

Herne and Broomfield Parish Council



Disciplinary Policy

February 2026

Purpose

(This policy is based on and complies with the 2015 ACAS Code of Practice. It also takes into account the ACAS guide on discipline and grievances at work.)

The policy is designed to help Herne and Broomfield Parish Council employees to achieve and maintain high standards of conduct and to improve unsatisfactory conduct and performance. Wherever possible, the Parish Council will try to resolve its concerns about employees' behaviour informally, without starting the formal procedure set out below.

The policy will be applied fairly, consistently and in accordance with the Equality Act 2010.

Early Investigation

The Parish Council may make preliminary enquiries to establish the basic facts of what has happened to understand whether there may be a case to answer under the disciplinary procedure.

If the line manager believes there may be a disciplinary case to answer, the Parish Council may initiate a more detailed investigation undertaken to establish the facts of a situation or to establish the perspective of others who may have witnessed misconduct.

Informal Procedures

Where minor concerns about conduct become apparent, it is the line manager's responsibility to raise this with the employee and clarify the improvements required, as per the Capability Procedure in the Employees Handbook.

A file note will be made and kept by the line manager. The informal discussions are not part of the formal disciplinary procedure. If the conduct fails to improve, or if further matters of conduct become apparent, the line manager may decide to formalise the discussions and invite the employee to a disciplinary hearing.

The Parish Council recognises that misconduct and unsatisfactory work performance are different issues. The disciplinary policy will also apply to work performance issues to ensure that all alleged instances of employees' underperformance are dealt with fairly and in a way that is consistent with required standards. However, the disciplinary policy will only be used when performance management proves ineffective. For more information, see ACAS Performance Management

Examples of Unsatisfactory Work Performance

The following list contains some examples of unsatisfactory work performance (the list is not exhaustive):

- Inadequate application of management instructions/office procedures.
- Inadequate IT skills.

- Inability to work to deadlines.
- Unsatisfactory communication skills.

Informal coaching and supervision will be considered, where appropriate, to improve conduct and/or attendance.

Capability Procedure

Herne and Broomfield Parish Council recognise that during employment employee's capability to carry out their duties may deteriorate. This can be for a number of reasons, the most common ones being that either the job changes over a period of time and they fail to keep pace with the changes, or they change (most commonly because of health reasons) and they can no longer cope with the work.

Job Changes / General Capability Issues

If the nature of an employee's job changes, or if the Parish Council has general concerns about an employee's ability to perform their job, it will try to ensure that they understand the level of performance expected of them and that they receive adequate training and supervision.

Concerns regarding an employee's capability will normally first be discussed in an informal manner and they will be given time to improve.

If their standard of performance is still not adequate, they will be warned in writing that a failure to improve and to maintain the performance required could lead to their dismissal.

If such improvement is not forthcoming after a reasonable period of time, you will be dismissed with the appropriate notice.

Personal Circumstances / Health Issues

Personal circumstances may arise which do not prevent an employee from attending for work but prevent them from carrying out their normal duties (e.g. a lack of dexterity or general ill health). If such a situation arises, the Parish Council will normally need to have details of the employee's medical diagnosis and prognosis so that it has the benefit of expert advice. Under normal circumstances this can be most easily obtained by asking their own doctor for a medical report.

There may also be personal circumstances which prevent an employee from attending work, either for a prolonged period(s) or for frequent short absences. Under these circumstances the Parish Council will need to know when it can expect their attendance record to reach an acceptable level. This may again mean asking their own doctor for a medical report or by making whatever investigations are appropriate in the circumstances. When the Parish Council has obtained as much information as possible regarding the employee's condition, and after consultation with them, a decision will be made about their future employment within their current role or, where circumstances permit, in a more suitable role.

Right to Appeal

An employee has the right to lodge an appeal in respect of any capability action taken against them.

If they wish to exercise this right they should apply either verbally or in writing, normally within five working days, to their line manager.

Casual and Temporary Staff or those in their Probationary Period

The Parish Council retains discretion in respect of the capability procedures to take account the length of service and to vary the procedures accordingly. If the employee is a casual member of staff, temporarily employed or are within their probationary period, they may not be in receipt of any warnings before dismissal.

Disciplinary Principles

The Parish Council will fully investigate the facts of each case.

