misconduct not falling within one or more of the rules or set out elsewhere may also give rise to disciplinary action and certain offences will be considered to be gross misconduct (see below).

(d) Suspension

If considered necessary an employee may be immediately suspended from work by the Clerk or in the case of the Clerk by the Chairman or Vice Chairman of the Council on normal pay pending or whilst an investigation is undertaken into suspected misconduct and in particular:-

- if the matter to be investigated is thought to involve gross misconduct leading to the possibility of summary dismissal; or
- due to the nature of the allegation, to enable the investigation to take place or to protect sensitive information or witnesses or where there are grounds as to the employee's unsuitability to continue to work or it is not in the Parish Council's best interest that they continue to attend work.

Similarly, if during the course of an investigation it is considered that a serious breach of discipline may have occurred the employee may then be suspended.

Such suspension will be precautionary, not disciplinary, pending the outcome of the matter. The employee will normally be advised personally of the suspension, the reasons for the suspension and the likely duration and this will be confirmed

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in writing as soon as possible afterwards. During the period of suspension, which will be kept as short as possible, the employee will be paid normal pay and the employee will be kept informed of any delay in the investigation or process.

(e) Investigation

Where a matter arises that is suspected or believed to be a disciplinary matter it will be investigated promptly and thoroughly by the Clerk or in the case of the Clerk by two Councillors from the HR Committee. If appropriate the Parish Council may appoint an external HR Adviser to undertake the investigation. The investigation will include obtaining all relevant facts and evidence and interviewing and obtaining statements from any witnesses or third parties and as part of the investigation. The employee will be interviewed (this will be an investigatory not disciplinary meeting) but they will not be entitled to be accompanied by at the meeting. It will be a fact-finding investigation to determine whether there appears to be a case to answer and referred to a disciplinary hearing.

Notes of each meeting and/or witness statements will be obtained and a report prepared on the investigation findings. When the investigation is concluded, the employee will be advised whether the matter is considered on the balance of probabilities to require action more than an informal discussion and that there is a case to answer at a disciplinary hearing. In cases of minor misconduct or poor work performance, the matter will then be dealt with informally as set out above.

(f) Invitation to Disciplinary Hearing

When appropriate the employee will be invited in writing to attend a disciplinary hearing, which will be held as soon as practicable, normally within seven working days of completion of the investigation report and at a reasonable time and in a convenient location. The invitation will include a statement of the purpose, date and place of the hearing, the detail of the alleged misconduct or poor work performance, the findings from the investigation, such evidence as may exist and the right to be accompanied. This notification will also set out to the level of disciplinary action or dismissal which may result.

The employee has a duty to take all reasonable steps to attend the Disciplinary Hearing. However, if, for good cause, the employee is unable to attend the hearing or for example their companion is not available, it may be adjourned to a new date which normally will be no more than five (5) working days later. If the employee is unable to attend the re-arranged hearing, it will, depending on the circumstances, proceed in their absence, but, if requested by the employee, with their companion being provided with an opportunity to present their case on their

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behalf. Any submission the employee wishes to make in writing at this stage will be considered.

(g) Disciplinary Hearing

The Disciplinary Hearing will be conducted by a Panel of two Members of the HR Committee who were not involved in the investigation. The purpose of the Hearing will be to hear both sides of the case and to reach a conclusion on the basis of the evidence. The Hearing will be conducted fairly so as to ensure that the employee has every chance to understand and respond to the allegations.

The outcome of the investigation will be outlined by the Clerk (or other investigator) together with any supporting evidence or witnesses and the Panel Members and the employee and/or their companion will be given a full opportunity to question the investigator. The employee may respond or call their witnesses and have the opportunity to address the Hearing and give any explanation or evidence in mitigation and be questioned by the Panel. Witnesses may be called by the employee or the Council or support their written statements and be questioned by all parties when appropriate.

The Hearing may be adjourned at any stage if it appears necessary or desirable to allow matters raised during the course of the meeting to be further investigated, to check or obtain further information and/or to afford the Disciplinary Panel time to consider the decision. Any adjournment will normally be for a stated purpose and an estimated period.

At the end of the Hearing and/or after any necessary further investigation has been concluded the Disciplinary Panel will consider, in private, all the facts, responses and any mitigating circumstances thoroughly before coming to a decision. The employee will be advised of the decision after thorough consideration either at the Hearing or in writing as soon as possible after its' conclusion and, if appropriate, the disciplinary action that will be imposed. Every attempt should be made to do this quickly and generally within a maximum of five (5) working days.

As part of this notification the employee will also be informed of their right of appeal against the disciplinary action or dismissal and the process to be followed in accordance with the Council's Appeals Procedure.

