

Betws Community Council Grievance Procedure for Employees

1. Policy

Betws Community Council recognises that employees may from time to time have problems or concerns in connection with their employment with the Council for example about their work, working conditions, working relationships, risks to their health and safety at work, terms and conditions, equal opportunities or any perceived breach of their contractual or statutory rights about which they wish to seek redress.

The Community Council supports free communication between its employees and the Clerk (and in the case of the Clerk with the Chairman of the Council) to ensure that any concerns or problems arising during the course of employment may be aired and, where possible, resolved quickly and informally to the satisfaction of all concerned.

However, if it is not possible or appropriate to resolve the matter informally the following formal Grievance Procedure is available to all employees which also explains the further stages available if dissatisfied with the outcome of the initial consideration of the grievance.

If any factors are involved with the grievance concern alleged harassment, then they need to be considered in conjunction with the Council's policy on harassment and bullying.

It is essential that employee grievances are treated in a consistent and fair manner and everyone is familiar with the Council's grievance policy and procedures.

This policy and procedure therefore apply to all employees and takes account of the advice set out in the ACAS Code of Practice on Discipline and Grievance Procedure.

2. Aims of the Procedure

The aims of the Grievance Procedure are to ensure that all employees are treated fairly and in particular to: -

- foster good relationships between the Community Council and its employees by discouraging the harbouring of grievances;
- ensure issues are treated with respect and dealt with promptly and consistently;
- settle grievances as near as possible to their point of origin;
- ensure any necessary investigations are carried out thoroughly;
- give employees the right to be accompanied at any formal meetings as part of the Procedure.

Employees cannot use the Grievance Procedure in respect of: -

- appeals against salary or grading;
- income tax, national insurance matters, rates of pay collectively agreed at the national or local level;
- rules of the pension scheme;
- their failure to comply with the time limits within the Procedure unless the Council agrees to a particular time limit being waived;

- an attempt within six months of completion of action under the Procedure to restart the procedure in respect of the same or similar grievance unless an action decided upon to redress that grievance has not been implemented;
- a grievance in connection with an alleged act of misconduct or unsatisfactory performance for which the employee has been notified of the date of an investigatory meeting or disciplinary hearing or on which disciplinary action has been taken;
- a grievance about a matter over which the Community Council has no control.

Time limits may be set down for each stage of the Grievance Procedure.

If the grievance is not dealt with within the specified time limit without a legitimate reason, the employee has the right to proceed to the next stage of the procedure.

If the employee fails to comply with a time limit the Procedure will cease and the grievance will be considered to have been settled or withdrawn.

In special circumstances the Council may agree that the time limits may be extended.

Nothing in this Procedure prevents any employee discussing a grievance or general concern informally with the Clerk (or in the case of the Clerk with the Chairman of the Council) as appropriate and at any time.

3. Procedure

(a) Informal Resolution

It is in everyone's best interest to ensure that employee grievances are resolved informally and dealt with quickly and fairly and at the lowest level possible at which the matter can be resolved. Most routine complaints and grievances are therefore best resolved through informal discussion and in the interests of maintaining good working relations. As the first option therefore, any concerns an employee may have should be discussed informally with their supervisor and/or the Clerk or in the case of a complaint against the Clerk by another employee, the Chairman of the Finance and Staffing Committee, normally within a short time of the complaint arising and both parties should try to resolve the matter at this stage.

Employees are encouraged to discuss ordinary day-to-day issues or concerns informally before getting to the formal stage in order to help concern to be heard and responded to as soon as possible.

However, if this informal approach is unsuccessful or circumstances make inappropriate or impossible to raise it informally in the above manner so the matter remains unresolved and the employee wishes to pursue it as formal grievance, they may raise the grievance in accordance with the following formal procedure. The Council may also consider offering mediation to resolve the matter at any stage in the procedure as explained below.

(b) Formal Procedure

First Stage

The employee must set out the grievance in writing (the "Statement of Grievance"), normally within a short time of the cause of the grievance occurring and informal resolution has not proved successful or is not possible, to the Clerk or in the case of a complaint against or by the Clerk the

Chairman of the Finance and Staffing Committee. The employee will be invited in writing to attend a grievance hearing to be held as soon as reasonably practical and ideally within 5 working days by a Grievance Hearing Panel of three Councillors who are Members of the Finance and Staffing Committee, including the Chairman of the Finance and Staffing Committee, and who have not been involved in the matter to discuss the matter and: -

- the employee must take all reasonable steps to attend the meeting;
- the Grievance Hearing will normally be convened within fourteen (14) days of the Council receiving the "Statement of Grievance";
- a work colleague, a certificated trade union representative or trade union official may accompany the employee at any Grievance Hearing if the employee so wishes.

