



Mr D Temple
Parish Clerk; T: 0191 5817069
E:framwellgatemoorparishcouncil@yahoo.co.uk

FRAMWELLGATE MOOR PARISH COUNCIL

Grievance & Disciplinary Procedures

A DISCIPLINARY RULES AND PROCEDURES FOR MISCONDUCT

Objective

The objective of this procedure is to give employees the opportunity to improve their conduct or performance. It identifies who has authority to take disciplinary action and aims to ensure that employees are protected against unjustifiable or inconsistent disciplinary action. It also identifies the type of offence which would result in disciplinary action being taken, what that action would be and what further action would result if there is no improvement or a recurrence takes place.

Informal Action

Cases of minor misconduct or unsatisfactory performance may be dealt with informally. The employer may have a quiet word of caution or advice and encouragement with the employee in order to improve an employee's conduct or performance. This informal approach may be used in dealing with problems quickly and confidentially. There will, however be situations where matters are more serious or where this informal approach has been tried but is not working. In these circumstances, the employer will use the formal procedure.

Investigations

The purpose of an investigation is for the employer to establish a fair and balanced view of the facts relating to any disciplinary allegations against the employee, before deciding whether to proceed with a disciplinary hearing. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from the employee and any witnesses, and/or reviewing relevant documents. The employer will usually appoint an investigating officer to carry out the investigation.



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Investigative interviews are solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held. The employee does not normally have the right to bring a companion to an investigative interview. However, the employer may allow the employee to bring a companion if it helps you to overcome any disability, or any difficulty in understanding English.

The employee must co-operate fully and promptly in any investigation. This will include informing the employer of the names of any relevant witnesses, disclosing any relevant documents to the employer and attending investigative interviews if required.

If the employee cannot attend the investigation meeting he/she should inform the employer immediately and we will arrange an alternative time. The employee must make every effort to attend the meeting, and failure to attend without good reason may be treated as misconduct in itself. If the employee fails to attend without good reason, or is persistently unable to do so (for example for health reasons), the employer may have to reach its conclusions based on the available evidence.

General Principles for the Formal Disciplinary Procedures

The employer expects all its employees to abide by the terms and conditions of their employment and the rules, regulations and standards established by the employer. The procedure for dealing with misconduct, capability and performance comprises a number of levels and the type of disciplinary action taken will depend on the severity and frequency of the misconduct as well as the general circumstances surrounding it. The employer reserves the right at its absolute discretion to invoke any stage of the procedures, depending in the seriousness of the misconduct complained of.

1. No disciplinary action shall be taken until there has been a full investigation into any alleged incident (please see above).
2. The employee has the right to receive, prior to disciplinary hearings:



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- A written statement of the alleged misconduct; and
- Particulars on the basis for the allegation.

3. The employee has the right to reasonable opportunity, prior to disciplinary hearings, to consider their responses to the information provided on the allegation.

4. The employee will be entitled (where reasonably requested) to be accompanied at any disciplinary or appeal hearing by a fellow worker or Trade Union Official (who may be either a full-time official employed by a union or a lay union official who has been reasonably certified in writing by his/her union as having experience of, or as having received training in, acting as a worker's companion).

5. The employee must take all reasonable steps to attend the disciplinary and appeal hearings.

6. The employer will ensure that the disciplinary rules and procedures are applied fairly and consistently.

7. The employer will endeavour to ensure that;

- All steps under the procedure are taken without unreasonable delay;
- The timing and location of all hearings are reasonable;
- Hearings are conducted in a manner which enables employees to explain their cases; and
- Disciplinary appeal hearings will be conducted, as far as is reasonably practicable, by a more senior manager than the manager who took the disciplinary action being appealed. This does not apply where the most senior manager attended the disciplinary hearing at which the decision was made to take the disciplinary action being appealed.

8. Where a written warning has been issued a copy will be kept but disregarded for disciplinary purposes after a specified period, for example 12 months.



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9. The employer will keep written records during the disciplinary process. These will include the complaint against the employee, notes taken during the hearings and appeals, findings and actions taken, details of the appeal and any other information relevant to the process.

10. The employer will take all reasonable steps to ensure that confidentiality is maintained throughout the process.

11. All warnings will clearly state the misconduct concerned and clearly indicate what the eventual outcome will be if there is no improvement on the employee's part or a recurrence takes place. Warnings normally relate to the same or similar misconduct and are not generally transferable between different types of misconduct. However, where a number of warnings are called for in respect of different types of misconduct this will entitle management to review the employee's overall suitability for continued employment and if necessary to issue a final general warning irrespective of the offence.

12. If a final disciplinary warning has been validly issued and is still current, the employer is entitled to take this into account when considering whether to dismiss for a subsequent act of misconduct, even if the two acts of misconduct are for different matters. The employer will take into account the degree of difference or similarity between the different matters when deciding what sanction to impose.

