

ASTON, COTE, SHIFFORD & CHIMNEY PARISH COUNCIL

CLERK'S BRIEFING NOTES

PARISH COUNCIL MEETING ON 2 AUGUST 2018

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Prepared by Helen Sandhu
28 July 2018

Correspondence sent since 5 July 2018

- 1) Letter to Historic Chapels Trust enclosing grass cutting donation
- 2) Offer letter and contract to Elaine Anstee
- 3) Order for war memorial cleaning and relettering
- 4) Response to Garden Village Issues Paper
- 5) Email to Gigaclear with photographs of damage to hedge and verge at the end of Bull Street

**ASTON, COTE, SHIFFORD & CHIMNEY PARISH COUNCIL
COMPLIANCE WITH GENERAL DATA PROTECTION REGULATIONS 2018**

1. Introduction

- 1.1. The General Data Protection Regulations (GDPR) were passed into UK law as the Data Protection Act 2018, with its main provisions commencing on 25 May 2018.
- 1.2. This is the fifth report relating to the GDPR that the Clerk has presented to the Parish Council (the earlier reports being considered at the meetings on 5 April, 10 May, 7 June and 5 July 2018).

2. Update on progress towards compliance

2.1. Policies

- 2.2. The Privacy Notice, procedure relating to Data Subject Access requests and Data Breach Procedure were adopted at the meeting on 10 May. The Privacy Notice and Data Subject Access request information have now been posted on the website. The Privacy Notice for Staff, Councillors and Role Holders and Data Retention Policy were adopted at the meeting on 7 June. All councillors have been provided with a copy of the Privacy Notice covering their role and the Data Retention Policy has been posted on the website.

- 2.3. The Clerk is continuing to review the data held against the Data Retention Policy in order to identify and dispose of/delete data currently held which falls outside the policy. This has now been completed for all electronic records, with a small amount of physical records stored at the Village Hall still to be checked and destroyed as appropriate.

- 2.4. The only matters still requiring completion relate to Data Security, including the Parish Council website, digital data storage and email use.

2.5. Data Security

Website

Cookies

The cookie “pop up” has now been activated on the website.

SSL Certificates

Ben Lings has upgraded the website so it has an SSL certificate and is secure, protecting the transfer of data between a user's computer and the website when they complete a “Contact Form”.

Email Addresses

The Parish Council needs to consider further whether introduce council-specific email addresses for councillors to use for their council business to enhance the protection of people's personal data.

Digital Data Storage

The Clerk has spent a significant amount of time researching possible cloud storage providers that would be GDPR compliant. The GDPR requires businesses using a third party to store/process personal data to have a Data

Processing Agreement in place with that provider. The Clerk has not been able to identify a provider that offers this for small businesses.

One of the advantages of storing data in the cloud is that it provides cover for business interruption and data back-up. In the absence of a cloud solution, the Parish Council's data will be stored on the Clerk's physical hard drive and backed up to an encrypted memory stick which will be stored in the Parish Council's locked cupboard at the village hall.

Data Security Policy

A revised draft Data Security Policy follows as Appendix A.

3. Recommendations

- 3.1. To review, amend and/or adopt the Data Security Policy.
- 3.2. To identify any further work required to meet the GDPR requirements.

Helen Sandhu
28 July 2018

Aston, Cote, Shifford & Chimney Parish Council

Data Security Policy

The transmission, storage and processing of information by the Parish Council is integral to the working of the Council. If there is a loss of confidentiality, integrity or availability, or the use and storage of information does not comply with legal requirements, then this can have a serious effect on the operation of the Council and could damage the reputation of the Council. Ensuring the appropriate level of security of information is therefore essential.

Policy application

This Policy applies to all employees, whose compliance is secured via the employment contract, and all councillors, whose compliance is secured by the Council's Code of Conduct.

The Policy applies at all locations from where information held by the Parish Council is accessed, including at home, mobile communications, and use whilst in transit.

The Policy applies to all systems and all information in any format.

