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## **GRIEVANCE PROCEDURE / POLICY**

### **INCLUDING BULLYING AND HARASSMENT**

Employees occasionally raise issues, problems or have objections. They may have concerns with their work or working conditions they wish to raise with the Clerk or Staffing Committee to resolve.

This policy outlines how employee grievances should be raised and responded to.

The objectives of the procedure are: -

- To foster good relationships between the Council and its employees by discouraging the harbouring of grievances;
- To settle grievances as near as possible to their point of origin;
- To ensure the Council treats issues at work seriously and resolves them as quickly as possible;
- To ensure that employees are treated fairly and consistently throughout the Council. This also applies to those who are the subject of an allegation.

The Council reserves the right not to consider grievances that are without substance, minor or malicious, or that merely repeat issues that have already been raised and addressed. Such matters will be responded to appropriately and in a way which minimises disruption to the Council business, still ensuring employees are treated fairly. False or malicious allegations of harassment or bullying which damage the reputation of a fellow employee will not be tolerated. Where it is clear that a grievance has been raised with no substance or for malicious purposes, this could amount to misconduct and will be addressed in accordance with the Council's Managing Employee Performance Policy.

The matter will be deemed to have been resolved, or no further action will be taken, if six months have elapsed since the date the issue was originally raised and there has been no involvement from either party during this time. At any point the employee can decide to withdraw their grievance but they must accept that the matter may not be re-opened.

On rare occasions there may be overriding reasons why the outcome of a case may need to be made known to others as changes may need to be made. Maintaining confidentiality is always very important when handling grievances and cases of bullying and harassment.

This procedure follows the ACAS Code of Practice.

## **1. SCOPE**

- 1.1 This procedure applies to all employees of the Parish Council.
- 1.2 Any communication from an employee which contains a problem or complaint will be treated as a potential grievance. If there is any doubt – clarify this with the employee.
- 1.3 This policy covers work related complaints and complaints of bullying and harassment as per Annex 2.
- 1.4 Grievances cannot be initiated after employment with the Council has ended. If a former employee raises a complaint/dispute the Council may consider engaging in a dialogue with the individual with the hope of resolving the issue, however this would be done outside of the remit of this Grievance Procedure. Grievances already in process when the employee leaves should be concluded. There is no right of appeal through the Council in these circumstances.
- 1.5 Matters excluded from this procedure are as follows: -
  - Appeals against salary or grade;
  - Management decisions in respect of the Managing Employee Performance Procedure i.e., a decision to convene a performance hearing, or the outcome of a performance hearing; as they have their own appeal processes;
  - Income tax, national insurance matters, rates of pay collectively agreed at the national or local level;
  - Rules of the pension schemes;
  - Difficult working relationships, unless they amount to bullying and harassment and/or discrimination.

## **2. INFORMAL GRIEVANCE PROCEDURE – STAGE 1**

- 2.1 Work related issues should always be resolved informally whenever possible. Problems can escalate quickly and become extremely stressful and adversarial; undertaking a formal process can itself compound the problems.
- 2.2 Attempts to resolve the matter quickly and informally must be made before progressing to the formal procedure. Associated grievances that have been raised by both/all parties should be considered together.
- 2.3 In the interests of maintaining good working relations the employee should discuss any grievance first with the Clerk (or in the case of the Clerk, or if concerns relate to the Clerk, it should be discussed with the Staffing Committee, with a view to resolving the matter informally. The purpose of the discussion is to establish the core issue and resolve the problem. If necessary, the Clerk or Staffing Committee can support the employee by facilitating discussions between the employee and other parties.
- 2.4 The employee must work with the Clerk or Staffing Committee to make concerted attempts to resolve the issue informally before continuing to the formal stage of this procedure. If the decision/outcome of the informal action(s) is not satisfactory to the

employee e.g. they believe not all options to resolve the issue have been explored, the employee can request that the matter is considered under the formal process.