Employees will be informed in writing about the nature of the complaint against them and given the opportunity to state their case.

Employees may be accompanied or represented by a companion – a workplace colleague, a friend, a trade union representative or a trade union official - at any investigatory, disciplinary or appeal meeting. The companion is permitted to address such meetings, to put the employee's case and confer with the employee. The companion cannot answer questions put to the employee, address the meeting against the employee's wishes or prevent the employee from explaining their case.

If the employee's companion is not available for the proposed date of the meeting, the employee can request a postponement and can propose an alternative date that is within seven calendar days of the original meeting date, unless it is unreasonable not to propose a later date.

The Parish Council will give employees reasonable notice of any meetings in this procedure. The employee must make all reasonable efforts to attend. Failure to attend any meeting may result in it going ahead and a decision being taken in the employee's absence. An employee who does not attend a meeting will be given the opportunity to be represented and to make written submissions.

Any changes to specified time limits in the Parish Council's procedure must be agreed to by the employee and the Parish Council.

Information about an employee's disciplinary matter will be restricted to those involved in the disciplinary process. A record of the reason for disciplinary action and the action taken by the Parish Council is confidential to the employee. The employee's disciplinary records will be held by the Parish Council in accordance with the General Data Protection Regulation (GDPR).

Audio or video recordings of the proceedings at any stage of the disciplinary procedure are prohibited, unless agreed by all affected parties as a reasonable adjustment that takes account of an employee's medical condition.

If an employee who is already subject to the Parish Council's disciplinary procedure raises a grievance, the grievance will normally be heard after the completion of the disciplinary procedure.

The Parish Council may consider mediation at any stage of the disciplinary procedure where appropriate (for example, where there have been communication breakdowns or allegations of bullying or harassment). Mediation is a dispute resolution process that requires the consent of affected parties.

If an employee is charged or convicted of a criminal offence this does not automatically give rise to a disciplinary situation. Consideration needs to be given on how a charge, or

conviction may affect an employee's ability to undertake their duties and their relationships with employer and colleagues or if it brings the Parish Council into disrepute.

All disciplinary or capability procedures will be carried out in full consultation with the Parish Council's human resources advisors.

Disciplinary Investigation

A formal disciplinary investigation may sometimes be required to establish the facts and whether there is a disciplinary case to answer.

If a formal disciplinary investigation is required, the Parish Council's Finance & Resources Committee will appoint an Investigator who will be responsible for undertaking a fact-finding exercise to collect all relevant information. The Investigator will be independent and will normally be a Councillor.

If the Finance & Resources Committee considers that there are no Councillors who are independent (for example, because they all have direct involvement in the allegations about the employee), it will appoint someone from outside the Parish Council. The Investigator will be appointed as soon as possible after the allegations have been made. This will be done in consultation with the Parish Council's human resource advisors.

The Finance & Resources Committee will inform the Investigator of the terms of reference for the investigation.

The terms of reference should specify:

- The allegations or events that the investigation is required to examine.
- Whether a recommendation is required
- How the findings should be presented. For example, an Investigator will often be required to present the findings in the form of a written report.
- Who the findings should be reported to and who to contact for further direction if unexpected issues arise or advice is needed.

The Investigator will be asked to submit their findings, usually within thirty-five calendar days of appointment, where possible. In cases of alleged unsatisfactory performance or of allegations of minor misconduct, the appointment of an Investigator may not be necessary, and the Parish Council may decide to commence disciplinary proceedings at the next stage - the disciplinary meeting.

The Finance & Resources Committee will notify the employee in writing of the alleged misconduct and details of the person undertaking the investigation. The employee may be asked to meet an Investigator as part of the disciplinary investigation. The employee will be given sufficient notice of the meeting with the Investigator so that they have a reasonable time to prepare for it. The letter will explain the investigation process and that the meeting is part of that process. The employee will be provided with a copy of the Parish Council's disciplinary procedure. The Parish Council will also inform the employee that when they meet with the Investigator, they will have the opportunity to comment on the allegations of misconduct.

Employees may be accompanied or represented by a workplace colleague, a friend, a trade union representative or a trade union official at any investigatory meeting.

If there are other persons (e.g. employees, Councillors, members of the public or the Parish Council's contractors) who can provide relevant information, the Investigator should try to obtain it from them in advance of the meeting with the employee.