Data Security Measures – physical

Where data is held in the form of a physical record it must be kept physically secure. The Parish Council's primary records are maintained by the Clerk who is responsible for ensuring that they are kept secure.

The majority of the Parish Council's physical records are kept at the Village Hall in a locked cupboard and locked filing cabinet. The more current records are kept securely by the Clerk at her home office.

Data Security Measures – electronic

Any device used to access Parish Council records, including emails, must require a log-on password.

The email system used by employees and councillors to access Parish Council emails must require a password which is not shared with anyone who is not an employee or councillor.

Employees and councillors must only use an email address which is private to them only (not shared with a family member/anyone else) to receive and send Parish Council emails.

Passwords must be changed regularly and should be sufficiently complex to make them hard to guess.

Virus and Malware Protection

Any computer used to access Parish Council information, including emails, must be protected with anti-virus and anti-malware software which is kept up to date.

Electronic data back-up – Business Interruption and continuity

The preservation and protection of the Parish Council's electronic records is of paramount importance.

The Parish Council's electronic files are stored on the hard-drive of the Clerk's personal computer.

The Clerk stores a back-up of the electronic records on an encrypted memory stick in a locked cabinet at the Village Hall.

The back-up is updated on a monthly basis as a minimum and more frequently when significant changes have been made to the electronic records.

Use of Third Party Data Processors

The Parish Council uses several external organisations to process personal data:

- HMRC Basic Tools software for payroll processing;
- Unity Trust Bank for processing receipts and payments;
- Weebly for website hosting and Contact Form processing.

The Parish Council only uses third parties after ensuring that the levels of data security they operate is the equivalent of that operated by the Parish Council on its own systems.

Date Policy adopted:

ASTON, COTE, SHIFFORD & CHIMNEY PARISH COUNCIL

GRIEVANCE PROCEDURE

1. PURPOSE AND SCOPE

It is the policy of the council to give employees the opportunity to air and seek redress for any individual employment grievance which they may have. Grievances may be any concerns, problems or complaints employees wish to raise with the council. This document describes the procedure which aims to facilitate a speedy, fair and consistent solution to an individual employee's employment grievance. This procedure is produced in line with the ACAS Code of Practice 2015 as set out in the Employment Act 2008.

2. PRINCIPLES

- a) At every stage in the procedure the employee will be given the opportunity to state his or her case before any decision is made.
- b) Grievances will be dealt with promptly and consistently
- c) At all formal stages the employee will have the right to be accompanied by a work colleague or trade union representative during the Grievance Hearing.
- d) An employee will have the right to appeal against any outcome of a Grievance Hearing.
- e) At no time will an employee be penalised or victimised for having raised a Grievance against the council

3. PROCEDURE

3.1. Informal Stage An employee is expected in the first instance to raise a matter of concern informally with his/her line manager. This should be raised within 3 months of any alleged incident. If the individual feels it would be inappropriate to raise the matter with his/her immediate manager as it relates to their behaviour, s/he should raise the concern with the next level of management. In the case of the Clerk to the council raising a grievance this should be directed to the Chair of the council unless the complaint is about the Chair in which case another Member can be identified to handle the Clerk's concerns. The recipient of the grievance from the Clerk should share the grievance with the relevant committee established to handle employment matters and the issues should be treated with discretion and confidentiality at all times.

3.2. The manager and the employee should make every effort to resolve the matter of concern at this stage. After an issue has been raised by the employee, the manager should advise the employee within five working days of the action they consider appropriate to address the matter. Any proposed informal actions will be confirmed in writing, including any deadlines for appeal by making a formal complaint.

3.3 Written Statement: If the employee does not consider it appropriate to raise the grievance informally, or if requested by the person the employee spoke to informally, then the employee should submit a formal grievance in writing to their line manager, or if this is inappropriate to the next level of management.

