

Beaworthy Parish Council

Grievance Policy

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. 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. The policy will be applied fairly, consistently and in accordance with the Equality Act 2010

Many problems can be raised and settled during the course of everyday working relationships. Employees should aim to settle most grievances informally with the Chairman of the Parish Council.

AT EVERY STAGE THE PARISH COUNCIL WILL SEEK PROFESSIONAL ADVICE

Contents

Exclusions	2
Principles.....	2
Procedure	2
Written Statement	2
Investigation.....	2
Right to be accompanied.....	3
Meeting or Hearing	3
Hearing panels.....	3
Confidentiality	4
Response	4
Appeal	4
Grievances raised during disciplinaries	5
Getting it wrong	5

Exclusions

Matters excluded from this procedure are as follows:-

- Appeals against salary and grading.
- Appeals against disciplinary actions.
- Income tax, national insurance, rates of pay collectively agreed at the national or local level.
- Rules on pension schemes
- A grievance about a matter over which the Council has no control.

Principles

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

Procedure

Wherever possible, any grievance should be raised informally with the Chairman, or if this is inappropriate with the Vice Chairman unless the complaint is about the Chairman and Vice Chairman 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.

The High Court case of R (Harvey) v Ledbury Town Council [2018] has changed the way councils must deal with an employee grievance when the complaint is about a councillor.

Employees cannot now use **the formal stages** of the council's grievance procedure if their complaint should be dealt with under the council's code of conduct. If the council cannot resolve the matter **informally (which can include mediation)**, the complaint can only be dealt with by the employee submitting their complaint to the principal authority's monitoring officer. The parish council has no power to deal with it. If the complaint is not a code of conduct matter, it can be dealt with under the formal stages of the council's grievance procedure.

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 the Chairman, or if this is inappropriate to the next level of management.

Investigation

The Chairman of the sub-committee will investigate the matter before the grievance meeting which may include interviewing others (e.g. employees, councillors or members of the public).

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.

Meeting or Hearing

Generally, within a reasonable period of time e.g. ten working days of receipt of a written complaint, the Chairman 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. The Council will give employees reasonable notice of the date of the grievance/appeal meetings. Employees and their companions must make all reasonable efforts to attend. If the employee's companion is not available for the proposed date of the meeting, the employee can request a postponement and can propose an alternative date that is within five working days of the original meeting date. Any changes to specified time limits must be agreed by the employee and the Council.

Hearing panels

The SLCC advise 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. The hearing panel would not include the Chairman of the Council and would normally be at least three members of the Council. No councillor with direct involvement in the matter shall be appointed to the sub- committee. Within 10 working days of the Council receiving the employee's grievance, the employee will be asked, in writing, to attend a grievance meeting. The sub-committee's letter will include the following:

- The names of its Chairman and other members.
- A summary of the employee's grievance based on his/her written submission.
- The date, time and place for the meeting. The employee will be given reasonable notice of the meeting which will be within 25 working days of when the Council received the grievance.

- The employee's right to be accompanied by a workplace colleague, a trade union representative or a trade union official.
- A copy of the Council's grievance policy.
- Confirmation that, if necessary, witnesses may attend on the employee's behalf and that the employee should provide the names of his/her witnesses at least five working days before the meeting.
- Confirmation that the employee will provide the Council with any supporting evidence at least five working days before the meeting.

At the hearing panel:-

- The Chairman will introduce the members of the sub-committee to the employee.
- The employee (or companion) will set out the grievance and present the evidence
- The Chairman will ask the employee what action does he/she wants the Council to take
- Any member of the sub-committee and the employee (or the companion) may question any witness
- The employee (or companion) will have the opportunity to sum up the case
- The Chairman will provide the employee with the sub-committee's decision, in writing, within five working days of the meeting. The letter will notify the employee of the action, if any, that the Council will take and of the employee's right to appeal
- A grievance meeting may be adjourned to allow matters that were raised during the meeting to be investigated by the sub-committee.

Confidentiality

So far as is reasonably practicable, the council will keep any grievance or complaint of harassment confidential between the Chairman 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 so advised. Information about an employee's grievance will be restricted to those involved in the grievance process. A record of the reason for the grievance, its outcome and action taken is confidential to the employee. The employee's grievance records will be held by the Council in accordance with the Data Protection Act 1998. Recordings of the proceedings at any stage of the grievance procedure are prohibited, unless agreed as a reasonable adjustment that takes account of an employee's medical condition.

Response

The Chairman of the hearing panel 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 and 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. The SLCC can advise on approaches and bodies which may be able to assist (note- external organizations may levy a fee for such services)

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/Mayor 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 or Chair of another committee will hear the appeal as a hearing manager the decision of the Appeal Hearing will be final. The appeal panel may decide to uphold the decision of the staffing committee or substitute its own decision. 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.

Grievances raised during disciplinarys

In some circumstances when a disciplinary process has commenced an employee chooses to exercise his/her right to raise an internal grievance about the employment relationship with the council or individual Members. The SLCC recommends, in line with ACAS advice, that disciplinary matters are placed 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 SLCC would advise caution and specialist advice should be sought if this arises.

Getting it wrong

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.

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