The Chairman of the Finance and Staffing Committee will chair the Grievance Hearing where the employee's grievance will be heard, and the matter will try to be resolved. As part of this hearing the employee should be asked what they want to happen to resolve the grievance and the circumstances should be properly investigated including taking witness statements and examining documentation and policies.

In some circumstances, particularly complex situations, the Clerk or someone appointed externally may be asked to undertake an investigation into the grievance (s) and provide a report to the Panel.

If the date of the Hearing is not convenient for the employee or their companion, the employee will have the right to ask for the meeting to be re-arranged normally by up to five (5) working days of the original proposed date by writing to the Chairman of the Finance and Staffing Committee setting out the reasons for the postponement request. If the request is due to the employee's ill-health it must be accompanied by a medical report from the employee's GP confirming that the employee is not fit enough to attend the Hearing.

The invitation to the Grievance Hearing will set out: -

- the composition of the Grievance Panel and the detail and role of others to attend the Grievance Hearing;
- a summary of the employee's grievance based on his/her written submission;
- the date, time and place for the meeting giving reasonable notice of the meeting in accordance with the time frames set out in this Procedure;
- the employee's right to be accompanied by a workplace colleague, a certified trade union representative or a trade union official and their role at the Hearing;
- a copy of the Council's Grievance Procedure;
- a copy of an investigation report (if one was already been commissioned);
- confirmation that, if necessary, witnesses may attend on the employee's behalf and that the employee should provide the names of his/her witnesses at least three working days before the Hearing along with any supporting evidence.

At the Grievance Hearing the Chairman will: -

- introduce the Panel members to the employee and their companion;

- explain the purpose of the meeting, which is to hear and discuss the employee's reasons for appealing against the decision of the Grievance Hearing;
- explain the process to be followed and the options for the action that the Appeal Panel may take.

The employee will have the opportunity at the Grievance Hearing to present their grievance, provide any evidence or witnesses in support of the grievance and explain what action they are seeking to resolve the grievance.

The Panel will be able to question the employee on the grievance and their evidence and witnesses.

The Grievance Hearing may be adjourned if necessary to enable matters raised during the course of the meeting to be investigated or to afford further time to consider the decision.

If the employee fails to attend the Grievance Hearing or has given an unacceptable reason for requesting a postponement of the Hearing arrangements may be made to hear the grievance in the employee's absence.

After considering the grievance fully the Panel will make a decision on the balance of probabilities (the normal civil proceedings test) which may be announced at the Hearing or later and will be confirmed in writing as soon as is reasonably practicable, but normally within five (5) working days. If it is not possible to respond to the employee within this time frame the employee will be given an explanation and told when a response can be expected.

The outcome of the Grievance Hearing will either be:

- to reject the grievance; or
- to uphold the grievance in full or in part and determine action to be taken to rectify the cause of the grievance.

A note-taker will attend the Grievance Hearing to make a record of the meeting which when agreed with the employee will be placed on the employee's personnel file with the other grievance documents and retained only in accordance with the Council's data protection obligations.

Formal Procedure

Stage Two

If the employee is dissatisfied with the decision of the Grievance Hearing they have a right to appeal against it. The appeal must be put in writing to the Chairman of the Finance and Staffing Committee, setting out the grounds of the appeal and with what the employee disagrees in the original decision and providing any new evidence, within five (5) working days of receiving written confirmation of the Grievance Hearing decision.

An appeal will not be by way of a re-hearing and the normal grounds of appeal will usually be based on: -

- a failure by the Council to follow its grievance procedure;
- the decision was not supported by the evidence;
- the action proposed by the Grievance Panel was inadequate/inappropriate;
- new evidence has come to light since the Grievance Hearing.

The employee will be invited in writing to attend an Appeal Hearing to be held by an Appeal Panel which will be made up of three Members of the Finance and Staffing Committee who were not involved in the matter or who served on the Grievance Panel who heard the grievance.