The Investigator has no authority to take disciplinary action. Their role is to establish the facts of the case as quickly as possible and prepare a report that recommends to the Finance & Resources Committee whether disciplinary action should be considered under the policy.

The Investigator's report will contain their recommendations and the findings on which they were based. They will recommend either:

- The employee has no case to answer, and there should be no further action under the Parish Council's disciplinary procedure.
- The matter is not serious enough to justify further use of the disciplinary procedure and can be dealt with informally.
- The employee has a case to answer, and a formal hearing should be convened under the Parish Council's disciplinary procedure.

The Investigator will submit the report to the Finance & Resources Committee, which will decide whether there is a case to answer; the matter should be considered informally, or a formal Disciplinary Hearing should be convened. If the Investigator is a member of the Committee making the decision, they should remove themselves from any formal votes or decision-making regarding their findings as to whether there is a case to answer at a Disciplinary Hearing.

If the Parish Council decides that it will not take disciplinary action, it may consider whether mediation would be appropriate in the circumstances.

Suspension

If allegations of gross misconduct or serious misconduct are made, the Parish Council may suspend the employee while further investigations are carried out. Suspension will be on full pay. Suspension does not imply any determination of guilt or innocence, as it is merely a measure to enable further investigation.

While on suspension, the employee is required to be available during normal hours of work if the Parish Council needs to make contact. The employee must not contact or attempt to contact or influence anyone connected with the investigation in any way or discuss this matter with any other employee or Councillor.

The employee must not attend work. The Parish Council will make arrangements for the employee to access any information or documents required to respond to any allegations, which may have names and personal details (such as telephone numbers and addresses) redacted to protect witnesses.

Suspension is not a disciplinary sanction.

Examples of Misconduct

Misconduct is employee behaviour that can lead to the employer taking disciplinary action. The following list contains some examples of misconduct (the list is not exhaustive):

- Unauthorised absence.
- Poor timekeeping.
- Misuse of the Parish Council's resources and facilities, including telephone, email and internet.
- Inappropriate behaviour.
- Refusal to follow reasonable instructions.
- Breach of health and safety rules.

Persistent or frequent absence on medical grounds and long-term sickness is included in the Sickness and Pay Policy.

Examples of Gross Misconduct

Gross misconduct is so serious that it is likely to lead to dismissal without notice. The following list contains some examples of gross misconduct (the list is not exhaustive):

- Bullying, discrimination, and harassment.
- Incapacity at work because of alcohol or drugs.
- Violent behaviour.
- Fraud or theft.
- Gross negligence.
- Serious breaches of Parish Council's policies and procedures, e.g. the Health and Safety Policy, Equality and Diversity Policy, Data Protection Policy and any policies regarding the use of information technology.
- Serious and deliberate damage to property.
- Use of the internet or email to access pornographic, obscene or offensive material.
- Disclosure of confidential information.

The Disciplinary Hearing

If the Finance & Resources Committee decides that there is a case to answer, it will appoint a Finance & Resources sub-committee of three councillors to formally hear the allegations. The Finance & Resources sub-committee will appoint a Chair from one of its members. The Investigator shall not sit on the sub-committee. The Finance & Resources sub-committee will be given the delegated authority to make a decision in relation to the Disciplinary, in consultation with the Parish Council's human resource advisors.

Employees will be provided, where appropriate, with written copies of evidence and relevant witness statements (with any personal information such as telephone numbers and addresses redacted) in advance of a disciplinary hearing.

No Parish Councillor with direct involvement in the matter shall be appointed to the sub-committee. The employee will be invited, in writing, to attend a disciplinary meeting.

The sub-committee's letter will confirm the following:

- The names of its Chair and the other two members.
- Details of the alleged misconduct, its possible consequences and the employee's statutory right to be accompanied at the meeting.

- A copy of the information provided to the sub-committee, which may include the investigation report, supporting evidence and a copy of the Parish Council's disciplinary procedure (with personal details redacted – such as home address or telephone numbers - to protect any witness).
- The time and place for the meeting. The employee will be given reasonable notice of the hearing so that they have sufficient time to prepare for it. (At least five working days).
- Whether witnesses may attend on the employee's and the Parish Council's behalf, and if they may, both parties should inform each other of their witnesses' names at least two working days before the meeting.
- The employee may be accompanied by a companion - a workplace colleague, a friend, a trade union representative or a trade union official.

