

Tintwistle Parish Council

Grievance and Discipline Policy



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A. Grievances

A1. This policy aims to encourage and maintain good relationships between the Council and its employees by treating any grievance seriously and resolving it as quickly as possible. It sets out the arrangements for employees formally to raise their concerns, problems or complaints about their employment with the Council. Nevertheless, many problems can be raised and settled during the course of everyday working relationships; it should be the aim to settle most grievances informally.

A2. This policy will be applied fairly and consistently.

A3. This policy confirms that:

- the Council will fully investigate the facts of each case raised formally with it.
- employees may be accompanied or represented by a trade union representative or a work colleague at any grievance meeting. The companion is permitted to address such meetings, to put the employee's case and confer with the employee. The companion will not answer questions put to the employee, address the meeting against the employee's wishes or prevent the employee from explaining his/her case.
- the Council will give employees reasonable notice of any meetings arising from this procedure. The employee must make all reasonable efforts to attend.
- if the employee's 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.
- any changes to specified time limits in this procedure must be agreed by the employee and the Council.
- information about an employee's grievance will be restricted to those involved in the grievance process. A record of the reason for the grievance and the action taken is confidential to the employee. The employee's grievance records will be held by the Council in accordance with current data protection legislation.
- recordings of the proceedings at any stage of the grievance procedure are prohibited, unless agreed as a reasonable adjustment to take account of an employee's medical condition.
- employees have the right to appeal against the decision about their grievance. The decision arising from the appeal is final.
- if an employee who is already subject to the Council's disciplinary procedure raises a grievance, the grievance will normally be heard after the completion of the disciplinary procedure.
- if a grievance is not upheld, no disciplinary action will be taken against an employee if he/she raised the grievance in good faith

- the Council may consider using mediation at any stage of the grievance procedure where appropriate (for example where there have been communication breakdowns or allegations of bullying or harassment), if both the Council and the employee consent.

Informal grievance resolution

A4. The Council and its employees will often benefit if grievances are resolved informally and as quickly as possible. As soon as a problem arises, the employee should raise it, to see if an informal solution is possible. If the employee does not want to discuss the grievance with the Chair (for example, because it concerns the Chair), the employee should informally contact another councillor, as appropriate.

A5. If an employee considers that the grievance concerns his/her safety within the working environment, the employee should ensure that these safety concerns are raised at this informal stage of the grievance procedure.

Complaints against a councillor(s)

A6. Employees cannot use the formal stages of the Council's grievance procedure for a Code of Conduct complaint about a councillor. Therefore, if such a complaint is not resolved at the informal stage, the employee can contact the Monitoring Officer of High Peak Borough Council, who will inform the employee whether the complaint can be dealt with by Monitoring Officer under the Code of Conduct. If the complaint does not concern the Code of Conduct, the employee can make a formal complaint under the Parish Council's grievance procedure (see below).

Formal grievance procedure

A7. If it is not possible to resolve the grievance informally, the employee may submit a formal grievance (except as described in paragraph A6 above). It should be submitted in writing to the Chair.

A8. A temporary committee consisting of three councillors will be appointed to investigate the grievance; this committee will appoint a Chair from among its members. No councillor with direct involvement in the matter shall be appointed to this committee.

A9. The committee's investigation may include interviewing others (e.g. employees, councillors or members of the public).

A10. Within 10 working days of the employee's grievance being received, the employee will be asked, in writing, to attend a grievance meeting; the following information will be included:

- the names of the temporary committee's Chair and other two members
- a summary of the employee's grievance based on his/her written submission
- the employee's statutory right to be accompanied at the meeting by either a trade union representative or work colleague
- a copy of the Council's grievance policy
- the time and place for the meeting. The employee will be given reasonable notice of the meeting, which will be within 25 working days of when the grievance was first received.
- that witnesses may attend on the employee's behalf, and that the employee should provide the names of his/her witnesses at least five working days before the meeting
- that the employee will provide the committee with all supporting evidence at least five working days before the meeting. If witnesses are not attending the meeting, witness statements should be submitted to the committee at least five working days before the meeting.

