

Fawley Parish Council compared to Peninsula Handbook

Disciplinary Procedure

INTRODUCTION

Fawley Parish Council (“the Council”) requires its employees to act with a disciplined approach and maintain standards of conduct. This procedure details what actions will be taken when the Council considers that disciplinary rules have been breached. It is designed to establish facts quickly and to deal with disciplinary issues in a fair and consistent manner.

The procedure will be followed in the order stated unless a case of gross misconduct is clearly evident, in which case suspension or dismissal may be appropriate (see Section 3).

1. **Informal Stage**
2. **Formal Stage**
3. **Gross Misconduct: Suspension & Dismissal**
4. **Appeals**
5. **The Right To Be Accompanied**

Definitions on the levels of disciplinary offences and examples of each can be found in Appendix I.

No disciplinary action will take place against an employee until a full investigation of the case has been carried out and all employees have the right to appeal against any action taken (see Section 4).

Line managers must take advice from the ~~Deputy~~ Clerk before taking any disciplinary action.

We retain discretion in respect of the disciplinary procedures to take account of your length of service and to vary the procedures accordingly. If you have a short amount of service, you may not be in receipt of any warnings before dismissal.

Note: an employee’s actions outside of work whether at a Council organised event or not, could be viewed as reason to follow a disciplinary course and potentially gross misconduct. This would be dependant on whether their behaviour would have a material impact on their ability to undertake their work, upset the work of others, or impact the operation and good name of the Council.

1. INFORMAL STAGE

Instances of unsatisfactory performance or minor misconduct should, wherever possible, be discussed between the employee and their line manager.

- Meetings should take place in private and on a one to one basis. If it becomes apparent that the matter is more serious than originally thought meetings should be adjourned and the employee notified that formal stage of disciplinary action will be applied
- Discussions may result in verbal warnings
Note: no form of written warning should be issued at this stage
- Managers must keep written records of evidence/information used, meetings, timings and verbal warnings issued. Details must be passed to the ~~HR department~~ Administration Officer for the employee’s personnel file where they will remain active for a period of 3 months
- Unless verbal warnings are recorded as above they will not be taken into account in any further disciplinary proceedings

2. FORMAL STAGE

Before beginning formal disciplinary action an initial investigation of the alleged offence should be carried out by the ~~Deputy Clerk or a senior manager~~ manager not likely to be involved in hearings.

Note: employees have the right to be accompanied at all formal meetings relating to disciplinary investigations. If the meeting is of an investigative nature it should be clearly stated as such.

- Cases of gross misconduct must be brought to the attention of the Clerk before any action is taken (see Section 3)

- Where the initial investigation identifies that there are elements of the alleged offence that are proven but to proceed to a full hearing is not commensurate with the offence the investigating manager may deal with discipline by means of:
 - ❖ A verbal warning that will be kept on their record for a period not exceeding 6 months
 - ❖ A written warning that will be kept on their record for a period not exceeding 12 months.
- When the decision to proceed with formal disciplinary action is made the following steps should be taken:
 - ❖ Employees must be sent a letter inviting them to attend a hearing (see *Section 2.1*)
 - ❖ A disciplinary hearing must be held (see *Section 2.2*)
 - ❖ *The employee must be reminded of their right to be accompanied*
 - ❖ The offer of an appeal must be made (see *Section 4*)
- Managers ~~and the Deputy Clerk~~ must ensure that the timing of meetings reflects the availability of any information and evidence that may be required
- If improvement targets are set and subsequently not met a further hearing should be arranged (Appendix 2 provides information on further options)

2.1 Invitation to hearings

- The employee must receive a written invitation to attend a hearing; this should include:
 - ❖ The date and time of the hearing (to be within 5 working days of notification)
 - ❖ the reasons behind the decision to take disciplinary action
 - ❖ evidence, e.g. witness statements, records of informal warnings
 - ❖ possible consequences of meeting (see *Appendix 2 for possible options*)
 - ❖ the employee's right to be accompanied
- All letters will be prepared and distributed by ~~the Deputy Clerk~~ **Administration Officer**, in consultation with the line manager and Clerk
- A formal agenda for the meeting will be issued by the ~~Deputy Clerk~~ **Administration Officer**, ideally with the formal letter of notification, but at the very latest 2 working days before the hearing

