Newport Parish Council - Disciplinary Policy

1. Purpose and Scope

1.1 This document is designed to help and encourage all employees 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. As an aid towards good performance and a clear understanding, on the employee's part, of council standards and objectives, the Council should have in place a number of other procedures to develop good working relationships between employees and the Council. Central to this relationship are regular supervisory meetings to discuss and resolve work related issues. Other mechanisms, such as the annual appraisal, exist to help ensure that problems are raised openly and resolved to mutual satisfaction. 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. Good leadership, proper job design, training, effective performance management, supervision and counselling will all combine to lessen the need for punitive action. The Employment Act 2008 introduced a Code of Practice designed by the Advisory, Conciliation and Arbitration Service (ACAS) to resolve disputes at as early a stage as possible. The Department for Business, Enterprise and Regulatory Reform (BERR) and the Chartered Institute of Personnel and Development (CIPD) jointly published guidance with ACAS on appropriate standards to achieve early resolution to problems. Central to this guidance is the long accepted practice within the 1st Tier of local government that despite any desired intention to resolve any issues informally, the Council recognises that, from time to time, difficulties may arise in working relationships between employees that may be difficult to resolve without recourse to a third party. Effective investigation of any case against an employee is key to the matter being resolved. Additionally, training for the employer, i.e. the council, in employment matters should also be a fundamental part of any preventative measures that the council wishes to take.

1.3 The Code of Practice takes no account of the status of the parish council as the employer and the fact that no single councillor may act as the employer. It is critical therefore that whilst the council will wish to engage with the principles of the Code, in terms of early resolution of conflict, a sound and accountable structure must be in place to satisfy the legislative governance standards expected of parish and town councils. The appointment of a committee of three members to handle disciplinary issues is key to the success of this policy as is the principle that an external third party may have to appointed as investigator. The attached procedure (Appendix 1) sets out the formal process and timescales, it is expected that at all stages of the process the person or committee investigating the disciplinary issue will want to meet all involved parties and to discuss with them the issues involved as quickly as possible.

1.3 It is the Council's policy to promote regular structured supervisory sessions which will identify and address any minor breaches of conduct as and when they occur, and will possibly result in informal steps, such as training, counselling and increased supervision to halt and correct inappropriate behaviour.

1.4 The formal disciplinary procedure will normally be initiated where such informal approaches have failed to secure an acceptable and sustained improvement or where the nature of the incident or alleged behaviour makes an informal approach inappropriate.

1.5 This procedure should not be used when poor performance has been identified. Poor performance should be dealt with in accordance with the Capability Policy.

2.0 Principles

This procedure is based upon the following core principles:

2.1 No disciplinary action will be taken against an employee 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 employee 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 employee has a statutory right to be accompanied to disciplinary hearings and appeals by a trade union representative or work colleague. The council will consider other appropriate persons if the employee is the sole employee; where it would be inappropriate for another employee to act in the capacity or where the employee is not a member of a trade union. In such circumstances the council will take advice from ERNLLCA.

2.4 No employee will be dismissed for a first breach of discipline except in the case of gross misconduct when the penalty shall be summary dismissal (i.e. dismissal without contractual notice or payment in lieu of notice).

2.5 An employee has the right of appeal against any disciplinary penalty imposed.

2.6 The procedure may be commenced at any stage if the employee's alleged misconduct warrants such action.

2.7 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 employee must take to avoid further disciplinary action. Future action may involve counselling or mentoring to assist the employee.

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 investigation will normally be conducted by the Personnel Committee or by an external investigating officer, appointed by the Council. Where there is no dispute between parties about the facts, it may not necessarily be appropriate to carry out an investigation.

3.2 Suspension: In some instances, it may be necessary to suspend the employee concerned whilst the investigation is conducted. Authority to suspend rests with the Disciplinary Committee. Suspension should not be regarded as a form of punishment or a finding of guilt. It is intended to enable a thorough investigation to take place, particularly where the allegation/incident is serious and the continued presence of the employee is deemed to be inappropriate until the matter can be resolved.

Suspension will always be with contractual pay, and written confirmation of the reason for suspension and its likely duration will be provided to the employee as soon as is reasonably practicable. Such notification will be sent by the Personnel Committee and will indicate any additional restrictions on access to any premises, and/or contact with any specific employees, councillors, members of the public, officers in other authorities, customers, clients, partners or volunteers for the period of the suspension. The restrictions must be justifiable in the circumstances of the case.

