




You are summoned to an **ONLINE** meeting of the **Working Practices Committee Committee** (in adherence to The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority Police and Crime Panel Meetings) (England and Wales) Regulations 2020 No.392) on **Wednesday 17 March 2021 at 7.30pm**. A link will be sent to you explaining how to join this meeting.

To Members of the Public,

This meeting will be streamed on the internet. Follow link from website or Facebook page. This will enable you to see and hear Councillors.

If you would like to ask a question,

- a. you can either submit it to the Clerk at least 24 hours prior, who will then read it out, or
- b. you can ask it directly, but you must still notify the Clerk at least 24 hours prior, so you can be sent a link that you will enable you to join the meeting for the duration of public questions.


G.C. Burt
Clerk to the Council

11 March 2021

AGENDA

1. Chairman's Announcements
2. Apologies for Absence.
3. Receive Declarations of Interest and Notification of Changes to Members' Interests.
4. Public Session.
5. Approval of the Minutes of the Meeting held on 4th November 2020, previously sent.
6. Matters Arising, not separate agenda items.
7. To consider the attached ACAS Disciplinary Procedures for Employees, (referred from last meeting), Appendix A.

8. To receive the report of the External Auditor following a complaint and consider remedies, referred from Council 3rd March 2021, Min. 34/21 refers - Appendix B
9. Any other matters for information only.
10. Exclusion of Press & Public
11. To consider various staffing matters – Appendix C.

Date of Next Meeting – Wednesday 19 May 2021

Members of the public should be aware that being present at a meeting of the Council or one of its Committees or Sub-Committees will be deemed as the person having given consent to being recorded (photograph, film or audio recording) at the meeting, by any person present.

MEMBERS: DH, PB, RM, MW, DW, SD

Sample basic disciplinary procedure

1. Purpose and scope

This procedure is designed to help and encourage all employees to achieve and maintain standards of conduct, attendance and job performance. The company rules (a copy of which is displayed in the office) and this procedure apply to all employees. The aim is to ensure consistent and fair treatment for all in the organisation.

2. Principles

Informal action will be considered, where appropriate, to resolve problems.

No disciplinary action will be taken against an employee until the case has been fully investigated.

For formal action the employee will be advised of the nature of the complaint against him or her and will be given the opportunity to state his or her case before any decision is made at a disciplinary meeting.

Employees will be provided, where appropriate, with written copies of evidence and relevant witness statements in advance of a disciplinary meeting.

At all stages of the procedure the employee will have the right to be accompanied by a trade union representative, or work colleague.

No employee will be dismissed for a first breach of discipline except in the case of gross misconduct, when the penalty will be dismissal without notice or payment in lieu of notice.

An employee will have the right to appeal against any disciplinary action.

The procedure may be implemented at any stage if the employee's alleged misconduct warrants this.

3. The procedure

First stage of formal procedure

This will normally be either:

- an improvement note for unsatisfactory performance if performance does not meet acceptable standards. This will set out the performance problem, the improvement that is required, the timescale, any help that may be given and the right of appeal. The individual will be advised that it constitutes the first stage of the formal procedure. A record of the improvement note will be kept for ... months, but will then be considered spent – subject to achieving and sustaining satisfactory performance

or

- a first warning for misconduct if conduct does not meet acceptable standards. This will be in writing and set out the nature of the misconduct and the change in behaviour required and the right of appeal. The warning will also inform the employee that a final written warning may be considered if there is no sustained satisfactory improvement or change. A record of the warning will be kept, but it will be disregarded for disciplinary purposes after a specified period (eg, six months).

Final written warning

If the offence is sufficiently serious, or if there is further misconduct or a failure to improve performance during the currency of a prior warning, a final written warning may be given to the employee. This will give details of the complaint, the improvement required and the timescale. It will also warn that failure to improve may lead to dismissal (or some other action short of dismissal) and will refer to the right of appeal. A copy of this written warning will be kept by the supervisor but will be disregarded for disciplinary purposes after ... months subject to achieving and sustaining satisfactory conduct or performance.

