

DOCUMENT INFORMATION

Origination/author:	Francesca Smith, HR Partner
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Grievance Policy

This is the Council's policy for dealing with grievances. Please note that for grievances concerning bullying, harassment or whistle-blowing there are other separate procedures that should be followed.

Where an employee needs help reading or understanding or engaging in the process below, because English is not their first language or they have learning difficulties or a disability which affects their ability in this area, Human Resources will arrange for someone to assist them. This will apply to the whole process and the support will include reading and explaining letters or documentation. To access this support the employee must ask Human Resources as otherwise they may not be aware of the need.

General principles

1. ACAS (Advisory, Conciliation and Arbitration Service) define grievances as 'concerns, problems or complaints that employees raise with their employers'. Issues that may cause grievances include:
 - terms and conditions of employment
 - health and safety
 - work relations
 - bullying and harassment
 - new working practices
 - working environment
 - organisational change
 - discrimination.
2. This policy does not apply to grievances about the following matters where separate appeal procedures exist:
 - Performance review rating
 - Disciplinary decision (appeal process is set out in the Disciplinary Policy)

Where a separate process exists for raising specific concerns, employees should exhaust this before raising a grievance:

- Bullying and harassment (use the Bullying and Harassment policy)
- Concerns about fraudulent or otherwise inappropriate things being done at the Council (use the Whistle Blowing Policy)
- Salary (raise with manager initially)
- Salary Band (raise with Human Resources)
- Statutory sick pay (raise with Human Resources)
- Statutory maternity pay (raise with Human Resources)
- National insurance and income tax (raise with Payments Section)
- Pensions (raise with Human Resources)

- 3 This policy applies to all employees wishing to raise a grievance. Should the grievance be against someone who would normally have influence over proceedings, for example the Managing Director, or the Director of Resources, special arrangements will be made to preserve the integrity of the grievance process. In the case of the Managing Director a committee of the Council appointed for the purpose will hear any grievance, and in the case of a grievance against the Director of Resources independent, external Human Resources support will be used.
- 4 The Council's policy is to ensure that employees with a grievance relating to their employment can use a procedure to help resolve problems as quickly and as fairly as possible. To this end employees are encouraged to draw attention to matters of concern at the earliest opportunity.
5. There are a number of ways to resolve disputes at work. An employee who has a grievance about their employment should discuss it informally with their line manager or Human Resources in the first instance. The majority of problems can be resolved in this way.
6. Alternatively, mediation offers early assistance in dealing with workplace issues such as communication difficulties, harassment, discrimination, and bullying. Mediation helps the parties involved in the dispute to consider options to resolve their situation and can, if necessary, be carried out before, during or after the formal grievance process. Using mediation in a dispute does not prevent an employee from following the formal Grievance Procedure if they feel their issue has not been resolved.

The Council has a number of trained internal mediators who can facilitate a confidential meeting between two parties, with the aim of reaching a mutually agreeable resolution. Employees can contact a member of Human Resources in confidence for further advice or information about mediation.

7. If, having taken all reasonable steps to resolve the grievance informally, the employee feels that the matter has not been resolved through informal discussions or mediation they should raise it formally with management by following the Grievance Procedure. Where an employee chooses to follow the formal grievance procedure rather than try to resolve the grievance informally, they should be encouraged to consider alternative methods of dispute resolution but cannot be forced to do so. The hearing manager considering the grievance will take into account what action the employee has taken to resolve the grievance informally prior to using the formal procedure.
8. The grievance procedure will be carried out in confidence, unless otherwise agreed with the parties involved, and will not prejudice the aggrieved employee's current employment or future career prospects. Some grievances may be of a sensitive or controversial nature and therefore a balance must be drawn between the need to preserve this confidentiality and the need for informed discussion on the issues raised.
9. Grievances will be heard by a senior manager – where possible the line manager of the person against whom the grievance has been raised. Where the line manager is not sufficiently independent, an alternative senior manager will be asked to hear the grievance.
10. A Human Resources representative will attend all grievance hearings to advise the hearing manager.

