

Grievance Policy

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Introduction

A grievance is a concern or complaint raised by an employee or group of employees related to the work environment. The employee/s will not suffer any disadvantage, damage, harm, or loss by raising, supporting, or giving evidence of a grievance under this policy as this may constitute unlawful victimisation. This procedure must not be used maliciously, frivolously or in bad faith. Any misuse of the procedure may lead to disciplinary action. A grievance may not be appropriate if it is raised in direct response to the application of another procedure or where it can be raised under another procedure, for example a grievance instead of raising an appeal following a disciplinary sanction.

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.

This policy applies to all current Council employees, except all staff employed at schools operating under local management of schools, which have their own procedure. It does not apply to agency workers.

Complaints from ex-employees should be dealt with under the modified grievance process, refer to section two.

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. All aggrieved parties will be kept informed of the process and outcome. The Council will work with the substantive organisation to ensure the grievance is managed effectively if a grievance is raised against an employee on secondment.

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 two of the Council's Anti-Fraud and Corruption Strategy.

1 Principles

1.1 Early Intervention and Informal Resolution

Early intervention is essential to the maintenance of good working relationships and every effort must be made to resolve grievances informally and as soon as possible. Many grievances can be resolved quickly through informal discussion and employees are encouraged to seek informal resolution in the first instance. Therefore, it is expected that the employee, or group of employees should attempt to resolve their concerns informally by discussing the matter with their line or appropriate manager.

There is no prescribed right way to manage grievances informally, however, the manager may decide to use one of the options below:

1. Meeting with the employee/group of employees and agreeing on a resolution
2. Facilitating a conversation between the two or as a group
3. Provide recommendations such as training

The employee may request to be accompanied during the informal stages of the grievance. However, the line manager has the right to accept or decline this request as there is no automatic right for the employee to be accompanied during informal meetings. In informal meetings, any representative permitted to attend will do so in a support and wellbeing role only.

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 and normally within three months of the cause of the grievance.

1.2 Mediation

Mediation is a voluntary and confidential process used to settle conflict and both parties must agree and take responsibility to utilise the process to resolve the problem. The focus of the mediation is to provide a safe space for employees to resolve their conflict, to encourage a good working relationship going forward and not to blame each other. If both parties decide to start a mediation process after a formal process has commenced, the mediation will take priority and the formal process will be placed on hold.

When mediation has been agreed upon, the manager must contact the Employee Relations team via HALO to request [mediation](#) and provide a brief description of the situation. This information will only be shared with the mediation provider and parties involved to give them a description of the situation.

The manager should include the following in the brief description:

- What steps have the employees taken to help resolve the situation
- Why would mediation be the right step
- What resolution are the employees seeking with mediation

The provider will then get in touch to arrange a meeting with the employee and another meeting with other parties involved ahead of the first mediation meeting. The cost of mediation will be covered by the directorate, therefore the manager has the responsibility to inform the Head of Service or Assistant Director of the mediation request and the cost before starting the mediation process. The cost of mediation will be confirmed by the Employee Relations team when the manager has requested mediation.

Mediation is a voluntary process and to proceed 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 working relationship breakdown, personality clashes or communication problems.
- Rebuilding relationships after a formal dispute has been resolved.

The mediation outcome can be used to conclude the formal grievance process instead of completing the full investigation. At the end of a successful mediation, both parties will be asked to sign a mediation agreement. The line manager or a suitable senior officer can be responsible for monitoring the mediation agreement post-mediation. The line manager or suitable senior officer will issue an outcome letter to both parties involved within **5 working days** confirming the agreed resolution through mediation as an alternative to formal process and inform the employee of their right to appeal this outcome in the event they no longer accept the mediation agreement, this must be done within 10 working days of the letter. A copy of the outcome will be circulated to both parties and a copy will be placed on the employee's HR file with their consent.

If the mediation agreement is not adhered to or either party wishes to progress to the formal stages, this should be raised with their line manager or a suitable senior officer and follow the process of a formal grievance or other appropriate process.

1.3 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 using the grievance submission form on HALO.

The employee can begin the formal stage of the grievance by submitting a grievance letter to their line manager or appropriate senior officer and sending a copy of the letter to the HR Employee Relations Team via HALO. The line manager must acknowledge the grievance within **5 working days** of receipt and arrange to meet with the employee and their representative where applicable, within **10 working days** to discuss the grievance and possible resolutions.

Formal grievances should always be dealt with in a reasonable timeframe and the timescale will be given by an Investigating Officer when it is allocated or the HR Employee Relations team. If there are any delays, a revised deadline will be agreed by all parties and will be kept updated throughout the process.