13. When deciding what sanction to impose, the employer will take into account the factual circumstances giving rise to any previous warnings.

14. If an employee has been issued with a final written warning this normally means that **any** further misconduct within the duration of that warning may result in dismissal.

15. Precautionary Suspension: In certain cases, for example in cases involving gross misconduct, where relationships have broken down or there are risks to the employer's property or responsibilities to other parties, consideration will be given to a brief period of suspension **with full pay** whilst an unhindered investigation is conducted. The employer will also



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consider alternative actions which would be more acceptable to the employee yet serve the same purpose as a suspension e.g. agreeing to a temporary transfer to other duties or another work station without loss of pay or the taking of annual holidays to which the employee is entitled. Any action taken will be reviewed to ensure it is not unnecessarily protracted. It will be made clear that any action taken is not considered a disciplinary action.

16. If the employee has difficulty at any stage of the procedure because of a disability, he/she should discuss the situation with their line manager as soon as possible.

Types of misconduct

The following list shows examples of the type of rules/offences which the employer has categorised for each level of misconduct. This is not an exhaustive list and management reserves the right to decide how any other misconduct shall be categorised:

A MINOR MISCONDUCT

Absenteeism

Poor Timekeeping/lateness

Failure to comply with Absence Notification and Certification Procedure

Careless work and poor effort at work

Minor breach of safety/hygiene/security rules

Extended tea and meal breaks

Failure to maintain a tidy and safe working environment

Misuse of personal mobile phone

Excessive time away from the job

Failure to wear any protective clothing/equipment provided

Failure to wear uniform

Wearing unacceptable or inappropriate clothing

Failure to complete time, stock or work sheets as instructed

B MAJOR MISCONDUCT

Excessive absenteeism

Failure to comply with the Holiday Request Procedure

Workmanship or performance of duties below the acceptable standard



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Failure to adhere to Rules and procedures
Failure to report any loss or damage to company property
Dangerous physical horseplay
Neglect causing damage to or loss of employer's, customer's or other employee's property/ equipment/tools
Serious neglect of safety/hygiene/security rules
Smoking in the workplace
Consuming intoxicants during working hours or bringing intoxicants into the premises without permission
Wilful or excessive wastage of material
Unsatisfactory attitude to customers
Use of foul language
Gambling on the premises
Insubordination

C GROSS MISCONDUCT

Gross Misconduct by an employee entitles the employer to summarily dismiss without notice or payment in lieu of notice and without entitlement to any accrued holiday pay. The following matters will be deemed by the employer to constitute gross misconduct. Such matters are by way of example only and are not exhaustive.

Acts of theft, fraud or other dishonesty whether committed in the course of the employee's duties or not.

Unauthorised removal or possession of property belonging to the employer, its clients or any person with whom the employer has dealings.

Breach of professional confidence or disclosure of confidential information.

Violent, willful or reckless behavior which does, or could, result in damage to the person or property of the employer, its employees, clients or other persons with whom it has dealings.

Possession of, or being under the influence of, alcohol or drugs on company premises save for any drugs prescribed by a qualified medical practitioner.

Acts of indecency, sexual harassment or other similar misconduct with or towards another employee, client or person with whom the employer has dealings.

Persistent or unexplained absence from work.



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Serious neglect of the employee's duties resulting in actual or likely loss, damage or injury.

Use of threatening, abusive or insulting language to other employees, clients or persons with whom the employer has dealings.

Breach of the employer's Equal Opportunities Policy

Breach of any statute, regulation, code of practice or other relevant provision governing the range of services provided by the employer

Breach of the Health and Safety at Work (NI) Order 1978 or serious infringement of health and safety rules

Submission of false references

Failure to disclose any criminal convictions

Actions likely to result in damage to the employer's image or reputation in the community or to the employee's image or reputation

Refusal to carry out reasonable work instructions

Wilful damage to or gross neglect of employer's, client's or other employee's property

Undertaking work in competition

Falsification of records

Leaving the employer's premises or site without consent

Unauthorised use of employer's vehicle

Gross misuse of the company's internet/email system

Serious act of insubordination

Harassment or bullying

Physically violent behaviour

NOTE:

Any allegation of bullying in the workplace or any allegation of discrimination, victimisation or harassment linked to anti-discrimination legislation including gender, gender reassignment, sexual orientation, marriage, civil partnership, disability, race, age, religious beliefs or political opinions will be thoroughly investigated and where appropriate will be dealt with under the disciplinary procedure. The disciplinary response will depend upon the nature and seriousness of the incident and in extreme cases may result in summary dismissal.



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Formal Procedure

When taking formal disciplinary action, the employer will comply with the Statutory Procedures by ensuring that the following steps are taken at all stages of the formal disciplinary process.