Dismissal or other sanction

If there is still further misconduct or failure to improve performance the final step in the procedure may be dismissal or some other action short of dismissal such as demotion or disciplinary suspension or transfer (as allowed in the contract of employment). Dismissal decisions can only be taken by the appropriate senior manager, and the employee will be provided in writing with reasons for dismissal, the date on which the employment will terminate, and the right of appeal.

If some sanction short of dismissal is imposed, the employee will receive details of the complaint, will be warned that dismissal could result if there

is no satisfactory improvement, and will be advised of the right of appeal. A copy of the written warning will be kept by the supervisor but will be disregarded for disciplinary purposes after ... months subject to achievement and sustainment of satisfactory conduct or performance.

Gross misconduct

The following list provides some examples of offences which are normally regarded as gross misconduct:

- theft or fraud
- physical violence or bullying
- deliberate and serious damage to property
- serious misuse of an organisation's property or name
- deliberately accessing internet sites containing pornographic, offensive or obscene material
- serious insubordination
- unlawful discrimination or harassment
- bringing the organisation into serious disrepute
- serious incapability at work brought on by alcohol or illegal drugs
- causing loss, damage or injury through serious negligence
- a serious breach of health and safety rules
- a serious breach of confidence.

If you are accused of an act of gross misconduct, you may be suspended from work on full pay, normally for no more than five working days, while the alleged offence is investigated. If, on completion of the investigation and the full disciplinary procedure, the organisation is satisfied that gross misconduct has occurred, the result will normally be summary dismissal without notice or payment in lieu of notice.

Appeals

An employee who wishes to appeal against a disciplinary decision must do so within five working days. The senior manager will hear all appeals and his/her decision is final. At the appeal any disciplinary penalty imposed will be reviewed.

BILLINGSHURST PARISH COUNCIL

WORKING PRACTICES COMMITTEE

WEDNESDAY 17 MARCH 2021

RESPONSE OF COUNCIL FOLLOWING COMPLAINT

FOR DECISION

REPORT BY CLERK

A complaint was made to the External Auditor and her findings and recommendations have been previously circulated / attached again for information.

Having given the matter considerable thought, I suggest the following which should be sufficient to satisfy the External Auditor that the Council has made suitable amendments to its policies etc. accordingly.

1. Addition of the following to the Council's Grants Policy.
The Council is willing to signpost organisations to various funding sources, but cannot assist with, complete or submit applications for funds on behalf of any third party.

2. New *Representatives on outside Organisations Policy*
The Council is often asked to nominate representatives on outside organisations, where the Council has an interest, for example, the Council is the freeholder, or a significant financial contributor. Because guidance is quite specific in that any member of a management committee, however formalised, must take decisions in the best interest of that organisation, and not necessarily in the interest of the organisation they may have been appointed by, that representative should not take part in any resulting votes of that organisation, and not hold any office withing that organisation e.g. Secretary, Treasurer, formal trustee etc.

The Committee is invited to consider and approve the suggestions as set out above.

Billingshurst Parish Clerk

Subject: FW: Complaint raised to External Auditor in respect of Billingshurst Parish Council

From: Wsussex Sa <wsussex.sa@moore.co.uk>

Sent: 11 February 2021 16:11

To: Paul Berry <paul.berry@billingshurst.gov.uk>; Billingshurst Parish Clerk <clerk@billingshurst.gov.uk>

Subject: Complaint raised to External Auditor in respect of Billingshurst Parish Council

Dear Cllr Berry and Mr. Burt

As you are aware I am the External Auditor to Billingshurst Parish Council.

You are also aware a complaint has been made to me primarily against Mr. Burt as Clerk for the Parish Council.

The complaint is that a business support grant was applied for in the name of the Treasurer for Adversane Hall without his permission.

I have reviewed the information passed to me from various sources including yourselves and the Treasurer and can clearly see that a grant has been applied for and the grant money received.

That correspondence reports that the grant was received into the Hall's own bank account and not into some other account.

The correspondence also reports that the grant application was undertaken by the Clerk and information was provided to him by member(s) of the committee to facilitate that application.

