



Disciplinary, Capability & Grievance Policy and Procedures

Adopted 13th March 2014 – Updated February 2026

Reviewed Annually.

INTRODUCTION

- 1 This policy is based on and complies with the current ACAS Code of Practice (2015 and subsequent revisions). It is designed to help employees improve unsatisfactory conduct or performance. The Council will seek to resolve concerns informally wherever possible.
- 2 The policy will be applied fairly, consistently and in accordance with the Equality Act 2010.
- 3 The Council confirms:
 - All cases will be fully investigated.
 - Misconduct and performance are treated differently, but the disciplinary procedure may apply where performance management does not lead to improvement.
 - Employees will receive written notification of allegation and the opportunity to state their case.
 - Employees may be accompanied or represented by a trade union representative or a work colleague.
 - Reasonable notice of meetings will be given.
 - If a companion is unavailable, employees may request a postponement within five working days, any changes to must be agreed by the employee and the Council
 - Confidentiality will be maintained in line with the UK GDPR (2018) and the Data Protection Act 2018.
 - No audio recordings are permitted unless this is a reasonable adjustment.
 - Employees have the right to appeal. The appeal decision is final.
 - Disciplinary sanctions may include oral warning, written warning, final written warning or dismissal.
 - Except for gross misconduct when an employee may be dismissed without notice, the Council will not dismiss an employee on the first occasion that it decides there has been misconduct.
 - Suspension (on full pay) may be used where necessary but is not a disciplinary sanction.
 - Mediation may be considered at any stage.



Examples of misconduct

- 4 Misconduct is employee behaviour that can lead to the employer taking disciplinary action. The following list contains some examples of misconduct.
- unauthorised absence
 - poor timekeeping
 - misuse of the Council's resources and facilities including telephone, email and internet
 - inappropriate behaviour
 - refusal to follow reasonable instructions
 - breach of health and safety rules.

Examples of gross misconduct

- 5 Gross misconduct is misconduct that is so serious that it is likely to lead to dismissal without notice. The following list contains some examples of gross misconduct.
- bullying, discrimination and harassment
 - incapacity at work because of alcohol or drugs
 - violent behaviour
 - fraud or theft
 - gross negligence
 - gross insubordination
 - serious breaches of health and safety rules
 - serious and deliberate damage to property
 - use of the internet or email to access pornographic, obscene or offensive material
 - disclosure of confidential information.

Examples of unsatisfactory work performance – Capability Procedure

- inadequate application of office procedures
- inadequate IT skills
- unsatisfactory management of staff
- unsatisfactory communication skills.



CAPABILITY PROCEDURE

The Capability Procedure is distinct from the disciplinary process and is used where an employee is not meeting required performance standards, despite informal support.

1. Principles

- Capability concerns relate to skills, competence, or ability, not conduct.
- Capability will be considered before disciplinary action in all appropriate cases.
- Supportive, reasonable adjustments must be considered where health or disability impacts performance.
- Regular reviews and fair timescales must be provided.

2. Stages of the Capability Procedure

Stage 1: Informal Capability Discussion

- Manager outlines concerns and expected standards.
- Employee given opportunity to provide context and identify support needs.
- A Supportive Capability Assessment and Improvement Plan is initiated.
- Review period of 4–8 weeks.

Stage 2: Formal Capability Meeting

If performance does not improve:

- Written invitation issued.
- Right to be accompanied applies.
- Evidence reviewed.
- Potential outcomes:
 - Extension of the plan
 - Adjustments or training
 - Redeployment
 - Formal warning

Stage 3: Final Capability Hearing

If improvement remains insufficient:

- Formal hearing before a panel.
- Outcomes may include final written warning, redeployment, or dismissal with notice.

Right of Appeal:

Employees may appeal decisions at Stages 2 or 3.

SUPPORTIVE CAPABILITY ASSESSMENT AND IMPROVEMENT PLAN

1. Assessment Components

- Specific concerns and examples
- Required standards and gaps
- Employee's perspective
- Contributing factors



- Reasonable adjustments
- Required resources and training

2. Improvement Plan Structure

- Clear and measurable objectives
- Support actions
- Employee responsibilities
- Training or coaching
- Review schedule
- Success criteria
- Potential consequences

3. Monitoring and Review

- Documented reviews every 2–3 weeks
- Adjustments as appropriate
- End-of-period decision

