

1. Scope

This policy applies to employees of the Wadhurst PCC.

It does not apply to agency workers or self-employed contractors.

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

2. Minor Conduct Issues

Minor conduct issues can often be resolved informally between the employee and the line manager. 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 personnel file but will be ignored for the purposes of any future disciplinary hearings. In some cases, an informal verbal warning may be given, which will not form part of the 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).

If the employee has difficulty at any stage of the procedure because of a disability, the employee should discuss the situation with their line manager.

3. Confidentiality

Our 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.

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

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

4. Investigations

The purpose of an investigation is for us 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.

- a. 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.
- b. The employee does not normally have the right to bring a companion to an investigative interview. However, we may allow the employee to bring a companion if it helps the employee to overcome any disability, or any difficulty in understanding English.
- c. The employee must co-operate fully and promptly in any investigation. This will include informing us of the names of any relevant witnesses, disclosing any relevant documents to us and attending investigative interviews if required.

5. Criminal Allegations

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

- a. Depending on the circumstances, we may not 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, we may have to take a decision based on the available evidence.

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

6. Suspension

- a. In some circumstances we may need to suspend the employee from work. The suspension will be for no longer than is necessary to investigate the allegations and we will confirm the arrangements to the employee in writing. While suspended the employee should not visit our premises or contact any of our clients, customers, suppliers, contractors or staff, unless the employee has been authorised to do so by The Vicar.
- b. 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 their full [basic] salary and benefits during the period of suspension.

7. Notification of a Hearing

- a. Following any investigation, if we consider there are grounds for disciplinary action, the employee will be required to attend a disciplinary hearing. We will inform the employee in writing of the allegations against them, the basis for those allegations, and what the likely range of consequences will be if we decide after the hearing that the allegations are true. We will also include the following where appropriate:
 - i. a summary of relevant information gathered during the investigation;
 - ii. a copy of any relevant documents which will be used at the disciplinary hearing; and
 - iii. a copy of any relevant witness statements, except where a witness's identity is to be kept confidential, in which case we will give the employee as much information as possible while maintaining confidentiality.
- b. We 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, [usually two to seven days], to prepare their case based on the information we have given them.

8. The Right to be Accompanied

- a. 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 work colleague. The employee must tell The Vicar who the employee's chosen companion is, in good time before the hearing.
- b. A work companion is allowed reasonable time off from duties without loss of pay but no-one is obliged to act as a work companion if they do not wish to do so.
- c. If the employee's work companion is unavailable at the time a meeting is scheduled and will not be available for more than five working days afterwards, we may ask the employee to choose someone else.

9. Procedure at Disciplinary Hearings

If the employee or the employee's work companion cannot attend the hearing the employee should inform us immediately and we 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), we may have to take a decision based on the available evidence.

- a. The hearing will be chaired by The Vicar and will be conducted by a panel nominated to act on behalf of the PCC.
- b. At the disciplinary hearing we 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 us 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.
- c. The employee may ask relevant witnesses to appear at the hearing, provided the employee give us sufficient advance notice to arrange their attendance. The employee will be given the opportunity to respond to any information given by a witness.

- d. We may adjourn the disciplinary hearing if we 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.
- e. We will inform the employee in writing of our decision and our reasons for it, usually within one week of the disciplinary hearing. Where possible we will also explain this information to the employee in person.

10. Disciplinary Penalties

- a. The usual penalties for misconduct are set out below. No penalty should be imposed without a hearing. We aim to treat all employees fairly and consistently, and a penalty imposed on another employee for similar misconduct will usually be taken into account but should not be treated as a precedent. Each case will be assessed on its own merits.
- b. The employee will not normally be dismissed for a first act of misconduct, unless we decide it amounts to gross misconduct or the employee have not yet completed the employee's probationary period.
- c. **Stage 1 - First written warning.** A first written warning may be authorised by two representatives of the PCC/s – one of whom may be the employee's line manager (eg the Vicar and a Churchwarden). 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.
- d. **Stage 2 - Final written warning.** A final written warning may be authorised by two representatives from the PCC. It will usually be appropriate for:
 - i. misconduct where there is already an active written warning on the employee's record; or
 - ii. misconduct that we consider sufficiently serious to warrant a final written warning even though there are no other active warnings on the employee's record.
- e. **Stage 3 - Dismissal.** Dismissal may be authorised by three representatives from the PCC, at least one of whom has not been involved to date. It will usually only be appropriate for:

- i. any misconduct during the employee's probationary period;
 - ii. further misconduct where there is an active final written warning on the employee's record; or
 - iii. any gross misconduct regardless of whether there are active warnings on the employee's record. Gross misconduct will usually result in immediate dismissal without notice or payment in lieu of notice (summary dismissal).
- f. **Alternatives to dismissal.** In some cases, we may at our discretion consider alternatives to dismissal and will usually be accompanied by a final written warning. Examples include:
 - i. Demotion.
 - ii. Transfer to another department or job.
 - iii. A period of suspension without pay.
 - iv. Loss of seniority.
 - v. Reduction in pay.
 - vi. Loss of future pay increment or bonus.
 - vii. Loss of overtime

11. Effect of a Warning

- a. 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.
- b. 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, we may decide to extend the active period.
- c. 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.

12. Appeals

- a. If the employee feels that disciplinary action taken against the employee is wrong or unjust the employee should appeal in writing, stating the employee's full grounds of appeal, to the nominated person within one week of the date on which the employee was informed of the decision.
- b. 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.
- c. If the employee raises any new matters in the employee's appeal, we may need to carry out further investigation. If any new information comes to light, we 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.
- d. We will give the employee written notice of the date, time and place of the appeal hearing. This will normally be two to seven days after the employee receives the written notice.
- e. 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 our discretion depending on the circumstances of the employee's case. In any event the appeal will be dealt with as impartially as possible.
- f. Where possible, the appeal hearing will be conducted impartially by a PCC representative/panel who has not been previously involved in the case. The employee will be entitled to be accompanied at the appeal hearing by the employee's trade union representative or work companion.
- g. We may adjourn the appeal hearing if we 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.
- h. Following the appeal hearing we may:

- i. confirm the original decision;
- ii. revoke the original decision; or
- iii. substitute a different penalty.

- i. We will inform the employee in writing of our final decision as soon as possible, usually within one week of the appeal hearing. Where possible we will also explain this to the employee in person. There will be no further right of appeal.

13. Overlapping grievance and disciplinary cases

Where an employee raises a grievance during a disciplinary process the disciplinary process may be temporarily suspended in order to deal with the grievance. Where the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently.

14. Definitions

Gross misconduct is when an employee has done something that's very serious or has very serious effects. Examples include:

- Theft or fraud.
- Physical violence or bullying.
- Damage to property.
- Breach of safeguarding procedures
- Serious misuse of an organisation's name or property.
- Deliberately accessing internet sites that contain pornographic or other offensive material.
- Misuse of confidential information.
- Serious insubordination.
- Discrimination or harassment.
- Bringing the organisation into serious disrepute.
- Offering or accepting bribes.
- A serious breach of health & safety regulations.
- A serious breach of confidence.
- Causing loss, damage, or injury through serious negligence.
- Serious incapability at work due to alcohol or illegal drug use.

These gross misconduct examples are not exhaustive.