3.3 The Hearing: The employee 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 employee 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
- their right to be accompanied

Notification will be sent by the Disciplinary Committee and will give the employee reasonable notice. Where necessary, an alternative date may be agreed by both parties.

The employee may make written submissions to the hearing and may request the appearance of witnesses, details of which must be received by the Disciplinary Committee in reasonable time to be made available to other parties prior to the hearing.

Members of the Disciplinary Committee will not be involved in any subsequent appeal.

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

3.5 The Personnel Committee will consist of three members of the Council.

3.6 Hearing Format: Guidance on the format of a disciplinary hearing is given in Appendix 1.

4.0 Stages of Disciplinary Action

4.1 Oral Warning

- If there is a breach in conduct, the employee 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 personnel

file and will remain active for a period of up to six months when it will be removed from the records.

4.3 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 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.

4.4 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.

4.5 Dismissal

If the employee has failed to reach the prescribed standards during the twelve months since a final written warning was issued, dismissal will normally result. Only the appointed committee can take a decision to dismiss. The employee 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. As an alternative to dismissal, an employee may be demoted or transferred to another post with any consequent loss of pay and benefits.

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

5.0 Right to be accompanied

5.1 Disciplinary proceedings will not be initiated against an employee who is also a recognised trade union representative until the matter has been discussed with a full-time officer of the appropriate union.

5.2 As stated in 2.3 above, the employee has a statutory right to be accompanied to disciplinary hearings and appeals by a trade union representative or work colleague. The council will consider other appropriate persons if the employee is the sole employee; where it would be inappropriate for another employee to act in the capacity or where the employee is not a member of a trade union. In such circumstances the council will take advice from ERNLLCA.

6.0 Criminal Offences

6.1 Where an employee 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 will not normally be asked to conduct any investigation on behalf of the Council where it is possible to use the investigatory services of another body e.g. the Audit Commission.

7.0 Appeals

7.1 The Council will appoint an Appeals Panel

7.2 An employee 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 that was not available at the time of the original hearing
- A claim that the disciplinary procedure was not correctly followed
- The employee's belief that the level of disciplinary sanction was unfair/unreasonable in the circumstances

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

7.5 The employee and the Chair of the Personnel Committee panel may make written submissions, including witness statements, to the hearing. 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 hearing 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 appointed committee or who have been witnesses at an earlier part of the process.

7.7 In considering whether an appeal should be allowed, the Appeals Panel 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 employee 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 section is not intended to provide an exhaustive list of rules, but is rather a source of guidance on the sort of breaches in conduct that may result in disciplinary action.

- persistent poor timekeeping/attendance
- unauthorised absence
- smoking in non-smoking areas
- being under influence/misuse of alcohol/drugs/other substances whilst on duty
- harassment/bullying
- contravention of equality policy
- use of organisation's time/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 (i.e. acts which fundamentally breach the employment contract) 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.

8.3 No set of disciplinary rules can cover all circumstances that may arise: moreover, the rules required will vary according to particular circumstances such as the type of work, working conditions and so on. The Council will formulate a series of standards that will specify clearly and concisely those rules necessary for the efficient and safe performance of work. Such standards should be explained to new employees as part of the induction process. The breach of any such rules may result in disciplinary action.

8.4 All employees should be made aware of the likely consequences of breaking rules and in particular they should be given a clear indication of the type of conduct that may warrant summary dismissal.

9.0 Miscellaneous

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

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.

This Disciplinary Procedure was reviewed and adopted with no alterations by the Newport Parish Council at its Meeting held on 9th November 2021 (Minute ref 2021 11 11).

Reviewed by the Newport Parish Council 08.11.22 – No updates required Minute Ref 2022 11 09

Reviewed by the Newport Parish Council 14.11.23 – No updates required Minute Ref 2023 11 09

Reviewed by the Newport Parish Council 12.11.24 – No updates required Minute Ref 2024 11 09

Reviewed by the Newport Parish Council 11.11.25 – No updates required. Minute Ref 2025 11 08

Reviewed by the Newport Parish Council 10.11.26 – No updates required. Minute Ref 2026 11 08