11. All those present at a hearing, including representatives and those who are accompanying the employee, should behave in an appropriate manner for a formal hearing eg. polite and respectful towards others.

Companions

13. Employees have a statutory right to be accompanied by a trade union representative (representatives will only support union members) or colleague during grievance hearings. The Council reserves the right to refuse the employee being accompanied by a person who is deemed by Human Resources to be unsuitable. Examples of unsuitability would include someone who has a vested interest in the outcome of the grievance and anyone who has previously behaved inappropriately during a hearing.
14. The role of the companion is to support the employee. They may make the case for the employee, speak on the employee's behalf and advise the employee but they may not answer a question that has been directly addressed to the employee. Employees must personally respond to any questions asked of them.
15. If the chosen companion is unavailable on the given date, the employee can offer an alternative date and time so long as it is reasonable and falls within five working days after the day proposed by the Council. If the chosen companion is not available for an alternative date within five working days, on which the other relevant people are also available (hearing manager, Human Resources, etc), the employee may choose another companion or otherwise will have to attend without one. Employees and their companions should make every effort to attend meetings.

Appeals

16. The Grievance Procedure offers a right of appeal against a grievance hearing outcome.

Collective grievances

17. If a grievance is submitted jointly by a group of employees, they will be asked to agree one or two representatives to attend the grievance hearings and present the grievance on behalf of the group. This is to enable the grievance to be addressed promptly and to avoid the delays that would be caused by the difficulty in finding meeting dates and times that are convenient for a larger number of people.

Grievances against other employees

18. Where other employees are the subject of the grievance this must be handled sensitively as the Council has a duty of care to both the employee raising the grievance and to the employee who has had a complaint made against them. Appropriate support will be offered to all employees involved in the grievance process as for many employees this may be an unpleasant and distressing experience. The employee(s) against whom the complaint has been made will be given details of the complaint(s) made against them and will be given the opportunity to respond to the complaint(s).

Vexatious grievances

19. The Council recognises the right of employees to raise grievances relating to their employment. However if an employee continues to raise grievances, which appear to be petty or repetitive, this may be regarded as vexatious and could lead to disciplinary action being taken against them. Any such situation where an employee is thought to be deliberately wasting Council time and resources in this way will be referred to a panel of the Managing Director, Director of Resources and the Legal Services Manager for a decision on whether it should be treated as vexatious.

Malicious grievances

20. Where an investigation shows that a grievance is unfounded and has been raised maliciously this may lead to disciplinary action against the person raising the grievance.

Monitoring the application of the Grievance Policy

21. The Council has conducted a full Equality Impact Assessment on this policy and is satisfied that its application should not result in a differential and negative impact on any groups of employees identified under the nine protected characteristics: age, disability, gender reassignment, race, religion or belief, sexual orientation, marriage and civil partnership, pregnancy and maternity
22. The Council will carry out equality monitoring of the employees who raise grievances in order to be aware if a disproportionate number of employees from any individual equality strand feel the need to raise a grievance. Should that be the case, it will consider the reasons why and, if necessary, amend this policy to ensure that any inequalities in the policy which are subsequently identified are removed.

DOCUMENT INFORMATION

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Grievance Procedure

Where an employee needs help reading or understanding or engaging in the process below, because English is not their first language or they have learning difficulties or a disability which affects their ability in this area, Human Resources will arrange for someone to assist them. This will apply to the whole process and the support will include reading and explaining letters or documentation. To access this support the employee must ask Human Resources as otherwise they may not be aware of the need.

Guidance

This procedure sets out the steps to be followed to initiate formal grievances in the workplace. A grievance can either be raised by an individual or by more than one employee as a collective grievance.

The grievance procedure is a contractual document, which will be reviewed and amended on a regular basis to ensure its alignment with current legislation.

