

Appendix A

Grievance Policy

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1. Purpose

The Council's objective is to encourage communication so that questions and difficulties arising during employment can be brought into the open and resolved quickly, fairly and as close to the level of origin as possible.

The grievance policy provides a framework which outlines how an employee may raise a concern regarding any aspect of their employment and seek a resolution within a reasonable timeframe. The policy should be read in conjunction with the Grievance Policy Practice Notes.

2. Scope

This policy applies to all current Council employees, except those teachers directly employed by the Council and all staff appointed by schools operating under local management of schools, which have their own procedure. It does not apply to agency workers. It does not apply to employees seconded to or from the Council.

Complaints from ex-employees should be dealt with under the modified grievance process. This policy would not normally be used to resolve issues of bullying and harassment. The Council's Dignity at Work Policy sets out how complaints of bullying, harassment, victimisation or other matters in relation to dignity and respect will be handled at both informal and formal stages.

Where a grievance is raised against an individual who is not an employee of the Council, but may be on secondment to the Council, or working with the employee as part of a multi-disciplinary team, the grievance will be referred to the employer of that individual to investigate.

Instances of serious concerns, including miscarriages of justice, not complying with legal requirements; and criminal activity may be more appropriately dealt with under our Whistleblowing policy which can be found in Appendix 2 of the Council's Anti-Fraud & Corruption Strategy.

General Principles

3.1 Informal Resolution

Many grievances can be resolved quickly through informal discussion and employees are encouraged to seek informal resolution in the first instance.

Where informal resolution is not successful, or is clearly inappropriate, employees should raise their grievance formally in writing using the grievance submission form as soon as is practicable but normally within three months of the cause of the grievance.

3.2 Mediation

Mediation is a voluntary process and in order for it to go ahead it is essential that both parties agree to its use. Notwithstanding this not all situations are suitable for mediation, it may be used in situations such as:

- Dealing with conflict between colleagues or between a line manager and employee.
- Addressing a range of issues such as relationship breakdown, personality clashes or communication problems.
- Rebuilding relationships after a formal dispute has been resolved.

If mediation is being considered, then the manager should discuss this with Human Resources. The mediator is in charge of the process of seeking to resolve the issue, but not the outcome, which will be agreed by the individuals.

If mediation is successful then a copy of the outcome will be placed on the employee's HR file with their consent. Where there are actions or recommendations to be followed, it should be agreed as part of the mediation conclusion as to who should monitor their completion.

If the parties decide to attempt to resolve their dispute through mediation once they have invoked the formal grievance procedure, the procedure will be suspended whilst the mediation takes place.

3.3 Formal Action

Should informal action not lead to a resolution then a formal grievance may be made in writing, detailing the nature of the complaint together with all the relevant facts, dates and names of individuals concerned.

Formal grievances should always be dealt with in a reasonable timeframe and in any event normally within 28 calendar days unless a revised deadline has been agreed by all parties.

A formal grievance cannot be progressed if the nature of the resolution is not within the control of the Council. Neither will it be recognised as a grievance if the underlying purpose of the submission is to disrupt or confound another internal procedure such as disciplinary, investigation, audit, etc. Whilst grievance procedures are under way it is expected that work shall continue normally. The circumstances which gave rise to the grievance will continue until the grievance process is concluded, unless there is, in the judgement of the Council, a danger to the health, safety or wellbeing or any member of staff, resident, or member of the public. In exceptional circumstances it may be necessary to redeploy a staff member to another area whilst an investigation is on-going.

Where a grievance is raised against another member of staff they will be informed this has happened at the time the formal grievance is acknowledged.

3.4 Investigation

The extent of any investigation required will depend on the nature of the allegations and will vary from case to case. The purpose of an investigation is to establish the facts relating to the grievance. It may involve interviewing and taking statements from the employee and any witnesses, and/or reviewing relevant documents. In some cases it may be necessary to hold a further grievance meeting with the employee after the investigation and before a decision is reached.

Grievances will normally be investigated by the immediate line manager except that, if the grievance is against that person, they should be addressed to a more senior manager within the department.

In exceptional circumstances it may be necessary to use an external investigator or a manager from another department. They will carry out the investigation and report back to the commissioning manager in the Department, who will decide on outcomes.

Collective Grievances

If more than two employees have identical grievances and wish them to be addressed in the same grievance process, a request to the Chief People Officer can be made to consider a collective grievance.

If agreed as a collective grievance the employees concerned may nominate a representative to raise the grievance on behalf of the group.

An appropriate representative is either:

- An official of a recognised trade union; or
- An employee with a grievance nominated from within the group, to act on the groups behalf.