2.2 Hearings

- Hearings must take place before any action is taken, except in cases where the disciplinary action consists of suspension on full pay or dismissal (see *Section 3*)
- Employees will not be dismissed for the first disciplinary offence other than in cases of gross misconduct
- Hearings should not take place unless the employee has: -
 - ❖ been advised of the breach of conduct
 - ❖ been given reasonable time to consider their response
 - ❖ exercised their right to be accompanied (see *Section 5*)
- The employee and their companion must take all reasonable steps to attend the meeting
- If it is necessary to change the date of a hearing the rescheduled date must be within 5 working days of the original date
- The hearing panel will consist of the line manager and Clerk **or an appropriate third party**. In cases of serious breach of conduct the panel should include a Councillor from the Policy Resources and Personnel Committee
- The panel will follow the published agenda with hearings being conducted in a manner that enables both parties to explain their case
- Failure of an employee to attend without notice or fair reason (e.g. illness), will be considered as grounds for the hearing to continue in their absence

- Directly after the hearing the panel must decide whether or not disciplinary action is required
- Within 24 hours of a hearing, the panel chair must inform the employee in writing of its decision (see *Appendix 2 for possible options*)

3. GROSS MISCONDUCT: SUSPENSION & DISMISSAL

In some instances of gross misconduct it may be appropriate to suspend an employee immediately on full pay or dismiss the employee without notice. Appendix 1 gives details on offences considered as gross misconduct.

- In the event of gross misconduct managers must advise the Clerk immediately. The Clerk, in consultation with the ~~HR Officer~~ HR Advisors will advise the manager as to the correct course of action to take. **Under no circumstances must managers sack an employee on the spot**
- If the decision to dismiss is made without carrying out any form of investigation the Council must be able to demonstrate conclusively that the conduct was gross in nature and dismissal was a reasonable action to take
- Suspension does not constitute a disciplinary sanction but is instigated to allow the Council to investigate the issue in question correctly
- Investigations and hearings will take place within 5 working days of an employees suspension
- If, following an investigation (which will include an interview with the employee), the Council consider the employee guilty of gross misconduct they may be dismissed without notice. In such cases the Council will write to the employee clearly stating:
 - ❖ the allegations of misconduct that led to dismissal
 - ❖ the reasons in believing the employee is guilty of the misconduct
 - ❖ the date on which employment was terminated
 - ❖ the right to appeal and the right to be accompanied

4. APPEALS

An employee who considers that disciplinary action taken against them is wrong /unfair has the right to appeal. This includes employees who have been dismissed on grounds of gross misconduct.

- Any appeal must:
 - ❖ be made in writing within 5 working days of receiving notification of the outcome of the disciplinary meeting
 - ❖ detail the grounds on which the appeal is being made
 - ❖ be addressed to the Clerk
- The Clerk must invite the appellant to attend an appeal hearing in writing. The appeal hearing should be arranged as soon as possible but need not take place before the disciplinary action or, if appropriate, dismissal, takes effect
- The employee has the right to be accompanied (see *Section 5*). They and their companion must take all reasonable steps to attend the appeal hearing
- A new hearing panel must be arranged, consisting of the Clerk and an alternative Councillor from the PR&P Committee. If the Clerk has previously been involved, an additional Councillor should replace them on the panel
- All information related to the disciplinary offence must be made available to the appeal panel
- Appeal hearings should not repeat the detailed investigation of the first disciplinary hearing. They should focus on areas which the employee feels received insufficient consideration e.g.:
 - ❖ An inconsistent, inappropriate or exceptionally harsh penalty
 - ❖ Extenuating circumstance
 - ❖ Bias of the disciplining manager
 - ❖ Unfairness in the conduct of the hearing
 - ❖ New evidence subsequently coming to light
- After the evidence has been heard the hearing will adjourn. The panel will consider the merits of the appeal before reaching a decision

- The panel will inform the employee in writing, under signature from the Clerk, of its decision. This will be done within 24 hours of the hearing and should clearly state that the decision is final
- If the employee's appeal is against dismissal and the appeal is successful they will be reinstated and continuity of employment preserved

5. THE RIGHT TO BE ACCOMPANIED

Employees have a statutory right to be accompanied by a companion at disciplinary hearings when the meeting could result in: -

- ❖ Formal warnings being issued,
- ❖ The taking of some other form of disciplinary action,
- ❖ The confirmation of a warning or some other form of disciplinary action (appeal hearings)
- Managers must consider reasonable requests for a companion to be present
- The companion may be a fellow employee or trade union representative or an official employed by a trade union. **Note:** *a union representative who is not an employed official must be certified by their union as being competent to accompany an employee.*
- Employees should choose their companion carefully, bearing in mind not to choose a close work colleague who may prejudice the hearing or who may have a conflict of interest
- Wherever possible the employer should be notified of the chosen companion before a hearing
- During a hearing the companion **can:**
 - ❖ put the employee's case
 - ❖ confer with the employee
 - ❖ present witness questions
 - ❖ respond on the employee's behalf
 - ❖ sum up the employee's case
- The companion **cannot:**
 - ❖ prevent the employer from presenting the case
 - ❖ give responses / address the hearing on the employee's behalf if the employee does not request it