The grievance meeting

A11. The grievance meeting will be conducted as follows:

- The employee (or the companion) will set out the grievance and present the evidence.
- The Chair will ask the employee what action he/she wants the council to take.
- Any member of the committee and the employee (or the companion) may question any witness
- The employee (or the companion) will have the opportunity to sum up his/her case.
- The grievance meeting may be adjourned to allow matters raised during the meeting to be reviewed/investigated by the committee.
- The Chair will provide the employee with the committee's decision with reasons, in writing, within five working days of the meeting. The letter will notify the employee of the action, if any, that the council will take.

The appeal

A12. An employee receiving the decision of the grievance meeting will be notified of the right of appeal. His/her written notice of appeal must be received within five working days of the employee receiving written notice of the grievance decision, and must specify the grounds for appeal. Possible grounds for appeal include:

- Failure by the Council to follow its grievance policy
- The committee's 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.

A13. The appeal will be heard by a panel of three councillors who have not previously been involved in the case. The appeal panel will appoint a Chair from among its members.

A14. The employee will be notified, in writing, within 10 working days of receipt of the notice of appeal of the time and place of the appeal meeting; the meeting will take place within 25 working days of receipt of the notice of appeal. The employee will be advised that he/she may be accompanied by a companion, either a trade union representative or a work colleague.

A15. At the appeal meeting, the Chair will:

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

A16. The employee (or his/her companion) will be asked to explain the grounds for appeal. Any member of the appeal panel may ask questions about those grounds.

A17. The Chair will inform the employee that he/she will receive the decision and the panel's reasons, in writing, within five working days of the appeal meeting.

A18. The appeal panel may decide to uphold the decision of the grievance committee or substitute its own decision. The appeal panel's decision is final.

B. Discipline

B1. Wherever appropriate, the Council will try to resolve its concerns about employees' behaviour informally, without starting the formal procedure set out below.

B2. This policy will be applied fairly and consistently.

B3. This policy confirms that:

- the Council will fully investigate the facts of each case.
- the Council recognises that misconduct and unsatisfactory work performance are different issues. The disciplinary policy principally applies to misconduct issues.
- employees will be informed in writing about the nature of the complaint against them and given the opportunity to state their case.
- employees may be accompanied or represented by a trade union representative or a work colleague at any disciplinary or investigatory meeting. The companion is permitted to address such meetings, to put the employee's case and confer with the employee. The companion will not answer questions put to the employee, address the meeting against the employee's wishes or prevent the employee from explaining his/her case.
- the Council will give employees reasonable notice of any meetings arising from this procedure. The employee must make all reasonable efforts to attend. Failure to attend any meeting may result in it going ahead and a decision being taken. An employee who does not attend a meeting will be given the opportunity to be represented and to make written submissions.
- if the employee's 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.
- any changes to specified time limits in this procedure must be agreed by the employee and the Council.
- information about an employee's disciplinary matter will be restricted to those involved in the disciplinary process. A record of the reason use of the disciplinary procedure and the action taken by the Council is confidential to the employee. The employee's disciplinary records will be held by the Council in accordance with current data protection legislation.
- recordings of the proceedings at any stage of the disciplinary procedure are prohibited, unless agreed as a reasonable adjustment to take account of an employee's medical condition.
- employees have the right to appeal against any disciplinary action.
- if an employee who is already subject to the Council's disciplinary procedure raises a grievance, the grievance will normally be heard after the completion of the disciplinary procedure.
- disciplinary action taken by the Council can include an oral warning, written warning, final written warning or dismissal.
- except for gross misconduct when an employee may be dismissed without notice, the Council will not dismiss an employee on the first occasion that it decides there has been misconduct.
- if an employee is suspended following allegations of misconduct, it will be on full pay and only for such time as is necessary. Suspension is not a disciplinary sanction. The Council will write to the employee to confirm any period of suspension and the reasons for it.
- the Council may consider using mediation at any stage of the disciplinary procedure where appropriate (for example where there have been communication breakdowns or allegations of bullying or harassment), if both the Council and the employee consent.

Examples of misconduct

B4. Misconduct is employee behaviour which can lead to the employer taking disciplinary action. The following list contains some examples of misconduct.

