**MINAL PARISH COUNCIL DISCIPLINARY PROCEDURES**

1. **INTRODUCTION**
   1. This policy is based on and complies with the 2015 ACAS Code of Practice and will be applied fairly, consistently and in accordance with the Equality Act 2010. Where possible the Council will try to resolve any concerns about the Clerk/RFO’s behaviour or performance informally.
   2. The Council will fully investigate the facts of each case.
   3. The Council recognises that misconduct and unsatisfactory work performance are different issues. The disciplinary policy will only be used for unsatisfactory work performance if performance management proves ineffective. The Council will follow ACAS standards as outlined in “How to manage performance advisory booklet”.
   4. Employees will be informed in writing about the nature of the complaint against them and given the opportunity to state their case.
2. **EXAMPLES**

2.2 **Misconduct**  
Failing to undertake duties and meet deadlines, poor standard of work despite training/guidance. In appropriate use of Council correspondence and email address, refusal to follow reasonable instructions, breach of health and safety rules, inappropriate behaviour.

2.3 **Gross Misconduct**  
Fraud, theft, gross negligence, serious and deliberate damage of property, disclosure of confidential information or misuse of the Council’s email or website resulting in bringing the Council into disrepute, violent or threatening behaviour, bullying, discrimination and harassment, gross insubordination, incapacity at work due to alcohol or drugs, serious breaches of health and safety.

2.4 **Examples of Unsatisfactory Work Performance**Inadequate office procedures, IT skills, unsatisfactory communication skills.

1. **DISCIPLINARY INVESTIGATION**

3.1 The Council will appoint a Councillor to be an Investigator who will investigate the issue or complaint and submit a written report no later than 2 weeks after the alleged offence or issue.

3.2 Information about the disciplinary matter will be restricted to those involved in the disciplinary matter.

3.3 The Investigator has no authority to take disciplinary action. His/her role is to establish the facts of the case and make a recommendation which will be either:-

- no case to answer and there should be no further action.

- the matter is not serious enough to justify further use of the disciplinary procedure and can be dealt with informally.

- there should be action under the disciplinary procedure.

3.4 During the period of the disciplinary investigation and process the employee remains on full pay even if suspended during this time.

1. **DISCIPLINARY MEETING**

4.1 The Council will appoint 3 Councillors (one of which will be the Vice Chairman to act as Chair) who will conduct the disciplinary meeting. The Investigator and Chairman of the Council should not be involved at this stage.

4.2 The Council will give a week’s notice of the meeting in writing and the employee must make all reasonable efforts to attend. Any change to the date must be agreed by the Council and employee. Failure to attend any meeting may result in it going ahead and a decision being taken. An employee who does not attend a meeting will be given the opportunity to be represented and to make a written submission.

4.3 Employees may be accompanied by a friend or trade union official.

4.4 Recordings of the proceedings at any stage are prohibited.

4.5 The Employee and the Council will provide each other with all supporting evidence at least 5 working days before the meeting. Witness statements should be submitted at this time.

1. **FORMAT OF THE DISCIPLINARY MEETING**

5.1 The Chairman will make introductions, set out the Council’s case and present supporting evidence including the Investigators report and witnesses or witness statements.

5.2 The Employee will set out his/her case and present evidence including witnesses.

5.3 Any member of the Committee and the employee and their companion may ask questions.

5.4 The Employee will have the opportunity to sum up his/her case.

5.5 The disciplinary meeting may be adjourned to allow matters that were raised during the meeting to be investigated further if required.

5.6 The Chairman will provide the employee with the Committee’s decision in writing no later than 5 days after the meeting. The Chairman will also notify the Employee of the right to appeal.

5.7 If the employee decides to raise a grievance this will be heard after the completion of the disciplinary procedure.

5.8 Except for Gross misconduct where an employee may be dismissed without notice, the Council will not dismiss an employee on the first occasion of misconduct.

1. **DISCIPLINARY ACTION**

Disciplinary action taken by the Council can include oral warning, written warning, final written warning or dismissal.

6.1 At each stage the employee will be given in writing:-

* the reason for the warning.
* the improvement required.
* the time period for improvement.
* that further misconduct/failure to improve will result in more serious disciplinary action (up to and including dismissal for final written warning).
* the employee’s right of appeal
* that the warning will be placed on file for the relevant period.

6.2 **Oral Warning** – for the first instance of minor misconduct. The warning will normally remain on file for 6 months and will also be in writing**.**

**6.3 Written** **Warning** – where there is a repetition of earlier misconduct which resulted in an Oral Warning or for more serious misconduct. The warning will remain on file for 12 months.

**6.4 Final Written Warning** – for further misconduct/failure to improve. The warning will remain on file for 18 months.

**6**.5 **Dismissal** – The Council may dismiss for gross misconduct or if another instance of misconduct has occurred and a final written warning has already been issued and remains in force. If an employee is dismissed a written statement of the reasons will be given and details of the right to appeal.

1. Notification of the right to appeal must be received by the Council within 5 working days of the employee receiving written notice of the disciplinary action and must specify grounds for appeal.

7.1 The grounds for appeal include:

- failure of the Council to follow the disciplinary policy procedures.

- The decision was not supported by evidence.

- the disciplinary action was too severe in the circumstances of the case.

- new evidence has come to light since the disciplinary hearing.

7.2 The Appeal will be heard by the Council Chairman and one other Councillor not previously involved . The Council will advise the employee of the appeal meeting date, time and venue within 10 days of the notice of appeal. The employee may be accompanied by a friend or trade union official.

7.3 The Appeal panel may decide to uphold the decision of the disciplinary panel, substitute a less serious sanction or decide that no disciplinary action is necessary in which case the warning will be removed from file.

7.4 If an appeal against dismissal is up held the employee’s will be paid in full for the period of dismissal and continuity of service will be preserved.

7.5 The appeal panel’s decision is final.