

## **BURTON OVERY PARISH COUNCIL'S 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>). 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](https://www.acas.org.uk/media/1043/Discipline-and-grievances-at-work-The-Acas-guide/pdf/DG_Guide_Feb_2019.pdf)). It aims to encourage and maintain good relationships between the Council and the Clerk by treating grievances seriously and resolving them as quickly as possible. It sets out the arrangements for the Clerk to raise his/her 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.
2. Many problems can be raised and settled during the course of everyday working relationships. The Clerk should aim to settle most grievances informally with the Chairperson of the Council.
3. This policy confirms:
  - The Clerk has the right to be accompanied or represented at a grievance meeting or appeal by a companion who can be 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 Clerk's case for his /her grievance/appeal and to confer with the Clerk. The companion cannot answer questions put to the Clerk, address the meeting against the Clerk's wishes or prevent the Clerk from explaining his/her case.
  - the Council will give the Clerk reasonable notice of the date of the grievance/appeal meetings. The Clerk and his/her companion must make all reasonable efforts to attend. If the companion is not available for the proposed date of the meeting, the Clerk 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 Clerk and the Council
  - the Clerk has the right to appeal against the decision about his/her grievance. The appeal decision is final
  - information about the Clerk'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 Clerk. The Clerk'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 the Clerk is already subject to a disciplinary process and 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 the Clerk if he/she 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
- the Clerk can use all stages of the grievance procedure if the complaint is not a code of conduct complaint about a councillor. The Clerk 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. The Clerk 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 Clerk can contact the Chairperson of the Council who will inform the Clerk whether or not the complaint can be dealt with under the code of conduct. If it does not concern the code of conduct, the Clerk can make a formal complaint under the council's grievance procedure (see paragraph 5)
- If the grievance is a code of conduct complaint against a councillor, the Clerk 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 the Clerk. It must take all reasonable steps to ensure the Clerk has a safe working environment, for example by undertaking risk assessments, by ensuring the Clerk and councillors are properly trained and by protecting the Clerk from bullying, harassment and all forms of discrimination
- If the Clerk considers that the grievance concerns his or her safety within the working environment, whether or not it also concerns a complaint against a councillor, the Clerk should raise these safety concerns with the Chairperson of the Council at the informal stage of the grievance procedure. The council will consider whether it should take further action in this matter in accordance with its employment policies (the Health and Safety policy and Equality & Diversity policy) and in accordance with the code of conduct regime

#### **Informal grievance procedure**

4. The Council and the Clerk benefit if grievances are resolved informally and as quickly as possible. As soon as a problem arises, the Clerk should raise it with the Chairperson of the Council to see if an informal solution is possible. Both should try to resolve the matter at this stage. If the Clerk does not want to discuss the grievance

with the Chairperson (for example, because it concerns the Chairperson), the Clerk should contact another councillor. If the Clerk's complaint is about a councillor, it may be appropriate to involve that councillor at the informal stage. This will require both the Clerk's and the councillor's consent.

### **Formal grievance procedure**

5. If it is not possible to resolve the grievance informally and the Clerk's complaint is not one that should be dealt with as a code of conduct complaint (see above), the Clerk may submit a formal grievance. It should be submitted in writing to the Chairperson of the staffing committee, set up by the Council when the grievance is first raised.
6. No councillor with direct involvement in the matter shall be appointed to the committee.

### **Investigation**

7. If the 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 investigation may include interviews (e.g. the Clerk submitting the grievance, councillors or members of the public).
8. The investigator will summarise their findings (usually within an investigation report) and present their findings to the committee.

### **Notification**

9. Within 10 working days of the Council receiving the Clerk's grievance (this may be longer if there is an investigation), the Clerk will normally be asked, in writing, to attend a grievance meeting. The written notification will include the following:
  - the names of its Chairperson and other members
  - the date, time and place for the meeting. The Clerk will be given reasonable notice of the meeting which will normally be within 25 working days of when the Council received the grievance
  - the Clerk's right to be accompanied by 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 Clerk's behalf and that the Clerk should provide the names of his/her witnesses as soon as possible before the meeting
  - confirmation that the Clerk 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 Clerk to request any adjustments to be made for the hearing (for example where a person has a health condition).

### **The grievance meeting**

10. At the grievance meeting:

- the Chairperson will introduce the members of the committee to the Clerk
- the Clerk (or companion) will set out the grievance and present the evidence
- the Chairperson will ask the Clerk questions about the information presented and will want to understand what action does he/she wants the Council to take
- any member of the committee and the Clerk (or the companion) may question any witness
- the Clerk (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 committee.

11. The Chairperson will provide the Clerk with the committee's decision, in writing, usually within five working days of the meeting. The letter will notify the Clerk of the action, if any, that the Council will take and of the Clerk's right to appeal.

### **The appeal**

12. If the Clerk decides that his/her grievance has not been satisfactorily resolved by the committee, he/she may submit a written appeal to the Council. An appeal must be received by the Council within five working days of the Clerk receiving the committee's decision and must specify the grounds of appeal.

13. 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 committee was inadequate/inappropriate
- new evidence has come to light since the grievance meeting.

14. Where possible, the appeal should be heard by a panel of three members of the Council who have not previously been involved in the case. This includes the Investigator. However for a small employer like the parish council this is not possible. Under ACAS Guidelines for small Employers, if an organisation only has the same managers available to conduct an Appeal, as held the disciplinary, it would be appropriate for those three managers to do so. They would need to be able to demonstrate that they had conducted the Appeal in as impartial a manner as possible under the circumstances.

15. The Clerk will be notified, in writing, usually within 10 working days of receipt of the appeal of the time, date and place of the appeal meeting. The meeting will normally take place within 25 working days of the Council's receipt of the appeal. The Clerk will be advised that he/she may be accompanied by a trade union representative or a trade union official.
16. At the appeal meeting, the Chairperson will:
  - introduce the panel members to the Clerk
  - explain the purpose of the meeting, which is to hear the Clerk's reasons for appealing against the decision of the staffing committee
  - explain the action that the appeal panel may take.
17. The Clerk (or companion) will be asked to explain the grounds of appeal.
18. The Chairperson will inform the Clerk that he/she will receive the decision and the panel's reasons, in writing, within five working days of the appeal meeting.
19. The appeal panel may decide to uphold the decision of the staffing committee or substitute its own decision.
20. The decision of the appeal panel is final.