3.4 Meeting or Hearing: Generally, within a reasonable period of time e.g. five working days of receipt of a written complaint, the line manager or Chair of the appropriately convened committee or hearing panel will arrange a meeting with the employee. The Hearing Manager will endeavour

to make the meeting arrangements mutually convenient and will arrange a confidential location, free from interruptions. The manager will investigate the substance of the complaint and hear submissions from the employee concerned together with such other submissions or evidence as s/he shall consider appropriate and take such steps as s/he shall consider necessary to resolve the issue raised. It may be necessary to adjourn the meeting in order for an investigation to take place. Careful consideration of the evidence and the necessary steps required to resolve the problems will be given to the grievance. The employee may call witnesses by prior arrangement with the panel. There is no right for a Member or employee implicated in an employee's grievance to cross examine the aggrieved during a grievance hearing but the panel may wish to make its own investigations through interviewing these individuals and/or other witnesses separately. The Panel may ask the employee what he or she would like to happen as a result of raising the grievance and bear this in mind when preparing the response.

3.5 Response: The Hearing Manager will advise the decision to the employee in writing and, where appropriate, include an action plan to assist in the resolution of the problem.

3.6 Appeal: If the employee is dissatisfied with the decision of the line manager on his/her complaint, s/he may appeal against the decision to the Chair or other elected Member by written notice within five working days of the decision. An Appeal may be raised if:

- The employee thinks the finding, or action plan, is unfair
- New evidence has come to light
- The employee thinks that the procedure was not applied properly

On receipt of the appeal the council's Appeals Panel shall arrange to meet and consult with the employee, the line manager or Members concerned and any other persons, as s/he shall consider appropriate without unreasonable delay. The Appeal Hearing Chair shall consider the issues and shall then take all such steps, as s/he may consider necessary to resolve those issues. Where the council's Chair has chaired the initial grievance meeting the Vice Chair or another Member appointed to do so will hear the appeal as a hearing manager. The decision of the Appeal Hearing will be final. The council will need to ensure that the Members involved in the hearings are able to act impartially and reasonably at all times. The outcome of the appeal should be conveyed to the employee in writing in a timely manner.

3.7 Bullying or Harassment: If a grievance concerns alleged bullying or harassment the matter should be reported promptly to the employee's Line Manager, or another manager/Member if more appropriate, with an indication of the required action. The complaint will then be investigated and any action taken and any resolution achieved will be reported back. If the solution is not satisfactory to the complainant, the matter will be discussed further and, if appropriate, an alternative solution agreed. The decision at this stage will generally conclude the enquiry. If a further appeal or review is available the employee will be notified. As a result of an investigation into a claim of harassment disciplinary action may be instigated against any alleged perpetrators of the action or in the case of alleged perpetrators being elected Members a Code of Conduct complaint lodged by the council with the Monitoring Officer of the District Council.

3.8 Right to be Accompanied: At any formal stage of the procedure an employee may be accompanied by a fellow employee of their choice or their trade union representative or official of a trade union (appropriately accredited) but as this is an internal procedure they will not be entitled to be accompanied by any external supporter e.g. partner, parent, solicitor etc. This right to be accompanied is enshrined in the Employment Relations Act 1999. To exercise this right the employee should make a reasonable request. The companion will be allowed to address the

hearing, put and sum up the employee's case, respond to views expressed at the hearing and to confer with the employee during the hearing (sometimes in an adjournment) but is not allowed to answer questions on the employee's behalf, address the hearing if the employee does not wish it or prevent the employer from explaining their case.

3.9 Confidentiality: So far as is reasonably practicable, the council will keep any grievance or complaint of harassment confidential between the manager or Member investigating the grievance or complaint, the employee and the person about whom the grievance or complaint is made. If it is necessary to investigate the matter with any other employee or person, the employee will be so advised.

3.10 Record Keeping: In all cases, written records of the nature of the grievance raised, the employer's response, action taken (with reasons), details of any appeal and subsequent developments will be retained and kept in accordance with the Data Protection Act 2018.