If there are insufficient Members of the Finance and Staffing Committee who have not been previously involved, other Members may be required to serve on the Appeals Panel. A Chairman will be appointed from the Appeal Panel Members.

The employee must take all reasonable steps to attend that meeting and they may be accompanied by a work colleague, a certified trade union representative or trade union official.

The Appeal Hearing will normally be convened within fourteen (14) days of receipt of the employee's appeal.

The employee will be invited in writing to attend the Appeal Hearing and be advised of the time, date and location of the Hearing and their right to be accompanied by a workplace colleague, trade union official or trade union representative.

If the date of the Hearing is not convenient for the employee or their companion, the employee will have the right to ask for the meeting to be re-arranged normally by up to five (5) working days of the original proposed date by writing to the Chairman of the Finance and Staffing Committee setting out the reasons for the postponement request.

If the request is due to the employee's ill-health it must be accompanied by a medical report from the employee's GP confirming that the employee is not fit enough to attend the Hearing.

At the Appeal Hearing the Chairman will: -

- introduce the Panel members to the employee and their companion;
- explain the purpose of the meeting, which is to hear and discuss the employee's reasons for appealing against the decision of the Grievance Hearing;
- explain the process to be followed and the options for the action that the Appeal Panel may take. The employee will have the opportunity at the Appeal Hearing to explain in full their appeal grounds and provide any new evidence or witnesses in support of the appeal. The Appeal Hearing may be adjourned, if necessary, to enable any new material to be investigated before a decision is made.

The outcome of the appeal will either be:

- to reject the appeal and confirm the original decision; or
- to uphold the appeal in full or in part and/or substitute a different decision.

The result of the appeal will be confirmed in writing within five (5) working days of the Appeal Hearing and this decision will be final and binding as there are no further stages to the Grievance Procedure.

A note-taker will attend the Grievance Hearing to make a record of the meeting which when agreed with the employee will be placed on the employee's personnel file with the other grievance documents and retained only in accordance with the Council's data protection obligations.

4. Right to be Accompanied

The employee has the right to be accompanied at a Grievance or Appeal Hearing by a work colleague, certificated trade union representative or trade union official at any such meetings held in respect of the grievance with the exception of an investigatory meeting at which accompaniment is at the Council's discretion. For instance, a companion may be allowed to attend if otherwise the employee would be put at a disadvantage for example due to a disability.

The role of the companion is to: -

- act as a witness during the investigatory interview (if allowed), hearing or appeal;
- help the employee prepare for the interview, hearing or appeal;
- give support to the employee throughout the process;
- address the hearing on behalf of the employee if the latter so wishes (but not to answer questions on the employee's behalf);
- confer with the employee during the interview or hearing or call for an adjournment to have a discussion outside the interview or hearing.
- The companion may not address the Panel against the employee's wishes or prevent the employee from explaining their case.

5. Special Requirements

If the employee requires assistance in using any part of the Grievance Procedure due to a disability, other impairment or language difficulty, this should be made known to the Clerk or the Chairman of the Grievance or Appeal Panel prior to any Hearing so that suitable arrangements can be made to ensure that the employee takes a full part and/or understands the true meaning of the subject matter. This may include permission to be accompanied by a suitable person at all stages of the procedure to provide specific assistance to the employee e.g., sign language, mobility support, mental health support worker, or where English is the employee's first language. Consideration will also need to be taken of the need for an interpreter if the employee has a communication difficulty or impairment, and/or an advocate attending for those for certain mental health or learning difficulties.

6. Conciliation/Mediation

There may be circumstances at any stage of the Grievance Procedure where both sides jointly agree to conciliation/mediation being carried out by a suitably competent and experienced third-party mediator. The mediator will not be directly connected to the case or either of the parties and both parties will need to agree to abide by the outcomes and agreement reached.

7. Grievances Raised by the Clerk

Where the Clerk has a grievance, which has been discussed with the Chairman of the Council informally or cannot be addressed in that way it should be raised by the Clerk in writing with the Chairman of the Council.

The matter will be dealt with in accordance with above Procedure and the Grievance Panel will be comprised of three Members of the Finance and Staffing Committee and chaired by the Chairman of that Committee.

