HOLBROOK PARISH COUNCIL
DISCIPLINE POLICY

POLICY STATEMENT

1) The aims of this Disciplinary Procedure and its associated Disciplinary Rules are to set out the standards of conduct expected of all staff and to provide a framework within which managers can work with employees to maintain satisfactory standards of conduct and to encourage improvement where necessary. The standards of conduct expected of all employees are set out in the Disciplinary Rules which are appended to this procedure.

2) It is the Council's policy to ensure that any disciplinary matter is dealt with fairly and that steps are taken to establish the facts and to give employees the opportunity to respond before taking any formal action. The Council would wish to deal with any issues at the earliest opportunity and in an informal manner wherever possible.

3) This procedure does not form part of any employee's contract of employment and it may be amended at any time. The Council may also vary this procedure, including any time limits, as appropriate in any case.

WHO IS COVERED BY THE PROCEDURE?

4) The procedure applies to all employees regardless of length of service. It does not apply to agency workers or self-employed contractors.

WHAT IS COVERED BY THE PROCEDURE?

5) This procedure is used to deal with misconduct. It does not apply to cases involving genuine sickness absence, proposed redundancies or poor performance. In those cases, reference should be made to the appropriate policy or procedure.

6) Minor conduct issues can often be resolved informally between the employee and the Chairperson. These discussions should be held in private and without undue delay whenever there is cause for concern. Where appropriate, a note of any such informal discussions may be placed on the employee's personnel file but will be ignored for the purposes of any future capability hearings. In some cases, an informal verbal warning may be given, which will not form part of the employee's disciplinary records. Formal steps will be taken under this procedure if the matter is not resolved, or if informal discussion is not appropriate (for example, because of the seriousness of the allegation).

7) The employee will not normally be dismissed for a first act of misconduct, unless the Council decide it amounts to gross misconduct or the employee has not yet completed the employee's probationary period.

8) If the employee has difficulty at any stage of the procedure because of a disability, the employee should discuss the situation with the Chairperson as soon as possible.

CONFIDENTIALITY

9) The Council's aim is to deal with disciplinary matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.

10) The employee, and anyone accompanying the employee (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this procedure.

11) The employee will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against the employee, unless the Council believe that a witness's identity should remain confidential.

INVESTIGATIONS

12) The purpose of an investigation is for the Council 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 Council will appoint the Chairperson/Vice Chairperson or members of the Council to investigate and the Council will set out a provisional timetable for the investigation, which will be communicated to all parties. The investigation will be thorough, impartial and objective. The Council reserve the ability to appoint an independent third party to investigate the allegations made.

13) 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.

14) The employee does not normally have the right to bring a companion to an investigative interview. However, the Council may allow the employee to bring a companion if it helps the employee to overcome any disability, or any difficulty in understanding English.

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

CRIMINAL CHARGES

16) Where the employee's conduct is the subject of a criminal investigation, charge or conviction the Council will investigate the facts before deciding whether to take formal disciplinary action.

17) The Council will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where the employee is unable or has been advised not to attend a disciplinary hearing or say anything about a pending criminal matter, the Council may have to take a decision based on the available evidence.

18) A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if the Council consider that it is relevant to the employee's employment.

SUSPENSION

19) In some circumstances the Council may need to suspend the employee from work. The suspension will be for no longer than is necessary to investigate the allegations and the Council will confirm the arrangements to the employee in writing. While suspended the employee should not visit the Council's premises or contact any of the Council's suppliers, contractors or staff, unless the employee has been authorised to do so by the Chairperson or Vice Chairperson.

20) Suspension of this kind is not a disciplinary penalty and does not imply that any decision has already been made about the allegations. The employee will continue to receive the employee's full basic salary and benefits during the period of suspension.

NOTIFICATION OF A HEARING

21) Following any investigation, if the Council consider there are grounds for disciplinary action, the employee will be required to attend a disciplinary hearing. The Council will inform the employee in writing of the allegations against the employee, the basis for those allegations, and what the likely range of consequences will be if the Council decide after the hearing that the allegations are true.

22) The Council will also include the following where appropriate:
    (a) a summary of relevant information gathered during the investigation;
    (b) a copy of any relevant documents which will be used at the disciplinary hearing; and
    (c) a copy of any relevant witness statements, except where a witness's identity is to be kept confidential, in which case the Council will give the employee as much information as possible while maintaining confidentiality.

23) The Council will give the employee written notice of the date, time and place of the disciplinary hearing. The hearing will be held as soon as reasonably practicable, but the employee will be given a reasonable amount of time to prepare the employee's case based on the information the Council have given the employee.