- unauthorised absence
- poor timekeeping
- misuse of the Council's resources and facilities including telephone, email and internet
- inappropriate behaviour
- refusal to follow reasonable instructions
- breach of health & safety rules.

Examples of gross misconduct

B5. Gross misconduct is misconduct that is so serious that it is likely to lead to dismissal without notice. The following list contains some examples of gross misconduct.

- bullying, discrimination or harassment
- incapacity at work because of alcohol or drugs
- violent behaviour
- fraud or theft
- gross negligence
- gross insubordination
- serious breach of health & safety rules
- serious and deliberate damage to property
- use of the internet or email to access pornographic, obscene or offensive material
- disclosure of confidential information.

Leadership of the disciplinary process

B6. The disciplinary process will be led by:

- the Council, if the employee whose conduct is in contention is the Clerk. (The Council will appoint a temporary disciplinary committee consisting of three councillors; this committee will appoint a Chair from among its members. No councillor with direct involvement in the matter shall be appointed to the committee.)
- the Clerk, if the employee whose conduct is in contention is not the Clerk. However, if the Clerk has him/herself been involved in the circumstances of the case in a way which means that (s)he cannot be seen as independent, then the Clerk must not lead the disciplinary process, which will instead be led as in the first bullet-point of this clause.

Disciplinary investigation

B7. There will be an investigation of the facts by an Investigator independent from the circumstances of the case; this will normally be a councillor or senior member of staff. If there are no councillors or senior staff who are independent (for example, because they all have direct involvement in the allegations about the employee), an Investigator will be appointed from outside the Council. The Investigator will be appointed as soon as possible after the allegations have been made. The Investigator will be asked to submit a report within 20 working days of appointment, or sooner if possible. (In cases of alleged minor misconduct, the appointment of an Investigator may not be necessary, and thus it may be decided to commence disciplinary proceedings omitting this stage.)

B8. The employee will be notified in writing of the alleged misconduct, asking him/her to attend a meeting with the Investigator. The employee will be given at least five working days' notice of the meeting with the Investigator so that he/she has reasonable time to prepare for it. The letter will explain the investigatory process and that the meeting is part of that process. The employee will be provided with a copy of the Council's disciplinary procedure. The letter will also inform the employee that when he/she meets with the Investigator, he/she will have the opportunity to comment on the allegations of misconduct.

B9. Employees may be accompanied or represented by a trade union representative or a work colleague at any investigatory meeting.

B10. If there are other persons (e.g. employees, councillors, members of the public or the Council's contractors) who can provide relevant information, the Investigator should endeavour to obtain it from them in advance of the meeting with the employee.

B11. The Investigator has no authority to take disciplinary action. His/her role is to establish the facts of the case as quickly as possible and prepare a report of his/her findings. He/she will not be a member of any disciplinary committee.

B12. The disciplinary committee will then decide as soon as reasonably possible whether:

- the employee has no case to answer, and there should be no further action under the Council's disciplinary procedure, or
- the matter is not serious enough to justify further use of the disciplinary procedure and can be dealt with informally, or
- the employee has a case to answer and there should be action under the Council's disciplinary procedure.

B13. If it is decided not to take disciplinary action, it may be considered whether mediation would be appropriate in the circumstances.

The disciplinary meeting

B14. If it is decided that there is a case to answer, the employee will be invited, in writing, to attend a disciplinary meeting; the following information will be included:

- the names of the disciplinary committee's Chair and the other two members, or (depending on clause B6 above) confirmation that the Clerk will chair the meeting
- details of the alleged misconduct, and the employee's statutory right to be accompanied at the meeting by either a trade union representative or a work colleague
- a copy of the Investigation report, all the supporting evidence and a copy of the Council's disciplinary procedure
- the time and place for the meeting. The employee will be given reasonable notice of the hearing (at least ten working days) so that he/she has sufficient time to prepare for it.
- that witnesses may attend on the employee's and the Council's behalf, and that both parties should inform each other of their witnesses' names at least five working days before the meeting.
- that all parties should provide each other with all supporting evidence at least five working days before the meeting. If witnesses are not attending the meeting, witness statements should be submitted to the other side at least five working days before the meeting.