The Panel may wish to have an external HR Adviser appointed to give legal and professional practice guidance to the Panel, but who will not have voting rights.

If the Clerk wishes to appeal against the outcome of the Grievance Hearing the grounds of the appeal should be set out in writing to the Chairman of the Council and an Appeal Hearing will be arranged as in Stage Two above and conducted by three Members of the Finance and Staffing Committee who were not previously involved in the matter or who served on the original Grievance Panel.

If there are insufficient Members of the Finance and Staffing Committee who have not been previously involved, other Members may be required to serve on the Appeals Panel. A Chairman will be appointed from the Appeal Panel Members.

In all other respects the procedure will follow that of any other employee.

The Clerk must take all reasonable steps to attend the meetings and may be accompanied by a work colleague, a certified trade union representative or trade union official.

The decision of the Grievance Panel will be communicated to the Clerk as above.

8. Overlapping Grievance and Disciplinary Issues

If an employee raises a grievance during a formal disciplinary process the disciplinary process will normally be halted temporarily in order to deal with the grievance. If the two issues are related, then the two procedures may run concurrently.

9. Grievances after Leaving Community Council Employment

An employee may still, within a reasonable time period, raise a grievance even after they have left the Parish Council's employment using the same procedure as set out above but if mutually agreed in writing or it is not reasonably practicable to follow the Procedure, the person may simply raise the grievance by setting it out in writing together with the basis for it.

The Council will investigate and then set out a response to it in writing within a reasonable time without the need for a Grievance Hearing or right of appeal.

If the ex-employee does agree to the matter being dealt with by correspondence, the Council will nominate three Members of the Council to consider the grievance and respond to the ex-employee in writing within fourteen (14) days of the receipt of such confirmation setting out the basis for the Council's decision.

10. Confidentiality

All proceedings under this Grievance Procedure should be treated as being confidential and restricted to those involved in the grievance.

11. Safeguards

Recordings of the proceedings at any stage of the Grievance Procedure are prohibited, unless agreed as a reasonable adjustment that takes account of an employee's physical or mental impairment.

No employee will be reprimanded or subjected to disciplinary action as a result of seeking resolution of a grievance in good faith through this Grievance Procedure unless the complaint is found to have been made maliciously.

In addition, no employee of Betws Community Council will suffer detriment, harassment or victimisation as a result of seeking resolution of a grievance through this Procedure.

Records will be kept detailing the nature of the grievance, the response, any action taken and the reasons for it. These records will be kept confidential and retained in accordance with data protection rules principles and the Council's Data Protection Policy and the General Data Protection Regulations (GDPR) 2018.

Employees involved may of course exercise their Subject Data Right to Access and view any documents or other material, electronic or paper based that contains their personal data.

12. Equality Act 2010

The procedures, policies and the conduct of all parties in the grievance process must conform with the requirements of the Equality Act (EA) and the Council's own equality and diversity policies.

Individuals from the protected groups under the EA 2010 must not be discriminated against whether directly by individuals involved in the process or indirectly via policies and procedures, nor put at a disadvantage or suffer unfair treatment because they are from a protected group.

The individuals involved must also be protected against harassment, bullying and victimisation arising from their involvement in the grievance processes.

13. Data Protection Act 2018

Those involved in the grievance process must adhere to the requirements of the Data Protection Act, the General Data Protection Regulations and the Council's own Data Protection/Privacy Policy.

Participants have the right to their personal data and circumstances being kept confidential and only disclosed to authorised people or agencies where required to meet legal or legitimate organisational reasons, in particular to ensure a fair and reasonable grievance process.

Personal and sensitive personal data and other confidential information must be kept secure and only accessed by authorised personnel, and notes of proceedings and written outcomes only kept for as long as legally required.

The Clerk, or the external data protection adviser, should be consulted if there are any issues in relation to data protection, and any breaches must immediately be reported to the DPO or adviser for investigation and, if necessary, reporting to the ICO.

14. Review

The Grievance Procedure will be reviewed periodically, as appropriate, to assess its effectiveness and make any appropriate changes in consultation with employees.

Any changes to the Grievance Procedure will still conform to all current legal requirements.

This policy was adopted at Betws Community Council Meeting held on 9th November 2022 at minute reference 11b and recommended for review by the Finance and Staffing Committee prior to the Annual Meeting in May 2024 or as legislation changes.