### **3. FORMAL GRIEVANCE PROCEDURE – STAGE 2**

- 3.1 The employee must set out their grievance in writing (“Formal Grievance”) and provide a copy to the Clerk or Chair. If the grievance is concerning the Clerk and/or the Chair then the grievance should be sent to the Vice Chair of the Council, within 10 working days of receipt of the outcome of the informal efforts. The written statement must make clear the nature of the problem and the remedy sought.
- 3.2 Once the Council has had a reasonable opportunity to consider the information provided in the Formal Grievance, the Council will carry out an appropriate investigation, if required. The Chair can delegate this to the Clerk working with two or three councillors, all of which would have had no previous involvement. This does not need to be extensive in all cases, but should enable the facts to be established. It should be completed as soon as practicably possible, taking into account witness availability and evidence gathering.
- 3.3 The employee who raised the grievance and any other parties involved or the subject of the grievance should be given advance notice that an investigation is to be conducted, and any specific allegations made. The investigation members, with support from HR (see 5.5), should refer to the Council’s Managing Employee Performance Procedure as necessary.
- 3.4 All evidence gathered through the investigation will be provided to the employee who raised the grievance and subject of the grievance, prior to any formal grievance meeting.
- 3.5 The employee will be invited to attend a formal grievance meeting to discuss the matter.
  - a. The employee must take all reasonable steps to attend the meeting.
  - b. Grievance meetings will take place at the earliest possible date, in consideration of any necessary investigation.
  - c. The employee has the right to be accompanied to a grievance meeting by a fellow employee or by a Trade Union representative.
  - d. If the meeting is inconvenient for either the employee or his/her companion, the meeting may be re-scheduled once. If they fail to attend without an acceptable explanation the matter may be concluded without a meeting.
- 3.6 A grievance meeting may be adjourned to allow matters raised during the course of the meeting to be investigated, or to afford the Clerk and/or Councillors time to consider the information
- 3.7 The Council with support from HR (see 5.5), will consider the grounds for the grievance and assess it on its merit. A decision will be made based on the presentations and evidence provided from all parties. Timescales for completion should be indicated when possible.

- 3.8 The Council will convey the outcome to the employee in writing (enclosing any relevant documents)

#### **4. GRIEVANCE APPEAL PROCEDURE – STAGE 3**

- 4.1 If the employee wishes to appeal against the Council’s decision, they must inform the Council within 5 working days of receiving the decision. This would be in writing to the Clerk, Chair or Vice Chair of the Council.
- 4.2 If the employee notifies the Council that they wish to appeal, the employee will be invited to attend a grievance appeal meeting as soon as practicably possible after receiving notice that the employee wishes to appeal and given five (5) working days’ notice. The grievance appeal meeting will be considered by three councillors who have had no previous involvement in the grievance. HR involvement can be sought (see 5.5) and/or external support such as a mediator or legal representative. The employee has the right to be accompanied to a grievance appeal meeting by a colleague or a Trade Union representative.
- 4.3 The employee must take all reasonable steps to attend that meeting. If the meeting time is inconvenient for the employee or his or her companion, the employee may ask to re-schedule the meeting once.
- 4.4 The councillors can require any additional information from any employee whom they consider may assist and will be supplied with written statements by both parties and these will be supplied in at least 3 working days in advance of the meeting.
- 4.5 After the grievance appeal meeting the employee will be informed of the Council’s final decision within 5 working days. The meeting may be reconvened for this purpose. The Council’s decision will be confirmed to the employee in writing.

#### **5. NOTES ON PROCEDURE**

- 5.1 **Complaints by employees (including bullying & harassment) against Council Members**  
If the grievance is about a council member and they have attempted informal resolution, they must raise this immediately with the Parish Clerk or South Gloucestershire Council’s Monitoring Officer, who will take the appropriate action referring to the council’s Members Code of Conduct.
- 5.2 **Complaints by members of the public**  
A member of the public who feels s/he has been bullied or harassed by any members or officers of a Council and have attempted informal resolution, should use the Council’s official Complaints Policy.
- 5.3 **Complaints from employees against service users/customers**  
Employees must tell the Clerk if they are being harassed by non-employees to ensure that reasonable steps can be taken to prevent this from happening again.

- 5.4 A copy of the Formal Grievance, a note of the decision taken at the first stage of the procedure, any notice of appeal and appeal decision will be placed on the employee's/ex-employee's personal file, together with any notes or evidence taken or compiled during the course of the procedure.
- 5.5 Advice can be sought from HR on any aspects of this policy, after a discussion with the Staffing Committee as services are usually chargeable.
- 5.6 Adjustments can be made to support employees, including considering an appropriate venue for any grievance meetings.

## ANNEX 1 - BULLYING AND HARASSMENT

### 1.0 INTRODUCTION

Bullying and harassment are both forms of behaviour that the Council absolutely will not tolerate.

The Council is committed to ensuring:

- (i) Employees are treated with dignity and respect at work.
- (ii) A working environment is provided free from bullying and harassment.
- (iii) The Clerk and Members adopt high standards of staff management, in which bullying and harassment have no place.
- (iv) It provides fair and effective procedures to deal with complaints.
- (v) All allegations of bullying and harassment are taken extremely seriously.

1.1 This policy reflects the spirit in which the Council intends to undertake all of its business and outlines the specific procedures available to all employees in order to protect them from bullying and harassment. It should be read in conjunction with the Council's procedures on Equalities, Managing Employee Performance, Employee Code of Conduct, Employee Handbook, and Member Code of Conduct.

### 1.2 Definitions - Taken from ACAS (Advisory, Conciliation and Arbitration)

1.2.1 **Bullying** Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour; an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient.