Step 1 Statement of grounds for action and invitation to meeting

The employer will provide to the employee a written statement of the alleged misconduct which has led to the consideration of formal disciplinary action or dismissal. The employer will also inform the employee what the likely range of consequences will be if the employer decides after the hearing that the allegations are true. The employer will invite the employee to a hearing to discuss the issue.

Step 2 Meeting

Prior to the hearing the employee will be informed what the basis was for including in the correspondence under Step 1 the ground or grounds given in it. The employee will be given reasonable opportunity to consider his/her response to that information before any hearing takes place.

An appropriate manager of the employer will be appointed to deal with the disciplinary matter and another member of the employer may also be present to take notes. At the disciplinary hearing the employer will go through the allegations against the employee and the evidence that has been gathered. The employee will be able to respond and present any evidence of their own. The employer may adjourn the disciplinary hearing if it needs to carry out any further investigations such as re-interviewing witnesses in the light of any new points the employee has raised at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

After the meeting the employer will inform the employee in writing of the decision and offer the right to appeal.

Step 3 Appeal

If the employee wishes to appeal the employer's decision he or she will inform the employer within five working days of being informed of the disciplinary sanction. Where an appeal is requested, the employee will be



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invited to an appeal hearing. The appeal hearing will usually be held within five working days of the request for an appeal.

If the employee raises any new matters in their appeal, the employer may need to carry out further investigations (as well as adjourning the appeal hearing). If any new information comes to light the employer will provide the employee with a summary including, where appropriate, copies of additional relevant documents and witness statements. The employee will have a reasonable opportunity to consider this information before the hearing.

After the appeal hearing the employee will be informed in writing of the employer's final decision usually within five working days. There will be no further right of appeal.

Minor Misconduct

If the alleged breach falls within the minor misconduct category the employer will follow the formal procedure outlined above and the following action will be taken if the employer is satisfied that an offence has occurred:

Stage 1 You will be given a verbal **warning**. It will be recorded and retained on your personal file but will not be considered for disciplinary purposes after 6 months, provided your conduct improves.

Stage 2 If there is a repetition of the misconduct or breach or in the case of more serious misconduct or breach within 6 months you will be given a **first written warning**. It will be recorded and retained on your personal file but will not be considered for disciplinary purposes after 12 months, provided your conduct improves.

Stage 3 In the case of continued misconduct or breach, or very serious misconduct or breach within 12 months you will be given a **final written warning**. This will contain a clear notice that any further offence within 12 months may result in dismissal.



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Stage 4 In the event of further misconduct or breach within 12 months you may be **dismissed**.

Major Misconduct

If the alleged breach falls within the major misconduct category the employer will follow the formal procedure as outlined earlier. If the employer is satisfied that an offence has occurred you will receive a final written warning which will contain clear notice that any other offence within 12 months may result in dismissal.

Gross Misconduct

If the alleged breach falls within the gross misconduct category the employer will follow the formal procedure as outlined earlier. If the employer is satisfied that an offence has occurred you may be **dismissed** summarily i.e. without notice and without pay-in-lieu of notice.

Alternatives to dismissal

As an alternative to dismissal, the following sanctions may be considered: **a final written warning, and if allowed for in the contract or mutually agreed, disciplinary suspension without pay, demotion, transfer to other duties.**

Disciplinary Authority

In the event of a breach of the employer's rules disciplinary hearings and appeals will be conducted by the appropriate disciplinary authority as follows:

Stage	Disciplinary Hearing	Appeal
Stage 1 (Recorded Verbal)	First Committee of 3 nominated Councillors	Appeal Committee of 3 nominated
Stage 2 (First written)	First Committee of 3 nominated Councillors	Appeal Committee of 3 nominated
Stage 3 (Final written)	First Committee of 3 nominated Councillors	Appeal Committee of 3 nominated
Stage 4 (Dismissal)	First Committee of 3 nominated Councillors	Appeal Committee of 3 nominated



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THE RIGHT TO BE ACCOMPANIED

As detailed above the employee will be entitled (where reasonably requested) to be accompanied at any disciplinary or appeal hearing by a fellow worker or Trade Union Official (who may be either a full-time official employed by a union or a lay union official who has been reasonably certified in writing by his/her union as having experience of, or as having received training in, acting as a worker's companion). The employee must tell the employer who their chosen companion is, in good time before the hearing.

A companion is allowed reasonable time off from duties without loss of pay but no-one is obliged to act as a companion if they do not wish to do so.

See the Labour Relations Agency Code of Practice in relation to the right to be accompanied.

STATUTORY MODIFIED DISMISSAL AND DISCIPLINARY PROCEDURE

There may be some limited and very exceptional situations involving alleged acts of gross misconduct where some of the general principles of the Disciplinary Rules and Procedures for Misconduct will not apply.

