

# Fulmodeston and Barney Parish Council

## DISCIPLINARY AND DISMISSAL PROCEDURE

Last reviewed

Adopted

Next review

The following actions will be taken for a dismissal or disciplinary action:

1. Statement of grounds for action and invitation to meeting

- i. Fulmodeston and Barney Parish Council must set out in writing a statement of your alleged conduct or characteristics or other circumstances which lead us to contemplate dismissing or taking disciplinary action against you.
- ii. Fulmodeston and Barney Parish Council must send the statement or a copy of it to you and invite you to attend a meeting to discuss the matter.

2. The meeting

- i. The meeting must take place before action is taken.
- ii. The meeting must not take place unless:-
  - a. we have informed you of the basis for including in the statement under paragraph 1 (i) the ground or grounds given in it and
  - b. you have had a reasonable opportunity to consider your response to that information.
- iii. You must take all reasonable steps to attend the meeting.
- iv. After the meeting we must inform you in writing of our decision and notify you of the right to appeal against the decision if you are not satisfied with it.

3. Appeal

*N.B. You should be aware that if you fail to operate the appeal procedure and take the matter to an employment tribunal any award of compensation is likely to be reduced by 10% or may be reduced by up to 50% for failure to comply with the procedure.*

- i. If you wish to appeal you must tell us within five working days, unless there are good reasons which you tell us about for your being unable to do so in time. If we both agree this time limit can be extended.
- ii. If you tell us you wish to appeal we must invite you to attend a further meeting.
- iii. You must take all reasonable steps to attend the meeting.

- iv. The appeal meeting need not take place before the dismissal or disciplinary action takes effect.
- v. After the appeal meeting we must inform you of our final decision.

### General Provisions

1. Each step and action under the procedure must be taken without unreasonable delay.
2. Meetings
  - i. Timing and location of meetings must be reasonable.
  - ii. Meetings must be conducted in a manner that enables both you and us to explain our cases.
  - iii. In the case of appeal meetings which are not the first meeting we should, as far as is reasonably practicable, be represented by a more senior committee member than attended the first meeting (unless the most senior committee member attended that meeting).
3. Representation
  - i. At any meeting you have the right to be accompanied by a colleague or trade union representative.
  - ii. If you wish to be accompanied, you must make a reasonable request to us and should tell us who your chosen companion will be.
  - iii. Your companion can have a say for you at the hearing but cannot answer questions for you.
  - iv. If your companion is unavailable to attend the meeting at the date and time we suggest, and you give us an alternative time which is both reasonable and within five working days of the original appointment, we will re-arrange the meeting for that time. This obligation to re-arrange the meeting applies only once.
  - v. Where it is not reasonably practicable for either you (or your companion if applicable) or us to attend a meeting in accordance with the applicable procedure, for a reason which was not foreseeable when the meeting was arranged, then the party failing to attend shall not be treated as having failed to comply with the requirement to attend.
  - vi. If you fail to attend the first meeting where paragraph (v) applies we will still be under a duty to invite you to attend a meeting.

- vii. We are not under any duty to invite you to attend further meetings if we have already invited you to attend two meetings and it was not reasonably practicable (or your companion if applicable) to attend either meeting for a reason or reasons which were not foreseeable when the meeting in question was arranged.

#### Outcomes of disciplinary action

1. Following any meeting we will decide whether disciplinary action is justified or not.
2. Where we decide no action will be taken we will tell you.
3. Where we decide action is justified we will normally give you at least one chance to improve your conduct or performance before issuing a final written warning. However, if the problem is sufficiently serious, we may proceed directly to a final written warning and, in cases of gross misconduct, dismiss even in the absence of any previous warnings.
4. Subject to these general points the possible outcomes in the case of disciplinary action for misconduct or poor performance will include, but are not limited to, the following:-
  - 4.1. A first written warning:
    - i. In the case of poor performance this will set out
      - The performance problem
      - The improvement that is required
      - The timescale for achieving this improvement
      - A review date
      - Any support which we will provide to assist you
    - ii. In the case of misconduct this will set out the nature of the misconduct and the change in behaviour required.
    - iii. In both cases you will be told that the warning is part of the formal disciplinary process and that the consequences of a failure to improve performance or change behaviour as the case may be, could be a final written warning and, ultimately dismissal.
    - iv. You will be told that a record of the decision will be kept but will be disregarded for disciplinary purposes after a specified period (which will normally be 12 months).
    - v. You will be told of your right to appeal
  - 4.2. A final written warning

- i. Where there is a failure to improve or change behaviour in the timescale set in the first warning, or where the case is sufficiently serious you will normally be issued with a final written warning. This will give details of, and grounds for the complaint and will warn you that failure to improve or modify behaviour may lead to dismissal or some other penalty.
- ii. You will be told that a record of any such decision will be kept but will be disregarded for disciplinary purposes after a specified period (which will normally be 12 months).
- iii. You will be told of your right to appeal.

#### 4.3. Dismissal

If your conduct or performance still fails to improve you may be dismissed. If that occurs, you will be told as soon as possible of the reasons for the dismissal, the date on which your contract will terminate, the appropriate period of notice and your right of appeal.

#### 4.4. Summary Dismissal

You will be liable to summary dismissal (i.e. dismissal without notice) where we reasonably consider you to be guilty of gross misconduct. Eg:

- theft
- fraud and deliberate falsification of records
- physical violence
- serious bullying or harassment
- deliberate damage to property
- serious insubordination
- misuse of an organisation's property or name
- bringing the employer into serious disrepute
- serious incapability whilst on duty brought on by alcohol or illegal drugs
- serious negligence which causes or might cause unacceptable loss, damage or injury
- serious infringement of health and safety rules
- serious breach of confidence (subject to the Public Interest (Disclosure) Act 1998)

This list is not exhaustive and will be updated where necessary.