



HUTTON CRANSWICK PARISH COUNCIL

DISCIPLINARY POLICY

1. Purpose and Scope

- 1.1 This policy is designed to help and encourage the Clerk to achieve and maintain the standards of conduct expected by the council, its partners and the people that it works with. Any breach in standards of conduct will be addressed in a fair, objective and effective manner. It is not intended that this procedure will be used purely as a punitive measure. The Clerk is encouraged to discuss and resolve work related issues, in particular, any concern of not understanding council standards, objectives and the expectation of the role and performance of the Clerk. The purpose of this document is to set down a mechanism to enable the Council to resolve issues of discipline.
- 1.2 Wherever possible, disciplinary issues should be dealt with at the source of the problem.
- 1.3 The Council will appoint three of its members to handle disciplinary issues.
- 1.4 The Council will make every effort to resolve a disciplinary matter informally.
- 1.5 The formal disciplinary procedure will be initiated, where an informal approach has failed to secure an acceptable and sustained improvement, or where the nature of the incident or alleged behaviour makes an informal approach inappropriate.

2.0 Principles

- 2.1 No disciplinary action will be taken against the Clerk until the case has been fully investigated, unless there is no dispute between the parties as to the facts of the case.
- 2.2 The Clerk will be advised of the nature of the complaint against her/him and, at every stage of the procedure, will be given the opportunity to state her/his case before any decision is made.
- 2.3 The Clerk has a statutory right to be accompanied to disciplinary hearings and appeals.
- 2.4 The Clerk will not be dismissed for a first breach of discipline except in the case of gross misconduct, when the penalty shall be summary dismissal without contractual notice or payment in lieu of notice.
- 2.5 The Clerk has the right of appeal against any disciplinary penalty imposed.



2.6 Where it is determined that there has been a breach of conduct resulting in an oral or written warning, advice will be given as to what action the Clerk must take to avoid further disciplinary action.

3.0 The Procedure

3.1 Investigation: Disciplinary action will not be taken until the case has been fully investigated. A thorough investigation must be undertaken to determine whether there is a case to answer. The Chairman and Vice Chairman will conduct the investigation. Where there is no dispute between parties about the facts, it may not necessarily be appropriate to carry out an investigation.

3.2 Suspension: Where the allegation/incident is considered serious, it may be necessary to suspend the Clerk until the matter can be resolved. Suspension will always be with contractual pay, and written confirmation, from the Chairman of the Council, of the reason for suspension and its likely duration will be provided to the Clerk as soon as is reasonably practicable.

3.3 The Hearing: The Council will appoint a panel of three of its members to conduct the hearing. The Clerk shall be advised of the nature of the complaint against her/him, in writing, prior to the hearing and will be given the opportunity to state her/his case before any decision is made. If, following an investigation, it has been decided that there is a case to answer, the Clerk will be notified in writing of:

- the date, time and venue of the hearing
- details of the allegations being made
- copies of any documents that will be used as evidence during the course of the hearing
- the details of any witnesses/witness statements that will be used as evidence during the course of the hearing
- the right to be accompanied

The Clerk will be given the opportunity to make a written submission of her/his case and may request the appearance of witnesses, details of which must be received by the Council, three clear working days, excluding weekends and bank holidays, prior to the date of the hearing.

Where no disciplinary action is taken following a hearing, all papers shall be destroyed immediately.

The three members conducting the hearing will not be involved in any subsequent appeal.

If the Clerk fails to attend a hearing without a legitimate reason, the hearing may proceed in her/his absence and will advise the Clerk of the outcome, in writing within, 48 hours of the hearing, or as soon as is reasonably practicable.

3.4 Hearing Format: See the Appendix for guidance on the format of a disciplinary hearing.



4.0 Stages of Disciplinary Action

4.1 Oral Warning

- If there is a breach in conduct, the Clerk will be given a formal oral warning. She/he will be advised of the reason for the warning, that it is the first stage of the disciplinary procedure.
- A further breach in conduct may result in further disciplinary proceedings being initiated (and of her/his right of appeal.) A brief note of the warning will be placed on the record and will remain active for a period of up to six months when it will be removed from the records.

4.2 First Written Warning

If the offence is serious enough in itself or is a repetition of a matter on which an oral warning has been given in the previous three months, a written warning will be given. This will give details of the complaint, the improvement required and the timescale. It will warn that further action will be considered if there is no satisfactory improvement or if there is a further breach in conduct and will advise of the right of appeal. The warning will remain active for a period of six months, after which time it will be removed from the records.

4.3 Final Written Warning

If there is further misconduct, or continuing failure to improve performance to an acceptable level within the six months since a first written warning was issued, or if the misconduct or performance is serious enough to warrant one written warning, only a final written warning will be given. This will give details of the complaint, will warn that dismissal will result if there is no satisfactory improvement, or a further breach in conduct and will advise of the right of appeal. The warning will remain active for a period of twelve months after which time it will be removed from the records.

4.4 Dismissal

If the Clerk has failed to reach the prescribed standards during the twelve months since a final written warning was issued, dismissal will normally result. Only the Full Council can take a decision to dismiss. The Clerk will be provided with written reasons for dismissal as soon as is reasonably practicable, the date on which employment will terminate and their right of appeal.