ASTON, COTE, SHIFFORD & CHIMNEY PARISH COUNCIL

DISCIPLINARY PROCEDURE

1. PURPOSE AND SCOPE

This procedure is designed to help and encourage all council employees to achieve and maintain high standards of conduct whilst at work or representing the council. The aim is to ensure consistent and fair treatment for all. This procedure is prepared in accordance with the dismissal and dispute resolution procedures as set out in the Employment Act 2008 and the ACAS Code of Practice 2015.

2. PRINCIPLES

- f) No disciplinary action will be taken against an employee until the case has been fully investigated
- g) At every stage in the procedure 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.
- h) At all formal stages the employee will have the right to be accompanied by a trade union representative or work colleague during the disciplinary interview.
- i) No employee will be dismissed for a first breach of discipline except in the case of gross misconduct when the penalty of dismissal without notice or payment in lieu of notice may be applied.
- j) An employee will have the right to appeal against any disciplinary penalty imposed.
- k) The procedure may be implemented at any stage if the employee's alleged misconduct warrants such action.

3. THE PROCEDURE FOR MISCONDUCT and GROSS MISCONDUCT

3.1 The following list provides examples of **misconduct** which will normally give rise to formal disciplinary action:

- Unauthorised absence from work
- Persistent short-term and/or frequent absences from work without a medical reason
- Lateness for work or poor time keeping
- Inappropriate standard of dress
- Minor breaches of Health and Safety or other rules or procedures
- Failure to perform your job to the standard expected or in line with your job description/objectives
- Time wasting
- Disruptive behaviour
- Misuse of the council's facilities (e.g. telephones, computers, email or the internet)
- Refusal to carry out reasonable requests or instructions
- Smoking in unauthorised areas
- Failure to follow an agreed council Procedure

This list is not exhaustive and offences of a similar nature will result in disciplinary action being instigated N.B. persistent or frequent absence on medical grounds and long term sickness absence will be dealt with using a procedure for incapacity.

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

- Theft, fraud, deliberate falsification of records, or other acts of dishonesty
- Fighting, assault on another person
- Deliberate damage to property of the council, its workers or members
- Gross incompetence in the conduct of work
- Gross negligence which results in the council or employees being put at risk.
- Being under the influence of illegal drugs or excessive alcohol
- Acts of incitement towards or actual acts of discrimination, harassment or victimisation including on the grounds of sex, race, colour, ethnic origin, disability, sexual orientation, age, religion or belief
- Serious acts of insubordination
- Serious breach of duty to keep information of the council, its service providers and its clients confidential
- Unauthorised entry to computer records
- Any action, whether committed on or off the premises, that is likely to or does bring the council into disrepute
- Serious negligence which causes or might causes significant loss, damage or injury
- Accepting bribes or incentive payments from suppliers
- Unauthorised use of council funds or credit
- Working with an external agency to provide information which would be detrimental to and cause commercial risk to the council.

This list is not exhaustive and other offences of a similar gravity will result in disciplinary action being instigated at Gross Misconduct level which carries a potential penalty of dismissal. Gross Misconduct is generally any conduct which places extreme pressure on the mutual trust which exists in an employment relationship.

3.3 INFORMAL ACTION

Minor misconduct will be dealt with informally usually in a confidential one-to-one meeting between the employee and line manager. In the case of the Clerk being the individual against whom there is a complaint or allegation the matter should be handled discreetly by members of the Staffing (or similar) committee and involve an informal meeting initially. However, where the matter is more serious or informal action has not brought about the necessary improvement the following procedure will be used:

3.4 FORMAL ACTION

3.4.1 The level of warning you may receive for misconduct/gross misconduct will depend on how serious the council considers the alleged actions to be and your previous conduct in all the circumstances. In the event of alleged gross misconduct the formal process may commence at Stage 4 –see 3.5 below.

