

TOVIL PARISH COUNCIL



31. GRIEVANCE PROCEDURE

AMENDED: 20.4.2023

MINUTE REF: 185/22

1. PURPOSE AND SCOPE

It is the policy of Tovil Parish 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 grievance. This procedure is produced in line with the ACAS Code of Practice 2015 as set out in the Employment Act 2008.

Examples of issues that could be dealt with under the grievance procedure include:

- a. terms and conditions of employment;
- b. health and safety;
- c. work relations;
- d. bullying and harassment;
- e. new working practices;
- f. working environment;
- g. organisational change; and
- h. discrimination.

The Grievance Procedure should not be used to complain about issues which do not directly relate to, or impact on, you and your work/ working environment.

The Grievance Procedure should not be used to complain about disciplinary action, reasonable action taken under the Performance Management Procedure or Sickness Absence Procedure. Any such complaints should be dealt with under the relevant appeal procedure.

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 trades union representative during the Grievance Meeting.
- d) An employee will have the right to appeal against any outcome of a Grievance Meeting.
- e) At no time will an employee be penalised or victimised for having raised a Grievance against the Council.

3. PROCEDURE

- a) Wherever possible, any grievance should be raised informally with the Clerk, or if this is inappropriate, with the Chairman, unless it is the Clerk raising the grievance then this should be directly to the Chairman or Vice Chairman of the Council. The recipient of the grievance from the Clerk should share the grievance with the HR Committee which has been established to handle employment matters, and the issues should be treated with discretion and confidentiality at all times.
- b) **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 Vice Chairman.

You should give as much information about your grievance, including any relevant dates and times, as you can, so as to allow for any investigation into your concerns to take place.

- c) **Meeting:** Generally, within a reasonable period of time, e.g., five working days of receipt of a written complaint, the Clerk and/or the Chairman of the Council will arrange a meeting with the employee, to discuss how you would like your grievance to be resolved. The employee will be invited to bring a work colleague or trades union representative to the meeting (*see paragraph 5*). The Meeting Chairman, and Note Taker, will endeavour to make the meeting arrangements mutually convenient and will arrange a confidential location, free from interruptions.

The Chairman will investigate the substance of the complaint and hear submissions from the employee concerned together with such other submissions or evidence as he/she shall consider appropriate and take such steps as he/she 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.

Once the investigations are concluded, if new information comes to light, if it is considered appropriate, you may be invited to a reconvened meeting, to have the opportunity to consider and respond to the findings of the investigation. Following this a decision on the outcome of your grievance will be made.

The Clerk/Chairman 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.

- d) **Response:** The Note Taker will transcribe the notes of the meeting and a copy will be attached to the decision which will be advised to the employee in writing and, where appropriate, include an action plan to assist in the resolution of the problem.

Note: 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. The SLCC can advise on approaches and bodies which may be able to assist (external organisations may levy a fee for such services).

- e) **Appeal:** If the employee is dissatisfied with the decision of the Chairman on his/her complaint, he/she may appeal against the decision of the Chairman or other elected Member by written notice within five working days of the decision. An Appeal may be raised if:

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

On receipt of the appeal another Councillor, who is not a member of the HR Committee, shall arrange to meet and consult with the employee, the Line Manager or Members concerned and any other persons as he/she shall consider appropriate, without unreasonable delay. The Appeal Meeting Chairman shall consider the issues and shall then take all such steps as he/she may consider necessary to resolve those issues. The decision of the Appeal Meeting will be final. The Council will need to ensure that the Members involved in the meetings 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, and this decision will be final.

- f) **Bullying or Harassment:** If a grievance concern alleged bullying or harassment the matter should be reported promptly to the employee's Line Manager, or Chairman 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 to the complainant. 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 required, 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 may be lodged by the Council to the Monitoring Officer at Maidstone Borough Council.

- g) **Right to be Accompanied:** At any formal stage of the procedure an employee may be accompanied by a fellow employee of their choice or trades union representative or official of a trade's union (appropriately accredited) but as this is an internal

procedure, they will not be entitled to be accompanied by an 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 meeting, put and sum up the employee's case, respond to views expressed at the meeting and to confer with the employee during the meeting (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.

- h) **Confidentiality:** So far as is reasonably practicable, the Council will keep any grievance or complaint of harassment confidential between the Line 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 so advised.
- i) **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 retained¹. The Note Taker at any meeting will be impartial to the grievance and be appointed with the agreement of both the Council and the employee. The HR Committee will appoint a Councillor to act as Note Taker for each meeting.
- j) **Grievances raised during Disciplinary Procedures:** 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 Member(s). 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.

4. **Relationship with Other Procedures**

Where your grievance relates to the conduct of other procedures such as the disciplinary or performance management procedures then the Council may choose to either delay the consideration of the grievance until that procedure has been completed or to deal with the grievance in the course of that procedure or by way of appeal if that appears to be a fairer or more straightforward way of dealing with the issue.

5. **Getting it wrong**

Following the repeal of the 2004 Dispute Resolution regulations, it is no longer necessary for employees 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

¹ The Data Protection Act 2018 & Tovil Parish Council Document Retention Policy

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.

6. Review

This policy will be reviewed at the Annual Parish Council Meeting, legislation is constantly monitored by the Clerk, the Clerk will recommend any changes to the Council as they are needed.

Scheduled date of Review; May 2024

CHAIRMAN.....

DATE.....