This procedure has been drawn up following consultation with employee representatives and takes full account of the relevant ACAS Code of Practice 2009 and statutory requirements as set out in the Employment Act 2002 and the Employment Act 2008.

If a grievance relates to an allegation of bullying and/or harassment then action should be taken in accordance with the Bullying & Harassment Procedure.

It is important to keep written records during the grievance process and records should include:

- the nature of the grievance raised
- a copy of the written grievance
- the employer's response
- action taken
- reasons for action taken
- whether there was an appeal and, if so, the outcome; and
- subsequent developments.

Records should be treated as confidential and kept in accordance with the Data Protection Act 1998.

This procedure does not apply to issues relating to the grading of posts or other directly related matters which will be dealt with by the relevant line manager with an appeal to the Managing Director.

Prior to commencing the grievance procedure

Before raising a formal grievance the employee must make reasonable efforts to resolve the matter informally, for example by discussing the issue with their line manager or with Human Resources and by considering measures such as mediation. Employees will be expected to explain what steps they have taken before they raise a formal grievance.

Stage 1

The grievance must be raised in writing to a Head of Service or Senior Manager (or next more senior manager if appropriate, for example if the grievance relates to the Head of Service or Senior Manager, it should be raised with the Director) who will hear the grievance or appoint an appropriate manager to hear it e.g. an alternative Senior Manager. If the manager who received the grievance decides to refer it to someone else to hear, they must write to the employee to acknowledge receipt of the grievance and explain who will be hearing it and why. This letter must be sent within two working days and the grievance passed to the new Hearing Manager to enable them to write to the employee within five working days.

The grievance letter should clearly state the nature of the grievance, what the employee has done to try and resolve the matter informally prior to raising the formal grievance and the desired outcome.

The hearing manager will reply in writing to the grievance within five working days, inviting the employee to a meeting for the grievance to be discussed, and informing them of their right to be accompanied at the meeting by a trade union representative or colleague. Please see notes below on companions. A Human Resources representative will be present at the meeting.

If the grievance is presented by a group, the Hearing Manager will ask the group to agree one or two representatives to attend the grievance hearing and present the grievance on behalf of the group.

At the grievance hearing the grievance will be treated confidentially and the employee will be given the opportunity to explain their complaint and how they think it can be settled. The Hearing Manager will consider what action the employee has taken to resolve the grievance informally prior to using the formal procedure. The Hearing Manager will also need to consider the context within which the grievance may have been raised, particularly where other conduct or performance issues may have a bearing on the complaint made.

Where further investigation is required the Hearing Manager may hold further investigatory meetings with any relevant parties.

Within five working days of the meeting, the manager who has heard the grievance will inform the employee in writing of their decision in response to the grievance and notify them of their right to appeal against the decision within ten working days of receiving the written response. If it is not possible to reach a decision within five working days, for example because the manager needs to investigate further, an extension to the timeframe may be necessary. If a report is written following the investigation the employee should be provided with a copy of this or a redacted version if appropriate.

It should be noted that it might be appropriate to mutually agree a specific period during which to monitor the outcome of the Stage 1 decision. An appeal may be submitted up to ten working days after the end of this agreed period.

Stage 2

If the employee wishes to appeal against the decision, or they have not received a response and wish to pursue the grievance, the appeal must be submitted in writing, within ten working days of receipt of the written decision, to the next more senior manager (Director or Managing Director, whichever is appropriate). The letter of appeal must state the grounds of the appeal and the desired outcome.

The manager will respond in writing within five working days, inviting the employee to a meeting to discuss the grievance, and informing them of their right to be accompanied at the meeting by a trade union representative or colleague. Please see notes below on companions. A Human Resources representative will be present at the meeting.

Within five working days of the meeting, the manager who has heard the appeal will inform the employee of their decision on the grievance. There is no further right of appeal.

Every effort will be made at each stage to deal with the complaint as quickly as possible. It should be remembered that some cases will take time to investigate fully and the time limits mentioned above may therefore need to be extended by mutual agreement.