3.4.2 Disciplinary Letters

If there is a concern about an employee's conduct or behaviour then a letter will be given to the employee advising him/her of the allegation(s) and reasons why this is unacceptable. The letter will invite the employee to attend a meeting at which the alleged misconduct will be discussed and will inform the employee of their right to be accompanied to the meeting. The letter will specify at which stage the disciplinary procedure is being invoked (see 4 stages below) and if

invoked at Stage 4 for Gross Misconduct the letter will warn that a potential outcome could be dismissal. The time, date and venue of the meeting will also be advised. Any documents to be produced at the meeting will also be provided.

3.4.3 Disciplinary Meetings

The time and location of a disciplinary meeting should be agreed with the employee and it should be held in a private location with no interruptions. This will normally be without undue delay but allowing the employee to prepare their case e.g. within 5 days of the letter being sent, where practically possible. At the meeting the manager (or in the case of the Clerk being disciplined, the Chair of the Hearing Panel) will state the complaint against the employee and go through the evidence which has been gathered. The employee will also be allowed to ask questions, present evidence and call witnesses if advance notice has been given that they will do so.

If the employee is unable to attend the meeting due to unforeseeable reasons out of their control (e.g. illness) then the council will reasonably rearrange the meeting. However, if the employee fails to attend the meeting without good reason the meeting can be held in the employee's absence.

3.5 OUTCOMES AND PENALTIES

Stage 1 - Oral Warning

In the instance of a first complaint that conduct does not meet acceptable standards, the employee will normally be given a formal ORAL WARNING. He or she will be advised of;

- the reason for the warning,
- that it is the first stage of the disciplinary procedure,
- the improvement that is required and the timescales for achieving this improvement,
- together with a review date and any support available (where applicable) and
- his or her right of appeal.

A brief note of the oral warning will be kept but it will be spent after 6 months, subject to satisfactory conduct.

Stage 2 - Written Warning

If the offence is a serious one, or if further to previous formal disciplinary action, a WRITTEN WARNING will be given to the employee by the Line Manager. This will give details of the complaint, the improvement required and the timescale. It will warn that action under Stage 3 will be considered if there is no satisfactory improvement and will advise of the right of appeal. A copy of this written warning will be kept on file but it will be disregarded for disciplinary purposes after 12 months subject to satisfactory conduct.

Stage 3 – Final Written Warning

If there is still a failure to improve and conduct or performance is still unsatisfactory, or the misconduct is sufficiently serious, a FINAL WRITTEN WARNING will normally be given to the employee. This will give details of the complaint, will warn that dismissal will result if there is no satisfactory improvement and will advise of the right of appeal. A copy of this final written warning will be kept by the Line Manager (or in the case of the Clerk being disciplined by the Chair of the Hearing Panel) but it will be spent after 12 months (in exceptional cases the period may be longer) subject to satisfactory conduct.

Stage 4 – Dismissal or other sanctions

If conduct is still unsatisfactory and the employee still fails to reach the prescribed standards, or where the council reasonably believes Gross Misconduct has occurred, DISMISSAL may result. Only the appropriately convened hearing panel can take the decision to dismiss an employee.

The employee will be given a written statement of allegations against him/her, invited to a meeting and then be notified in writing of the reasons for the decision taken at the hearing. Penalties at this stage may include dismissal with notice or summary dismissal (i.e. without any notice), Final Written Warning with/without demotion, loss of pay or loss of seniority. If dismissal is the outcome, the employee will be advised of the date on which employment will terminate. In all cases the employee has a right of appeal.

Very exceptionally, if an offence of Gross Misconduct is extremely serious an employee can be dismissed immediately without a meeting. In this situation a letter setting out reasons for dismissal would be sent to the employee offering the opportunity for an appeal hearing.

3.6 SUSPENSION

If you are accused of an act of gross misconduct, you may be suspended from work on full pay while the council investigates the alleged offence. Only the appropriately convened committee has the power to suspend. This enables a swift and thorough investigation to occur. Whilst suspended pending disciplinary investigation regular contact with a nominated person at the council will be maintained although access to premises, equipment or systems may be denied. The Investigator who compiles evidence for the disciplinary hearing must play no part in the subsequent decision-making to ensure impartiality. The Council will consider the implications of such arrangements on its hearing and appeal panel plans early on in the disciplinary process.