4.5 In all cases of warnings, written confirmation of the decision and the findings of the members panel will be confirmed, in writing, to the Clerk as soon as is reasonably practicable.



5.0 Right to be accompanied.

The Clerk has a statutory right to be accompanied to disciplinary hearings and appeals by a representative.

6.0 Criminal Offences

6.1 Where the Clerk has been charged with or convicted of a criminal offence that occurred outside of their employment, the disciplinary procedure will only be initiated if there are direct implications with regard to work conduct or performance.

6.2 If it is thought that disciplinary action may be warranted, then the normal procedure will be followed, wherever this is practicable.

6.3 It is not necessary to await the outcome of any external investigation or prosecution before deciding on fair and reasonable action. The police may be asked to conduct any investigation on behalf of the Council.

7.0 Appeals

7.1 Appeals will be conducted by the Council, excluding those members previously involved in hearing the case.

7.2 The Clerk has the right to appeal against any disciplinary penalty imposed.

7.3 Appeals against disciplinary warnings are not intended to simply be a rehearing of the case. The aim of an appeal is to review the original decision in light of:

- The emergence of new evidence not available at the time of the original hearing.
- A claim that the disciplinary procedure was not correctly followed.
- The Clerk's belief that the level of disciplinary sanction was unfair/unreasonable.

7.4 Appeals must be made in writing to the Chairman of the Council within ten working days of the Clerk receiving written confirmation of the outcome of the hearing.

7.5 The Clerk and the Chair of the hearing panel may make written submissions, including witness statements, to the appeal. All such documents/evidence to be submitted for consideration at the appeal shall be sent to the Chairman of the Council, no later than five working days before the appeal and shall be copied to other parties concerned.

7.6 Appeals against various stages of disciplinary action shall be heard by a meeting of the Council, minus the members who have been part of the hearing panel or who have been witnesses at an earlier part of the process.

7.7 In considering whether an appeal should be allowed, the Council shall take into account the following:

- The extent to which the appeal is based on a reiteration of the detail of the hearing.
- The materiality of any new evidence that may be available.



- The materiality of any alleged defects in the implementation of the procedure.
- Whether the decision that had been made was fair and reasonable in the light of the evidence available.
- The extent to which due weight has been given to evidence.
- The extent to which full opportunity for proper questioning of those present including witnesses was allowed.
- Whether the Clerk has been formally represented and whether they have been able to present their case appropriately.
- The overall conduct of the hearing.

8.0 Standards of Conduct and Performance

8.1 This list shows examples of breaches in conduct that may result in disciplinary action.

- Persistent unavailability/non-attendance of meetings
- Unauthorised absence
- Smoking in non-smoking areas
- Being under influence/misuse of alcohol/drugs/other substances whilst on duty
- Harassment/bullying
- Use of /resources/property for personal business activities
- Failure to follow a reasonable instruction/insubordination.
- Failure to follow policies/procedures.
- Failure to comply with reasonable instruction.

8.2 The following examples will normally be classed as gross misconduct and may therefore result in summary dismissal:

- Theft/fraud/deliberate falsification of records or making false claims.
- Wilful damage to organisation's property.
- Physical assault on another person.
- Incapacity for work due to being under the influence of alcohol, drugs, or other substances.
- Gross insubordination.
- Serious negligence which results in unacceptable loss, damage or injury.
- Serious breach of legislation or provisions of the organisation's policies.

9.0 Miscellaneous

9.1 At all meetings a record will be made and a copy sent to the Clerk.

9.2 This procedure will be reviewed annually to ensure that it continues to meet organisational objectives, reflects statutory requirements, best practice and our quality standards.



APPENDIX

1. The Hearing Process

- 1.1 Conduct of the Meeting. The meeting shall be opened by the Chair who will:
- Explain that the hearing is being convened under the Council's procedure.
 - Outline the reasons for the hearing (i.e. the concerns that have been made).
 - Introduce all parties concerned.
 - Explain the process to be followed.
- 1.2 The Investigating Officer will present the case against the Clerk, referring to any documentary evidence or witness statements submitted to the hearing.
- 1.3 At the completion of any presentation, both the Clerk and the panel members conducting the hearing may ask questions.
- 1.4 The Clerk (or representative) will then have an opportunity to respond to the case as presented by any investigating officer, referring to any documentary evidence or witness statements submitted to the hearing.
- 1.5 At the completion of this statement, questions may be asked by investigating officer and members conducting the hearing.
- 1.6 When both sides have been heard, the Investigating Officer and then the Clerk (or representative) will summarise the main points of their respective cases. No new information may be introduced at this time.
- 1.7 Both sides will be asked to the room so that a decision may be reached.
- 1.8 When a decision has been made, the meeting will be reconvened. The decision will be notified, along with the reasons for the conclusions that have been drawn. If appropriate, the Clerk will be advised of her/his right to appeal and that the decision will be confirmed in writing.

2. Witnesses and Witness Statements

- 2.1 Where written statements are taken as part of evidence, such statements shall be taken as evidence at the hearing, only if the witness is available to be called to enable the Clerk and members conducting the hearing to ask questions.
- 2.2 If any witnesses are requested to attend the hearing, they may be asked questions by all parties involved or by members of the hearing panel.