

## **BISHOPSTOKE PARISH COUNCIL**

### **DISCIPLINE POLICY**

**This Discipline Policy was last adopted  
by the Parish Council at its meeting on dd mmm yyyy**

**D Wheal  
Clerk to Bishopstoke Parish Council**

**BISHOPSTOKE PARISH COUNCIL**  
**DISCIPLINE POLICY**

**Amendment Sheet**

<b>Amendment No.</b>	<b>Date Incorporated</b>	<b>Subject</b>
----------------------	--------------------------	----------------

## **DISCIPLINE POLICY**

### **1 General**

- 1.1** The Complaints Policy, Discipline Policy and Grievance Policy work alongside each other to ensure that all issues relating to the business and operations of Bishopstoke Parish Council can be dealt with in a fair and consistent way.
- 1.2** For complaints against Council or Officer decisions, or for complaints related to the policies, procedures or general business of the Council, the Complaints Policy will be used.
- 1.3** For allegations of misconduct or sub-standard performance by officers and other employees of the Council, the Discipline Policy will be used.
- 1.4** Where an employee of the Council has a work-related grievance regarding a Councillor or Councillors, or other member of staff, the Grievance Policy will be used.
- 1.5** Anyone wishing to complain about the conduct of a Bishopstoke Parish Councillor should contact the Clerk in the first instance, and will usually be advised to provide details of the complaint to the Eastleigh Borough Council monitoring officer.
- 1.6** In all cases there will first be an attempt to resolve the complaint informally. Where this fails to achieve a satisfactory resolution the relevant policy or procedure will then be followed.
- 1.7** Where a panel is necessary as part of a policy or procedure it will consist of three councillors, including the Chair of Bishopstoke Parish Council, and will be led by the Chair. When an appeals panel is required it will also consist of three councillors and will be led by the Vice Chair. No councillor will sit on both panels. The conclusions of any panels will be reported to the next Full Council meeting.
- 1.8** All parties will be treated fairly and the process will be reasonable, accessible and transparent.

### **2 Policy**

- 2.1** The Council aims to ensure that there will be a fair and consistent approach to the enforcement of standards of conduct and performance in the Council. This policy is designed to help and encourage all employees to achieve and maintain standards of conduct, attendance and job performance. It also sets out the action that will be taken when disciplinary rules are breached.
- 2.2** Matters which may be dealt with under this policy include discipline and dismissal for the following reasons (please note that this list is not exhaustive):
  - 2.2.1** Misconduct
  - 2.2.2** Sub-standard performance
  - 2.2.3** Harassment or victimisation

- 2.2.4** Misuse of council facilities, including computer facilities (e.g. email and internet)
  - 2.2.5** Poor timekeeping
  - 2.2.6** Unauthorised absence
- 2.3** Any panels mentioned in this policy will be appointed at the time they are needed.
- 2.4** The following principles will apply:
  - 2.4.1** Informal action will be offered, where appropriate, to resolve problems.
  - 2.4.2** No disciplinary action will be taken against an employee until the case has been fully investigated and a disciplinary hearing has taken place.
  - 2.4.3** For formal action the employee will be advised in writing of the nature of the complaint against them and will be given the opportunity to state their case before any decision is made.
  - 2.4.4** Employees will be provided, where appropriate, with written copies of evidence and relevant witness statements in advance of meetings.
  - 2.4.5** At all stages of the procedure the employee will have the right to be accompanied by a trade union representative, or work colleague.
  - 2.4.6** Any mitigating circumstances will be taken into account when reaching decisions on appropriate disciplinary penalties.
  - 2.4.7** No employee will be dismissed for a first breach of discipline except in the case of gross misconduct, when the penalty will be dismissal without notice or payment in lieu of notice.
  - 2.4.8** An employee will have the right to appeal against any discipline imposed.
  - 2.4.9** The procedure may be implemented at any stage if the employee's alleged misconduct warrants such action.
- 2.5** Employees will receive a written invitation to all disciplinary meetings.
- 2.6** Outcomes of formal meetings will be confirmed to the employee in writing.
- 2.7** The timescales listed above will be adhered to wherever possible. Each party can request an extension of the permitted timescale, however, where there are good reasons.
- 2.8** The Council reserves the right to seek assistance from external facilitators at any stage in the disciplinary procedure, in the interests of seeking a satisfactory outcome for all those concerned.
- 2.9** For employees during their first year of employment, the Council reserves the right to speed up the decision-making process and may choose to follow a shortened version of the above procedure.

