KINGSKERSWELL PARISH COUNCIL GRIEVANCE POLICY

Introduction

1. This policy is based on and complies with the 2015 ACAS Code of Practice (http://www.acas.org.uk/index.aspx?articleid=2174.

2. It also takes account of the ACAS guide on discipline and grievances at work. https://www.acas.org.uk/media/1043/Discipline-and-grievances-at-work-The-Acas-guide/pdf/DG_Guide_Feb_2019.pdf).

3. It also takes into account relevant law affecting Councils.

4. 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. It sets out the arrangements for employees to raise their concerns, problems or complaints about their employment with the Council. The policy will be applied fairly, consistently and in accordance with the Equality Act 2010.

5. Many problems can be raised and settled during the course of everyday working relationships. Employees should aim to settle most grievances informally with their line manager.

6. This policy confirms:

   - employees have the right to be accompanied or represented at a grievance meeting or appeal by a companion who can be a workplace colleague, a trade union representative or a trade union official. This includes any meeting held with them to hear about, gather facts about, discuss, consider or resolve their grievance. The companion will be permitted to address the grievance/appeal meetings, to present the employee's case for their grievance/appeal and to confer with the employee. The companion cannot answer questions put to the employee, address the meeting against the employee's wishes or prevent the employee from explaining their case.
   - 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 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 unless it is unreasonable not to propose a later date
   - any changes to specified time limits must be agreed by the employee and the Council
   - an employee has the right to appeal against the decision about their grievance. The appeal decision is final
   - 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 General Data Protection Regulation (GDPR)

- audio or video recordings of the proceedings at any stage of the grievance procedure are prohibited, unless agreed by all affected parties as a reasonable adjustment that takes account of an employee's medical condition
- if an employee who is already subject to a disciplinary process raises a grievance, the grievance will normally be heard after completion of the disciplinary procedure
- if a grievance is not upheld, no disciplinary action will be taken against an employee if they raised the grievance in good faith
- the Council may consider mediation at any stage of the grievance procedure where appropriate, (for example where there have been communication breakdowns or allegations of bullying or harassment). Mediation is a dispute resolution process which requires the consent of affected parties
- Employees can only use all stages of the grievance procedure if the complaint is not a code of conduct complaint about a councillor. Employees can use the informal stage of the council's grievance procedure (paragraph 4) to deal with all grievance issues, including a complaint about a councillor Employees cannot use the formal stages of the council's grievance procedure for a code of conduct complaint about a councillor. If the complaint about the councillor is not resolved at the informal stage, the employee can contact the monitoring officer of Teignbridge District Council who will inform the employee whether or not the complaint can be dealt with under the code of conduct. If it does not concern the code of conduct, the employee can make a formal complaint under the council's grievance procedure (see paragraph 5)
- the Council may engage external investigators, grievance or appeal panels for the purposes of the process.
- If the grievance is a code of conduct complaint against a councillor, the employee cannot proceed with it beyond the informal stage of the council's grievance procedure. However, whatever the complaint, the council has a duty of care to its employees. It must take all reasonable steps to ensure employees have a safe working environment, for example by undertaking risk assessments, by ensuring staff and councillors are properly trained and by protecting staff from bullying, harassment and all forms of discrimination
- If an employee considers that the grievance concerns their safety within the working environment, whether or not it also concerns a complaint against a councillor, the employee should raise these safety concerns with their line manager at the informal stage of the grievance procedure. The council will consider whether it should take further action in this matter in accordance with any of its employment policies (for example its health and safety policy or its dignity at work policy) and in accordance with the code of conduct regime

Informal grievance procedure

7. The Council and its employees benefit if grievances are resolved informally and as quickly as possible. As soon as a problem arises, the employee should raise it with their manager to see if an informal solution is possible. Both should try to resolve the matter at this stage. If the employee does not want to discuss the grievance with their manager (for example, because it concerns the manager), the employee should contact the Chairman of the staffing committee or, if appropriate, another member of the staffing committee. If the employee's complaint is about a councillor, it may be

appropriate to involve that councillor at the informal stage. This will require both the employee's and the councillor's consent.

