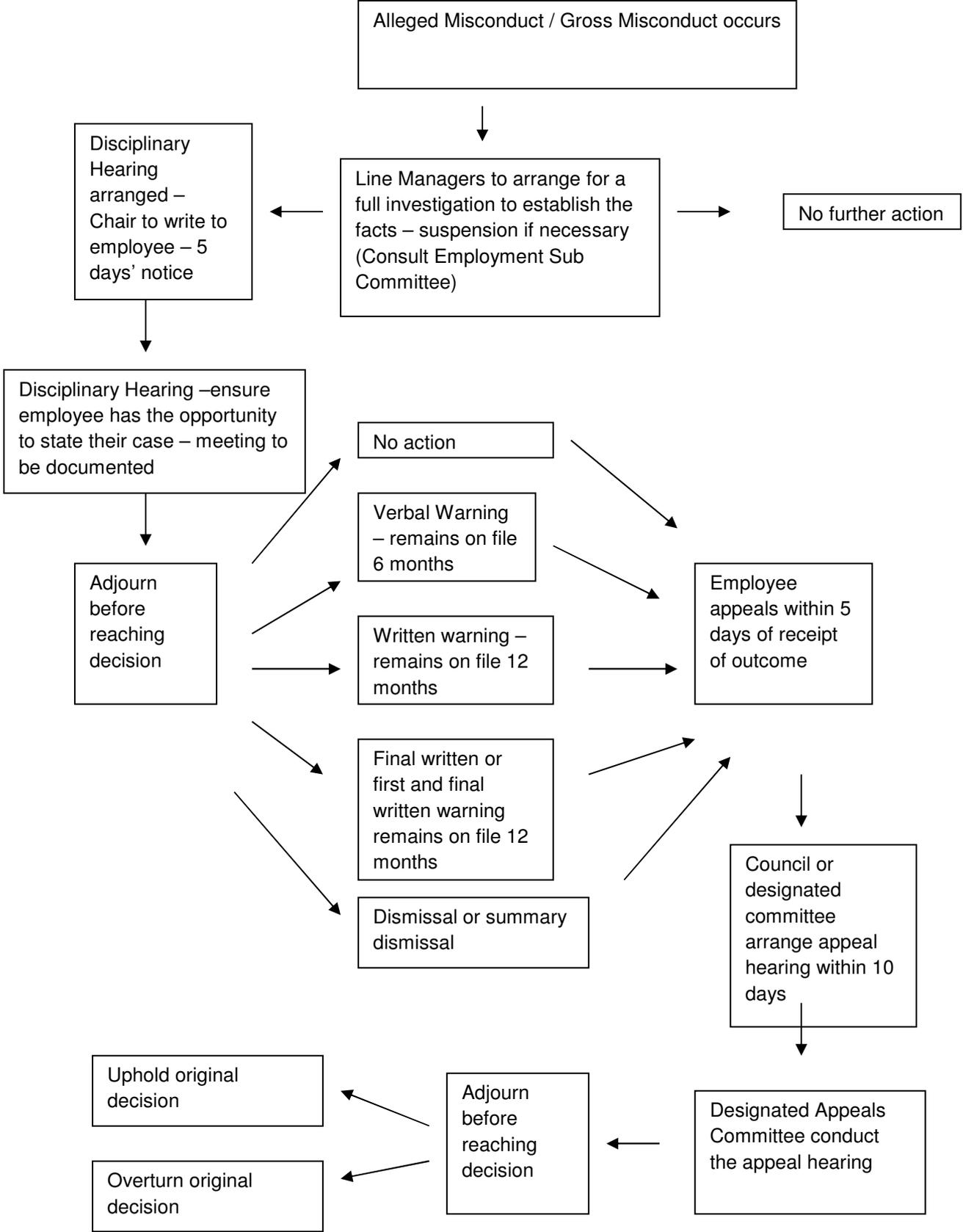


**Dethick, Lea and Holloway Parish Council
Disciplinary Policy
Summary by Flowchart**



Dethick, Lea and Holloway Parish Council

Disciplinary Policy

Purpose: To help and encourage all employees to achieve and maintain satisfactory standards of conduct, whilst ensuring that all employees are treated fairly and consistently.

Scope: The policy applies to all the employees of Dethick, Lea and Holloway Parish Council regardless of whether on a permanent or temporary contract.

Definition: Informs employees of what behaviour is expected from them and the process to be followed to improve conduct.

Employers' legal responsibilities: Dethick, Lea and Holloway Parish Council is committed to ensuring that the disciplinary policy is fair, consistent and follows the statutory procedure.