- 2.9** The grievance procedure should not be used for appeals against disciplinary decisions. That is the purpose of the disciplinary appeals procedure. If, however, the employee has a complaint against the behaviour of a manager during the course of a disciplinary case, they may raise it as a grievance with a senior manager. If necessary, the disciplinary procedure may be suspended for a short period until the grievance can be considered. Another manager may be brought in to deal with the disciplinary case.

### **3 Related policies and procedures**

- 3.1** This policy is to be read in conjunction with the Council's grievance policy, code of conduct, complaints policy and standing orders.

### **4 Procedure**

#### **4.1 Informal stage**

Minor faults will be dealt with informally. Where the matter is more serious the following procedure will be used.

#### **4.2 Stage 1**

This will normally be either:

- 4.2.1** an improvement note for unsatisfactory performance if performance does not meet acceptable standards. This will set out the performance problem, the improvement that is required, the timescale, any help that may be given and the right of appeal. The employee will be advised that it constitutes the first stage of the formal procedure. A record of the improvement note will be kept for six months, but will then be considered spent – subject to achieving and sustaining satisfactory performance.

Or

- 4.2.2** a first warning for misconduct if conduct does not meet acceptable standards. This will be in writing and set out the nature of the misconduct and the change in behaviour required and the right of appeal. The warning will also inform the employee that a final written warning may be considered if there is no sustained satisfactory improvement or change. A record of the warning will be kept, but it will be disregarded for disciplinary purposes after six months.

#### **4.3 Final written warning**

If the offence is sufficiently serious, or if there is further misconduct or a failure to improve performance to the prescribed standard during the currency of a prior warning, a final written warning may be given to the employee. This will give details of the complaint, the improvement required and the timescale. It will also warn that failure to improve may lead to dismissal (or some other action short of dismissal) and will advise of the right of appeal. A copy of this written warning will be kept but will be disregarded for disciplinary purposes after 12 months subject to achieving and sustaining satisfactory conduct or performance. In exceptional cases the period may be longer.

#### **4.4 Dismissal or other sanction**

If there is still further misconduct or failure to improve performance to the prescribed standards the final step in the procedure may be dismissal or some other action short of dismissal such as demotion or disciplinary suspension or transfer (as allowed in the contract of employment). The employee will be provided, as soon as reasonably practicable, with written reasons for dismissal, the date on which their employment will terminate (in accordance with the employee's notice entitlement) and will be notified of their right of appeal. If some sanction short of dismissal is imposed, the employee will receive details of the complaint, will be warned that dismissal could result if there is no satisfactory improvement, and will be advised of the right of appeal. A copy of the written warning will be kept but will be disregarded for disciplinary purposes after twelve months subject to achievement and sustainment of satisfactory conduct or performance.

### **5 Disciplinary investigations**

- 5.1** The Council is committed to ensuring that all potential infringements of disciplinary rules are fully investigated. This may entail carrying out interviews with the employee concerned and third parties such as witnesses, colleagues and managers, as well as analysing written records and information. It may also involve a search of the employee's person and/or property. The investigation report will be made available to all the parties concerned. The identity of witnesses will be kept confidential where necessary.
- 5.2** Where an employee is called to attend an investigatory interview, it will be made clear that this is not a disciplinary hearing.

### **6 Disciplinary hearing**

- 6.1** An employee will be invited, in writing, to a disciplinary hearing once the investigations are complete. Prior to the meeting the employee will be informed of the nature of the allegations that are to be addressed. The disciplinary hearing will be conducted by members of the Council's Disciplinary Panel.
- 6.2** The Chair shall introduce everyone and explain the procedure.
- 6.3** If attending, the complainant or their representative(s) shall be asked to outline the grounds for the complaint. If no one is attending on behalf of the complainant, the Clerk, or the Chair if the complaint is regarding the Clerk, will outline the complaint on their behalf.
- 6.4** The panel members may ask any questions of that person or their representatives.
- 6.5** The person being investigated will have an opportunity to respond.
- 6.6** The panel members may ask any questions of that person.
- 6.7** Both parties shall be offered the opportunity of making a final statement.

