Name of organisation

Disciplinary Policy and Procedure

**Approved on:**

**Next Review Date:**

Points to consider before finalising the policy:

Throughout the different stages of the policy the following terms are mentioned:

· Line Manager

· Senior Manager

In a parish setting an employee should have a “line manager”. This might be the incumbent, a member of the PCC or a member of a management committee.

Where a “Senior Manager” is referred to, this might be the incumbent (if not already the direct line manager), another member of the PCC or Chair of the PCC, or management committee.

Roles During the Disciplinary Process

**Investigation Manager** – the person undertaking the investigation into the alleged misconduct. This may involve interviewing other colleagues and collating any documents relating to the matter. The Investigation Manager should report their findings to the Disciplinary Manager.

**Disciplinary Manager** – the person who conducts the disciplinary meeting and has sufficient authority to do so. Ideally this should be a different person to the Investigation Manager unless it is not practicable, due to the size of the organisation, and there is no one else available to conduct the meeting. It is possible that the disciplinary meeting could be conducted by the employee's line manager, as long as they are not involved in the matters giving rise to the disciplinary process. For example, if the allegation against the employee is that they behaved abusively towards the line manager, it would be appropriate for a different manager to conduct the meeting.

The meeting could be conducted by one manager alone or there could be a panel of people making the disciplinary decision, in which case one of them should act as chair to conduct the meeting.

**Appeal Manager** – this should be someone who has not been involved in the disciplinary process and should be more senior than those already involved.

In summary consideration should be given to “separate” roles where possible. Where practical more senior colleagues for example, the Chair of the PCC/ Senior Manager should be “reserved” for the later stages of the process. In parishes where the incumbent is not the direct line manager, they could become involved at the disciplinary or appeal stage.

# Introduction

1. The following procedure will be applied fairly in all instances where disciplinary action is regarded as necessary.
2. [name of organisation] reserves the right to implement the procedure at any stage as set out below taking into account the alleged misconduct of an employee. Where time limits are referred to in the course of this procedure, they may be extended by agreement between the employee and xxxx
3. For newly appointed employees who are in their probationary period, xxxx retains the discretion to vary the procedure accordingly in respect of formal warnings, up to and including termination, for a first breach of conduct rules.
4. Employees have the right to be accompanied at a disciplinary hearing by a fellow colleague or an official trade union representative.

# Scope

1. The policy and procedure applies to all employees of xxxx

# Principles

1. Where appropriate, informal action will be considered before the formal procedure commences.
2. The procedure may be implemented at any stage if the employee’s alleged misconduct warrants it.
3. For formal action, the employee will be told of the nature of the complaint and an investigation will normally be undertaken before any decision to hold a disciplinary hearing.
4. Employees may choose to be accompanied by a trade union representative or a workplace colleague throughout the formal stages of the procedure.
5. This procedure sets timescales to ensure that any disciplinary matter is dealt with quickly and efficiently. However, they may be extended in consultation with the PCC to ensure a fair process.
6. Before a disciplinary hearing, employees will be provided, if available, with written copies of evidence and relevant witness statements.
7. An employee may appeal against any formal disciplinary action.
8. Audio/visual recordings of the proceedings are not acceptable at any stage of the disciplinary procedure and are not admissible within this process, unless agreed as a reasonable adjustment for an employee with a disability.
9. All information will be retained on a confidential basis in line with data protection regulations.
10. Where the employee raises a grievance against any disciplinary action in relation to them, the grievance process is not normally available to the employee whilst the disciplinary matter is being considered, unless the Investigating Manager or Chair decides that there are grounds for hearing the grievance first. Due consideration will be given as to whether in these particular circumstances the grievance should be dealt with before proceeding with the disciplinary matter and/or whether another line manager should deal with the disciplinary case. Where it has been decided to deal with the disciplinary matter first, any penalty from the disciplinary hearing is normally confirmed after the grievance has been heard.
11. Where the employee has taken out a grievance against the Disciplinary Manager, and it had been decided to hear the grievance first, the formal letter of notification of a disciplinary hearing will be sent within five working days of the outcome of the grievance procedure. If, in light of the grievance outcome, it is decided not to proceed with the disciplinary hearing, the employee will be informed within five working days.
12. This policy and procedure is not normally appropriate for issues of capability or poor performance; where this occurs, the Capability Policy and Procedure will be used unless the nature of the capability/performance issue is severe.

