

Selling Parish Council

Disciplinary and Grievance Procedure

1. PURPOSE AND SCOPE

It is the policy of the council to give employees the opportunity to air and seek redress for any individual employment grievance which they may have. Grievances may be any concerns, problems or complaints employees wish to raise with the council. This document describes the procedure which aims to facilitate a speedy, fair and consistent solution to an individual employee's employment grievance. This procedure is produced in line with the ACAS Code of Practice 2009 as set out in the Employment Act 2008.

2. PRINCIPLES

- a) At every stage in the procedure the employee will be given the opportunity to state his or her case before any decision is made.
- b) Grievances will be dealt with promptly and consistently
- c) At all formal stages the employee will have the right to be accompanied by a work colleague or trade union representative.
- d) An employee will have the right to appeal against any outcome of a Grievance Hearing.
- e) At no time will an employee be penalised or victimised for having raised a Grievance against the council.

3. PROCEDURE

3.1 Wherever possible, any grievance should be raised informally with the employee's line manager, or if this is inappropriate with the next level of management. In the case of the Clerk to the council raising a grievance this should be directed to the Chair of the council unless the complaint is about the Chair in which case another Member can be identified to handle the Clerk's concerns. The recipient of the grievance from a clerk should share the grievance with the relevant committee established to handle employment matters and the issues should be treated with discretion and confidentiality at all times.

3.2 Written Statement

If the employee does not consider it appropriate to raise the grievance informally, or if requested by the person the employee spoke to informally, then the employee should submit a formal grievance in writing to their line manager, or if this is inappropriate to the next level of management.

3.3 Meeting or Hearing

Generally, within a reasonable period of time e.g. five working days of receipt of a written complaint, the Chair of the appropriately convened committee or hearing panel will arrange a meeting with the employee. The Hearing Manager will endeavour to make the meeting arrangements mutually convenient and will arrange a confidential location, free from interruptions. The manager will investigate the substance of the complaint and hear submissions from the employee concerned together with such other submissions or evidence as s/he shall consider appropriate and take such steps as s/he shall consider necessary to resolve the issue raised. It may be necessary to adjourn the meeting in order for an investigation to take place.

Careful consideration of the evidence and the necessary steps required to resolve the problems will be given to the grievance. The employee may call witnesses by prior arrangement with the panel. There is no right for a Member or employee implicated in an employee's grievance to cross examine the aggrieved during a grievance hearing but the panel may wish to make its own investigations through interviewing these individuals and/or other witnesses separately. The Panel may ask the employee what he or she would like to happen as a result of raising the grievance and bear this in mind when preparing the response.

3.4 Response

The Hearing Manager will advise the decision to the employee in writing and, where appropriate, include an action plan to assist in the resolution of the problem. Councils which handle internal disputes effectively generally consider the options and costs in a timely fashion, then agree and publicise the workable solutions, monitor, review and learn from the experience. There may be some value in exploring mediation as a way in which to resolve differences between two parties.

Advice will be sought from appropriate agency that has HR support available.

3.5 Appeal

If the employee is dissatisfied with the decision of the line manager on his/her complaint, s/he may appeal against the decision to the Chair or other elected Member by written notice within five working days of the decision. An appeal may be raised if:

- The employee thinks the finding, or action plan, is unfair
- New evidence has come to light
- The employee thinks that the procedure was not applied properly

On receipt of the appeal the council's Appeals Panel shall arrange to meet and consult with the employee, the line manager or Members concerned and any other persons, as s/he shall consider appropriate without unreasonable delay. The Appeal Hearing Chair shall consider the issues and shall then take all such steps, as s/he may consider necessary to resolve those issues. Where the council's Chair has chaired the initial grievance meeting the Vice Chair will hear the appeal as a hearing manager. The decision of the Appeal Hearing will be final. The council will need to ensure that the Members involved in the hearings are able to act impartially and reasonably at all times. The outcome of the appeal should be conveyed to the employee in writing in a timely manner.

3.6 Bullying or Harassment

If a grievance concerns alleged bullying or harassment the matter should be reported promptly to the employee's Line Manager, or another manager/Member if more appropriate, with an indication of the required action. The complaint will then be investigated and any action taken and any resolution achieved will be reported back. If the solution is not satisfactory to the complainant, the matter will be discussed further and, if appropriate, an alternative solution agreed. The decision at this stage will generally conclude the enquiry. If a further appeal or review is available the employee will be notified. As a result of an investigation into a claim of harassment disciplinary action may be instigated against any alleged perpetrators of the action or in the case of alleged perpetrators being elected Members, a Code of Conduct complaint lodged by the council through the Standards process.

3.7 Right to be Accompanied

At any formal stage of the procedure an employee may be accompanied by a fellow employee of their choice or their trade union representative or official of a trade union (appropriately accredited) but as this is an internal procedure they will not be entitled to be accompanied by any external supporter e.g. partner, parent, solicitor etc. This right to be accompanied is enshrined in the Employment Relations Act 1999. To exercise this right the employee should make a reasonable request. The companion will be allowed to address the hearing, put and sum up the employee's case, respond to views expressed at the hearing and to confer with the employee during the hearing (sometimes in an adjournment) but is not allowed to answer questions on the employee's behalf, address the hearing if the employee does not wish it or prevent the employer from explaining their case.

