



*The Parish of St. Neots
with Eynesbury*

Disciplinary policy and procedure

The Parish of St Neots with Eynesbury (the Parish) is committed to treating all staff fairly and equitably and to helping employees to perform effectively. This policy and procedure is designed to help and encourage all employees to achieve and maintain standards of conduct, attendance and job performance.

The Parish rules, this procedure and associated documentation, apply to all employees.

Whilst the Parish rules are principally in the contract of employment there are others which are implicit in working for us, e.g. the overriding requirement for care, honesty and confidentiality in handling our affairs and those with whom we have dealings.

It is important that any breaches of our rules are dealt with effectively and fairly and consistently in the interests both of the Parish and its employees.

When work falls below an acceptable standard, help will be given to an employee to improve. If standards of work continue to fall and there is a necessity for action, it will begin with a pre-disciplinary informal discussion. Similarly, when an employer's behaviour is potentially inappropriate and unacceptable, it will mean the initiation of a pre-disciplinary informal discussion or a disciplinary depending on the severity.

Staff and officers, who have responsibility to maintain standards both of work and conduct, will ensure that employees know the rules and are aware of the expected standards. Employees, for their part, have responsibility to familiarise themselves with their obligations and must therefore read this Disciplinary policy and procedure carefully.

If disciplinary action should become necessary, each case will be treated consistently and fairly. The employee will be given the opportunity to provide their version of events and any extenuating circumstances will be considered. Employees will have the right to:

- Know the case against them
- Reply
- Have due consideration of the case
- Be accompanied
- Appeal

This procedure is non-contractual and sets out the procedure we would normally follow, although the Parish reserves at its discretion, the right to vary, replace or terminate the procedure at any stage.

Principles

No disciplinary action will be taken against an employee until the case has been fully investigated and a disciplinary hearing has taken place. The employee will be advised in writing of the nature of the complaint against them and the arrangements for the hearing.

1. The employee will be given the opportunity to state their case before any decision is made.
2. At all stages the employee will have the right to be accompanied by a colleague during the disciplinary interview or disciplinary appeal
3. In reaching decisions on appropriate disciplinary penalties, the person conducting the disciplinary will consider any mitigating circumstances.
4. No employee will be dismissed for a first breach of discipline except in the case of gross misconduct when the penalty will be summary dismissal, i.e. dismissal without notice or pay in lieu of notice.
5. An employee will have the right to appeal against any disciplinary penalty imposed.
6. The procedure may be implemented at any stage if the employee's alleged misconduct warrants such action.

In poor performance cases, where the reason is not within the control of the employee, e.g. health, training or the changing nature of the job, our capability policy and procedure will be used in place of this procedure. However, poor performance resulting from, for example, negligence, lack of application or attitudinal problems will be dealt with under the disciplinary procedure. Further, where an employee's absence record has been investigated and the absences are deemed to be of a casual nature, the employee will be dealt with under the disciplinary procedure.

Disciplinary Investigations

Where necessary, a full investigation will be completed before proceeding to a disciplinary hearing. The Parish reserves the right to conduct investigations and to hold investigatory meetings to ascertain facts without giving prior notice of the meeting or allowing an employee to be accompanied.

This may entail carrying out interviews with the employee concerned and third parties such as witnesses, colleagues, officers and volunteers 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. Where necessary, the identity of witnesses will be kept confidential.

Where an employee is called to attend an investigatory interview, it will be made clear that this is not a disciplinary hearing

Procedure

Informal pre-disciplinary discussion

Where appropriate, prior to the formal aspects of the Parish's disciplinary procedure, a pre-disciplinary discussion will take place with the employee.

Minor faults, misconduct, poor performance or minor breaches of the rules will be dealt with informally by officers or the incumbent, but where the matter is more serious the formal disciplinary procedure will be used.

Disciplinary Procedure

The procedure will be used in cases or breaches of rules or poor performance that have not been remedied by an informal pre-disciplinary discussion. Normally the procedure will follow the steps listed below, although it may move to steps two, three or four if a case is sufficiently serious.

Stage 1 – Verbal written warning

If the employee's conduct or performance does not meet acceptable standards, the employee's immediate manager will normally give them a verbal written warning. The employee will be advised of the reason for the warning;

- that it is the first stage of the disciplinary procedure
- the consequences if there is no satisfactory improvement
- the right of appeal

A record will be kept of the verbal written warning and placed on the employee's file. The warning will be disregarded for disciplinary purposes after six months, subject to the employee's satisfactory conduct and performance.