Formal grievance procedure

8. If it is not possible to resolve the grievance informally and the employee's complaint is not one that should be dealt with as a code of conduct complaint (see above), the employee may submit a formal grievance. It should be submitted in writing to the Chairman of the staffing committee.

9. The staffing committee will appoint a sub-committee of 3 members to hear the grievance in the event that the grievance is raised by or relates to the Clerk. Where the grievance is not raised by or relates to the Clerk, the staffing committee may appoint the Clerk to hear the Grievance. The sub-committee will appoint a Chairman from one of its members. No councillor with direct involvement in the matter shall be appointed to the sub-committee.

Investigation

10. If the sub-committee decides that it is appropriate, (e.g. if the grievance is complex), it may appoint an investigator to carry out an investigation before the grievance meeting to establish the facts of the case. The investigator may be an appropriate employee, Councillor or external party. The investigation may include interviews (e.g. the employee submitting the grievance, other employees, councillors or members of the public).

11. The investigator will summarise their findings (usually within an investigation report) and present their findings to the sub-committee.

Notification

12. Within 14 calendar days of the Council receiving the employee's grievance (this may be longer if there is an investigation), the employee will normally be asked, in writing, to attend a grievance meeting. The written notification will include the following:

    - the names of its Chairman and other members
    - the date, time and place for the meeting. The employee will be given reasonable notice of the meeting which will normally be within 35 calendar 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 (or submit witness statements) on the employee's behalf and that the employee should provide the names of their witnesses as soon as possible before the meeting
    - confirmation that the employee will provide the Council with any supporting evidence in advance of the meeting, usually with at least two days' notice
    - findings of the investigation if there has been an investigation
    - an invitation for the employee to request any adjustments to be made for the hearing (for example where a person has a health condition).

The grievance meeting

13. At the grievance meeting:

    - 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 questions about the information presented and will want to understand what action do they want 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
    - a grievance meeting may be adjourned to allow matters that were raised during the meeting to be investigated by the sub-committee.

14. The Chairman will provide the employee with the sub-committee's decision, in writing, usually within 7 calendar days of the meeting though may be longer e.g. where further investigations are required. The letter will notify the employee of the action, if any, that the Council will take and of the employee's right to appeal.

The appeal

15. If an employee decides that their grievance has not been satisfactorily resolved by the sub-committee, they may submit a written appeal to the staffing committee. An appeal must be received by the Council within 7 calendar days of the employee receiving the sub-committee's decision and must specify the grounds of appeal.

16. Appeals may be raised on a number of grounds, e.g.:

    - a failure by the Council to follow its grievance policy
    - the decision was not supported by the evidence
    - the action proposed by the sub-committee was inadequate/inappropriate
    - new evidence has come to light since the grievance meeting.

17. The appeal will be heard by a panel of 3 members of the staffing committee who have not previously been involved in the case. There may be insufficient members of the staffing committee who have not previously been involved. If so, the appeal panel will be a committee of three Council members who may include members of the staffing committee. The Council may engage external parties if there are insufficient councillors to form the panel. The appeal panel will appoint a Chairman from one of its members.

18. The employee will be notified, in writing, usually within 14 calendar days of receipt of the appeal of the time, date and place of the appeal meeting. The meeting will normally take place within 35 calendar days of the Council's receipt of the appeal. The employee will be advised that they may be accompanied by a workplace colleague, a trade union representative or a trade union official.

19. At the appeal meeting, the Chairman will:

    - introduce the panel members to the employee

- explain the purpose of the meeting, which is to hear the employee's reasons for appealing against the decision of the staffing sub-committee
- explain the action that the appeal panel may take.

20. The employee (or companion) will be asked to explain the grounds of appeal.

21. The Chairman will inform the employee that they will receive the decision and the panel's reasons, in writing, and when they are likely to receive the letter. This may be within 14 calendar days of the appeal meeting however will be longer where further investigations are required.

22. The appeal panel may decide to uphold the decision of the staffing committee or substitute its own decision.

23. The decision of the appeal panel is final.

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