3.8 Hearing Panels

It is agreed that good practice dictates that councils establish hearing panels to hear disciplinary and grievance hearings on an annual basis so that if a dispute does arise in the workplace the elected members involved are already trained and briefed on their duties as a hearing or appeal panel member. In situations where individual members are implicated in the dispute or have undertaken an investigatory role then they will need to be substituted as panel members.

3.9 Confidentiality

So far as is reasonably practicable, the council will keep any grievance or complaint of harassment confidential between the manager or Member investigating the grievance or complaint, the employee and the person about whom the grievance or complaint is made. If it is necessary to investigate the matter with any other employee or person, the employee will be advised.

3.10 Record Keeping

In all cases, written records of the nature of the grievance raised, the employer's response, action taken (with reasons), details of any appeal and subsequent developments will be retained and kept in accordance with the Data Protection Act 1998.

3.11 Grievances raised during Disciplinary

If an employee chooses to exercise his/her right to raise an internal grievance about the employment relationship with the council or individual Members during a disciplinary, disciplinary matters are put on hold until grievances have been aired and actions towards a resolution have been progressed. In exceptional circumstances it is pragmatic to deal with the two disputes concurrently but specialist advice should be sought if this arises.

1. Informal procedure

- 1.1 Grievances can often be resolved quickly and informally through discussion with managers and there is an expectation that every effort will be made to resolve matters informally. Employees are therefore expected to raise any concerns or issues informally with their immediate manager/head of section (the manager).
- 1.2 Managers will discuss an employee's concerns in confidence with him/her, make discreet investigations, as appropriate, and attempt to address his/her concerns fairly and promptly.
- 1.3 It is the manager's responsibility to seek to resolve the grievance informally and to notify the individual of the outcome. This would normally take the form of a summary note of the discussion and its outcome.
- 1.4 It is expected that an employee will seek to resolve his/her grievance informally in the first instance and will only progress to a formal grievance if the issue cannot be resolved by informal means. Where this has been unsuccessful, or circumstances make this route inappropriate, the matter should be raised formally through the grievance procedure.
- 1.5 If the grievance is against the employee's manager it should be raised with that person's manager who will seek to resolve the matter informally as appropriate (see Appendix A).

2. Formal Procedure

Stage One - Formal Resolution

- 2.1 If it is not possible to resolve a grievance informally, the employee should raise the matter formally, and without unreasonable delay, by putting his/her grievance in writing.
- 2.2 The manager will write to the employee acknowledging receipt of the grievance, normally within five working days.
- 2.3 The manager will invite the employee to attend a formal grievance meeting in order to discuss the grievance. This meeting will normally take place within ten working days of the written acknowledgement.
- 2.4 As a result of the initial grievance meeting, the manager may determine that it is necessary to make further enquiries and/or may appoint an investigating officer to conduct an impartial and thorough investigation into the background facts or into any allegations made by the employee.

Investigation

- 2.5 If an investigation is deemed appropriate, the manager will appoint an investigating officer. Where the grievance relates to other employees, the individuals involved will be informed in writing of the nature of the complaint and will be given the opportunity to submit a response.
- 2.6 The results of the investigation will be provided to the manager in the form of an investigation report. This report will also be made available to the employee raising the

grievance and any employee(s) named in the grievance. Following the investigation, the manager may deem it appropriate to hold a further grievance meeting with the employee raising the grievance. The purpose of this meeting is to seek clarification on any further issues that might have arisen and to allow the employee to comment on the findings of the investigation.

- 2.7 In some cases it might be appropriate to hold a grievance hearing with the aggrieved individual and the person(s) against whom the grievance lies.

Outcome

- 2.8 The manager will determine the outcome of the grievance. S/he may reject the grievance, or may uphold the complaint and indicate what steps have been/should be taken to resolve it.
- 2.9 The manager will inform the individual, in writing, of the decision and the right of appeal normally within ten working days of receiving the investigation report or of the final grievance meeting/hearing. The employee will be given an explanation if this is not possible and will be advised when a response can be expected.
- 2.10 Any employee(s) named in the grievance will also be advised, in writing, of the decision.

Stage Two - Appeal

- 2.11 If an employee remains aggrieved, s/he may write to the **Chair of Chilham Parish Council** within ten working days of the date of the decision under Stage 1, exercising his/her right of appeal.
- 2.12 Where the appeal involves other employees, the person(s) named in the grievance will be informed of the appeal and the outcome.
- 2.13 The decision may be given verbally at the appeal hearing and will in any event be conveyed or confirmed in writing within ten working days of the hearing. Any recommendations for further action will be clearly stated in the letter.
- 2.16 The decision following the appeal is final and there will be no further internal right of appeal.

Following the repeal of the 2004 Dispute Resolution regulations employees no longer have to raise a grievance before going to an employment tribunal. However, establishing a mechanism for differences and disputes to be resolved internally can often allow the employment relationship to continue. Failure to follow the ACAS Code of Practice (available at www.acas.org.uk) when dealing with grievances can lead to an Employment Tribunal awarding an uplift of an award against the council of up to 25%. Tribunals dealing with constructive dismissal and discrimination claims are particularly interested in whether the employer followed a procedure when dealing with an internal dispute and whether the employer acted fairly and reasonably. One way in which to avoid such a penalty is to have an agreed procedure, communicate that procedure to staff and Members, revisit and review the procedure regularly and have some training for those who are expected to operate the procedure.

Dated May 2017