DISCIPLINARY INVESTIGATION PROCEDURE

1. There will be an investigation of the facts. The council's Personnel Committee will appoint an Investigator who will be responsible for undertaking the disciplinary investigation. The Investigator will be independent and will normally be a councillor. If the Personnel 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 council. The Investigator will be appointed as soon as possible after the allegations have been made. The Investigator will be asked to submit a report within 20 working days of appointment. In cases of alleged unsatisfactory performance or of allegations of minor misconduct, the appointment of an investigator may not be necessary and the council may decide to commence disciplinary proceedings at the next stage.
2. The personnel committee will first notify the employee in writing of the alleged misconduct and ask him/her to attend a meeting with the Investigator. The employee will be given at least five working days' notice of the meeting with the Investigator so that he/she has reasonable time to prepare for it. The letter will explain the investigatory process and that the meeting is part of that process. The employee should be provided with a copy of the Council's disciplinary procedure. The Council will also inform the employee that when he/she meets with the Investigator, he/she will have the opportunity to comment on the allegations of misconduct.
3. Employees may be accompanied or represented by a trade union representative or a work colleague at any investigatory meeting.



4. If there are other persons (eg employees, councillors, members of the public or the 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.
5. 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 personnel committee whether or not disciplinary action should be taken.
6. 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 Council's disciplinary procedure
 - the matter is not serious enough to justify further use of the disciplinary procedure and can be dealt with informally or
 - the employee has a case to answer and there should be action under the Council's disciplinary procedure.
7. The Investigator will submit the report to the personnel committee which will decide whether further action will be taken.

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

The disciplinary meeting

1. If the personnel committee decides that there is a case to answer, it will appoint a Personnel sub-committee of three councillors. The Personnel sub-committee will appoint a Chair from one of its members. The Investigator shall not sit on the sub-committee. No 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 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 investigation report, all the supporting evidence and a copy of the Council's disciplinary procedure
 - the time and place for the meeting. The employee will be given reasonable notice of the hearing (at least 15 working days) so that they have sufficient time to prepare for it



- that witnesses may attend on the employee's and the Council's behalf and that both parties should inform each other of their witnesses' names at least five working days before the meeting
- that the employee and the Council will provide each other with all supporting evidence at least five working days before the meeting. If witnesses are not attending the meeting, witness statements will be submitted to the other side at least five working days before the hearing
- that the employee may be accompanied by a companion, either a trade union representative or a work colleague.

2. The disciplinary meeting will be conducted as follows:

- the Chair will introduce the members of the sub-committee to the employee
- the investigator will present the findings of the investigation report
- the Chair will set out the council's case and present supporting evidence (including any witnesses)
- the employee (or the companion) will set out their case and present evidence (including any witnesses)
- any member of the sub-committee and the employee (or the companion) may question the Investigator and any witness
- the employee (or the companion) will have the opportunity to sum up their case
- the Chair will provide the employee with the sub-committee's decision with reasons, in writing, within five working days of the meeting. The Chair will also notify the employee of the right to appeal the decision
- the disciplinary meeting may be adjourned to allow matters that were raised during the meeting to be 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:

Oral warning

An oral warning is issued for most first instances of minor misconduct. The council will notify the employee:

- of the reason for the 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



- of the right to appeal
- that a note confirming the oral 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 six months.

Written warning

If there is a repetition of earlier misconduct which resulted in an oral warning, or for different and more serious misconduct, the employee will normally be given a written warning. A 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 12 months.

Final written warning

If there is further misconduct during the period of a written warning or if the misconduct is sufficiently serious, 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 18 months.

Dismissal

The council may dismiss:

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



The council will consider very carefully a decision to dismiss. If an employee is dismissed, he/she will receive a written statement of the reasons for his/her dismissal, the date on which the employment will end and details of his/her 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 imposed as a result of the disciplinary meeting will remain in force unless and until it is modified as a result of an 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 Council within five working 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 Council to follow its disciplinary policy
- the sub-committee's decision was not supported by the evidence
- the disciplinary action was too severe in the circumstances of the case
- new evidence has come to light since the disciplinary meeting.

The Appeal will be heard by a panel of three members of the Council who have not previously been involved in the case, this may include members of the personnel committee. These members will be selected by the personnel committee and will additionally include the Investigator. The appeal panel will appoint a Chair from one of its members.

The employee will be notified, in writing, within 10 working 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, either a trade union representative or a work colleague.

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 decision of the staffing sub-committee
- explain the action that the appeal panel may take.



The employee (or their 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, within five working days of the appeal hearing.

The appeal panel may decide to uphold the decision of the Personnel 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 on 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.