The purpose of the disciplinary meeting hearing is for the allegations to be put to the employee and then for the employee to give their perspective.

It will be conducted as follows:

- The Chair will introduce the members of the sub-committee to the employee and explain the arrangements for the hearing. A note taker will be present in addition to the Committee to record an accurate account of the hearing. In some cases, a member of the Parish Council's human resource advisors may be present.
- The Chair will set out the allegations and invite the Investigator to present the findings of the investigation report (if there has been a previous investigation).
- The Chair will invite the employee to present their account.
- The employee (or the companion) will set out their case and present evidence (including any witnesses and/or witness statements).
- Any member of the sub-committee and the employee (or the companion) may question the Investigator and any witness.
- The employee (or companion) will have the opportunity to sum up.

The Chair will provide the employee with the sub-committee's decision with reasons, in writing, within seven calendar days of the meeting. The Chair will also notify the employee of the right to appeal the decision if formal action is taken.

The disciplinary meeting may be adjourned to allow matters that were raised during the meeting to be further investigated by the sub-committee.

Disciplinary Action

If the sub-committee decides that there should be disciplinary action, it may be any of the following:

First written warning:

If the employee's conduct has fallen below acceptable standards, a first written warning will be issued. A first written warning will set out:

- The reason for the written warning, the improvement required (if appropriate) and the time period for improvement.

- That further misconduct/failure to improve will result in more serious disciplinary action.
- The employee's right of appeal.
- That a note confirming the written warning will be placed on the employee's personnel file, that a copy will be provided to the employee, and that the warning will remain in force for a specified period of time (e.g. twelve months).

Final written warning:

If the offence is sufficiently serious, or if there is further misconduct or a failure to improve sufficiently during the currency of a prior warning, the employee will be given a final written warning. A final written warning will set out:

- The reason for the final written warning, the improvement required (if appropriate) and the time period for improvement.
- That further misconduct/failure to improve will result in more serious disciplinary action up to and including dismissal.
- The employee's right of appeal.
- That a note confirming the final written warning will be placed on the employee's personnel file, that a copy will be provided to the employee, and that the warning will remain in force for a specified period of time (e.g. twelve months).

Dismissal:

The Parish Council may dismiss:

- For gross misconduct.
- If there is no improvement within the specified time period for the conduct, which has been the subject of a final written warning.
- If another instance of misconduct occurs and a final written warning has already been issued and remains in force.

The Parish Council will consider very carefully a decision to dismiss. If an employee is dismissed, they will receive a written statement of the reasons for their dismissal, the date on which the employment will end and details of their right of appeal.

If the sub-committee decides to take no disciplinary action, no record of the matter will be retained on the employee's personnel file.

Action taken because of the disciplinary meeting will remain in force unless it is modified as a result of an appeal.

Except for gross misconduct, when an employee may be dismissed without notice, the Parish Council will not dismiss an employee on the first occasion that it decides there has been misconduct.

Right of Appeal

The appeal:

An employee who is the subject of disciplinary action will be notified of the right of appeal. Their written notice of appeal must be received by the Parish Council within seven calendar days of the employee receiving written notice of the disciplinary action and must specify the grounds for appeal.

The grounds for appeal include:

- A failure by the Parish Council to follow its disciplinary policy.
- The Finance & Resources Committee did not support the sub-committee's disciplinary decision.
- The disciplinary action was too severe in the circumstances of the case.
- New evidence has come to light since the disciplinary meeting.

Where possible, the appeal will be heard by a panel of 3 members of the Finance & Resources Committee who have not previously been involved in the case, and the Investigator. There may be insufficient members of the Finance & Resources Committee who have not previously been involved. If so, the appeal panel will be a committee of three members of the Parish Council who may include members of the Finance & Resources Committee. The appeal panel will appoint a Chair from one of its members.

The employee will be notified, in writing, within fourteen calendar days of receipt of the notice of appeal of the time, date and place of the appeal meeting. The employee will be advised that they may be accompanied by a companion - a workplace colleague, a friend, a trade union representative or a trade union official.