Stage 2 – First written warning

If the offence is a serious one and is substantiated, or if a further offence or no improvement occurs within six months of the verbal written warning, a first written warning will be given to the employee by their immediate person. This will give details of the complaint, the improvement required and the timescale.

It will warn the employee that, if there is no satisfactory improvement, further disciplinary action may be taken, and it will advise the employee of his or her right of appeal. This warning may not necessarily be for the same reasons as the first warning. A copy of this written warning will be placed on the employee's file but will be disregarded for disciplinary purposes after twelve months, subject to the employee's satisfactory conduct and performance. The employee will be informed of their right to appeal, the improvement required and if there is no improvement or further misconduct, the procedure will escalate to a final written warning. This can happen before the end of the first written warning period.

Stage 3 - Final written warning

If there is still a failure to improve conduct or performance, or if the employee's misconduct is sufficiently serious to warrant only one written warning, but insufficiently serious to justify dismissal (in effect both first and final written warnings), a final written warning will normally be given to the employee by their person.

This will give details of the complaint, will warn that dismissal will result if there is no satisfactory improvement, and will advise of the right of appeal.

This warning may not necessarily be for the same reasons as the verbal written warning or first written Warning. A copy of this final written warning will be placed on the employee's file but will be disregarded for disciplinary purposes after twelve months (in exceptional cases the period may be longer), subject to the employee's satisfactory conduct and performance. This can happen before the end of the final written warning period. The employee will be informed of the right to appeal and that further misconduct within specified period may result in their dismissal.

Stage 4 - Dismissal

If conduct or performance is still unsatisfactory and the employee fails to reach the prescribed standards, dismissal will normally result. Only an appropriate senior person can take a decision to dismiss. It should be noted that dismissal may not necessarily be for the same reasons as previous warnings. In the event of a gross misconduct allegation, the Parish may enter the process at the dismissal stage.

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 the employee will be notified of their right of appeal.

Alternatives short of dismissal may be considered e.g. transfer to other departments and/or duties.

Suspension or Alternative Work pending an investigation

The Parish reserves the right to suspend an employee from their duties on full pay during the investigation and/or disciplinary proceedings. The employee may also be required to work in an alternative work area, subject to a reasonable alternative being available.

During a period of suspension from work the employee must be available to attend meetings as required. Should the employee unreasonably fail to attend meetings, the Parish reserves the right to conclude that the absence is unauthorised and to withdraw suspension pay.

Examples of Misconduct

This list is not exhaustive:

- Failure to follow the absence reporting procedure
- Persistent lateness
- Failure to work professionally with colleagues
- Abusing the right to Time Off for Dependents
- Minor damage to property
- Minor misuse of IT such as email and internet
- Minor breaches of the Health and Safety Regulations

Serious Misconduct

The following will usually be treated as Serious Misconduct and will warrant a shortening of the Disciplinary Procedure by going straight to Stage Three. The list is not exhaustive:

- Unacceptable behaviour towards fellow colleagues including volunteers, including the use of offensive language
- Neglect causing damage to the property of the Parish, client or fellow colleagues
- Continued failure to work professionally with colleagues

Gross Misconduct

If the employee is accused of gross misconduct, the Parish may suspend them from work on full pay, normally for no more than five working days, while it investigates the alleged offence.

The Parish will explain its reasons in writing. During any period of suspension, the employee shall not attend their place of work other than for the purpose of attending disciplinary proceedings, including investigatory interviews. Nor shall the employee contact any other employees, suppliers or customers of the Parish, except the employee's companion, without the Parish's consent.

Examples of gross misconduct are:

- deliberate or reckless damage to property
- an inability to perform job duties through being under the influence of alcohol or drinking alcohol whilst at work, unless authorised by your line manager. This will include smelling of alcohol.
- being under the influence of illegal drugs whilst at work or bringing such drugs into the workplace
- a serious breach of the organisation's safety rules or a single error due to negligence which causes or could cause theft, fraud, bribery (giving and receiving) including falsification of records such as Parish documentation expense claims and attendance records
- unauthorised entry to computer records or deliberate falsification of records
- a serious breach of the organisation's rules on e-mail and Internet usage
- fighting or assault
- have caused significant loss, damage or injury to the organisation, its employees or customers

