

### 1. PURPOSE AND SCOPE

It is the policy of the council to give the Clerk the opportunity to air and seek redress for any individual employment grievance which they may have. Grievances may be any concerns, problems or complaints the Clerk may wish to raise with the Council. This document describes the procedure which aims to facilitate a speedy, fair and consistent solution to the clerk's employment grievance. This procedure is adopted from SLCC model procedure and produced in line with the ACAS Code of Practice 2009 as set out in the Employment Act 2008.

### 2. PRINCIPLES

- a) It is noted that the Council has a Code of Conduct referencing behaviour among Councillors, this guidance should extend to the Clerk.
- b) At every stage in the procedure the Clerk will be given the opportunity to state his or her case before any decision is made.
- c) Grievances will be dealt with promptly and consistently
- d) At all formal stages the Clerk will have the right to be accompanied by one other person during the Grievance Hearing.
- e) The Clerk will have the right to appeal against any outcome of a Grievance Hearing.
- f) At no time will the Clerk be penalised or victimised for having raised a Grievance against the council

### 3. PROCEDURE

3.1 Wherever possible, any grievance should be raised informally with the Chairman, or if this is inappropriate, with another member of the Council. The recipient of the grievance from the Clerk should share the grievance with all members of the Council not involved with the grievance and the issues should be treated with discretion and confidentiality at all times.

3.2 **Written Statement:** If the Clerk does not consider it appropriate to raise the grievance informally, or if requested by the person the Clerk spoke to informally, then the Clerk should submit a formal grievance in writing to the Chairman, or if this is inappropriate to another member of the Council.

3.3 **Meeting or Hearing:** Generally, within a reasonable period of time e.g. five working days of receipt of a written complaint, the Chair or the member considering the complaint, will arrange a meeting with the Clerk and a minimum of three members of the Council not involved with the grievance (the panel). The meeting arrangements should be mutually convenient and held at a confidential location, free from interruptions. At the meeting the Clerk should submit her/his complaint with any evidence that s/he shall consider appropriate. The Chair or the member considering the complaint will 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 Clerk may call witnesses by prior arrangement. There is no right for the Member(s) implicated in a Clerk's grievance to cross examine the

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aggrieved during a grievance hearing. The panel, may wish to make its own investigations through interviewing these individuals and/or other witnesses separately. The Clerk may be asked what he or she would like to happen as a result of raising the grievance and which should be considered when preparing the response.

**3.4 Response:** The panel will advise the decision in writing to the Clerk and the member(s) implicated in the grievance. Where appropriate, this should include an action plan to assist in the resolution of the problem. All other members of the Council are notified at the same time.

**3.5 Appeal:** If the clerk is dissatisfied with the decision of the Council on his/her complaint, s/he may appeal against the decision to the Chair by written notice within five working days of the decision. An Appeal may be raised if:

- The Clerk thinks the finding, or action plan, is unfair
- New evidence has come to light
- The Clerk thinks that the procedure was not applied properly

On receipt of the appeal the council should liaise with Chiltern District Council legal and democratic services for advice.

**3.6 Bullying or Harassment:** If a grievance concerns alleged bullying or harassment the matter should be reported promptly to the chairman, or another member if more appropriate, with an indication of the required action. The above procedure (3.1 – 3.5) should then be followed and if the claim of harassment or bullying is proven, the Council should consider lodging a Code of Conduct complaint through the Standards process.

**3.7 Right to be Accompanied:** At any formal stage of the procedure the Clerk may be accompanied by a member of SLCC 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 Clerk should make a reasonable request. The companion will be allowed to address the hearing, put and sum up the Clerk's case, respond to views expressed at the hearing and to confer with the Clerk during the hearing (sometimes in an adjournment) but is not allowed to answer questions on the Clerk's behalf, address the hearing if the Clerk does not wish it or prevent the employer from explaining their case.

### **3.8 Hearing Panels/Annual Appraisals**

Coleshill Parish Council holds annual appraisals for their Clerk.

**3.9 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 clerk and the person about whom the grievance or complaint is made. If it is necessary to investigate the matter with any other person, the Clerk will be so advised.

**3.9 Record Keeping:** In all cases, written records of the nature of the grievance raised, the Clerk's response, action taken (with reasons), details of any appeal and subsequent developments will be retained and kept in accordance with the Data Protection Act 1998.

### **3.10 Grievances raised during Disciplinary**

In some circumstances when a disciplinary process has commenced the Clerk 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.

### **4. Employment tribunal employment tribunal regulations**

Following the repeal of the 2004 Dispute Resolution regulations the Clerk no longer has 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](http://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.