



GAWSWORTH PRISH COUNCIL

DISCIPLINE AND GREIVANCE POLICY

JULY 2016

CONTENTS

Introduction	3
General Rules	3
Disclosure of Criminal Convictions	4
Gross Misconduct	4
Disciplinary Policy	5
Grievance Policy.....	6
Annex A: Disciplinary Procedure.....	7
Investigation.....	7
Disciplinary Meeting	7
Outcome	8
Appeal	9
Annex B: Grievance Procedure	10
Informal Stage.....	10
Formal Stage	10
Grievance Meeting.....	10
Outcome	11
Appeal	11

INTRODUCTION

This policy provides a framework for dealing fairly and consistently with:

- a) Issues where a clerk is alleged to have breached our standards of conduct and behaviour (Disciplinary)
- b) Current clerk's grievances (Grievance)
- c) Clerks where their performance or attendance falls below the required standards (Competency)

This policy applies to all clerks regardless of status or length of status. This does not apply to cases involving genuine sickness absence or proposed redundancy.

GENERAL RULES

1.1 At all times clerks must:

- a) Behave with integrity
- b) Treat councillors with respect and fairness
- c) Help create a working environment which supports and enables councillors to do their role
- d) Comply with all Council work practices, policies and procedures
- e) Work to the highest standards of governance and risk management
- f) Ensure maximum efficiency in their work
- g) Act wholeheartedly in the interests of the Council at all times

1.2 The telephone and postal service must not be used for non-council purposes without prior permission. Reasonable use of IT equipment is permitted.

1.3 Must not perform, arrange, or carry out any work or activity which could be considered to be in competition with or which adversely affect in any way the Council's interests

1.4 An orderly and courteous manner must be maintained with members of the public.

DISCLOSURE OF CRIMINAL CONVICTIONS

- 2.1 Criminal charges, or convictions, for offences of dishonesty or violence committed during the period of your employment with us, whether committed during or outside normal working hours should be reported to the Chair immediately.
- 2.2 Such charges, or convictions, may result in disciplinary action being taken against you up to and including summary dismissal.
- 2.3 Failure to disclose such criminal proceedings/convictions that arise during the period of your employment could also result in disciplinary action being taken against you up to and including summary dismissal.
- 2.4 A charge or conviction for any other type of offence during the period of your employment should also be reported to the Chair. Such charges or convictions may result in disciplinary proceedings being taken against you, up to and including dismissal, where, in our opinion, the charge or conviction:
 - a. affects your suitability for your role
 - b. impairs our business reputation
 - c. seriously undermines the trust and confidence that we have in you.

GROSS MISCONDUCT

The following list provides examples of conduct that will normally be regarded by the council as Gross Misconduct. This list is not exhaustive:

- 3.1 Refusal or repeated failure to carry out his or her duties.
- 3.2 Falsification of documents or information (including expense claims).
- 3.3 Unauthorised disclosure of confidential information.
- 3.4 Assault, physical violence or bullying whilst acting or purporting to act on behalf of the Council.
- 3.5 Insulting, indecent or offensive behaviour towards a fellow clerk or any other person whilst acting or purporting to act on behalf of the council.

- 3.6 Serious or repeated harassment (including sexual and racial harassment).
- 3.7 Bringing the organisation into serious disrepute.
- 3.8 Incapacity at work due to the influence of alcohol, unprescribed drugs or any other substance.
- 3.9 Wilful damage to Council property.
- 3.10 Theft, unauthorised use or possession of council property or fraud.
- 3.11 Serious insubordination.
- 3.12 Serious breach of health and safety rules.
- 3.13 Any other conduct that from time to time is defined by the Council as amounting to gross misconduct.

DISCIPLINARY POLICY

- 4.1 Misconduct is when ones has failed to follow the Council's rules, practices, policies or procedures, including any team policies, or has breached any applicable law or regulations.
- 4.2 For instances of minor misconduct the Chair may speak to the clerk informally before implementing the formal disciplinary procedure (Annex A).
- 4.3 Examples of misconduct include, but are not limited to
 - a. Failure to follow Council policies, procedures and protocols
 - b. Neglect of duties
 - c. Unsatisfactory timekeeping or absenteeism
 - d. Regular or persistent lateness or unauthorised absence without an acceptable reason
 - e. Behaviours which do not support the Council's values
 - f. Any other conduct that from time to time is deigned by the Council as amounting to misconduct or breach of Council general rules
- 4.4 Disciplinary matters will be dealt with by the Chair
- 4.5 Disciplinary matters will be dealt with in a timely and professional manner

- 4.6 Disciplinary matters will be dealt with in accordance with the Disciplinary Procedure
- 4.7 The Council's Disciplinary procedure shall have 4 distinct stages:
- a. Investigation
 - b. Disciplinary Meeting
 - c. Outcome
 - d. Appeal
- 4.8 Where disciplinary proceedings are initiated against the Clerk, Verbal and Written Warnings will be given by the Council. Any investigations and any meetings will be carried out by a specially convened Personnel Committee comprising three members appointed by the Council.
- 4.9 Dismissal of the Clerk must be ratified by Council. Any disciplinary appeal meeting will be conducted by three members of the Council who do not sit on the Personnel Committee.