- conviction of a criminal offence that makes the employee unsuitable or unable to carry out their duties
- a serious act of insubordination, such as deliberate refusal to carry out proper instructions
- all forms of workplace bullying, harassment and discrimination
- a serious breach of trust or confidentiality
- serious breach of our policy or procedure including, but limited to, cash handling and financial management policies
- smoking in prohibited areas
- misuse of confidential information
- giving or accepting bribes or inducements
- failure to provide when requested your proof of right to work in the UK
- posting negative, critical and/or malicious comments about the Parish, Parish members, officers partners or fellow colleagues
- posting photographs of videos of Parish members, internal or external events without prior permission.
- discussing or making statements regarding the Parish, officers, Parish members, event holders without the express authorisation of the Parish nominated person, or any act of such gravity as to be inconsistent with continued employment

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.

If, on completion of the investigation and the full disciplinary procedure, the Parish 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.

Appeals

If the employee feels that the action taken at any level of the Disciplinary Procedure was unjustified an appeal may be made in writing within five working days on receipt of the meeting outcome letter. The appeal should be made in writing, stating the ground(s) on which the disciplinary penalty should be reviewed.

A person or officer different to the one who made the original decision will hear the appeal. In the rare circumstances where this is not possible, alternative arrangements will be agreed with the employee and their companion.

The appeal hearing will be normally held within five working days of receipt of the letter. The decision of the person or officer shall be final.

The Appeal Hearing

At the appeal hearing, the employee will be given full opportunity to state the ground(s) on which the appeal is made. The person who took the original decision will then have the opportunity to explain their decision to impose the given penalty. The incumbent or officer hearing the appeal may exercise discretion as to whether or not the two parties will be present together or separately during the proceedings. When all the evidence has been heard the hearing will be adjourned. The person hearing the appeal will consider the merits of the appeal, in private, before reaching a decision.

1. The person hearing the appeal will, whenever possible, verbally inform the employee of the decision reached and confirm this in writing no later than seven working days after the hearing. It may be that the decision is not conveyed to the employee at the meeting but a day later.
2. The outcome of an appeal can include;
 - a. the decision being upheld
 - b. the reduction or removal of the sanction imposed
 - c. demotion, reinstatement or reengagement.

N.B This list is not exhaustive.

3. The employee should note that an appeal hearing is not intended to repeat the detailed investigation that led to or formed part of the disciplinary hearing, but to focus on specific factors that the employee feels have received insufficient consideration, such as:
 - a. an inconsistent or inappropriately harsh penalty
 - b. extenuating circumstances
 - c. bias
 - d. unfairness of the hearing
 - e. new evidence subsequently coming to light.
4. Where an appeal against dismissal fails, the effective date of termination shall be the date on which the employee was originally dismissed.
5. The appeal decision will be final.

Employee Absence during proceedings

Should an employee be absent on the grounds of ill health during the period of an investigation or disciplinary process, the Parish at its discretion will conclude the process either through the employee's attendance at meetings or via written correspondence.

Right to be accompanied

During a disciplinary or any appeal hearing, the employee will be entitled to have a companion present. The companion must be a person agreed by the person conducting the disciplinary meeting or a Trade Union. During an investigation there is no legal right to be accompanied and the Parish reserves the right not to allow an employee to be accompanied at an investigatory meeting.

What can a companion do?

- put the employee's case
- sum up that case
- confer with the employee
- request an adjournment
- counsel and support the employee
- take notes if the employee asks for this (the person conducting the meeting will appoint a note taker as a matter of course)
- ask for points to be noted

What should a companion not do?

- answer questions on behalf of the employee
- address the hearing if the employee indicates that they do not wish the companion to do so
- use tape/digital recorders
- prevent the Parish making its case or any other person at the hearing from making their contribution to it

Should a companion be disruptive during a meeting, the meeting may be adjourned, and the employee may be asked to choose another companion.

Grievance raised during Investigation or Disciplinary Process

In principle, matters should be dealt with in the order in which they occur. If the disciplinary process has commenced and the grievance relates to events being investigated, the investigation or disciplinary will take precedence. The grievance raised will be treated as part of the employee's representations into the matter and dealt with concurrently. If the grievance is about the conduct of the person in charge of the proceedings, then consideration will be taken as to whether the process should be completed by an independent person.

Tape/Digital Recorders

It is the Parish's policy not to use or allow tape/digital recorders to record meetings, unless agreed prior to the start of the meeting.

Third Parties

The Parish reserves the right to engage an independent third party to assist at any stage of the disciplinary process.