THE RIGHT TO BE ACCOMPANIED

24) The employee may bring a companion to any disciplinary hearing or appeal hearing under this procedure. The companion may be either a trade union representative or a colleague. The employee must tell the Chairperson/Vice Chairperson who the employee's chosen companion is, in good time before the hearing.

25) A companion who works for the Parish Council 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.

26) If the employee's choice of companion is unreasonable the Council may require the employee to choose someone else, for example: (a) if in the Council's opinion the employee's companion may have a conflict of interest or may prejudice the hearing; or (b) if the employee's companion is unavailable at the time a hearing is scheduled and will not be available for more than five working days.

27) The Council may, at the Council's discretion, allow the employee to bring a companion who is not a colleague or union representative (for example, a member of the employee's family) where this will help overcome a disability, or where the employee has difficulty understanding English.

PROCEDURE AT DISCIPLINARY HEARINGS

28) If the employee or the employee's companion cannot attend the hearing the employee should inform the Council immediately and the Council will arrange an alternative time. The employee must make every effort to attend the hearing, 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 Council may have to take a decision based on the available evidence.

29) The hearing will be chaired by the Chairperson/Vice Chairperson or a member of the Council. The employee may bring a companion to the disciplinary hearing (see above).

30) At the disciplinary hearing the Council 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 the employee's own. The employee's companion may make representations to the Council and ask questions but should not answer questions on the employee's behalf. The employee may confer privately with the employee's companion at any time during the hearing.

31) The employee may ask relevant witnesses to appear at the hearing, provided the employee gives the Council sufficient advance notice to arrange their attendance. The employee will be given the opportunity to respond to any information given by a witness. However, the employee will not normally be permitted to cross-examine witnesses unless, in exceptional circumstances, the Council decide that a fair hearing could not be held otherwise.

32) The Council may adjourn the disciplinary hearing if the Council need 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.

33) The Council will inform the employee in writing of the Council's decision and the Council's reasons for it. Where possible the Council will also explain this information to the employee in person.

DISCIPLINARY PENALTIES

34) The usual penalties for misconduct are set out below. No penalty should be imposed without a hearing. The Council aim to treat all employees fairly and consistently, and a penalty imposed on another employee for similar misconduct will usually be considered but should not be treated as a precedent. Each case will be assessed on its own merits.

35) Stage 1 - First written warning. It will usually be appropriate for a first act of misconduct where there are no other active written warnings on the employee's disciplinary record.

36) Stage 2 - Final written warning. It will usually be appropriate for: (a) misconduct where there is already an active written warning on the employee's record; or (b) misconduct that the Council consider sufficiently serious to warrant a final written warning even though there are no other active warnings on the employee's record.

37) Stage 3 - Dismissal. It will usually only be appropriate for: (a) any misconduct during the employee's probationary period; (b) further misconduct where there is an active final written warning on the employee's record; or (c) any gross misconduct regardless of whether there are active warnings on the employee's record.

38) Gross misconduct will usually result in immediate dismissal without notice or payment in lieu of notice (summary dismissal). Examples of gross misconduct are set out in the Council's Disciplinary Rules.

39) Alternatives to dismissal: In some cases, the Council may at the Council's discretion consider alternatives to dismissal. These will usually be accompanied by a final written warning. Examples include: (a) A period of suspension without pay. (b) Retake training as required. (c) Loss of future pay increment.

THE EFFECT OF A WARNING

40) Written warnings will set out the nature of the misconduct, the change in behaviour required, the period for which the warning will remain active, and the likely consequences of further misconduct in that active period.

41) A first written warning will usually remain active for six months and a final written warning will usually remain active for 12 months. The employee's conduct may be reviewed at the end of a warning's active period and if it has not improved sufficiently, the Council may decide to extend the active period.

42) After the active period, the warning will remain permanently on the employee's personnel file but will be disregarded in deciding the outcome of future disciplinary proceedings.

APPEALS AGAINST DISCIPLINARY ACTION

43) If the employee feels that disciplinary action taken against them is wrong or unjust the employee should appeal in writing, stating the employee's full grounds of appeal, to the Chairperson and/or Vice Chairperson, within one week of the date on which the employee was informed of the decision.

44) If the employee is appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if the employee's appeal is successful, the employee will be reinstated with no loss of continuity or pay.

45) If the employee raises any new matters in the employee's appeal, the Council may need to carry out further investigation. If any new information comes to light, the Council 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, and the employee or the employee's companion may comment on any new evidence arising during the appeal before any decision is taken.

46) The Council will give the employee written notice of the date, time and place of the appeal hearing.

47) The appeal hearing may be a complete re-hearing of the matter or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light. This will be at the Council's discretion depending on the circumstances of the employee's case. In any event the appeal will be dealt with as impartially as possible.