# Suspension

1. In some circumstances of alleged misconduct, employees may need to be suspended from work pending a disciplinary investigation. Suspension will take immediate effect and will normally be on full pay, unless the employee is subsequently unwell and/or signed off due to sickness absence, in which case the employee will be entitled to sick pay as set out in their contract of employment. The manager should not suspend an employee without first taking advice from the PCC.
2. The manager is responsible for ensuring that the employee is notified of the terms relating to their suspension, giving the reason for the suspension and explaining that it does not constitute disciplinary action nor is there a presumption of guilt. The suspension will be for no longer than is necessary to investigate any allegations of misconduct against an employee, or for as long as is otherwise reasonable whilst any disciplinary procedure is outstanding. A member of the PCC will write to confirm the suspension, setting out the grounds on which the decision has been taken.

# Investigation

1. In cases of alleged misconduct, an investigation of the matter will be carried out as soon as is reasonably practicable, normally by a manager who will act as the Investigating Manager (IM).
2. The purpose of an investigation is for the organisation to establish a fair and balanced view of the facts relating to the disciplinary allegations before deciding whether to proceed with a formal disciplinary hearing. Investigation 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. Employees do not normally have the right to bring a companion to an investigation interview.
3. Employees must co-operate fully and promptly in any investigation. This will include information such as the names of any relevant witnesses, disclosing any relevant documents to us and attending investigation interviews if required.
4. Once the investigation has concluded, the IM should produce a written report and make a recommendation as to whether or not to take further action – this will be passed to a more senior manager. The employee should be informed of the outcome of the investigation in writing as soon as possible.

# Procedure

1. Where, upon completion of an investigation, there are reasonable grounds to believe that there is a disciplinary case to answer, the employee will be invited to attend a disciplinary hearing.
2. In the event of a disciplinary hearing taking place the organisation will:
* give the employee a minimum of two working days’ notice of the hearing in writing;
* tell the employee the purpose of the hearing, its possible consequences and that it will be held under the organisation's disciplinary procedure;
* explain the employee's right to be accompanied at the hearing;
* give the employee written details of the nature of their alleged misconduct; and
* provide the employee with all relevant information (including statements taken from any fellow employees or other persons that the organisation intends to rely upon against the employee) not less than two working days in advance of the hearing.
1. Where the employee is unable to attend a disciplinary hearing and provides a good reason for failing to attend, the time and/or date of the hearing will be rearranged. The organisation will comply with the above in respect of giving notice of the rearranged hearing. Unless there are special circumstances mitigating against it, if the employee is unable to attend the rearranged hearing, it will take place in the employee’s absence.
2. Where the chosen companion is unavailable on the day scheduled for the hearing, the employee may request that the hearing be rescheduled to an alternative time that is reasonable and within five working days of the scheduled date. As above, if the second hearing can’t be attended, the meeting will take place in the employee’s absence.

# Role of the companion

1. The employee's companion has the right to address the hearing to put forward the employee's case, sum up the case and respond on the employee's behalf to any view expressed at the hearing. The companion may also confer with the employee during the hearing. However, there is no requirement for the organisation to permit the companion to answer questions on behalf of the employee, or to address the hearing where the employee indicates that they do not wish this.

# Recording of meetings

1. The employee, or any person acting on their behalf, is not permitted to record electronically any meeting held by the organisation as part of the disciplinary process. This is to encourage openness and full participation by all parties during meetings. Any breach of this provision may lead to disciplinary action against the employee, up to and including dismissal.