Employment Rights Act 1996

Employment Relations Act 1999

Employment Act 2002

Employment Act 2002 (Dispute Resolution) Regulations 2004 SI 2004/752

Introduction: Rules are necessary as they set Council standards; the disciplinary procedure helps employees keep to the rules and helps employers to deal fairly with those who do not. When a potential disciplinary matter arises the line managers are responsible for ensuring that the disciplinary process is followed when appropriate.

Informal action: Cases of minor misconduct are usually best dealt with informally. A quiet word is often all that is required to improve an employee's conduct or performance. However if informal action does not bring about an improvement, or the misconduct is considered to be too serious to be classed as minor, the line managers should take the formal route.

Formal action: The following procedure will be applied fairly in all instances where disciplinary action is regarded as necessary by the Council

The procedure does not apply to:

- Termination during or at the end of a probationary period of service (including any extended probationary period of employment) - where a

basic procedure in line with the statutory dismissal and disciplinary procedure will apply instead;

- Termination by mutual consent.

The Council reserves the right to implement the procedure at any stage as set out below taking into account the alleged misconduct of an employee. Employees will not ordinarily be dismissed for a first disciplinary offence.

Where time limits are referred to in the course of this procedure they may be varied by consent between the employee and the Council.

Misconduct: Misconduct is any type of behaviour or conduct at work that falls below the standard required by the employer or is in breach of any council policy, rule or standard. The line managers need to distinguish between conduct and capability. Lack of capability exists where, no matter how hard an employee tries, he or she is simply unable to perform the job to the standard required by the employer i.e. 'can't do'. If, however, an employee fails to come up to the required standard as a result of his or her own carelessness, negligence or lack of effort, this could be regarded as misconduct because such behaviour is within the employee's control i.e. 'won't do'. If it is a capability issue you will need to follow the Individual Performance Improvement policy.

Examples of misconduct include, but are not limited to:

- Absenteeism or poor time keeping
- Smoking out of designated areas
- Refusing reasonable management request
- Minor insubordination or disregard of specific procedures
- Unacceptable personal appearance and / or personal hygiene at work
- Negligence
- Unauthorised employment or improper disclosure of information
- Absence from work without a valid reason
- Damage to company property
- Failure to comply with our health and safety policy
- Rudeness to members of the public, other employees or councillors
- Any activity that could be construed as negative to the Council

Gross misconduct: Gross misconduct is misconduct of such a serious nature that it fundamentally breaches the contractual relationship between the employee and the Council. In the event that an employee commits an act of gross misconduct, the Company will be entitled to terminate summarily the employee's contract of employment without notice or pay in lieu of notice.

Matters that the Council views as amounting to gross misconduct include (but are not limited to):

- Stealing from the Council, members of staff or the public;
- Other offences of dishonesty;
- Falsification of a qualification that is a stated requirement of the employee's employment or results in financial gain to the employee;
- Falsification of records, reports, accounts, expense claims or self-certification forms whether or not for personal gain;
- Sexual misconduct at work;
- Fighting with or physical assault on members of the council, other employees or the public;
- Deliberate damage to or misuse of the Council's property;
- Serious damage to the Council's property;
- Drunkenness or being under the influence of illegal drugs whilst at work;
- Possession, custody or control of illegal drugs on the Council's premises;
- Serious breach of the Council's rules, including, but not restricted to, health and safety rules and rules on computer use;
- Gross negligence
- Undertaking private work on Council premises or designated working premises and / or in working hours without express permission
- Gross insubordination and/or refusal to carry out a reasonable management request
- Misuse or private sale of council goods
- Knowingly committing the council to expenditure without prior authorisation.
- Taking part in activities which result in adverse publicity to the council, or which causes us to lose faith in the individual's integrity.
- Conviction of a criminal offence that is relevant to the employee's employment;
- Conduct that brings the Council's name into disrepute; and
- Discrimination or harassment of a fellow worker on the grounds of sex, sexual orientation, race, disability or religion or belief.

Other acts of misconduct may come within the general definition of gross misconduct.

Investigation: Before invoking the disciplinary procedure all the facts should be gathered. The investigation needs to be thorough but must be restricted to finding the facts of the case in question. The designated councillor/s investigating will with the assistance of a designated note taker document the evidence.

The investigation may include:

- Employee interview – they do not have a statutory right to be accompanied, however if the employee requests representation this will be allowed however the representative must be available at the time of the meeting.
- Witness interviews – need to ensure they are signed by the witness
- Documentary evidence – such as attendance records, copies of relevant letters
- Personal details – any relevant live disciplinary records

When the investigation is complete the designated Councillors will need to decide if there is a need to take formal action.

Suspension: In serious cases of alleged misconduct / gross misconduct, the employee may be suspended on full pay during the period of the investigation. This should only be considered when

- There are reasonable grounds for suspecting that a serious disciplinary offence has been committed.
- It would ease the conduct of the investigation if the employee is not on the premises
- Relationships have broken down
- We consider that our property, confidential information or responsibilities to other parties are at risk.