3.7 APPEALS

The Appeals stage of the disciplinary process is part of the Code of Practice to which an employee has a right. It can be exercised after any of the stages of disciplinary action for Misconduct/Poor Performance or Gross Misconduct.

An employee who wishes to appeal against a disciplinary decision should inform the Chair (or Chair of the relevant committee) within five working days, in writing and giving reasons for the appeal. An Appeal may be raised if:

- The employee thinks the finding or penalty is unfair
- New evidence has come to light
- The employee thinks that the procedure was not applied properly

Where possible the Appeal will be heard by a separate panel of elected members who have not been involved in the original disciplinary hearing, who will view the evidence with impartiality. The employee will have the right to be accompanied by a colleague or accredited Trade Union official or lay member at the appeal hearing. The outcome of the Appeal and reasons for it will be advised to the employee as soon as possible after the meeting and be confirmed in writing. At the Appeal Hearing any disciplinary penalty imposed will be reviewed but it cannot be increased. The decision taken at the Appeal Hearing will be final.

3.8 THE RIGHT TO BE ACCOMPANIED

At each formal stage of disciplinary interview an employee has the right to be accompanied and can make a reasonable request for such a person to accompany them. An employee can ask any other employee or a trade union representative or an appropriately accredited official employed by a trade union to accompany them, to give support and help them prepare for the disciplinary interview. This right is enshrined in the 1999 Employment Relations Act. As this is an internal process there is no provision to have any external person accompany or represent an employee e.g. partner, parent, solicitor etc. The companion can address the hearing, put and

sum up the employee's case, respond on behalf of the worker to any views expressed at the meeting, confer with the employee. The companion cannot however answer questions on the employee's behalf or address the hearing if the employee does not wish him/her to or prevent the employee explaining their case.

3.9 HEARING PANELS

The Council will consider the need to establish hearing and appeal panels to hear disciplinary and grievance hearings on an annual basis so that if a dispute does arise in the workplace the elected members involved are already trained and briefed on their duties as a hearing or appeal panel member. In situations where individual members are implicated in the dispute or have undertaken an investigatory role then they will need to be substituted as panel members.

3.10 NOTE-TAKING

The Council will ensure that arrangements are made for notes to be taken at every meeting/hearing which arises as a result of a disciplinary process in order to satisfy the expectations of any subsequent Employment Tribunal which will expect to view contemporaneous notes of events which have led to an employment dispute. The Council will give this requirement careful consideration in order to respect employee confidentiality.

3.11 GRIEVANCES RAISED DURING DISCIPLINARIES

In some circumstances when a disciplinary process has commenced an employee chooses to exercise his/her right to raise an internal grievance about the employment relationship with the council or individual Members. If this happens, any disciplinary matters will be placed on hold until grievances have been aired and actions towards a resolution have been progressed. In exceptional circumstances it may be pragmatic to deal with the two disputes concurrently, and specialist advice will be sought before this decision is taken.

3.12 CRIMINAL CHARGES OR CONVICTIONS

If an employee is charged with or convicted of a criminal offence this does not automatically give rise to a disciplinary situation. Consideration will be given to how a charge or conviction may affect an employee's ability to undertake his or her job duties and their relationships with the employer, colleagues, subordinates or customers.

Financial Matters

1. Cash Balances

£

UNITY TRUST CURRENT ACCOUNT

Balance at 30 June 2018 26,862.10

July payments (2,124.63)

Balance at 31 July 2018 **24,737.47***NATIONWIDE DEPOSIT ACCOUNT*

Balance at 30 June 2018 39,106.79

Transactions in month NIL

Balance at 31 July 2018 **£39,106.79***SANTANDER BUSINESS DEPOSIT ACCOUNT*

Balance at 30 June 2018 536.12

Transactions in month: interest received 0.13

Balance at 31 July 2018 **536.25****TOTAL CASH HOLDING AT 31 JULY 2018** **£64,380.51**