



PORTISHEAD TOWN COUNCIL

PROTOCOL FOR HEARINGS

This protocol is to be followed for all Stage 2 and Stage 3 (Appeal) hearings set up by the Council as part of a Discipline, Attendance or Grievance procedure.

Panel Membership

For a Stage 2 hearing, the Council Panel will normally consist of the Chairman of Council, who will chair the proceedings, and 2 other members of the Staffing and Finance Committee.

For a Stage 3 (Appeal) meeting, the Council Panel will consist of 3 Councillors who do not sit on the Staffing and Finance Committee and who have had no previous involvement with the case. One of these will be the most recent ex-Chairman of Council available, who will chair the proceedings.

If necessary, the Council will use the services of an independent arbitrator to oversee and assist with the Appeals process.

Employee's Representative

At all such meetings, the employee has the right to be accompanied by a colleague or trade union official/representative. If an employee wishes to be accompanied by any other person, this must be agreed by the Council in advance. Before the hearing takes place the employee must inform the Council whom they have chosen as a representative.

The representative may address the hearing, put and sum up the employee's case, respond on behalf of the employee to any views expressed at the meeting and confer with the employee. The representative cannot answer questions on the employee's behalf, or address the hearing if the employee does not wish to do so, or prevent the employee explaining his/her case.

The Hearing

Before the hearing

The Council will set out in writing i) the alleged conduct or other circumstances which lead the Council to contemplate or taking disciplinary action against the employee and the basis for the allegation or ii) the Council's response to a Grievance complaint.

The employee will be informed that s/he can be accompanied by a representative (see above).

The employee will be provided with a reasonable opportunity to consider his or her response to the information provided before attending the meeting. The employee must take all reasonable steps to attend the meeting.

The timing of any hearing must be convenient to the employee, their representative and the Panel. It will normally be convened within 5 working days of the Council sending the employee the written statement, or the Council receiving a formal letter of Grievance. If the time or date proposed for the meeting is inconvenient (either for the employee or their representative) the employee may ask to postpone the meeting by up to 5 working days. This may be extended by mutual agreement. With the exception of suspension with pay or suspension on reduced pay, the hearing will take place before any action is taken. The employee will be provided with copies of any documents that are to be produced at the hearing.

During the hearing

I

- The Council's representative (normally the Clerk) should state their case first
- The employee or their representative should then put any questions they may have to the Council's representative
- The Panel should then be able to put any questions they may have to the Council's representative

II

- The employee or their representative should then put their case
- The Council's representative should then be able to put any questions they may have to the employee or their representative
- The Panel can then ask questions of the employee or their representative

III

- The Council's representative will sum up the Council's case

IV

- The member of staff or their representative sums up their case

V

- The parties withdraw and the Panel reaches its decision
- The hearing may be adjourned to allow matters raised during the course of the hearing to be investigated or to afford the Panel time to consider their decision
- The panel may confirm, amend or reject the original decision.

For a grievance procedure, I and II may be reversed, and also III and IV

After the hearing

The Panel will decide what further action is necessary. The Panel of Councillors at the meeting have the authority to take disciplinary action against the employee, including dismissal.

The employee will be informed of the decision and any applicable sanction, in writing, within 5 working days. The employee will also be advised of their right to appeal against any decision.

Appeals

If the employee wishes to appeal against the decision s/he must notify the Council in writing within 5 working days of receiving written notice of the decision. This letter must set out the grounds for the appeal, normally under one of the following headings:

- The severity of any disciplinary action

- The findings of the Panel on a point of fact which is pertinent to the decision of the hearing or new evidence which has come to light since the hearing
- A failure to adhere to the disciplinary/grievance/attendance procedure.

The employee will be invited to attend a Disciplinary/Grievance/Attendance Appeal hearing before the Council's Appeal Panel. The employee must take all reasonable steps to attend the meeting. The Appeal meeting will normally be convened within 5 working days of the Council receiving notification that the employee wishes to appeal. If the time or date proposed for the Appeal hearing is inconvenient (either for the employee or their representative) the employee may ask to postpone the hearing by up to 5 working days.

Any new evidence that the employee wishes to put forward will be considered as will any new evidence from the Council. All new evidence should be given in writing to the other side before the day of the meeting.

The order of statements and questions will be the same as for a Stage 2 hearing.

The Appeal hearing will not necessarily take place before any disciplinary sanction takes effect. If the employee's appeal is against dismissal and the appeal is successful the employee will be reinstated and continuity of employment will be preserved.

A penalty imposed at the Stage 2 hearing may be confirmed, reduced or removed; it cannot be increased.

The Appeal hearing may be adjourned to allow matters raised during the course of the meeting to be investigated or to afford the Appeal Panel time to consider its decision.

After the Appeal hearing the employee will be informed of the Appeal Panel's decision, in writing, within 5 working days. The decision of the Appeal Panel is final.

GENERAL PROCEDURAL INFORMATION

- A record will be kept of the discipline/grievance/attendance process and will include –
 - The reason for the discipline/grievance/attendance process
 - A copy of any written statement from the employee
 - The Panel's decision
 - What action is taken and the reasons for that action
 - The outcome of any appeal
 - Any subsequent developments
- A record of the Stage 2 Panel hearing and any Appeals Panel hearing will be taken by the Clerk. Where the Clerk is involved in the proceedings the Council will arrange a mutually acceptable alternative.
- Records will be treated as confidential and retained for no longer than is necessary in accordance with the Data Protection Act.

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