

GRAMPOUND WITH CREED PARISH COUNCIL

Dismissal, Disciplinary and Grievance Procedures

1. STATUTORY DISMISSAL AND DISCIPLINARY PROCEDURES (DDPs)

The DDPs will be subject to the following general requirements:

- that each step in the procedure must be undertaken without unreasonable delay;
- that timing and location of meetings must be reasonable;
- that meetings must be conducted in a manner that enables both employer and employee to explain their case;
- that for appeal meetings which are not first meetings the employer should, so far as is reasonably practical, be represented by a more senior manager than attended the first meeting (unless the most senior manager attended that meeting).

2.1 STANDARD DDP

The standard dismissal and disciplinary procedure will normally apply where an employer wishes to dismiss an employee (on grounds of capability, conduct, redundancy, expiry of fixed term contract or retirement); or take other action against him/her on grounds of conduct or capability.

Step 1: statement of grounds for action and invitation to meeting.

The employer must set out in writing the employee's alleged conduct, characteristics, or other circumstances, which have led them to contemplate disciplinary action or dismissal.

The employer must send the statement or a copy of it to the employee and invite the employee to a meeting to discuss the matter/s.

Step 2: the meeting

The meeting must be held before any action is taken by the employer, unless the disciplinary action consists of suspension.

The meeting must not take place unless:

- the employer has informed the employee of the grounds for the allegations as set out in the statement issued under Step 1; and
- the employee has been given a reasonable opportunity to consider their response to that information.

The employee must take all reasonable steps to attend that meeting.

After the meeting, the employer must inform the employee of their decision and notify the employee of the right to appeal against the decision if she or she is not satisfied.

Step 3: *appeal*

If the employee wishes to appeal, they must inform the employer.

If the employee informs the employer of their wish to appeal, the employer must invite the employee to attend a further meeting.

The employee must then take all reasonable steps to attend the meeting.

After the appeal meeting the employer must inform the employee of their final decision.

2.2 MODIFIED DDP

A modified DDP is available for use, which only involves the use of Step 1 and Step 3 of the standard DDP. Step 1 must include in the statement the alleged misconduct leading to the dismissal, the employer's basis for thinking the employee was guilty at the time of dismissal and the employee's right of appeal against dismissal. It is envisaged that this shorter version of the procedure will apply in cases of instant, or near instant, summary dismissal as a result of extreme cases of gross misconduct, such as violence or serious criminal offences that require an urgent response. The question at issue in such cases would ultimately be the fairness of the decision to dismiss. The modified procedure does provide for an appeal meeting to take place at the employee's request where the decision to dismiss should be reviewed.

It should be noted that if an employer dismisses an employee, going through the relevant minimum procedure will not necessarily be sufficient to ensure that the dismissal is fair under the unfair dismissal legislation.

2. THE RIGHT TO BE ACCOMPANIED

Employees attending any meetings arranged under the statutory DDPs have the right to be accompanied by either a colleague or a trade union representative in accordance with the provisions of the Employment Act 1999.

3. STATUTORY GRIEVANCE PROCEDURES (GPs)

GPs are subject to the same general requirements as DDPs in that:

- each step and action under the procedure must be taken without unreasonable delay;
- timing and location of meetings must be reasonable;
- meetings must be conducted in a manner that enables both employer and employee to explain their cases;
- in the case of appeal meetings that are not first meetings, the employer should so far as is reasonably practical, be represented by a more senior manager than attended the first meeting (unless the most senior manager attended that meeting).

4.1 STANDARD GP

Step 1: statement of grievance

The employee must set out the grievance in writing and send the statement, or a copy of it, to the employer.

Step 2: the meeting

The employer must invite the employee to attend a meeting to discuss the grievance. The meeting must not take place unless:

- the employee has informed the employer what the basis for the grievance was when they made the statement as required by Step 1; and
- the employer has had a reasonable opportunity to consider their response to that information.

The employee must take all reasonable steps to attend the meeting. After the meeting the employer must inform the employee of their decision in response to the grievance and notify the employee of the right to appeal against the decision if they are not satisfied.

Step 3: the appeal

If the employee does want to appeal, they must inform the employer.

If the employee informs the employer of their wish to appeal, the employer must invite the employee to attend a further meeting.

After the appeal meeting the employer must inform the employee of their final decision.

A modified version of the standard GP is available.

4.2 MODIFIED GP

Step 1: statement of grievance

The employee must

- set out in writing (i) the grievance and (ii) the basis for it; and
- send the statement, or a copy of it to the employer.

Step 2: the response

The employer must set out their response in writing and send the statement or a copy of it to the employee.

The modified procedure is intended for use in circumstances where the employee has already left employment. A typical example would be in cases of constructive dismissal, where it would be inappropriate for an employee to return to work to discuss the issues in person with the employer.

Employees who do not comply with this procedure will be unable to present a claim to an employment tribunal in relation to the subject of their grievance. Therefore before bring a tribunal claim the employee must have written to the employer setting out the grievance and the basis for it.

4. WRITTEN PARTICULARS OF EMPLOYMENT

The Employment Act 2002 will introduce the requirement for all employers to provide employees with written particulars of their employment no later than two months after the employee starts work. The statement must also set out the procedure that applies if an employee is disciplined or dismissed. The particulars may refer the employee to another document that contains these details, but that document must be readily available to the employee.

The Act will also introduce compensation for employees where lack of written particulars become evident as part of a tribunal claim.

5. EXEMPTIONS AND 'OVERLAPPING' DISPUTES

Under certain circumstances, either party may be exempted from following the statutory procedures. For example, when the other party is violent, abusive or behaves in an unacceptable way or when factors beyond the control of either party make it effectively impossible for the procedure to be gone through.

When a workplace dispute concerns a number of 'overlapping' issues one or other of the statutory procedures will apply in relation to each specific action that the employer takes or wishes to take, just as it would if that were the only action in dispute. However, any letter sent between the parties and any meeting that takes place between them, can potentially fulfil a step under the statutory procedures, regardless how many or what type of subjects in addition to the specific action in question.

6. OTHER AREAS

The time limits associated with employment tribunal applications (i.e. 3 months in which to make the same) will be extended in certain circumstances to allow extra time for the statutory procedures to be completed.

The Government does not propose at this time to make the dispute resolution procedures an implied term of all employment contracts (which was something included in the Employment Act 2002). However, this could change in the future.

Adopted by Full Council, 20th April 2023