These situations will be where:

dismissal is without notice and occurs at the time when the employer became aware of the misconduct or immediately thereafter;

- the employer is entitled, in the circumstances, to dismiss by reason of the misconduct without notice and without pay in lieu of notice; and

the employer believed that it was reasonable, in the circumstances, to dismiss before enquiring into the circumstances in which the misconduct took place.



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In these **very exceptional situations** the following **modified procedure** will apply:

Step 1

Statement of grounds for action

The employer will provide the dismissed employee with:

- a written statement of the alleged misconduct which led to the dismissal, and
- written particulars on the employer's basis for thinking at the time of the dismissal that the employee was guilty of the alleged misconduct, and
- a written confirmation of his/her right of appeal against the dismissal.

Step 2

Appeal

- If the employee wishes to appeal he/she must inform the employer within 5 working days.
- All appeal requests must be made to **The Parish Clerk**
- Appeal hearing usually shall be heard usually within 5 working days of receipt of the request.
- The employee must take all reasonable steps to attend the hearing.
- The employee has the right to be accompanied at the appeal hearing.
- The result of the appeal hearing shall be notified to the employee usually within 5 working days of the appeal hearing.



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B. INDIVIDUAL GRIEVANCE PROCEDURE

The aim of this procedure is to give an employee an opportunity to raise a grievance either informally and/or formally and to discuss this with their employer with a view to having it resolved.

General Principles

- Grievances should be raised as soon as possible, to allow issues to be resolved quickly.
- Employees should be given the opportunity to explain their grievance and how they think it should be resolved.
- If the employee's grievance is against their line manager they may raise the matter with another manager in the organisation (for example the Chair or Vice-chair of the Parish Council).
- The employer will ensure that the timing and location of all meetings under this procedure are reasonable.
- As far as is reasonably practicable, appeal hearings will be conducted by a manager more senior than the manager who took the decision which is being appealed. This does not apply where the most senior manager attended the hearing at which the decision being appealed was taken.
- Employees will be entitled (where reasonably requested) to be accompanied to any grievance or appeal hearing by a fellow worker or Trade Union Official (who may be either a full-time official employed by a union or a lay union official who has been reasonably certified in writing by his/her union as having experience of, or as having received training in, acting as a worker's companion).
- Employers, employees and their companions should take reasonable steps to attend grievance and appeal meetings.
- Records shall be kept detailing the nature of the grievance raised, the employer's response, any action taken, the reasons for it and other information relevant to the process. These records shall be kept confidential.
- There may be circumstances where the employer and employee feel it would be beneficial to involve a third party to help in resolving the issue, through for example a process of mediation. In this instance the grievance procedure may be temporarily set aside.



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Mediation is a process whereby an independent third party intervenes in a workplace dispute to assist the parties to reach a satisfactory outcome.

The Labour Relations Agency can provide a mediation service to assist the parties. Further information on mediation is available on the Agency's website www.lra.org.uk or by telephoning 028 9032 1442.

Dealing with grievances informally

If an employee has a grievance or complaint to do with their work they should, in the first instance and, wherever possible, discuss it with their line manager. They may be able to agree a solution informally.

Formal grievance

If it is not possible to resolve a grievance informally, or the employee does not feel it is appropriate to do so, they should raise the matter formally in writing to The Parish Clerk. The written grievance should contain details of the nature of the grievance and how they feel it might be resolved.

Grievance hearing

The Parish Clerk will call the employee to a meeting with a panel of 3 Parish Councillors to discuss their grievance. This will normally be held within 5 working days from receipt of the complaint in writing. Employees should be allowed to explain their grievance and how they think it might be resolved. The employee will be entitled to be accompanied by a colleague, trade union representative or a friend at this meeting. Following the meeting the employer (within 5 working days) will advise the employee in writing what, if any action they have decided to take along with a full explanation of how the decision was reached. The employee should be informed that they can appeal (and to whom the appeal should be made) if they feel that the grievance has not been satisfactorily resolved.

Appeal

If the employee wishes to appeal they should let the Parish Clerk know in writing stating their reason(s) for appeal. This should be done within 5 working days of the grievance hearing decision being communicated in



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writing to them. Within 5 working days of receipt of the appeal an appeal meeting will take place. The Chair of the Parish Council will appoint an Appeals Committee of not less than 3 and not more than 4 current Councillors who will hear the details of the grievance and either uphold or vary the decision of the first committee. Councillors from the first committee will not be allowed to form any part of the appeals committee. The employee will be entitled to be accompanied at this meeting.

Following the meeting the Parish Clerk will advise the employee in writing of the outcome of the appeal, no later than 5 working days from the appeal being heard. This decision is final.