48) Where possible, the appeal hearing will be conducted impartially by councillors forming an Appeals Committee who have not been previously involved in the case. The employee may bring a companion with them to the appeal hearing (see above).

49) The Council may adjourn the appeal hearing if the Council need to carry out any further investigations 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.

50) Following the appeal hearing the Council may: (a) confirm the original decision; (b) revoke the original decision; or (c) substitute a different penalty.

51) The Council will inform the employee in writing of the Council's final decision as soon as possible. Where possible the Council will also explain this to the employee in person. There will be no further right of appeal.

DISCIPLINARY RULES:

These Disciplinary Rules should be read in conjunction with the Council's Disciplinary Procedure.

The aim of the Disciplinary Rules and Disciplinary Procedure is to set out the standards of conduct expected of all staff and to provide a framework within which managers can work with staff to maintain those standards and encourage improvement where necessary.

It is the Council's policy to ensure that any disciplinary matter is dealt with fairly and in accordance with the Disciplinary Procedure.

If the employee is in any doubt as to the employee's responsibilities or the standards of conduct expected the employee should speak to the employee's line manager or chairperson.

These rules do not form part of any employee's contract of employment and may be amended at any time.

RULES OF CONDUCT

While working for the Council the employee should at all times maintain professional and responsible standards of conduct. In particular the employee should:

(a) Observe the terms and conditions of the employee's contract, particularly with regard to: (i) hours of work; (ii) Confidentiality;

(b) Observe all the Council's policies, procedures and regulations notified to the employee from time to time;

(c) Take reasonable care in respect of the health and safety of colleagues and third parties [and comply with the Council's Health and Safety Policy;

(d) Comply with all reasonable instructions/resolutions from the Council

(e) Act at all times in good faith and in the Council's best interests and those of the Council's staff.

Failure to maintain satisfactory standards of conduct may result in action being taken under the Council's Disciplinary Procedure.

MISCONDUCT

The following are examples of matters that will normally be regarded as misconduct and will be dealt with under the Council's Disciplinary Procedure:

(a) Minor breaches of the Council's policies;

(b) Minor breaches of the employee's contract;

(c) Damage to, or unauthorised use of, the Council's property;

(d) Poor timekeeping;

(e) Refusal to follow the instructions of the Council;

(h) Obscene language or other offensive behaviour whilst working for or representing the council

(i) Negligence in the performance of the employee's duties

This list is intended as a guide and is not exhaustive.

GROSS MISCONDUCT

Gross misconduct is a serious breach of contract and includes misconduct which, in the Council's opinion, is likely to prejudice the Council's business or reputation or irreparably damage the

working relationship and trust between the Council and the employee. Gross misconduct will be dealt with under the Council's Disciplinary Procedure and will normally lead to dismissal without notice or pay in lieu of notice (summary dismissal).

The following are examples of matters that are normally regarded as gross misconduct:
(a) Theft or fraud;
(b) Physical violence or bullying;
(c) Deliberate and serious damage to property;
(d) Serious misuse of the Council's property or name;
(e) Deliberately accessing internet sites containing pornographic, offensive or obscene material;
(f) Unlawful discrimination or harassment;
(g) Bringing the organisation into serious disrepute;
(h) Being under the influence of alcohol, illegal drugs or other substances during working hours
(i) Causing loss, damage or injury through serious negligence;
(j) Serious breach of health and safety rules;
(k) Serious breach of confidence;
(l) Accepting or offering a bribe or other secret payment;
(m) Conviction for a criminal offence that in the Council's opinion may affect the Council's reputation or the Council's relationships with the Council's staff, customers or the public, or otherwise affects the employee's suitability to continue to work for the Council;
(n) Possession, use, supply or attempted supply of illegal drugs;
(o) Serious neglect of duties, or a serious or deliberate breach of the employee's contract or operating procedures;
(p) A deliberate breach of statutory rules affecting the employee's work;
(q) Unauthorised use, processing or disclosure of personal data contrary to the Council's Data Protection Policy;
(r) Harassment of, or discrimination against, employees, contractors, clients or members of the public, related to gender, marital or civil partner status, gender reassignment, race, colour, nationality, ethnic or national origin, disability, religion or belief, or age;
(s) Refusal to disclose any of the information required by the employee's employment or any other information that may have a bearing on the performance of the employee's duties;
(t) Giving false information as to qualifications or entitlement to work (including immigration status) in order to gain employment or other benefits;
(u) Knowingly taking parental, paternity or adoption leave when not eligible to do so or for a purpose other than supporting a child;
(v) Making untrue allegations in bad faith against a colleague.

This list is intended as a guide and is not exhaustive.