

KEY NOTES

1. The following Grievance and Discipline Procedure is an example for guidance purposes only. Each Council is different and needs to develop a procedure based on its specific needs. The following can be used to help develop that procedure. Please check any changes to procedure to ensure it complies with ACAS guidelines.
2. No Grievance or Disciplinary action should be taken by a Council without getting qualified advice beforehand.
3. No individual Councillor can or should conduct any part of this procedure alone. Unilateral actions by a Councillor are unlawful and would render the procedure void, under s101 Local Government Act, 1972, which covers Councils.
4. If a Council has a HR/Personnel Committee, the Terms of Reference for that Committee need to be checked to ensure that it has been clearly delegated responsibility to conduct Grievance and Disciplinary action. If the Terms are unclear, the default management body for these procedures is the Full Council.
5. Councils need to check whether an Employee's Grievance concerns complaints about one or more Councillors failure to follow the District Councils Code of Conduct. If it does, the matter must be referred to the District Monitoring Officer. (See Havey v Ledbury TC Supreme Court Nov 2018)
6. The following procedures are designed for small organisations that employ less than 20 staff. They do not apply to those Councils who have Collective Bargaining arrangements with Unions. They would already have their own inhouse Procedures.
7. All amendments and updates to Grievance and Disciplinary procedures need to be agreed with the workforce.
8. The following is based on the ACAS Guidelines for small organisations, with consideration for the unique and specific legal framework in which Town and Parish Councils work - see p54-56 Discipline and Grievances at work acas.org.uk

1. GRIEVANCES & DISCIPLINE

1.1. Informal Grievances

If you are unhappy with an element of your employment with the Council, you should initially discuss the matter with the Clerk/Chair of HR on an informal basis.

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Guidance for specific legal problems should be sought separately.

If you are uncomfortable about talking to the Clerk/Chair of HR, you should approach the Chair of the Council.

1.2. Informal Conduct / Performance Investigation

Should the Council be unhappy with either an Employee's conduct or performance, they will initially discuss their concerns with that Employee on an informal basis.

The purpose of this meeting will be to provide guidance and support to address the problem. For this reason, notes will be taken during this meeting, and all present will be asked to sign the notes.

Normally, a Performance Improvement Plan will be produced, see Appendix 1.

A Panel from the Council and the Employee will attend this meeting. There will be no entitlement to be accompanied.

1.3. Mediation

In the event that an Employee is unhappy with the outcome of the Informal Grievance Procedure, or either party do not feel that performance / conduct issues are being addressed effectively, either the Employee or the Council request that the matter be subjected to mediation.

This will involve the use of a third party Mediator. In its simplest form, Mediation will involve the Mediator talking to either party individually, to listen to their side of the issue. If the Mediator feels that a resolution to the problem is possible, a meeting will be arranged between all parties at which the Mediator will set out their assessment of the issues and invite both parties to reach their own resolution.

The resultant action plan should have the agreement and support of both parties, be set out in writing and be signed by all involved in the Mediation process.

1.4. Formal Grievances

In the case of Grievances not being fully resolved at the informal stage, a formal written approach is required to the Council. As a consequence, a formal Grievance Hearing will be held to address the matter, within twenty-eight days of receipt of the Employee's letter.

The Hearing will be conducted by a Panel of between two and three Elected Members who will be appointed by the Council or the HR Committee, should the Committee's Terms of Reference require it to do so.

At this Hearing Employees are entitled — and encouraged — to be accompanied by a work colleague from the Council or Trade Union/ALCC Representative. Employees will be entitled to set out the reasons for the complaint, and what they want to happen to resolve it.

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Their Representative can present their Grievance and sum up on the Employee's behalf. If the Grievance Panel have any questions they will be asked once the Employee has finished giving their side of events.

Employees will be informed in writing of the outcome of the meeting within seven days of the Hearing.

If the Employee making the grievance is unhappy with the response to the meeting, they can issue an Appeal, in writing. This Appeal must be submitted within seven days of receiving the response to the original grievance meeting.

Please Note

Any Formal Grievance complaint, which concerns the conduct of a Councillor, will be addressed as a Code of Conduct complaint by the Council, and will be referred to the District Council's Monitoring Officer. This Council will not address the Employee's Formal Grievance against an Elected Member. It will be addressed by the Monitoring Officer.

The Process

Upon receipt of any complaint, the Council or appropriate Committee will conduct an informal investigatory meeting with the Employee to establish if there are any issues that can be addressed by the Council, or is it solely concerned with the Code of Conduct. This investigatory meeting will be arranged within seven days of receipt of the complaint.

If there are non-Code related issues, such as work environment, or hours of work or pay, the Council could conduct a Formal or Informal Grievance process to address those problems, as detailed in sl.4.

However, Code of Conduct related complaints will be referred to the Monitoring Officer by the Council, in accordance with guidance from the Committee on Standards in Public Life's. The Council should keep the Employee fully informed of the progress of their complaint.