At the appeal meeting, the Chair will:

- Introduce the panel members to the employee.
- Explain the purpose of the meeting, which is to hear the employee's reasons for appealing against the disciplinary decision.
- Explain the action that the appeal panel may take.

The employee (or companion) will be asked to explain the grounds for appeal.

The Chair will inform the employee that they will receive the decision and the panel's reasons, in writing, usually within five working days of the appeal hearing.

The appeal panel may decide to uphold the disciplinary decision of the Finance & Resources Committee, substitute a less serious sanction or decide that no disciplinary action is necessary. If it decides to take no disciplinary action, no record of the matter will be retained in the employee's personnel file.

If an appeal against dismissal is upheld, the employee will be paid in full for the period from the date of dismissal and continuity of service will be preserved.

The appeal panel's decision is final.

Casual and Temporary Staff or those in their Probationary Period

The Parish Council retains discretion in respect of the capability procedures to take account of your length of service and to vary the procedures accordingly. If you are a casual staff member, temporarily employed or are within your probationary period, you may not be in receipt of any warnings before dismissal.

The Procedure Flow Chart

Alleged incident occurs



Parish Clerk will decide if there is a disciplinary case to answer

If not, the matter is closed. If they believe there is a case to answer the matter is referred to the Parish Council who will organise a meeting of the Finance & Resources Committee. They will appoint an Investigator and liaise with the Parish Council's human resources provider.



Investigation letter issued

The letter will state:

- The allegation(s).
- The Investigator's name, job title and contact details.
- Any suspension or working restrictions.



Investigation

The employee will be asked for their perspective / version of events by either an investigation meeting or via a written statement. All other relevant witness statements and / or documentation or evidence will be gathered. A report will be compiled and forwarded to the Finance & Resources Committee to decide whether a hearing is necessary, within thirty-five calendar days.



Committee role

Once the Investigator has completed their investigation, the findings will be passed to the Finance & Resources Committee for review. The Committee will carefully consider the information provided and determine the appropriate next steps.

These may include:

- No further action.
- A decision to reset expectations.
- Mediation.
- Proceed to formal disciplinary hearing.



Employee is sent an invite to a disciplinary hearing letter

The letter will explain:

- The allegation(s).
- The date, time and location of the hearing (at least five working days' notice will be given).
- Who will be present.
- The right to be accompanied at the hearing by a work colleague, friend, trade union representative or trade union official.

- Any additional arrangements.
- The potential outcomes.
- Copies of the Investigators report, and all documents, evidence and statements that will be referred to in the disciplinary hearing.



The disciplinary hearing

A sub-committee made up of three members of the Finance & Resources Committee (not including the Investigator) will conduct the hearing. They will appoint a Chair from one of its members. A note taker will be present to record the meeting, and in some cases the Parish Council's human resources advisor.

The Chair will introduce the members of the hearing and explain their role. They will then detail the allegation(s) to all those in attendance, listen to the Investigators report and go through all the evidence.

The employee will be given the opportunity to respond in full, ask questions and present any evidence. Any witness's names must be exchanged at least two days before the hearing. (Both employees and Parish Council).

The hearing panel (the sub-committee three members) will adjourn at the end to consider their decision. Where possible the outcome will be given the same day. Where this is not possible, for example, the sub-committee require further time to consider their decision or conduct further investigation, the employee will be informed.

The employee will be informed of the decision within seven calendar days of the hearing verbally (either in person or by telephone) and then confirmed in writing.



Potential outcomes

1. First written warning.
2. Final written warning.
3. Dismissal. (with or without notice / pay in lieu of notice)
4. No further action.

First written warning or final written warning, outcome letter will advise:

- The nature of the misconduct (including any prior warnings that have been taken into account).
- The action or improvement required.
- The time scale for implementing the change.
- That this is either the first or final written warning, and the next stage will be either a final written warning or dismissal if there is no change or improvement, or there is another allegation resulting in a hearing.
- The warning will remain live for a period of twelve months.
- Whilst the warning will not be active after twelve months in relation to future disciplinary matters, a record of what has occurred will be kept and may be referred to.
- The right to appeal.

Dismissal outcome letter will advise:

- The nature of misconduct.
- The reasons for dismissal.

- Any prior warnings that have been taken into account, if appropriate.
- The date on which employment has ended or will end.
- The right to appeal.