# The disciplinary hearing

1. A disciplinary panel will be convened which will normally comprise of the appropriately skilled manager (Disciplinary Manager) and a representative from the management team/PCC. An additional person may be present to advise on professional matters of financial procedures, where required. In most cases the Disciplinary Manager (DM) will be the next level of management from the IM.
2. The IM should prepare a management case for the hearing. The management case will typically include the report, statements of witnesses or records of interviews and copies of any relevant documents and other information.
3. If an employee informs the DM that they are unable to attend the hearing due to sickness, the employee should be referred to Occupational Health (OH) to ascertain when they are likely to be fit to attend. **– this would be sourced externally and would incur a fee**
4. After hearing all of the evidence, and mitigating/extenuating circumstances, the employee should be informed that a decision will be made and the hearing will be adjourned. If the disciplinary panel consider it appropriate to request any further clarification on evidence heard, the panel may reconvene at a later date. The decision should be communicated to all parties involved and should be confirmed in writing to the employee. The employee will be notified of their right to appeal under this procedure.

# Disciplinary action

1. Where, following a disciplinary hearing, the organisation reasonably believes that the employee has committed a disciplinary offence, the following disciplinary action may be taken:
2. Where a minor offence or offences have been committed, a recorded **verbal warning**

may be given (this will remain live on file for a period of six months). The warning will:

* set out the nature of the offence committed;
* inform the employee that further misconduct is liable to result in further disciplinary action under this procedure;
* specify the period for which the warning will remain ‘live’, after such period; and
* state that the employee may appeal against the warning.
1. Where either a more serious disciplinary offence has been committed, or following a recorded verbal warning that remains ‘live’, a further minor offence or offences have been committed by an employee, the employee will receive a **first written warning** (this will remain live on file for a period of six months). The warning will:
	1. set out the nature of the offence committed;
	2. inform the employee that further misconduct is liable to result in further disciplinary action under this procedure;
	3. specify the period for which the warning will remain ‘live’, after such period; and
	4. state that the employee may appeal against the warning.
2. Where a serious disciplinary offence amounting to gross misconduct has been committed, thereby justifying summary dismissal, but the organisation decides, after taking into account all relevant circumstances, that a lesser penalty is appropriate, or,
	1. where an employee commits further disciplinary offences after a first written warning has been issued and remains ‘live’, a **final written warning** may be given (this will remain live on file for a period of twelve months). Such a warning will:
	2. set out the nature of the offence committed;
	3. inform the employee that further misconduct is likely to result in their dismissal;
	4. specify the period for which the warning will remain ‘live’, after such period; and
	5. state that the employee may appeal against the warning.
3. Where the employee has committed further acts of misconduct (these being acts of misconduct other than gross misconduct) following a final written warning given above, the organisation may elect to dismiss with notice or payment in lieu of notice.
4. Where the organisation reasonably believes that an employee has committed an act of gross misconduct, the employee may be summarily dismissed without notice.
5. Where a final written warning is given to an employee, the organisation may also impose on the employee:
	1. disciplinary suspension without pay;
	2. loss of seniority;
	3. in line with any provision in the contract of employment, stoppage of pay for such period as the organisation thinks fit in the circumstances subject to a maximum of four weeks; or
	4. in line with any provision in the contract of employment, transfer to a job of a lower status.
6. The above sanctions may be imposed in conjunction with other forms of disciplinary action, or as an alternative to dismissal.

# Expired warnings

1. Expired warnings will be retained on an employee's personnel file as it may be necessary to take account of the warning when considering future conduct, for example establishing a pattern of behaviour or an awareness of the relevant rules. Documentation relating to the expired warning will not normally be retained unless there is a justification for this.