1.5. Formal Discipline (this procedure only applies to Employees with two or more years continuous employment. Those with less may be subject to a short service dismissal for misconduct or poor performance).

If an issue regarding an Employee's conduct, behaviour or performance is not fully addressed at the informal stage, the Council will pursue the matter through its formal Disciplinary Procedures. Typical examples of areas of concern may be poor performance, unacceptable and unexplained absenteeism, poor conduct and behaviour at work, or lack of capability by an Employee to carry out their job.

There are four-steps to the procedure, which increase in severity of its outcome if the issue is not resolved at the previous step. Each step involves a Formal Hearing between the affected Employee and a Disciplinary Panel, from the Full Council or HR Committee. The Employee will be given every opportunity to put their side of the issue. Meetings will be conducted as soon as reasonably possible after the incident(s), which are being investigated to ensure that facts and witness statements are clear and up to date. At this meeting Employees are entitled While every care has been taken in compiling these Procedures, Personnel Advice and Solutions Ltd cannot be held responsible for any errors or omissions. These procedures are intended to provide general information.

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and encouraged - to be accompanied by a work colleague from the Council, or Trade Union/SLCC Representative.

The Employee will receive a letter of invitation to the Hearing, which will contain details of the allegations to be addressed.

All evidence that will be used in the Hearing will be included with the letter of invitation, and supplied to the Employee at least two days before the Hearing.

During the Hearing the Employee will be given every opportunity to present their response to the allegations. If the Panel have any questions they will be asked once the Employee has finished.

Their colleague or Union Representative will be able to present their case and sum up at the end, but not answer questions on the Employee's behalf.

If the allegation of misconduct is proven, the meeting may result in the following action being taken by the Council Management against the Employee:

STEP No	ACTION TAKEN	LIVE PERIOD	MANAGER RESPONSIBLE
1	Formal Oral Warnin	Six months.	Disciplinary Panel
2	Formal Written Warnin	Twelve months	Disciplinary Panel
3	Final Written Warnin	Twelve months	Disciplinary Panel
4	Termination of Contract of Em 10 ent	N/A	Disciplinary Panel

Particularly severe acts of indiscipline may result in the Management bypassing Steps 1 and 2.

1.6. Gross Misconduct (this procedure only applies to Employees with two or more years continuous employment. Those with less may be subject to a short service dismissal for misconduct or poor performance).

Acts of Gross Misconduct, if proven after an appropriate investigation and a Disciplinary Hearing, will result in Dismissal without notice.

An informal investigatory meeting as detailed in s I .2 may or may not be conducted to establish the facts, depending on the circumstances.

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Employees accused of Gross Misconduct will be suspended on full pay and receive a written invitation to a Formal Disciplinary Hearing, giving them details of the allegation they are to answer, the date, time and venue of the meeting, and also inform them of their right to be accompanied by a work colleague from the Council or trade union/SLCC representative. The letter will provide a minimum of 2 working days prior notice to the meeting. It will also advise the Employee that dismissal without notice pay is a possible outcome.

The Council recognises the following as acts of Gross Misconduct. (This is not an exhaustive list).

- 1) Theft.
- 2) Abusive or threatening behaviour of any nature.
- 3) Being under the influence of alcohol or drugs at work.
- 4) Serious/Gross dishonesty in dealings with Management.
- 5) Sexist, racist or any other behaviour against an individual, which could be classed as creating a hostile, intimidating or threatening environment.
- 6) Breach of confidentiality.
- 7) Failing to carry out reasonable Management instructions.
- 8) Fighting and acts of aggression.
- 9) Deliberately damaging Council property.
- 10) Deliberate breaches of Council Health and Safety procedures.
- 11) Unauthorised access to Council computer files, software or any other such breach of confidentiality.

Employees who have been dismissed for acts of Gross Misconduct do have a right to Appeal against their dismissal, as detailed in sl . 7.

1.7. Appeal Procedure

Employees have the right to Appeal against a decision made at any Formal Disciplinary step. Appeals should be made to the Chair of the Council in writing, and submitted within seven working days of the disciplinary meeting having occurred.

A Formal Appeal Hearing, involving the Employee and an Appeal Panel. Members of the Appeal Panel must be able to demonstrate impartiality in conducting the Hearing, Ideally they will not have previous knowledge of the disciplinary action. However, it is acknowledged that this is not practical in small Councils. Therefore they need to demonstrate impartiality by assessing all of the evidence presented, asking wide ranging and evidence based questions, and providing a comprehensive, balanced and fact based outcome decision.

The Hearing will be held within fourteen days of receipt of the appeal request. At this meeting, Employees are entitled - and encouraged - to be accompanied by a work colleague from the Council or a Trade Union/SLCC representative.

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The Employee making the appeal will be informed in writing of the outcome of the Appeal Hearing within seven days.

Signed
Chair of the Parish Council

Date 22/10/24

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