A resolution will be passed by full council before an employee is suspended. Suspension should be for the shortest period possible. The council will write to the suspended employee. Whilst on suspension the employee should remain contactable during their normal shift pattern.

Disciplinary Hearing: If, upon completion of an investigation, there are reasonable grounds to believe that an employee has committed an act of misconduct, the Council will write to the employee inviting them to attend a disciplinary. A different panel to the investigation panel will chair the disciplinary hearing. A note taker will also be present and must ensure that the hearing is well documented.

The employee must be given at least two days advance notice of the hearing.

Where the employee is unable to attend a disciplinary hearing and provides a good reason for failing to attend, the hearing will be adjourned to another day. Two days' notice will be given of the rescheduled meeting. Unless there are circumstances mitigating against it, if the employee is unable to attend the rearranged hearing, the rearranged hearing will take place in the employee's absence. The employee will be able to submit a written statement if he / she chooses to do so.

Process for a Hearing: The chair should adhere to the following process:

- Introduce those present and clarify their roles
- Remind the employee of their right of representation – if they do not wish to be accompanied ask them to sign waiver form
- Ensure they have received all the relevant information and have had time to prepare
- Ensure that they understand the reason for the hearing
- Present finding of the investigation

- Allow the employee to state their case
- If necessary, adjourn to conduct further investigation
- Confirm that all present have nothing to add before adjourning the hearing
- Review all facts
- Decide outcome – if no case to answer – no action
- Reconvene hearing and deliver decision, inform employee that they will receive the decision in writing.
- Inform employee that they have the right to appeal, within 5 days of receipt of the outcome letter

Possible outcomes: Other than in the case of gross misconduct we would not normally dismiss for a first offence.

Level one – Formal Verbal Warning

In cases of minor offences a formal verbal warning will be given, specifically stating that the warning constitutes the first formal stage of the procedure. A note of the warning will be kept on record for a period of 6 months. Thereafter, it will be disregarded.



Level Two – Formal Written Warning

In the case of more serious offences or where there is an accumulation of minor offences, a formal written warning will be given. The warning will remain live for a period of 12 months. Thereafter, it will be disregarded.



Level Three – Final Written Warning

In the event of further offences or in an instance of very serious misconduct, a final written warning will be given. The warning will be live for a period of 12 months. Thereafter, it will be disregarded.



Level Four – Dismissal

If all previous stages have been observed, or in the case of gross misconduct, the final step will be dismissal with the appropriate period of notice or payment in lieu of notice.

Summary Dismissal: In the case of gross misconduct an employee is normally dismissed without notice or pay in lieu of notice. The employee should be told that:

- Payment will be made up to and including that day only
- Salary in lieu of notice will not be paid
- Salary in lieu of holidays will only be paid for leave accrued and not taken before that day
- The company will give a fair and honest reference to any future employer

Appeals: An employee has the right to appeal against any decision at every level of the disciplinary process. The appeal letter should be received within 5 working days of receipt of the outcome letter. The employee must set out the grounds for their appeal.

The designated Appeals Committee will write to the employee inviting them to attend an appeal hearing within 10 days of receipt of their appeal letter. The employee must be given at least 2 days' notice of their appeal hearing. This designated committee will hear the appeal.

Areas to consider in an appeal hearing include:

- Was the decision too harsh
- Was the action taken in line with precedence
- Were they given a fair hearing
- Was the procedure followed
- Is there any new information to take into account

During the meeting the Chair should adhere to the following process:

- Introduce all present and outline their roles
- Explain the purpose of the meeting and how it will be conducted
- Ask the employee why they are appealing
- Explore all evidence and relevant issues, if necessary adjourn to investigate any new evidence
- Adjourn to make decision
- Inform the employee of the outcome of their appeal

The only possible outcomes of the appeal hearing are to downgrade or uphold the decision. The appeal decision is final.

The Appeals Committee will then send a letter confirming the outcome of the appeal.

Role of representative: Workers are entitled in law to be accompanied, if they wish, at any formal disciplinary interview by either a fellow worker, or a trade union official of their choice.

If a worker's chosen companion is not available at the proposed time of the interview, the worker may request a reasonable alternative time for the interview within five working days and the employer must postpone the hearing as requested. Such a postponement is, however, required only once.

The worker has the right to determine, in exceptional circumstances, the role that he or she wishes the companion to play at the hearing. If the worker wishes, the companion must be allowed to:

- Address the hearing on behalf of the worker, i.e. put his or her case;
- Confer with the worker during the hearing;
- Sum up the worker's case;
- Respond on the worker's behalf to any views expressed at the hearing.

The Appeals Committee is, however, entitled to expect the worker, and not the companion, to answer any questions asked.

