

Hawthorn Parish Council
Disciplinary and Grievance Procedures
Adopted February 2015

Purpose and scope

This procedure sets out the action which to be taken when disciplinary rules are breached by Clerks and how to resolve grievances.

Principles

1. The procedure is designed to establish the facts quickly and to deal consistently with disciplinary or grievance issues. No disciplinary action will be taken until the matter has been fully investigated.
2. At every stage Clerks will be informed in writing of what is alleged and have the opportunity to state their case at a disciplinary meeting and be represented or accompanied, if they wish, by a trade union representative or a work colleague.
3. A Clerk has the right to appeal against any disciplinary penalty. It is policy that the following procedure should be followed when a Clerk is being disciplined or dismissed. The procedure provides that in normal cases a series of warnings will be given before discipline or dismissal is contemplated. The stages of the procedure that apply when discipline or dismissal is being contemplated comply with the statutory dismissal and grievance procedures and are based on the ACAS protocol.
4. Matters which may be dealt with under this disciplinary and dismissal procedure include discipline and dismissal for the following reasons:
 - misconduct
 - sub-standard
 - harassment or victimisation
 - misuse of council facilities including computer facilities (eg e-mail and the Internet)
 - poor timekeeping
 - unauthorised absences
5. Minor cases of misconduct and most cases of poor performance may be dealt with by informal advice, coaching and counselling. An informal oral warning may be given, which does not count as part of the formal (or statutory) disciplinary procedure. No formal record of this type of warning will be kept.
6. If there is no improvement or the matter is serious enough, the Clerk will be invited to a disciplinary meeting at which the matter can be properly discussed. The Clerk will be allowed to bring a colleague or Trade Union representative to the meeting. The outcome of the meeting will be communicated to the Clerk.

7. There are the following possible outcomes:

a. Oral warning

In the case of minor infringements the Clerk may be given a formal oral warning by the Chairman (or deputy if Chairman is unavailable) of the council. A note of the oral warning will be kept on file but will be disregarded for disciplinary purposes after six months. The Clerk has the right to appeal against a formal oral warning.

b. Written warning

If the infringement is more serious or there is no improvement in conduct after a formal oral warning the Clerk will be given a formal written warning giving details of the complaint, the improvement or change in behaviour required, the timescale allowed for this, the right of appeal and the fact that a final written warning may be given if there is no sustained satisfactory improvement or change. A copy of the written warning will be kept on file but will be disregarded for disciplinary purposes after 12 months.

c. Final written warning

Where there is a failure to improve or change behaviour during the currency of a prior formal written warning, or where the infringement is sufficiently serious, the Clerk may be given a final written warning. This will give details of the complaint, warn that failure to improve may lead to dismissal and refer to the right of appeal. The final written warning will be kept on file but will normally be disregarded for disciplinary purposes after 12 months.

d. Dismissal

If the conduct or performance still fails to improve the final step will be to contemplate dismissal. The Council must follow the "Standard Disciplinary and Dismissal Procedure" (see below), which is a statutory requirement. Failure to do so will usually result in a finding of automatically unfair dismissal.

The Standard Disciplinary and Dismissal Procedure

Step 1:

8. Council gives Clerk a written statement and calls a hearing. The Council will set out in writing the alleged conduct, characteristics or other circumstances which lead them to contemplate dismissing or taking disciplinary action against the Clerk.
9. The Council will inform the Clerk, in the written statement of the basis on which they have made the allegations. If possible the Council will provide the Clerk with copies of any relevant evidence. The Council will invite the Clerk to a hearing to discuss the matter and will inform them who will be attending on behalf of the Council. The Council will be the Chairman (or deputy) of the Council and one other Councillor who may be accompanied by a Human Resources Adviser.

Step 2:

10. Meeting is held and Council informs Clerk of the outcome the meeting will take place before any action, other than suspension on full pay, is taken. The meeting will be held without undue delay but only when the Clerk has had a reasonable opportunity to consider a response to the Council's written statement and any further verbal explanation the Council has provided. The Clerk must take all reasonable steps to attend the meeting.
11. After the meeting the Council will inform the Clerk of their decision and notify the Clerk of their right to appeal against the decision if not satisfied with it. The Clerk must appeal to complete the statutory procedure.

Step 3:

Appeal against the disciplinary decision if necessary

12. If the Clerk wishes to appeal they must inform the Chairman as shown in the statement of employment particulars, in writing, within a reasonable time.
13. The Council will then invite the Clerk to attend a further meeting. The Clerk must take all reasonable steps to attend the meeting. Two councillors who have not been previously involved will hear the appeal. In exceptional circumstances two councillors from a neighbouring parish who have not been previously involved in the disciplinary procedure will hear the appeal. They may be accompanied by a Human Resources Adviser.
14. The appeal hearing may take place before or after dismissal or disciplinary action has taken effect.
15. After the appeal hearing the Council will inform the Clerk of the final decision of the appeal panel and will confirm it in writing as soon as practicable.

Gross misconduct

16. If after investigation it is confirmed that the Clerk has committed one of the following offences (the list is not exhaustive), they will normally be dismissed:
 - 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 Council 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).

17. While the alleged gross misconduct is being investigated, the Clerk may be suspended, during which time the Clerk will be paid.
18. Any decision to dismiss will be taken by the Council only after a full investigation.
19. The Standard Disciplinary and Dismissal Procedure applies to dismissals for gross misconduct.

