

# Fulmodeston and Barney Parish Council

## GRIEVANCE PROCEDURE

Adopted  
Last Review  
Next Review

## Introduction

1. This procedure has been designed to take into account current statutory requirements and guidance from ACAS. We may wish to make further changes to it and if we do you will be notified in writing.
2. A grievance is defined as a complaint by you about action which we have taken, or are contemplating taking, in relation to you, which could form the basis of a complaint by you to an employment tribunal on any of the grounds listed in Schedules 3 and 4 Employment Act 2002. This broadly covers all the general individual employment law rights to which you may be entitled.
3. If you make a protected disclosure under the Public Interest Disclosure Act 1998 (“whistleblowing”) you effectively have the right to choose whether to use the 1998 Act or these grievance procedures.
4. Service of a questionnaire under the Equal Pay Act or any of the Discrimination Acts does not constitute a grievance under the above definitions.

## Application of the Procedure

1. There are two procedures, the standard procedure and the modified procedure. There are circumstances in which neither procedure applies as follows:
  - Where employment has ceased, neither procedure has been started, and since employment ceased it has not been reasonably practicable for you to comply with the first step of either procedure.
  - Where we have dismissed you, or are contemplating dismissing you, or taking disciplinary action against you. (These cases will be dealt with under the Dismissal and Disciplinary Procedures Policy).
  - Where one party has reasonable grounds to believe that starting or completing any of the statutory procedures would result in a significant threat to any person or any person’s property.
  - Where one party has been subjected to harassment and has reasonable grounds to believe that starting or completing any of the statutory procedures would result in further harassment.
  - Where it is not practicable for either party to start or complete any of the statutory procedures within a reasonable time.

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2. The standard procedure will apply to all grievances as defined in the introduction, paragraph 2, unless the modified procedure applies.

The modified procedure will apply in the following circumstances:-

- a. Your employment has ceased, and
- b. Either we were unaware of your grievance when your employment ceased or we were aware of your grievance but the standard procedure had not been completed before the last day of your employment, and
- c. We and you agree in writing, before or after the last day of your employment, but after we became aware of your grievance, that the modified procedure will apply.

*NB You will see from this that the modified procedure can only apply if you agree in writing.*

### The standard procedure

1. Statement of grievance:

You must set out the grievance in writing and send the statement or a copy of it to us.

2. Meeting:

- a. We must invite you to attend a meeting to discuss the grievance.
- b. The meeting must not take place unless:-
  - i. You have informed us what the basis for the grievance was when you made your statement of grievance and
  - ii. We have had a reasonable opportunity to consider our response to that information.
- c. You must take all reasonable steps to attend the meeting.
- d. After the meeting we must inform you of our decision as to our response to the grievance, and notify you of your right to appeal against the decision if you are not satisfied with it.

### Appeal

*NB You should be aware that if you fail to operate the appeal procedure and take the matter to an employment tribunal, any award of compensation is likely to be reduced by 10% and may be reduced by up to 50% for failure to comply with the procedure.*

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1. If you wish to appeal, you must inform us within 5 working days unless there are good reasons which you tell us about for your being unable to do so in time. If we both agree, the time limit can be extended.
2. If you inform us of your wish to appeal, we must invite you to attend a further meeting.
3. You must take all reasonable steps to attend the meeting.
4. After the appeal meeting, we must inform you of our final decision.

### The modified procedure

Remember that this will only apply in the circumstances set out above.

The modified procedure consists of two steps as follows:-

#### 1. Statement of grievance:

You must set out in writing your grievance and the basis for it and send the statement or a copy of it to us.

#### 2. Response:

We must set out our response in writing and send the statement or a copy of it to you.

### General provisions

These cover both the standard and modified procedures (so far as applicable).

1. Each step and action under the procedure must be taken without unreasonable delay.
2. Meetings
  - a. Timing and location of meetings must be reasonable.
  - b. Meetings must be conducted in a manner that enables both you and us to explain our cases.
  - c. In the case of appeal hearings which are not the first meeting we should, as far as is reasonably practicable, be represented by a more senior manager than attended the first meeting (unless the most senior manager attended that meeting).
3. Representation
  - a. At any meeting you have the right to be accompanied by a colleague or trade union representative.
  - b. If you wish to be accompanied, you must make a reasonable request to us and should tell us who your chosen companion will be.

- c. Your companion can have a say for you at the hearing but cannot answer questions for you.
- d. If your companion is unavailable to attend the meeting at the date and time we first suggest, and you give us an alternative time which is both reasonable and within five working days of the original appointment, we will re-arrange the meeting for that time. This obligation to re-arrange the meeting applies only once.
- e. Where it is not reasonably practicable for either you (or your companion if applicable) or us to attend a meeting in accordance with the applicable procedure, for a reason which was not foreseeable when the meeting was arranged, then the party failing to attend shall not be treated as having failed to comply with the requirement to attend.
- f. If you fail to attend the first meeting where paragraph (v) applies we will still be under a duty to invite you to attend a meeting.
- g. We are not under a duty to invite you to attend further meetings if we have already invited you to attend two meetings and it was not reasonably practicable for you (or your companion if applicable) to attend either meeting for a reason or reasons which were not foreseeable when the meeting in question was arranged.
- h. You will not be allowed to present a complaint to an Employment Tribunal under any jurisdiction listed in Schedule 4 to the Employment Act 2002 if either (a) you have not complied with the requirement to state a grievance or (b) less than 28 days have elapsed since you complied with the requirement.

This bar to proceedings covers broadly all the general individual employment law rights to which you may be entitled except for claims for wrongful dismissal.