- 6.8** All those not on the panel shall be asked to leave the room while the panel decides whether or not the allegation is upheld. Both parties shall be invited back if a point of clarification is necessary.
- 6.9** All parties shall return to hear the decision or to be advised when a decision will be made if it is to be deferred. The panel will advise the complainant of the reason for any deferral and will offer the complainant the choice whether to receive the decision in person or in writing.

## **7 Appeals**

- 7.1** An employee who wishes to appeal against a disciplinary decision must do so within five working days of receipt of the letter. An appeals panel will be appointed to hear the appeal and their decision is final. At the appeal any disciplinary penalty imposed will be reviewed.
- 7.2** If the employee wishes to appeal against a disciplinary decision, they must do so by contacting the Vice Chair within five working days of the receipt of the disciplinary letter. The appeal should be made in writing, stating the ground(s) on which the disciplinary penalty should be reviewed.
- 7.3** The appeals hearing will be normally held within ten working days of receipt of the letter. The decision of the Appeals Panel shall be final with no further appeals permitted.

## **8 Appeals hearing**

- 8.1** At the appeals hearing, the employee will be given opportunity to state the ground(s) on which the appeal is made. The Disciplinary Panel who took the original decision will then have the opportunity to explain their decision to impose the given penalty. The members of the Appeals Panel conducting the appeal may exercise discretion as to whether or not the two parties will be present together during the proceedings. The hearing will be adjourned when all the evidence has been heard. The members of the Appeals Panel conducting the appeal will consider the merits of the appeal, in private, before reaching a decision.
- 8.2** The members of the Appeals Panel will, whenever possible, verbally inform the employee of the decision reached and confirm this in writing no later than five working days after the hearing.
- 8.3** The members of the Appeals Panel have the authority to quash or reduce a disciplinary penalty or, in exceptional and appropriate circumstances, to increase it, in accordance with the penalties specified in the Council's disciplinary procedure.
- 8.4** An appeal hearing is intended to focus on specific factors that the employee feels have received insufficient consideration, such as:

**8.4.1** an inconsistent/inappropriate harsh penalty

**8.4.2** extenuating circumstances

**8.4.3** bias of the disciplining manager

**8.4.4** unfairness of the hearing

**8.4.5** new evidence subsequently coming to light.

**8.5** Where an appeal against dismissal fails, the effective date of termination shall be the date on which the employee was originally dismissed.

## **9 Abuse of this policy**

**9.1** Any abuse in the application of this policy, e.g. if a complaint about an employee is found to be malicious or in bad faith that employee will have the right to raise a grievance in accordance with the Council's Grievance Policy, or other appropriate way, and this may possibly result in disciplinary action being taken against the original complainant.

## **10 Alterations and amendments to this policy**

**10.1** This policy does not form part of an employee's contract of employment. The Council reserves the right to amend or withdraw this Policy at its absolute discretion, in accordance with the needs of the council.

## **11 Additional information**

**11.1** For further information, please contact the Clerk.

**11.2** The following list provides some examples of offences which are normally regarded as gross misconduct:

**11.2.1** theft or fraud

**11.2.2** physical violence or bullying

**11.2.3** deliberate and serious damage to property

**11.2.4** serious misuse of an organisation's property or name

**11.2.5** deliberately accessing internet sites containing pornographic, offensive or obscene material

**11.2.6** serious insubordination

**11.2.7** unlawful discrimination or harassment

**11.2.8** bringing the organisation into serious disrepute

**11.2.9** serious incapability at work brought on by alcohol or illegal drugs



**11.2.10** causing loss, damage or injury through serious negligence

**11.2.11** a serious breach of health and safety rules

**11.2.12** a serious breach of confidence.

- 11.3** This list is not intended to be an exhaustive one and only gives an indication of the types of offence that may be considered gross misconduct.
- 11.4** If the employee is accused of gross misconduct, the Council may suspend them from work with pay while it investigates the alleged offence. This will be as brief as possible, normally for no more than five working days, and the Council will explain its reasons in writing. The employee shall not attend his or her place of work during suspension, other than for the purpose of attending disciplinary proceedings, including investigatory interviews. The employee shall not contact any other employees or contacts of the Council, except the employee's companion, without the Council's consent.
- 11.5** If, on completion of the investigation and the full disciplinary procedure, the Council is satisfied that gross misconduct has occurred, the result will normally be summary dismissal, i.e. dismissal without notice or pay in lieu of notice.