Modified Dismissal Procedure

20. In a few cases of gross misconduct the Council may be justified in dismissing immediately without conducting an investigation. In these cases a two-step "Modified Dismissal Procedure" will be followed, otherwise the dismissal will be automatically unfair.

Step 1:

Council gives written statement

21. The Council must give the Clerk a written statement setting out the conduct that has resulted in the dismissal and informing them of the right to appeal against the decision to dismiss. The Clerk must appeal to complete the statutory procedure.

Step 2:

Appeal against the disciplinary decision

22. If the Clerk wishes to appeal they must inform the Chairman as shown in the statement of employment particulars. A meeting must be held (in accordance with the general principles set out above). The Council must inform the Clerk of the decision of the agreed panel following the meeting.

Abuse of this policy

23. Any abuse in the application of this policy will be dealt with in accordance with The Council's Disciplinary Policy and Procedure and may possibly result in disciplinary action being taken, up to and including dismissal.

General Principles

24. The following principles apply to the Standard Dismissal and Disciplinary Procedure and the Modified Dismissal Procedure set out above:
 - i. The person who has authority to discipline you in accordance with this procedure is the immediate manager as shown in the statement of employment particulars
 - ii. The Clerk has the right to be accompanied to any meeting by a representative or a colleague.
 - iii. Each step in the procedure will be taken without unreasonable delay and hearings will be held at reasonable times and locations.
 - iv. The Clerk will be informed in writing if at any stage in the procedure the Clerk is likely to be dismissed. Meetings will be conducted in a manner that enables both Council and Clerk to explain their cases. Records will be kept detailing the nature of any breach of disciplinary rules or unsatisfactory performance, the defence or mitigation, the action taken and the reasons for it, whether an appeal was lodged, its outcome and any subsequent developments. These records will be kept confidential.

Formal Grievance Procedure

1. It is policy to ensure that any Clerk with a grievance has access to a procedure, which can lead to a speedy resolution of the grievance in a fair manner.
2. Most routine complaints and grievances are best resolved informally in discussion with the immediate manager as shown in statement of employment particulars.
3. Where the grievance cannot be resolved informally it will be dealt with under the following procedure that complies with the statutory standard three-step grievance procedure.
4. The Standard Grievance Procedure

Step 1:

- i. Clerk gives written statement of grievance The Clerk must put their grievance in a written statement of grievance and send a copy to the immediate manager as shown in statement of employment particulars.

Step 2:

- i. Meeting is held and Council informs Clerk of the outcome
- ii. The Council will invite the Clerk to attend a meeting to discuss the grievance.
- iii. The meeting will only take place once they have informed the Council of the basis for the grievance they have set out a written statement, and the Council has had a reasonable opportunity to consider what response to make.
- iv. The Clerk must take all reasonable steps to attend the meeting.
- v. The Council will be the Chairman (or deputy) of the Council and one other Councillor who may be accompanied by a Human Resources Adviser.
- vi. After the meeting the Council must inform the Clerk of the decision taken in response to the grievance and notify them of their right to appeal if they are not satisfied with the Council's decision. The Clerk must appeal to complete the statutory procedure.

Step 3:

- i. **Appeal if necessary**
 - a. If the Clerk wishes to appeal they must inform the Council.
 - b. The Council will then invite the Clerk to attend another meeting.
 - c. The Clerk must take all reasonable steps to attend.
 - d. Two councillors from a neighbouring parish who have not been previously involved in the disciplinary procedure will hear the appeal.
 - e. They may be accompanied by a Human Resources Adviser.
 - f. After the meeting the Council must inform the Clerk of the panel's decision taken.

ii. The Modified Grievance Procedure

The Modified Grievance Procedure will apply in relation to the grievance only if

- The Clerk no longer works for the Council
- The Clerk has agreed with the Council in writing that it will apply
- The Clerk raised it before they left, but the standard procedure wasn't completed, or it was not raised until after the Clerk left

iii. There are two steps within the Modified Grievance Procedure:

Step 1: Clerk gives written statement of grievance

The Clerk must put their grievance in a written statement and send a copy to the Council.

Step 2: Council gives written response

The Council must write back to the Clerk giving their response to the points raised. Principles Applicable to the Standard and Modified Grievance Procedure

Protocol

1. Each step in the grievance procedure should be carried out without unreasonable delay. The times and locations of meetings should be reasonable.
2. Meetings must be conducted in a way that allows both parties to explain their case.
3. Records should be kept detailing the nature of the grievance raised, the Council's response, any action taken and the reasons for it.
4. These records should be kept confidential.
5. The Clerk has the right to be accompanied to the hearing by a Trade Union representative or a colleague.
6. There are some cases in which the statutory procedure does not have to be followed or does not have to be followed in full, for example where the grievance is about the fact the Council intends to dismiss the Clerk. In these cases, the Council will not necessarily follow the statutory procedures set out above.
7. If a Clerk wants to seek resolution of a grievance they must contact the immediate manager as shown in statement of employment particulars.
8. Abuse of this policy Any abuse in the application of this policy will be dealt with in accordance with the Council's Disciplinary Policy and Procedure and may possibly result in disciplinary action being taken, up to and including dismissal.