GRIEVANCE POLICY

- 5.1 Where there is a grievance relating to any aspect of employment the Clerk should follow the grievance procedure (Annex B)
- 5.2 Decisions made following a grievance must be confirmed in writing.
- 5.3 Grievances will be dealt with and investigated promptly
- 5.4 Clerks have a right to be accompanied at meetings as detailed in the procedure
- 5.5 Where a Personnel Committee is established to investigate a grievance it shall consist of three members of the Council with terms of reference to follow the procedure and determine an outcome on behalf of the Council.

ANNEX A: DISCIPLINARY PROCEDURE

INVESTIGATION

1. An investigation into any matter which is suspected to contravene any of the Council's rules, policies, procedures, instruction or applicable law/regulation, or which otherwise may be a disciplinary matter will be carried out as soon as reasonably practical.
2. The purpose of investigation is to establish the facts of the case and whether there is a case to answer.
3. Investigations will be carried out a Personnel Committee.
4. The Clerk may take a companion to the investigation meeting; this may be a friend or a union representative. The companion's role is to support the clerk but they cannot take part in the procedure itself.
5. After consideration of the evidence found during the investigation, the committee will decide whether there is a case to answer; if it is decided that there is no further action to be taken the case will be closed. If it is decided the matter should progress a disciplinary meeting shall be convened.

DISCIPLINARY MEETING

1. The Clerk will receive a written invitation to the meeting which will:
 - a. Set out the allegations
 - b. Include the time, date and place of the meeting
 - c. Include the evidence from the investigation which will be relied on
 - d. Explain the clerk's role in the meeting
 - e. Explain the clerk's right to be accompanied at the meeting.
2. The Clerk will be given sufficient time to prepare for the meeting which will vary dependent upon the complexity of the case but never be less than 7 working days.
3. If the Clerk or their companion is unable to attend the clerk must notify the committee as soon as possible. The meeting will be rearranged for as soon as is reasonably practical. Where the Clerk is persistently unable or unwilling to attend without good cause, the meeting can be held in their absence and a decision made using the evidence available.
4. The Clerk may take a companion to the meeting who will be a friend or union representative. The companion may assist them through the procedure by:
 - a. Helping prepare for the meeting
 - b. Presenting the case on behalf of the clerk

- c. Asking questions and challenging the evidence
- d. Taking notes of the meeting

However the companion cannot answer questions on behalf of The Clerk

- 5. Disciplinary meetings can be adjourned to enable further investigation, to seek further advice or to consider a decision.

OUTCOME

- 1. If it is deemed there is no case to answer no further action will be taken and this will be confirmed to the Clerk in writing.
- 2. If the committee determines there has been an act(s) of misconduct there is a range of formal actions and sanctions which may be imposed. Informal action (e.g. training) may also be recommended. The decision on appropriate sanction will be made considering the Clerk's explanation and any mitigating factors.
- 3. The decision will be communicated in writing as soon as practical and where possible the Clerk will also be informed in person.
- 4. There are three levels of sanction and any one may be used depending on the circumstances of the case:
 - a. First Written Warning: for acts of misconduct a first written warning may be issued unless there is a current warning on file or the case is sufficiently serious.
 - b. Final Written Warning: for further acts of misconduct following a written warning or in serious cases which fall short of gross misconduct.
 - c. Dismissal: A decision to dismiss with notice may be taken where a previous written warning has already been issued but further misconduct has occurred or the matter is so serious that it is no longer appropriate for employment to continue.
- 5. Warnings are given in writing and will:
 - a. Set out the nature of the misconduct that must not reoccur
 - b. State the period of time the warning will remain live for
 - c. Inform the Clerk that further misconduct is likely to result in further disciplinary action up to and including dismissal
 - d. State that the warning may be taken into account when considering the clerk's performance reviews
 - e. State the Clerk may appeal against the warning.
- 6. Warnings will normally remain live for 12 months.
- 7. Dismissal of the Clerk must be approved by Council.

8. Where gross misconduct has occurred the Council is entitled to dismiss an clerk without contractual notice period or payment in lieu of notice being given.
9. Following dismissal the Clerk will receive a letter confirming the reasons for the dismissal, confirmation of the effective date of termination and outlining the right of appeal.