GRIEVANCE POLICY

Introduction

1. This policy is based on and complies with the current ACAS Code of Practice (2015 and subsequent revisions). It aims to encourage and maintain good relationships between the Council and its employees by treating grievances seriously and resolving them as quickly as possible. It sets out the arrangements for employees to raise their concerns, problems or complaints about their employment with the Council. The policy will be applied fairly, consistently and in accordance with the Equality Act 2010.
2. Employees should aim to settle most grievances informally with their line manager.
3. This policy confirms:
 - employees have the right to be accompanied or represented at a grievance meeting or appeal by a trade union representative or work colleague. The companion may address the meetings, present the employee's case and to confer with the employee, but cannot answer questions on the employees behalf, act against the employee's wishes or prevent the employee from explaining their case.
 - The Council will give employees reasonable notice of the grievance/appeal meetings. Employees and companions must make all reasonable efforts to attend. If a companion is unavailable the employee can request a postponement and can propose an alternative date that is within five working days of the original meeting .
 - Any changes to specified time limits must be agreed by the employee and the Council



- Employees have the right to appeal against the decision regarding their grievance. The appeal decision is final.
- Information about an employee's grievance will be restricted to those directly involved in the process. Records of the grievance, its outcome and any action taken is confidential and will be held in accordance with the Data Protection Act 1998
- Recordings of proceedings are prohibited, unless agreed as a reasonable adjustment for medical or disability- related reasons.
- If an employee already subject to a disciplinary process raises a grievance, the grievance will normally be heard after completion of the disciplinary procedure
- If a grievance is raised in good faith but not upheld, no disciplinary action will be taken against an employee.
- The Council may consider mediation at any stage of the grievance procedure where appropriate, with consent of both the Council and the employee.

Informal grievance procedure

4. Resolving grievances informally and quickly benefits both the Council and its employees. Employees should raise concerns promptly with their line manager to seek an informal solution. If the grievance involves the manager or cannot be raised with them, the employees should contact the Chair of the personnel committee or another appropriate member of the personnel committee.

Formal grievance procedure

5. If the grievance cannot be resolved informally, the employee may submit a formal grievance in writing to the Chair of the personnel committee.
6. The personnel committee will appoint a sub-committee of three members to investigate the grievance. The sub-committee will appoint a Chair from its members. Councillors directly involved in the matter will not be appointed to the sub-committee.

Investigation

7. The sub-committee will investigate the grievance before the meeting. This may include interviewing employees, councillors or members of the public.



Notification

8. Within 10 working days of receiving the grievance, the employee will be invited in writing, to attend a grievance meeting. The letter will include:
 - the names of the sub-committee Chair and members
 - a summary of the grievance based on the written submission
 - Date, time and place for the meeting. The employee will be given reasonable notice of the meeting (within 25 working days of receipt).
 - employee's right to be accompanied by a trade union representative or work colleague
 - copy of the Council's grievance policy
 - Confirmation that witnesses may attend and that the employee must provide witness names at least five working days prior to the meeting
 - Request for supporting evidence at least five working days prior to the meeting.

The Grievance Meeting

9. At the grievance meeting:
 - The Chair will introduce the members of the sub-committee
 - the employee (or companion) will present the grievance and supporting evidence.
 - the Chair will ask what action the employee seeks from the Council.
 - The sub-committee and the employee (or companion) may question any witness
 - the employee (or companion) may sum up the case
 - the Chair will provide the decision in writing within five working days outlining any action and the right to appeal
 - meetings may be adjourned if further investigation is required.

The Appeal

10. If dissatisfied with the sub-committee's decision, the employee may submit a written appeal to the personnel committee within five working days, specifying the grounds of appeal.
11. Grounds for appeal may include:
 - failure by the Council to follow its grievance policy
 - decision not supported by evidence
 - Inadequate or inappropriate action proposed by the sub-committee
 - new evidence not previously considered.



HULLBRIDGE PARISH COUNCIL

12. The Appeal will be heard by a panel of three members of the personnel committee not previously involved in the case. If insufficient members are available, the panel may include other Councillors and will appoint a Chair from its members.
13. The employee will be notified, in writing, within 10 working days of receipt of the appeal including the time, date and place of the meeting.(to take place within 25 working days) The employee may be accompanied by a trade union representative or work colleague.
14. At the appeal meeting, the Chair will:
 - introduce the panel members
 - explain the purpose of the meeting: to hear the employee's reasons for appealing
 - explain the action that the appeal panel may take.
15. The employee (or companion) will explain the grounds for appeal.
16. The Chair will inform the employee that a written decision , including reasons will be provided within five working days .
17. The appeal panel may uphold the sub-committee's decision or substitute its own decision.
18. **The decision of the appeal panel is final.**

SIGNED:

Staff Member: _____

Clerk to the Council: _____

Chair of Personnel Committee: _____

On behalf of Hullbridge Parish Council