

RENHOLD PARISH COUNCIL DISCIPLINARY POLICY AND PROCEDURE



1. Our Disciplinary Procedure is in accordance with the ACAS Code of Practice 2015.
2. Where possible, informal management of conduct and capability will be undertaken to resolve issues prior to any disciplinary action being taken.
3. As we are constituted as a Parish Council, we do not have the structures that might be associated with what is considered to be a normal workplace.
4. The role of a manager within this policy shall be undertaken by the Chair of the Parish Council or by a councillor to whom this role may be delegated from time to time by the Chair.

Informal Management of Performance and Conduct

5. The informal stage is an attempt to correct a situation or improve performance to prevent it from becoming a disciplinary issue. Where improvement is required, the employee will be given clear guidelines as to:
 - I. what is expected in terms of improving conduct or performance;
 - II. the time scales for improvement;
 - III. when this will be reviewed
6. The employee will also be told, where appropriate, that failure to improve may result in formal disciplinary action.
7. A record of any informal performance management meetings will be given to the employee and a copy retained in their personnel file. Such records do not constitute a **formal** disciplinary warning, even if a warning is included in the text.
8. If during informal management of the situation it becomes clear that the matter is more serious, or the required improvements have not been made within a reasonable time, then the matter may be pursued under the formal disciplinary procedure¹.

¹ Paragraph 9 onwards

9. The Chair (or designated councillor) may seek advice from an HR professional when considering steps to take especially if taking disciplinary action.

Suspension

10. The purpose of suspension is to remove an employee from the workplace, pending an investigation, where their continued attendance at work may be a risk to the Parish Council or the investigation process. Suspension is not a disciplinary sanction and will be on full pay. Only the Chair has the authority to suspend an individual or authorise a councillor to do so.
11. An employee suspended from duty will receive written confirmation within three days of:
 - I. the reason for the suspension;
 - II. the date and time from which the suspension will operate;
 - III. the timescale of the ongoing investigation;
 - IV. any conditions of suspension, e.g. access to colleagues or the workplace

Procedure For Formal Investigation

12. Formal investigations should be carried out by the Chair (or designated councillor). The person investigating must not have been directly involved in the incident being investigated.
13. The person investigating may involve others to assist with the investigation process.
14. All the relevant facts and evidence should be gathered promptly after the incident. Statements should be taken from witnesses at the earliest opportunity.
15. In some circumstances where misconduct or gross misconduct is suspected, it will be appropriate to set up a formal investigation meeting with the employee concerned. The person investigating will chair this meeting and they may be accompanied by another councillor and/or an HR representative.
16. At the meeting the employee will have the allegations explained and be able to give their version of events. There is no statutory right to be represented at an investigation meeting.
17. Following the formal investigation (whether there has been a meeting or not) the person investigating shall prepare a report which outlines the facts of the case and may recommend action.
18. The report should be submitted to the Parish Council which will decide whether to proceed with disciplinary action within fourteen working days of receiving the

report. Councillors who are involved in the matters being investigated shall not receive a copy of the report and neither shall they be involved in the decision-making.

Disciplinary Hearing

19. If the councillors receiving the report under paragraph 14 recommend a disciplinary hearing or an employee has not made the required improvements under informal management of performance, they should be invited by letter to a disciplinary hearing. The councillors shall also appoint a chair for the disciplinary hearing.
20. The invitation should set out:
 - I. The allegations of misconduct or poor performance;
 - II. The date, time and location of the hearing;
 - III. Who will chair the hearing and any other person that will be present;
 - IV. The right of the employee to be accompanied by a colleague or trade union representative;
 - V. Possible outcomes
21. Copies of any documentation that will be produced as evidence at the hearing will be provided with the letter.
22. The employee will be given reasonable notice of the hearing of at least 2 working days.
23. At the hearing the employee will be reminded of the allegations and given the opportunity to respond. The employee and the Parish Council may call witnesses who can be cross-examined.
24. The chairperson for the disciplinary hearing will sum up and then adjourn the meeting. Normally the meeting will be reconvened on reasonable notice for the decision to be communicated verbally. The decision will be further confirmed in writing and notifying the employee of the right of appeal.
25. If the allegations are upheld the following sanctions may be implemented. If gross misconduct is found or if previous warning(s) have been given employment may be terminated.

Disciplinary Sanctions

Examples of Misconduct

26. Below are examples of misconduct that may warrant a formal warning. A formal warning may also be given, where general performance has failed to improve to the required standards. This list is not exhaustive and, on all occasions, a full and proper investigation will take place prior to the issue of a warning.

- I. Persistent lateness and poor time-keeping;
- II. Absence from work, including going absent during work, without valid reason, notification or authorisation;
- III. Smoking or vaping within unauthorised areas;
- IV. Failure to work in accordance with prescribed procedures;
- V. Failure to follow reasonable instructions;
- VI. Unreasonable standards of dress or personal hygiene;
- VII. Failure to observe Parish Council regulations and procedures.

Formal Written Warning

27. A Formal Written Warning may be given for a first incidence of misconduct or where performance has not improved after informal performance management. The warning will be confirmed in writing and remain on the employee's file for six months.

Final Written Warning

28. A Final Written Warning is appropriate when :

- I. an employee's offence is of a serious nature falling short of gross misconduct.
- II. an employee persists in the misconduct which previously warranted a Formal Written Warning or following a Formal Written Warning, poor performance has not improved to the required levels.