# Appeal

1. An employee may appeal against a disciplinary sanction, with the exception of an informal verbal warning. Wherever possible, the appeal will be heard by a senior manager who has not been involved in the disciplinary process previously. The appeal manager is obliged to consider any representations made by the employee, the employee's companion and those of the Investigation Manager and the Disciplinary Manager, who imposed the disciplinary sanction. Should any new evidence be introduced on appeal, the employee will be given the opportunity to consider it and raise comments. Once the relevant issues have been thoroughly explored, the Appeal Manager (AM) will decide whether or not to uphold the disciplinary sanction. In the event that the AM finds for the employee, the AM shall allow the appeal and shall remove all records of the disciplinary sanction from the employee's record. In the event that the AM does not find for the employee, the senior manager must uphold the disciplinary sanction. In the event that the AM partially finds for the employee, the AM shall partially allow the appeal and impose a lesser disciplinary sanction.
2. When lodging an appeal, the employee should state their reason for appeal which must be one of the following:
* Point(s) of policy or procedure that were not followed correctly;
* New evidence has come to light which was not known previously and made available to the disciplinary panel; or
* An employee believes the sanction is not comparable to those given to others previously.
1. The employee must provide written notice of the appeal within five organisational working days of being informed of the disciplinary sanction being imposed against them.
2. Appeal hearings will normally take place within 14 days of receipt of the employee's written notice of appeal.
3. Upon completion of the appeal, the Appeal Manager will convey their decision to the employee. The decision will be confirmed in writing within one week (except in extenuating circumstances). The organisation's decision at the appeal is final.
4. Where there is an appeal against a dismissal, an employee will not be entitled to be paid or reinstated (unless they are entitled to notice) between the date of dismissal and the conclusion of the appeal process. In the event, however, that the decision to dismiss is overturned on appeal, the employee will be reinstated with immediate effect and they will be paid for any period between the date of the original dismissal and the successful appeal decision. Their continuous service will not be affected.

# Misconduct

1. The following actions are seen as serious in nature by the organisation and may constitute misconduct (but are not limited to):
	* Misuse of the organisation’s email, internet or internal mailing facilities;
	* Persistent absenteeism or lateness;
	* Absence without authorisation;
	* Failure to follow absence reporting procedures;
	* Non-serious failure to comply with health and safety requirements;
	* Misuse of the organisation’s equipment;
	* Sleeping on the premises;
	* Behaviour that goes against the organisational values (depending on the seriousness, this could be classed as gross misconduct)
	* Bullying, harassment, including sexual harassment of another employee or third party
	* Foul or abusive language;
	* Abusive, objectionable or insulting behaviour;
	* Disorderly conduct;
	* Wilful or excessive wastage of the organisation’s time or materials;
	* Damage to plant, equipment or material caused by carelessness; and
	* Misrepresentation of fact - lying.

# Gross misconduct

1. Gross misconduct is misconduct of such a serious and fundamental nature that it breaches the contractual relationship between the employee and the organisation. In the event that an employee commits an act of gross misconduct, the organisation will be entitled to terminate summarily the employee's contract of employment without notice or pay in lieu of notice.
2. Matters that the organisation views as amounting to gross misconduct include (but are not limited to):
	* Theft or fraud;
	* 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 including reports, accounts, expense claims or self-certification forms, whether or not for personal gain;
	* Disclosure of company documents, trade secrets and other confidential information to unauthorised third parties;
	* Indecency;
	* Violence, bullying
	* Sexual harassment of another employee or third party
	* Deliberate damage to or misuse of property;
	* Refusal to carry out reasonable management instructions;
	* The use or distribution of illegal drugs while at work;
	* Serious incapability at work brought on by alcohol;
	* Possession, custody or control of illegal drugs on the organisation's premises;
	* Serious breach of the organisation's rules, including, but not restricted to, health and safety rules and rules on computer use;
	* Gross negligence;
	* Conviction of a criminal offence that is relevant to the employee's employment;
	* Misuse or abuse of social media in and outside work;
	* Deliberately accessing pornographic, offensive or obscene material;
	* Making covert recordings of colleagues or managers;
	* Conduct that brings the organisation's name into disrepute; and
	* Unlawful discrimination or harassment.
3. Other acts of misconduct may come within the general definition of gross misconduct.