If a grievance is raised during a disciplinary meeting: In the course of a disciplinary process, an employee may raise a grievance that is related to the case. If this happens the Council may seek advice from a relevant body (DALC or an employment lawyer) and if the grievance is related to the hearing we may consider suspending the disciplinary hearing for a short period, whilst the grievance is dealt with. If the grievance is about the councillor chairing the meeting it may be appropriate for a different councillor to hear the reconvened disciplinary hearing

DETHICK, LEA AND HOLLOWAY PARISH COUNCIL

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Witness statement

Name:

Date:

Statement in relation to:

I confirm that the statement is my honest recollection of the events.

Signed:

Date:

DETHICK, LEA AND HOLLOWAY PARISH COUNCIL

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Suspension Letter

Name
Address

Date

Dear

Further to the meeting with (name) on (date) when a preliminary investigation occurred, I confirm that you are suspended on full pay with immediate effect. The reason for your suspension is to allow the investigation to be completed of the allegation of ().

Whilst on suspension I would like you to remain contactable at home during normal office hours.

If you have any questions please do not hesitate to contact me on my direct number (number).

Yours sincerely

DETHICK, LEA AND HOLLOWAY PARISH COUNCIL

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Disciplinary Accompaniment Waiver

I.....have been offered the right to be accompanied at my disciplinary meeting onby another member of staff or trade union representative, as per the disciplinary policy.

I have chosen to waive this right.

Signed.....

Print name.....

Date.....

DETHICK, LEA AND HOLLOWAY PARISH COUNCIL

Invite to disciplinary meeting letter

Name
Address

Date

Dear

Further to the meeting with (name) on (date) when a preliminary investigation occurred, I write to confirm that this matter has been fully investigated and you are now required to attend a formal disciplinary hearing on (date) commencing at (time) at (Venue).

Please report to (enter) on the day. The hearing will be conducted in line with the Council's Disciplinary Procedure and will be chaired by (Name), (Job title). (Name), (Job Title) will also be in attendance, and will keep a record of the hearing.

The reasons for the hearing is the allegation of (enter reason)

You have the right to be accompanied at the disciplinary hearing by a work colleague or a Trade Union Representative. If you wish to be accompanied, please contact me by (time) on (date) to advise me of the name of the person who will be accompanying you.

I also enclose a pack of information, which will be used at the disciplinary hearing.

It is important that you read this information prior to the disciplinary hearing and bring it with you on the day.

If you have any questions please contact me directly on (number)

Yours sincerely

DETHICK, LEA AND HOLLOWAY PARISH COUNCIL

Outcome letter

Name
Address

Date

Dear

Re: Verbal / Written / Final Written Warning / Dismissal

I write to confirm the outcome of your disciplinary interview held (date) in the presence of (insert names including any representation) and myself.

I chaired the interview in line with the Council's Disciplinary Procedure as detailed on the intranet.

In considering my outcome I took into account (insert)

It is therefore my decision to issue you with a Verbal / written / final written warning. The reason for this warning is (insert reason)

This (insert) Warning will remain on your personal file for 6/12 months from the date of the disciplinary hearing. The consequences of any similar incidents in the future may result in further disciplinary action being taken against you, which could include dismissal.

You have the right to appeal against this decision. Any such appeal must be made in writing within five working days of receipt of this letter, clearly stating your reasons. The appeal should be addressed to me, but will be heard at the next senior level of management.

As a result of the disciplinary hearing we have also agreed the following actions;
(insert any actions)

Yours sincerely

Chair
Title

DETHICK, LEA AND HOLLOWAY PARISH COUNCIL

Invite to appeal

Name
Address

Date

Dear ,

I write with reference to your letter dated () in which you raise an appeal regarding your () warning for (insert)

In order for this matter to be discussed further I have arranged an appeal hearing on (date) at (time) at (location).

You are entitled to have a union representative or work colleague at this meeting. If you intend to be accompanied please inform me before the meeting. I will be accompanied by (name) (role).

Yours Sincerely

DETHICK, LEA AND HOLLOWAY PARISH COUNCIL

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Appeal Accompaniment Waiver

I.....have been offered the right to be accompanied at my appeal meeting onby another member of staff or trade union representative, as per the disciplinary policy.

I have chosen to waive this right.

DETHICK, LEA AND HOLLOWAY PARISH COUNCIL

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Appeal outcome letter

Name
Address

Date

Dear

Re: Verbal / Written / Final Written Warning / Dismissal

I write to confirm the outcome of your appeal hearing held (date) in the presence of (insert names including any representation) and myself.

I chaired the interview in line with the Council's Disciplinary Procedure.

In considering my outcome I took into account (insert)

It is therefore my decision to uphold the decision / to alter the outcome to (insert) the reason for this decision is (insert reason)

I must advise you that this decision is final.

Yours sincerely

Chair