The emails between the parties show an increasing urgency to provide the information, if the application was to be made, due to there being a deadline.

The email sending the information appears to be in response to urgent request for the Treasurer to send the information to the Clerk, by the then Cllr with external responsibility to/of the Hall.

It is also clear that immediately following on from the application's submission that the Hall's Committee had not met or otherwise discussed making the application nor given a formal authority for the grant to be applied for.

I am not suggesting that there was any intention by the Clerk to apply for the grant in any other capacity other than on behalf of the Hall's Committee in the belief it was their wish and with the Council's permission to assist. However, the fact that this complaint has been raised shows that there may be gaps in governance policy which show themselves when your protocols are put under pressure, such as in this instance.

From an External Audit perspective within the Smaller Authorities regime, I have a fairly tight remit.

My first concern was whether there is an inaccurate or fraudulent item of account within the records of the Council. Following my review, my findings noted above are that the money was received directly by the Hall and therefore there is not an inaccurate or fraudulent item of account within the Parish Councils records.

I now need to consider what happened in regard to potential governance issues. Primarily, why and how the Clerk came to be making the application on behalf of the Hall.

Overview of events

The first contact was from the Clerk about 12 days before the application deadline, to bring the availability of the grant funding to the attention of the Hall's treasurer. Of itself, I can see no contentious issue here.

The Treasurer responded that he were not sure the hall qualified for the grant and the Clerk then replied explaining that other similar halls had successfully applied. Again I do not feel this is contentious. It is simply knowledge sharing.

In the days just before the deadline, the Clerk then went on to remind both the treasurer and others, including the then Cllr Grant, who 'sat' on the management committee of the Hall on the Council's behalf at that time, if an application was to be made time was running out. Emails then went around between the various parties marked urgent and requesting the information required to complete the application. As a result of these emails, information was supplied to the Clerk and the application made on the deadline day for applications.

Observations from the overview

Limitations:

I have no remit in regard to the actions of the Hall's Trustees as they are a body independent of the Council. It is also not relevant to my review whether or not the grant money can or will be repaid to HDC.

My comments/observations below are in relation to the overall situation and the impact for/on the Parish Council as I understand it.

It is clear looking back at the correspondence that time pressure has played the major part in this.

What is less clear is whether the Hall's Trustees questioned why the information was being requested or understood that by providing the information, an application for these funds would be made on their behalf.

I cannot see in the correspondence I have received a direct request/statement from the Trustees for the application to be made.

I do not know at this point if the Clerk was informing and reminding other similar local bodies of the availability of this and any other similar grants.

I do not know at this point if it was a common practice of this Clerk/Council to keep local halls, charities, businesses, people informed of available grants and funding.

I do not know at this point whether the Clerk had been asked by the Council to undertake this task either specifically or in general, or whether the Clerk was acting as a 'civic minded individual' and not in his official position as Clerk to the Parish Council.

It is apparent from the correspondence that as soon as the confirmation relating to the application was provided back to the Trustees, that they had not discussed the available funding (and their need for it) and therefore not made a formal decision to make an application.

Furthermore, it is clear after the event that the Hall Trustees did not feel that they required the funding.

Next steps

Good governance practice would suggest that following an issue such as this, you, as a council, review your policies and protocols surrounding what happened. You need to satisfy yourselves, and me, that your policies going forward are robust enough to identify what is and what isn't Council business. You may need to update/clarify any policies to assist everyone to know what is appropriate to be done in the name of the Council either as a Councillor or within the office of Clerk and what is not. The Council should also address any potential conflicts of interest aspects of this. It is important in such circumstances to be able to demonstrate both to the individuals involved and the wider public that the Council takes its responsibilities seriously and wishes to ensure no-one can be placed in a similar position in the future.

I look forward to hearing from you, with your conclusions, once your review is complete.

Finally, as this matter does not, in my opinion, impact the 2019-20 year, I have completed my review and report on the 2020 Annual Governance and Accountability Return but you will need to consider any outcomes of your review when completing your 2020-21 Annual Governance and Accountability Return.

Carolyn Rossiter

Partner

Wsussex Sa

Moore East Midlands