1.2.2 **Harassment** Unwanted conduct related to a relevant protected characteristic (as in the Equality Act 2010), which has the purpose or effect of violating an individual's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual. The protected characteristics are the grounds on which discrimination is unlawful and include - age, disability, gender

reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

- 1.2.3 Employees can also complain of behaviour that they find offensive even if it is not directed at them, they do not need to possess the protected characteristic.
- 1.2.4 Employees are also protected from harassment because of:
- Perception – perceived to have a protected characteristic and harassed because of that perception.
  - Association – associated with someone who has a protected characteristic.
- 1.2.5 Bullying and harassment may be carried out by an individual against an individual or involve groups of employees. It may occur face-to-face, in meetings, through written communication, including e-mail and social media, by telephone or through automatic supervision methods. It may occur on or off work premises, during work hours or non-work time
- 1.2.6 Both bullying and harassment are behaviours which are unwanted by the recipient and offensive. Bullying and harassment in the workplace can lead to poor morale, low productivity and poor performance, sickness absence, lack of respect for others, employee turnover, damage to the Council's reputation and ultimately, Employment Tribunal or other court cases and payment of compensation.

### **1.3 Examples of Unacceptable Behaviour**

(This list is not exhaustive).

Examples:

- Spreading malicious rumours, insulting someone by word or behaviour (particularly on the grounds of a protected characteristic).
- ridiculing or demeaning someone,
- exclusion or victimisation,
- unfair treatment,
- overbearing supervision or other misuse of position or power,
- unwelcome sexual advances,
- making threats or comments about job security without foundation,
- deliberately undermining a competent worker by overloading work and/or constant criticism,
- preventing an individual's promotion or training opportunities,
- publicly commenting about an individual's performance who is not present to defend themselves or copying documents that are critical about someone to others who do not need to know.

## **2. Procedure for Dealing with Cases of Bullying and Harassment**

**The procedure (formal and informal stages) is the same as the process for dealing with grievances.**

If informal resolution is not possible, the Clerk or Members may decide the matter is a disciplinary issue to be dealt with formally under the Council's Managing Employee Performance Procedure.

As with any performance issue a fair procedure will be followed. In the case of bullying or harassment the complainant and the accused must both be treated fairly.

All cases of bullying and harassment will be treated as confidential in respect of the person making the complaint and the subject of the complaint.

## **2.1 Informal Approach – Stage 1**

### **Approaching the other person directly.**

- 2.1.1 An employee who believes they have been bullied or harassed should ask the person to stop (either verbally or in writing) making it clear what it is they find offensive and unacceptable and the effect it is having on them. They should also warn that formal action may be initiated if the behaviour does not stop. Having an open, adult, and honest discussion is often the most powerful way to address the problem.
- 2.1.2 If the employee is unable to approach the other person directly, a work colleague, Member, HR representative, or Trade Union representative may make an approach on their behalf, on an informal and confidential basis.

### **Involving the Clerk**

- 2.1.3 The employee should contact the Clerk to get their advice if they are unable to resolve the matter (if the Clerk is not the person whose behaviour is the issue), or the Staffing Committee. This can be undertaken on behalf of the employee by a work colleague, HR or Trade Union representative.
- 2.1.4 Mediation can be a good way of dealing with bullying, discrimination or harassment situations depending on the nature of the allegation. Contact HR (see 5.5) and ACAS for advice on accessing mediation.
- 2.1.5 Appropriate management action will include discussion with the person complained of as part of resolving the situation.
- 2.1.6 Employees who fail to comply with a management instruction may be dealt with in accordance with the Managing Employee Performance procedure.

## **3. The Legal Position and Related Issues**

- 3.1 Councils have a duty of care towards all their workers and liability under common law arising out of the Health and Safety at Work Act 1974 and the Equality Act 2010. Under the Equality Act 2010, bullying and harassment may be considered unlawful discrimination.

The Protection from Harassment Act 1997 created a criminal offence of harassment with a fine and/or prison sentence as a penalty and a right to damages for the victim.

Some bullying and harassment behaviour may also be offences-in law which could lead to police involvement and/or criminal prosecution. The Council should take appropriate legal advice, sometimes available from the Council's insurer, if such a matter arises.

- 3.2 The Council's Health and Safety policies may need to be considered – which covers prevention of violence at work when an employee is assaulted, verbally abused or threatened during the course of their employment. Employees should immediately inform the Clerk or Staffing Committee.

### **Useful Contacts**

- HR South Gloucestershire Council - 01454 868945
- ACAS [www.acas.org.uk](http://www.acas.org.uk) (08457 474747)
- Monitoring Officer at South Gloucestershire Council.
- SLCC [www.slcc.co.uk](http://www.slcc.co.uk)