A written record of all proceedings will be made and retained on the employee's personnel file for the life of any warning or other appropriate period and in accordance with the data protection regulations and the Council's policy.

3. Disciplinary Action

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In cases, other than those involving gross misconduct, where there is a reasonable belief, on the balance of probabilities of the employee's guilt of the alleged misconduct or performance failure which has been established at the Disciplinary Hearing, the following disciplinary action may be taken which must always be appropriate, reasonable and proportionate to the offence.

- **Informal Warning**

For minor breaches of misconduct e.g. poor performance, time-keeping etc. an informal warning will be given and the employee made aware of the change in conduct or improvement in performance that is required. A note that an informal warning has been given may be recorded in the employee's file and it is expected that if possible this warning may quickly resolve any minor concerns. The employee will be informed at this point that this warning is informal and does not constitute part of the official disciplinary process as it is intended to alert the employee that unless performance improves or the same or similar misconduct is repeated, formal proceedings will begin and potentially, formal disciplinary action will be taken.

- **First Written Warning**

Where, following an investigation and disciplinary hearing it is a case of more serious offence, repeated misconduct or where there has been no change in performance as a result of an informal warning, a first written warning will be issued, which will normally be current for 12 months. This first written stage of the Procedure may be omitted if the offence is of a sufficiently serious nature.

- **Final Written Warning**

Where there is a further repetition of the misconduct or no improvement in poor work performance/attendance for which warning(s) have previously been issued, or where a serious first offence is committed which falls just short of gross misconduct, the matter will be investigated and if appropriate a disciplinary hearing arranged. Following the disciplinary hearing the outcome may be a final written warning, which will normally be current for 12 months. The employee will be advised in the warning that a further offence of any kind within the currency of the final warning will result in dismissal from employment.

- **Dismissal**

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Where there has been repeated misconduct or failure to improve performance for which a final written warning has already been given, the employee will be dismissed with notice following the investigation and the Disciplinary Hearing and process and the employee advised as with the previous stages above. Where the Parish Council is satisfied following investigation and a disciplinary hearing, that an act of gross misconduct (see below) has occurred, the result will normally be summary dismissal i.e. without notice.

4. Gross Misconduct

Gross misconduct is regarded as misconduct of such a nature that it fundamentally breaches an employee's contractual relationship with the Parish Council and justifies no longer accepting their continued presence at their place of work. Offences under this heading are so serious that an employee who commits them will normally be summarily dismissed if established after investigation and a Disciplinary Hearing and without notice of termination or payment in lieu of notice.

The following are examples of gross misconduct, which if established after investigation, may lead to summary dismissal:-

- gross negligence or wilful refusal to obey a reasonable instruction;
- unauthorised and deliberate alteration, mutilation or destruction or falsification of the Parish Council's documents or records or for claims for personal or financial gain;
- misuse of the Parish Council's credit or debit card;
- theft, fraud, deception or misappropriation of funds, assets or property from colleagues, the Parish Council or customers;
- other offences of dishonesty or corrupt or improper practice;
- serious professional misconduct or breach of confidence;
- sexual misconduct at work;
- sexual, racial or other unlawful discrimination, harassment, bullying or victimisation or other serious offensive and unwanted behaviour;
- serious verbal abuse, intimidation, physical assault or fighting with other employees or customers;
- deliberate damage, misuse or unauthorised disposal of the Parish Council's goods, property or equipment;
- being under the influence of alcohol or drugs at work (except where it would be appropriate to regard this as a medical/psychiatric condition requiring treatment);
- being found dealing, trafficking or being in possession of illegal drugs at work or in the environs of the workplace;
- serious breach of the health and safety rules and regulations;

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- intentional misuse of or negligence with Parish Council equipment, materials or funds;
- conviction of a criminal offence which affects your ability to perform your duties and/or brings the Parish Council into disrepute;
- bringing the Parish Council into serious disrepute or behaviour which is prejudicial to the Parish Council and affects the relationships with customers;
- unauthorised alteration, mutilation or destruction of Parish Council computer programmes or systems;
- divulging without approval confidential Parish Council information or customer details;
- sending abusive, scandalous, obscene or defamatory communication of any kind including by e-mail, on the Internet or on any social media;
- serious contravention of the Council's Social Media Policy which damages the reputation of the Parish Council or amounts to serious bullying and harassment of a colleague or a Councillor;
- accessing or downloading any pornographic, obscene or offensive images or other material from the Internet or by e-mail or otherwise being in possession of pornographic, rude, obscene or offensive material or publications or images in any media whilst at work and on or by using the Parish Council's computers or other devices;
- any wilful breach of licensing, excise or employment law or Regulation.