APPEAL

1. The Clerk has the right to appeal against any disciplinary decision
2. The appeal will be heard by a Personnel Committee comprised members not involved in the original decision.
3. An appeal should be submitted in writing within 10 working days after the receipt of the disciplinary decision and must clearly set out the grounds for the appeal.
4. The Clerk will receive an invitation to an appeal meeting confirming the date, time and location and informing the clerk they have a right to be accompanied at the meeting.
6. The meeting shall be convened as soon as is reasonably practical and normally within 20 working days. If the Clerk or their companion is unable to attend the Clerk must notify the committee as soon as possible. The meeting will be rearranged for as soon as is reasonably practical. Where the Clerk is persistently unable or unwilling to attend without good cause, the meeting can be held in their absence and a decision made using the evidence available.
5. The appeal meeting is intended to provide an opportunity for the Clerk to present any new evidence or explain why they believe the original disciplinary decision was incorrect. The appeal is not a re-hearing of the original issue.
6. Appeal meetings may be adjourned to enable the committee to investigate any matters further, to seek further advice or consider their decision.
7. The committee will reach one of the following decisions:
 - a. To uphold the original disciplinary action taken
 - b. To reduce the level of sanction issued
 - c. To overturn the original decision
8. The decision is final and there is no further right of appeal.

ANNEX B: GRIEVANCE PROCEDURE

INFORMAL STAGE

1. The Clerk should always discuss day-to-day concerns with the Chair. In the event that an issue cannot be resolved informally, or is so serious that it would be inappropriate to attempt to resolve the issue informally, the Clerk can have the matter investigated under the formal stages of the grievance procedure.
2. The formal stages should only be invoked if informal means have been unsuccessful or are not appropriate.

FORMAL STAGE

1. A formal grievance should be submitted in writing to the Chair; or if about the Chair, to the Deputy Chair.
2. The letter should set out what attempts if any have been made to resolve the grievance so far and what the Clerk thinks is a realistic and achievable outcome. If Clerk chooses to raise a grievance they should do so as soon as possible. The Parish Council reserves the right not to hear a grievance if undue delay in raising the issue, for example, prevents thorough investigation.

GRIEVANCE MEETING

1. The Personnel Committee will invite the Clerk to a meeting as soon as is reasonably practical and normally within 20 working days. An update of progress will be made within 10 working days.
2. The Clerk will be given the opportunity explain their issue and will be asked questions to help understand the issues, discuss what attempts have been made to resolve them, review any evidence and discuss the desired outcome. There will be a note taker at the meeting.
3. The scope of the investigation will be appropriate to address the issues raised. This may involve holding investigation meetings, gathering statements and reviewing any appropriate documents. The grievance will be dealt with sensitively and in a timely manner.
4. The Clerk may take a companion to the grievance meeting who will be a friend or union representative. The companion may assist them through the procedure by:
 - a. Helping prepare for the meeting

- b. Presenting the case on behalf of the Clerk
- c. Asking questions and challenging the evidence
- d. Taking notes of the meeting

However they will not be able to answer questions on behalf of the Clerk.

If the Clerk or their companion is unable to attend the meeting they must notify the committee as soon as possible and the meeting will be rearranged for as soon as is reasonably practical without causing unreasonable delay. If the Clerk is persistently unwilling or unable to attend the meeting the Council reserves the right to conduct an investigation and make a decision on the evidence available.

OUTCOME

1. The Clerk will be updated at least every 10 working days on the progress of the investigation and in normal circumstances it should be completed within 20 working days following the grievance meeting.
2. Once complete committee will provide a response in writing to the Clerk explaining the outcome of the review, the reason for their decision and details of who they should write to if they wish to appeal the decision.
3. The Clerk can withdraw their grievance at any stage of this procedure. In the event of withdrawal the council reserves the right to continue to investigate and deal with any issues arising from that investigation.

APPEAL

1. If the Clerk is not satisfied with the outcome of the grievance, they have the right to appeal.
2. The appeal will be heard by a Personnel Committee comprising different members to the original committee.
3. An appeal must be submitted in writing within 10 working days of the receipt of the grievance decision and must clearly set out the main issues of concern and in particular why the Clerk feels that the initial stage did not resolve their grievance.
4. The Clerk will receive an invitation to an appeal meeting confirming the date, time and location and informing them they have the right to be accompanied. This will be normally held within 20 working days of the receipt of an appeal.
5. If the Clerk or their companion is unable to attend the meeting they must notify the committee as soon as possible and the meeting will be rearranged for as soon as is reasonably practical without causing unreasonable delay. Where the

Clerk is unable or unwilling to attend an appeal meeting without good cause the appeal meeting can be held in their absence and a decision will be made using the evidence available.

6. The appeal meeting is to provide an opportunity for the Clerk to explain why they believe the original decision was incorrect or remains unresolved and allow the committee to review any new evidence, ask questions and ensure they fully understand the grounds of the appeal.
7. Appeal meetings can be adjourned to allow the committee to investigate any matters further , to seek further advice or to consider their decision.
8. After the committee has completed a full review they may meet with the Clerk to advise them of the outcome of the appeal and the reasons for their decision, this will always be confirmed in writing.
9. The decision is final and there is no further right of appeal.