Special arrangements

Should the grievance be against someone who would normally have influence over the proceedings, special arrangements will be made to preserve the integrity of the grievance process. In the case of a grievance against the Managing Director a committee of the Council appointed for the purpose will hear any grievance, and in the case of a grievance against the Head of Human Resources independent, external Human Resources support will be used.

Right to be accompanied

Employees who are raising a grievance will be notified of their statutory right to be accompanied by a trade union representative (representatives will only support union members) or colleague during grievance hearings. The Council reserves the right to refuse accompaniment by a person who is deemed to be unsuitable by Human Resources. Examples of unsuitability would include someone who has a vested interest in the outcome of the grievance and anyone who has previously behaved inappropriately during a hearing.

If the chosen companion is unavailable on the given date, the employee can offer an alternative date and time so long as it is reasonable and falls within five working days after the day proposed by the Council. If the chosen companion is not available for an alternative date within five working days, on which the other relevant people are also available (Hearing Manager, Human Resources, etc), the employee may choose another companion or attend without one.

Employees who are interviewed as part of an investigation into allegations raised in a grievance do not have a statutory right to be accompanied. They may, however, request a colleague or union representative to accompany them at the investigatory meeting and the Hearing Manager will decide whether the request can be granted. In situations where this is agreed, the role of the companion will be to provide moral support and not to speak on behalf of the witness. The Hearing Manager will give consideration to any potential conflicts of interest such as whether the requested companion has had any prior involvement with the case and will ensure they agree to maintain confidentiality.

Grievances against other employees

Employees who have a complaint made against them will also be given help and guidance if required. They will be allocated a member of the Human Resources team, who is not involved in the investigation and will not be involved in any subsequent hearing, to be an independent support who they can contact should they wish to talk to someone, access information, etc. Support is also available through the employee's line manager and the trade union, if the employee is a member.

It is likely that the Hearing Manager will need to carry out investigatory meetings with the employee(s) who have had a complaint made against them. During the investigatory meeting the Hearing Manager will provide the employee with details of the complaint(s) made against them and give them the opportunity to respond. If necessary, the employee can request a period of time to consider their response.

Whilst the outcome of a grievance hearing and investigation will remain confidential, the Hearing Manager will advise employees involved with the investigation when the process has been completed and will discuss any aspect of the outcome that is relevant to them.

Support during the grievance process

For many employees, being involved in a grievance hearing or an investigation is an unpleasant and distressing experience and every effort should be made to put them at ease and treat them with empathy and understanding throughout the process. Employees requiring additional support should contact the Human Resources team or the line manager to discuss what support can be provided.

Confidentiality

During the grievance process (and after it is completed) the need to maintain confidentiality is of paramount importance. All employees have a personal responsibility for ensuring that information they receive remains confidential whether it is written or verbal, or received directly or indirectly. This should be advised and reiterated to all those involved in any hearings or investigations.

Access to confidential information should be limited to those who 'need to know'. For example, witnesses who are interviewed as part of an investigation need only be informed of the aspects of the grievance that are relevant to them. This is to enable them to provide an accurate statement and ensure they have a fair opportunity to respond to any allegations made against them.

Grievances raised during the disciplinary process

An employee may raise a grievance during disciplinary procedures if they believe that either the action amounts to unlawful discrimination or that it has not been taken on grounds of their conduct (for instance, if it is as a result of a personality clash with their line manager).

If the grievance is raised at any point before the appeal stage, the grievance will be considered by Human Resources and a decision taken on whether the grounds are established. The grievance may then be heard as part of the disciplinary procedure or the disciplinary process may be adjourned and the grievance addressed first.

If the grievance is raised during or after the appeal, the full Grievance Procedure must be applied.

Remedies

Where a grievance is partially or fully upheld, the recommended remedy will be applied at the earliest opportunity.

Grievance Procedure

Stage 1