B15. The disciplinary meeting will be conducted as follows:

- The Chair of the meeting will set out the council's case and present supporting evidence (including, if required, any witnesses).
- The employee (or the companion) will set out his/her case and present supporting evidence (including, if required, any witnesses).
- Any person present may question any witness.
- The employee (or the companion) will have the opportunity to sum up his/her case.
- The disciplinary meeting may be adjourned to allow matters raised during the meeting to be reviewed/investigated further.
- The Chair of the meeting will advise the employee in writing of the decision reached, with reasons, within five working days of the meeting.

Disciplinary action

B16. If it is decided that there should be disciplinary action, it may be any of the following:

Oral warning: An oral warning is issued for most first instances of minor misconduct. The council will notify the employee:

- of the reason for the oral warning, the improvement required (if appropriate) and any time period for improvement
- that further misconduct/failure to improve will result in more serious disciplinary action

- that a note confirming the oral warning will be placed on the employee's personnel file, that a copy will be provided to the employee and that the warning will remain in force for six months.

Written warning: If there is a repetition of earlier misconduct which had resulted in an oral warning, or in cases of different and more serious misconduct, the employee will normally be given a written warning. The written warning will set out:

- the reason for the written warning, the improvement required (if appropriate) and any time period for improvement
- that further misconduct/failure to improve will result in more serious disciplinary action
- that a note confirming the written warning will be placed on the employee's personnel file, that a copy will be provided to the employee and that the warning will remain in force for 12 months.

Final written warning: If there is further misconduct during the period of a written warning or if the misconduct is sufficiently serious, the employee will be given a final written warning. This will set out:

- the reason for the final written warning, the improvement required (if appropriate) and the time period for improvement
- that further misconduct/failure to improve will result in more serious disciplinary action up to and including dismissal
- that a note confirming the final written warning will be placed on the employee's personnel file, that a copy will be provided to the employee and that the warning will remain in force for 18 months.

Dismissal: The Council may dismiss:

- for gross misconduct
- if there is no improvement within the specified time period in the conduct which has been the subject of a final written warning
- if another instance of misconduct has occurred and a final written warning has already been issued and remains in force.

B17. The Council will consider very carefully a decision to dismiss. If dismissed, an employee will receive a written statement of the reasons for dismissal and, the date on which the employment will end.

B18. Other action imposed as a result of the disciplinary meeting will remain in force for the timescales stated above unless it is subsequently modified as a result of an appeal. If it has been decided to take no disciplinary action, no record of the matter will be retained on the employee's personnel file.

The appeal

B19. An employee who is the subject of disciplinary action will be notified of their right of appeal. His/her written notice of appeal must be received by the Council within five working days of the employee receiving written notice of the disciplinary action, and must specify the grounds for appeal. Possible grounds for appeal include:

- Failure by the Council to follow its disciplinary policy
- The disciplinary decision was not supported by the evidence.
- The disciplinary action was too severe in the circumstances of the case.
- New evidence has come to light since the disciplinary meeting.

B20. The appeal will be heard by a panel of three councillors who have not previously been involved in the case. The appeal panel will appoint a Chair from among its members.

B21. The employee will be notified, in writing, within 10 working days of receiving their notice of appeal, of the time, date and place of the appeal meeting. The employee will be advised that he/she may be accompanied by a companion, either a trade union representative or a work colleague.

B22. At the appeal meeting, the Chair of the panel will:

- 1 explain the purpose of the meeting, which is to hear the employee's reasons for appealing against the original disciplinary decision
- 2 explain the action that the appeal panel may take.

B23. The employee (or his companion) will be asked to explain the grounds for appeal. Any member of the appeal panel may ask questions about those grounds.

B24. The Chair of the panel will inform the employee that he/she will receive the decision and the panel's reasons, in writing, within five working days of the appeal hearing.

B25. The appeal panel may decide to uphold the original disciplinary decision, substitute a less serious sanction or decide that no disciplinary action is necessary. The appeal panel's decision is final. If it decides that no disciplinary action should be taken, no record of the matter will be retained on the employee's personnel file.

B26. If an appeal against dismissal is upheld, the employee will be paid in full for the period from the date of dismissal and continuity of service will be preserved.

This Policy was first approved by Tintwistle Parish Council at its meeting on 27th September 2022.