29. The warning will be confirmed in writing and remain on the employee's file for twelve months.

30. The Parish Council is not obliged to go through each stage of warning in every case, and reserves the right to go straight to a Final Written Warning for the first incidence of misconduct if the seriousness of the misconduct warrants it.

Examples of Gross Misconduct

31. Listed below are examples of gross misconduct that may warrant summary dismissal without notice. This list is not exhaustive and on all occasions a full and proper investigation will take place prior to a decision being made.

- Theft, including unauthorised possession of Parish Council property;
- Breaches of confidentiality, prejudicial to the interest of the Parish Council;
- Being unfit for duty because of the misuse/consumption of drugs or alcohol;
- Breach of confidentiality/security procedures;
- Physical assault or verbal abuse;
- False declaration of qualifications or professional registration;
- Fraud, dishonesty or falsification of documents (e.g. time sheets);

- Wilful damage of property at work;
- Serious breaches of Health and Safety rules;
- Offering or accepting a bribe;
- Gross negligence; that is acts or omissions that either bring the Parish Council into disrepute, lead to a loss of trust and confidence or place colleagues or stakeholders in danger.

Demotion or Transfer to another Post

32. These actions may be appropriate when :

- I. previous attempts, via the disciplinary procedure, to rectify a problem have failed and this is a final attempt to solve a problem without having to dismiss an employee. This would be a demotion and may constitute a disciplinary sanction.
- II. an employee is not considered capable of carrying out his/her duties to the required standard but is felt to be able to make a contribution in another role. This would be a voluntary move and would not constitute a disciplinary sanction.

33. Transfer to any new role would be on the appropriate terms and conditions of that role.

Dismissal

34. Dismissal is appropriate when:

- I. an employee's behaviour is considered to be Gross Misconduct.
- II. an employee's misconduct or lack of capability has persisted, exhausting all other lines of action under the disciplinary procedure.

Time Scales for the expiry of Warnings

35. Warnings issued to employees shall be deemed to have expired after the following periods of time.

- I. Formal Written Warnings: Twelve months
- II. Final Written Warnings: Twelve months

36. If the employee has maintained the levels of conduct and performance required over that period, the warning will be removed from the personnel file and will not be taken into account in subsequent disciplinary hearings.

37. Whilst the warning remains on file, the Parish Council reserves the right to enter the disciplinary process at any stage, including dismissal, if the employee repeats the misconduct or performance fails to improve.

Letter Of Warning

38. All Warnings will be issued within 5 working days of the hearing and will contain the following information :

- I. The nature of the offence and where appropriate, that if further misconduct occurs, more severe disciplinary action will be taken;
- II. The period of time given to the employee for improvement;
- III. The employee's right to appeal;
- IV. In the case of a final written warning, reference must be made to the fact that any further misconduct will lead to dismissal.

39. A copy of the warning and any supporting documentation will be attached to the individual's personnel file. The employee will also receive a copy of the warning.

40. The letter confirming dismissal will contain the following information:

- I. The reason for dismissal and any administrative matters arising from the termination of their employment (e.g. pay and return of property)
- II. The employees right of appeal and to whom they should make that appeal

Appeals

41. Every employee has the right to appeal against the outcome of a disciplinary hearing.

42. Any appeal should be put in writing within five working days, to the councillor designated in the disciplinary outcome letter and should state the full grounds for the appeal.

43. An appeal hearing will be arranged within ten working days of the appeal letter. The appeal hearing will normally be chaired by a councillor who was not involved in the disciplinary hearing.

44. Employees have the right to be represented at an appeal hearing by a colleague or certified trade union representative.

45. The outcome of the appeal hearing will be confirmed in writing. There is no further right of appeal and the decision at this stage is final.

Grievance Policy and Procedure

46. The grievance procedure is in accordance with the ACAS Code of Practice 2009 and provides the opportunity to raise a complaint against the organisation, a fellow employee or about their employment, and have it formally investigated and responded to.
47. The Parish Council recognises that the most effective way of resolving workplace disputes is via informal discussion, and encourages employees to seek to resolve issues informally with other individuals before raising a formal grievance.

Stage 1 – Statement of Grievance

48. If an employee is unable to resolve an issue informally, they should raise it in writing under the formal grievance procedure.
49. The grievance should be addressed to the Chair or if the grievance is about the Chair, to a councillor of their choosing.
50. If an employee wishes a verbal grievance to be treated under the formal procedure, they should make this clear to the person they are reporting to, who will document the issue as a formal record of the grievance having been raised.

Stage 2 – Grievance Hearing

51. The employee will be invited to a grievance hearing, with the right to be accompanied by a colleague or trade union representative.
52. The Parish Council may carry out some preliminary investigation prior to the hearing however, the main purpose of the hearing is for the employee to fully explain their grievance. The person hearing the grievance will ask questions for clarity.
53. The employee may call witnesses to the hearing. The hearing may be adjourned at any time for further investigation to take place.
54. Following the hearing the Parish Council will investigate the grievance in full and provide a written response, offering the right of appeal, normally within ten working days.

Stage 3 - Appeal

55. Every employee has the right to appeal against the outcome of a grievance.
56. Any appeal should be put in writing within five working days, to the councillor designated in the grievance response letter and should state the full grounds for the appeal.

57. An appeal hearing will be arranged within five working days of the appeal letter. The appeal hearing will normally be chaired by a councillor not involved in the grievance.
58. The outcome of the appeal hearing will be confirmed in writing.
59. There is no further right of appeal and the decision at this stage is final.

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