The nominated representative will be responsible for representing the interests of all employees in the collective grievance, including presenting the case at any meetings. Only the appropriate representatives will be invited to any meeting with the Council regarding the collective grievance unless the Council requests to speak to the employees with a grievance.

The procedure outlined for individual grievances will also apply to collective grievances. In this way if any individual grievance becomes a collective grievance it will not be necessary to revert to the beginning of the grievance procedure.

3.5 Grievance Meeting

A grievance meeting will be arranged as soon as is reasonably practicable after the receipt of the formal grievance.

The primary purpose of the meeting will be to:

- Allow the employee to present any evidence to support their grievance;
- Clarify any issues or points within the grievance;
- Identify who may have witnessed the issues or have supporting documentation;
- Set out the process to be followed;

- Agree the scope of the investigation (if required).

3.6 Right to be Accompanied

An individual has the right to be accompanied at a grievance meeting or appeal hearing. The statutory right is to be accompanied by a fellow worker, a trade union representative, or an official employed by a trade union. The employee should let the council know in advance the name of the companion where possible and whether they are a fellow worker or trade union official or representative.

3.7 Outcome

The outcome of the grievance investigation will be communicated in writing without unreasonable delay and where appropriate, should set out what action the employer intends to take to resolve the grievance. A copy of the investigation report and appendices will be provided.

The manager will decide whether to:

- Uphold the grievance;
- Partially uphold the grievance;
- Not uphold the grievance.

Where the complaint is upheld or partially upheld consideration should be given to the outcomes sought by the employee with the grievance, and, where similar grievances have been raised before, how they have been resolved to allow for consistency.

If appropriate any recommendations made will be sent to the employee's line manager for follow up and any wider recommendations will be sent to the Head of Service for consideration.

In cases where the grievance is against another member of staff the outcome will be communicated to that individual within the same time frame.

3.8 Right to Appeal

If the grievance has not been resolved to the employee's satisfaction, the employee has the right to appeal the grievance decision on the following criteria:

- Procedural inaccuracies or perceived bias in the process which has had a material effect on the decision.
- Decision – the evidence did not support the conclusion reached or is inconsistent.
- Action – any proposed action was inappropriate given the circumstances of the case.
- New evidence has come to light since original decision was made and was not available at the Grievance hearing. Where new evidence is raised, further investigations may need to be carried out which may require the Appeal Hearing to be delayed pending the outcome of these investigations and to give the employee an opportunity to consider any new information obtained.

The employee must be specific about the grounds of the appeal as these will form the agenda for the Appeal Hearing. They should also be specific around the remedy or outcome sought.

The appeal will be heard by a panel. A member of the HR Employee Relations team will provide HR advice to the panel. The employee is entitled to be represented at the appeal hearing by a workplace colleague or Trade Union Representative. Appeals must be submitted no later than **10 working days** after the date of the final decision to the Employment Relations Manager and appeals are normally to be held **no later than 20 working days following receipt of the appeal**

A panel of two senior managers (the reviewing officers), one from Human Resources and one from outside the individual's own directorate, will convene to consider the appeal and reach a decision. Appeals should be heard without unreasonable delay and at a time and place which should be notified to the employee in advance. The outcome of the appeal will be communicated to the employee in writing and without unreasonable delay.

The decision of the appeal panel is final.

4 Modified Procedure for Ex- Employees

Wherever possible, a grievance should be dealt with under this Policy before an employee leaves the Council. However, where an employee has left the organisation and wishes to raise a grievance; they may do so under the modified procedure.

- The employee must set out their full grievance in writing as soon as possible after leaving and in any case within three months of the alleged incident(s). The grievance should be sent to the employment relations manager.
- The individual will receive written acknowledgement of their grievance within five working days from the date of the grievance letter is received.
- An appropriate grievance manager will be assigned to investigate the individual's grievance. The grievance manager will normally respond to the individual in writing with their findings within twenty-eight days of receipt of the grievance letter. There is no right of appeal.

5 Confidentiality

Grievances will be dealt with sensitively and with due respect for the individuals involved. Any information communicated during the course of an investigation or as part of a grievance must be treated as confidential.

No detriment will be suffered by anyone raising a grievance in good faith, however, any matter raised with malicious intent may be dealt with under the disciplinary policy.

Where an external investigator is commissioned, a signed data processing agreement will be in place.

6. Further References

Grievance Policy Practice Notes

Disciplinary Policy

Dignity at Work Policy

ACAS Code of Practice on Disciplinary and Grievance Procedures

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