The above list is neither exhaustive nor definitive. In appropriate circumstances other acts of misconduct may come within the definition of gross misconduct. If considered appropriate the gross misconduct offence may be referred to the police or another relevant authority but this will not delay any appropriate action by the Parish Council.

5. Appeal

Employee will have the right to appeal against any disciplinary action taken against them, except a precautionary suspension. Should the employee wish to appeal it should be done in writing to the Clerk or in the case of the Clerk the Chairman of the Council, within five (5) working days of receipt of the disciplinary warning or dismissal letter. Appeals made outside of this time limit will not be accepted. The written statement of appeal must set out the full grounds of the appeal.

An Appeal Hearing will be arranged as quickly as possible of the appeal being lodged and, if possible, within ten working days of receipt of the appeal statement. The Appeal will be heard by a Panel made up of three Members of the Council who have not been involved in the case or the original Disciplinary

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Hearing. The employee will be invited in writing to the Hearing, explaining the process to be followed and the right to be accompanied. The employee should take all reasonable steps to attend the meeting.

An appeal will not be by way of a re-hearing and the usual grounds of appeal will be:-

- a failure by the Council to follow its disciplinary procedure;
- the disciplinary decision was not supported by the evidence;
- the disciplinary action was not proportionate and too severe in the circumstances of the case;
- new evidence has come to light since the disciplinary hearing.

Any new evidence or witnesses may attend the Appeal Hearing at the request of the employee and having read and heard all the evidence the Appeal Panel will ensure that any mitigating circumstances are considered and make a judgement based upon the soundness of the previous decision on the balance of probabilities and in line with employment law and advice.

The outcome, which will be final and binding, will be confirmed in writing normally within 5 working days of the meeting and either be:-

- to reject the appeal and confirm the original decision; or
- to uphold the appeal in full or part and make a different decision.

6. Disciplinary Action Notification

All formal disciplinary action will be confirmed in writing by the Clerk within five (5) working days of the decision and will include the following:-

- the reason for the warning
- the improvement or action required
- the timescale for improvement to be achieved or maintained
- the consequence(s) of a further recurrence of the issue(s) within the currency of the warning
- the currency of the warning
- the right and procedure to follow to appeal against the disciplinary action.

The warning may be referred to in any subsequent disciplinary proceedings or action during the currency of the warning. A copy will be placed on the employee's personal file for the period that it is current. Once the time period of the warning has expired all written documentation relating to the matter will be removed from your personnel file.

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Where the Disciplinary Hearing decision is to dismiss the letter will confirm:

- the details of the offence(s) and reasons for dismissal
- the effective date of termination and final salary/remuneration arrangements
- the right of appeal against the dismissal and the procedure to follow.

7. Overlapping Grievance and Disciplinary Issues

If an employee raises a grievance during a formal disciplinary process the disciplinary process will normally be halted temporarily in order to deal with the grievance. If the two issues are related, then the two procedures may run concurrently.

8. Confidentiality/Records

Where a disciplinary issue arises, it may be inevitable that other employees will sometimes find out what is going on. However as far as possible it is the Parish Council's intention that all disciplinary action is treated as confidential between the employee and any persons directly concerned in the process. Records of any disciplinary action will be recorded in the employee's personal file.

Under normal circumstances, records of any employee free of any disciplinary action for the life of a disciplinary warning will be removed from the file and disregarded in the consideration of any future disciplinary issues. These records will be kept confidential and retained in accordance with Data Protection Principles and the General Data Protection Regulations.

9. Special Requirements

If the employee requires assistance in using the Disciplinary Procedure due to a disability or other impairment or language difficulty, it should be made known to the Clerk prior to any investigatory interview or Disciplinary Hearing (or if given a warning) so that suitable arrangements can be made to ensure that the employee can take a full part and/or understand the true meaning of the subject matter.

10. Right to be Accompanied

An employee may be accompanied by a work colleague, trade union representative or trade union official at any stage of the disciplinary or appeals procedure except for an investigatory meeting. If the employee so wishes, their companion may address the hearing during of the proceedings to address the hearing to put the employee's case, to sum up that case, to respond on the

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employee's behalf to any view expressed at the hearing, to confer with the employee during the hearing but not answer questions directly on behalf of the employee. The companion may not prevent the Council from explaining the case against the employee or any other authorised person from contributing to the Disciplinary Hearing. The employee may request a postponement of a Disciplinary Hearing, if they or their companion is not available, normally up to a maximum of five (5) working days.

11. Review

The Disciplinary Procedure will be reviewed periodically, as appropriate, to assess its effectiveness and any appropriate changes made and all employees advised. Any changes to the Disciplinary Procedure will conform to all current legal requirements.

This policy was adopted 27th February 2023 for a period of 2 years or until legislation changes.