

Neasham Parish Council (the 'Council') aims to provide consistent and fair treatment for the individual in accordance with the Employment Rights Act 1996, Human Rights Act 1998, Equality Act 2010, and the ACAS Code of Practice on Disciplinary Procedures. In determining any appropriate action, regard may be given to the employee's previous record, the gravity of the matter under consideration, and any explanation given.

We are a very small employer with one part time employee and a Council of no more than eight Councillors. Our overriding concern is to act fairly and in the public interest. Our processes seek to ensure as much informality as possible in balancing the respective interests of employer and employee. They will be reviewed in the event of any significant increase in the size of the Council or extension in the nature of the employment it offers.

This Policy sets out how the processes are started. We will have 'procedures' explaining how each process is carried out, how the outcome is notified, and how any further stage is started. A copy of the procedures will be given to an employee as soon as the informal process is started, or (if applicable) on any suspension notice being given. Our objective is that the procedures should give each party to a dispute a fair opportunity of presenting their case, but also should ensure that the process can be brought to a just conclusion within a reasonable time.

### **The processes**

The procedures relating to grievances of the employee and disciplinary action by the employer will be aligned as far as practicable. The procedures will involve up to three stages:

- The 'informal process'
- The 'formal process'
- The 'appeal process'

### **Who conducts the process?**

Each stage of the processes will be conducted by a different person to ensure fair adjudication, so far as this is practicable. Such persons will be:

- At the **informal process** stage, the Council's Business Management Overseer (the 'BMO')
- At the **formal process stage**, investigation will be conducted by the Vice-chair of the Council. The formal hearing will be conducted by another Councillor appointed by the Chair. (This will not normally be the BMO or the Vice-chair, as they could be required to give evidence).
- At the **appeal process stage**, the formal hearing will be conducted by two Councillors appointed by the Chair. (This will not normally be the BMO, the Vice-chair, or the Councillor appointed to conduct the formal stage).
- If there are insufficient Councillor(s) available to fulfil the roles set out above, the Chair will fill the relevant vacancy, irrespective of whether he/she has been involved in a previous part of the process.
- The employee has the right to be assisted at each stage by a representative of their choice, for example (but not limited to) a trade union official, a non-union employee, or a work colleague.

In addition to the above

- The Chair may appoint an Assessor to sit with the Councillor(s) if he thinks the complexity and/or seriousness of the matter makes that necessary or desirable. The Assessor will be a person of suitable experience in Human Resource matters and his function will be to advise the Councillor(s). He may participate in the proceedings but shall not adjudicate.
- The Chair may also appoint a suitably experienced external person to provide clerical support for the relevant process. This may include the taking of notes of any hearing and its outcome, and the conduct of appropriate communications.
- If an Assessor and/or clerical worker is appointed to assist the process, those people will undertake to treat the information they receive with the utmost confidence. For the avoidance of doubt, they may be appointed both for the formal and the appeal stages. They must ensure that any papers or notes which they have in their possession are retained securely and delivered to the Chair following the conclusion of their roles.

## **Starting the process**

### 1. Grievance procedure

An employee who feels aggrieved about any aspect of their employment is entitled to raise a grievance and to expect that the Council will consider it and address it in good faith. A grievance may include a series of directly related incidents having cumulative effect. Ordinarily, to start the informal process, the employee should raise the matter (verbally or in writing) with the BMO. This should be done within two weeks of the relevant incident (or last such incident in a series) occurring. The BMO may take account of the reason for any delay in his/her consideration of the seriousness of the grievance and the fairness of the proposed outcome.

This procedure is not appropriate for matters involving:

- The conduct of a disciplinary process in which the employee is already involved, or the provision of capability support.
- Matters already disposed of in accordance with the grievance procedure.
- Matters outside the Council's control, e.g. compliance with legislation.

### 2. Disciplinary procedure

Any Councillor who believes that an employee has failed to meet expected standards of conduct and/or performance may ask the BMO (either verbally or in writing) to take disciplinary action. Ordinarily, to start the informal process, the BMO should contact the employee within a week of receiving the request to arrange a discussion with the employee, explaining that that discussion constitutes the commencement of the informal process.

In the event of an alleged incident of serious or gross misconduct, the Chair may suspend the employee with or without pay for the duration of any formal or appeals process. If this happens the informal process shall not take place. The suspension shall be confirmed in writing to the employee without delay. It will be explained that suspension itself does not mean that any decision has been made about disciplinary action being taken.

### **What happens when the process is concluded?**

The Chair will ensure that the outcome of the relevant process shall be delivered to or confirmed to the employee in writing within a week of being made.

The appeal process decision is final except where either party wishes to obtain the decision of a Court on a point of law.

Records of informal meetings and formal warnings will be kept on employee's personal files. A verbal warning will be live for six months and written warnings live for 12 months from the date of the disciplinary hearing. Final written warnings will be live for two years.

Neasham Parish Council has prepared Procedures for the operation of this Policy.

(This is set out in a separate document which is available on request to the Clerk)

This Policy was approved by Neasham Parish Council on 6 September 2022.

22/09