APPENDICES

Appendix 1
Appendix 2

Definitions: Breaches of Discipline
Disciplinary Hearings: Options Available

Clerk to the Council

Signed Dated

~~This procedure will be amended and reviewed as and when the size and nature of the council changes or when new legislation is introduced. Otherwise date of next review is:~~

APPENDIX I

Definitions Breaches of Discipline

Note: *The information provided in these lists is only an example; the lists of offences are not exclusive or exhaustive.*

UNSATISFACTORY PERFORMANCE

- Unsatisfactory levels of attendance at work
- Lateness
- Unacceptable levels of absence through sickness
- Work performance failing to meet required standards

MISCONDUCT

- Continuation of any areas of unsatisfactory performance or failure to address issues raised
- Failure to address performance issues previously raised
- Absence from work without reasonable cause or authorisation
- Any minor breach of Health & Safety Regulations
- Minor breaches of the Council's Email, Internet & Computer Use Policy
- Unauthorised activities whilst on Council premises and during working hours e.g. smoking, gambling, drinking
- Insubordination
- Minor incidents of disorderly conduct e.g. verbal abuse, swearing, bullying, harassment

GROSS MISCONDUCT

Acts of gross misconduct will normally result in suspension from duty pending a full investigation.

- Fighting and / or violent behaviour at work
- Theft, fraud or deliberate falsification of records
- Being under the influence of alcohol or drugs during normal working hours
- Possession or selling of illegal substances whilst on Council premises
- Wilful refusal to carry out a reasonable and legitimate instruction from a supervisor/manager or other authorised Council employee in respect of a duty which an employee would be reasonably expected to undertake
- Obscene and/or indecent behaviour or sexual misconduct at work
- Sexual, religious, racial or other discrimination
- Major incidents of bullying or harassment
- Major breaches of the Council's Email, Internet & Computer Use Policy, including allowing third party access to the Council's IT system through releasing personal password information, improper use of the Internet, e.g. hacking, accessing pornography or gaming
- Serious violation of the Council's policy on delegated authority, confidentiality and standards of conduct
- Wilful damage to Council, client or other employee's property or equipment in connection with work
- Wilful breaches of the Council's Health, Safety, Environment and Welfare Policies and Procedures
- Wilful disregard for other Council's Policies and Procedures that could lead to external proceeding being brought against the Council, or actions that bring the Council into serious disrepute
- Gross misuse of the Council's IT systems for personal gain and/or the misuse of data that could have an impact on the Council's ability to undertake its business and maintain confidentiality

APPENDIX 2

Disciplinary Hearings Options Available To Panel

FIRST FORMAL ACTION: UNSATISFACTORY PERFORMANCE

The letter should clearly state:

- ❖ the breach of conduct
- ❖ the improvement required and timescales
- ❖ any review period and/or support required
- ❖ that it is the first stage of a formal procedure
- ❖ that failure to improve could lead to a final written warning and possibly dismissal
- ❖ the employees right to appeal

FIRST FORMAL ACTION: MISCONDUCT

The letter should clearly state:

- ❖ the nature of the misconduct
- ❖ the change of behaviour required
- ❖ that it is the first stage of a formal procedure
- ❖ that failure to improve could lead to a final written warning and possibly dismissal.
- ❖ the employees right to appeal

Records of first written warnings will be retained on the employees file for **6 months**.

FINAL WRITTEN WARNING

If the required improvements do not happen within the given timescale a further hearing may be arranged. Following this hearing the panel may issue a final written warning.

This letter should clearly state:

- ❖ that this is the final stage of a formal procedure
- ❖ failure to improve could lead to dismissal
- ❖ the employees right to appeal

Records of final written warnings will be retained on the employees file for **12 months**

DISMISSAL

If further improvements are not achieved, the panel may elect to dismiss the employee in which case the panel chair should issue a letter clearly stating:

- ❖ that this is the final stage of a formal procedure
- ❖ that the employee is formally dismissed
- ❖ the date on which employment was terminated
- ❖ details on notice period/pay in lieu of notice and any other outstanding payments
- ❖ the right to appeal / right to be accompanied

Other options could be considered as an alternative to dismissal but only by mutual agreement e.g. demotion, suspension without pay up to a maximum of seven days

Fawley Parish Council

DISCIPLINARY PROCEDURE

Acceptance Slip

I have received and read my copy of the Council's Disciplinary Procedure and I understand and accept the content:

Name.....

Signature.....

Date.....

Completed forms should be returned to Deputy Clerk, Gang Warily Offices