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 purpose of the submission is to disrupt or confound another internal procedure such as disciplinary, investigation or 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 of this at the time the formal grievance is acknowledged.

In the event an employee does not have access to HALO or is unable to raise the grievance in writing, they can seek support from a colleague or union representative in being able to raise a grievance.

1.4 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. As these meetings are considered formal, a trade union representative or work colleague can attend to accompany.

Grievances will normally be investigated by the immediate line manager except that, if the grievance is against that person it 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 review recommendations and consider outcomes.

1.5 Collective Grievances

If more than one employee has identical grievances and wishes for 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, the employees raising the collective grievance may nominate a trade union representative or an employee to raise the grievance and represent the group during formal meetings.

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 group's behalf. It would usually be expected that there would be a maximum of 1 representative for each 5 people raising the grievance. In the event there are less than 5 people all could attend.

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 meetings 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.

1.6 Grievance Meeting

A grievance meeting will be arranged with the individual raising the grievance 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/ worker 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).

1.7 Right to be Accompanied

An employee/ worker has the right to be accompanied at a grievance meeting or appeal hearing. The statutory right is to be accompanied by a workplace colleague, a trade union representative, or an official employed by a trade union.

1.8 Trade Union Representative

The representative is allowed to address in the formal grievance meeting, hearing and appeal hearing on behalf of the employee, including presenting evidence, summing up the employee's case and questioning the investigator and/or witnesses if required.

The employee should let the Council know in advance the name of the companion where possible and whether they are a workplace colleague, trade union official or representative.

1.9 Outcome

The Investigating Officer must submit the report including any recommendation for resolution to the Commissioning Manager for consideration by the end of the **28 working days** given to complete the investigation, where reasonably practicable. The Commissioning Manager will decide the outcome of the grievance and communicate it in writing to the complainant without unreasonable delay. Where appropriate, the outcome will 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 who raised 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.

The Commissioning Manager will review the final report and send an outcome letter with the investigation report to the employee within **5 working days** of the date the investigation is completed. The letter will state the outcome, the reason for the outcome and how the employee can appeal the decision.

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

1.10 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 the original decision was made and was not available at the grievance meeting 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.

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

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. 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 stated on the Grievance Outcome Letter, through HALO, to the Employee Relations team and appeals are normally to be held **no later than 20 working days following receipt of the appeal**.

A panel of two senior managers (Reviewing Officers), one from the Employee Relations Team 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 hearing consists of the following steps:

- The Chair will start by introducing the meeting, explaining its purpose and how it is in line with the formal process
- The employee will state their case and the grounds for the appeal against the decision regarding their grievance, including stating the outcome that they are seeking and why
- The employee will have the opportunity to present all the documents and new evidence they wish to use
- The Chair will have the opportunity to ask questions to the employee and if applicable any witnesses about the circumstances of the grievance
- The manager will state the reasons for the grievance outcome
- When all the points have been made, the Chair will sum up the key points
- The chair will inform the employee when they can expect to receive the outcome. In some cases, it may be possible to give the outcome at the end of the meeting.

The Chair must ensure there are reasonable adjustments for attendees of the meeting with disabilities and long-term conditions. If required, all parties should inform the Chair, or the Employee Relations Specialist of any reasonable adjustments needed for the appeal hearing at a minimum of **3 working days** before the appeal hearing is to take place.

The Council's preferred approach to Grievance Appeal Hearings is to conduct all hearings in-person. However, in exceptional circumstances, where it would be beneficial to conduct the hearing virtually or ensure reasonable adjustments are in place for the in-person hearings. The employee must submit a request to the Chair at least **3 working days** explaining the mitigating circumstances and benefits to hold the hearing virtually. The Chair will consider whether it is reasonable to change the location of the Hearing, explore any reasonable adjustments in the current location or decide to conduct the hearing virtually. The decision will be given to the employee as soon as possible and within a reasonable timescale so the hearing can take place on the original date scheduled.

The outcome of the appeal will be communicated to the employee in writing and without unreasonable delay.

2 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 3 months of the alleged incident(s). The grievance should be sent to the Employee Relations team.
- The individual will receive written acknowledgement of their grievance within 5 working days from the date the grievance letter is received.
- An appropriate manager will be assigned to investigate the individual's grievance. The appropriate manager will normally respond to the individual in writing with their findings within 28 days of receipt of the grievance letter. There is no right of appeal.

3 Confidentiality

Grievances will be dealt with sensitively and with due respect for the individuals involved. Any information communicated during 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.

4 Support for Employees

This section will cover the support that employees can access during a grievance process. The support can be accessed at any time during the process including in the informal stage of grievance and mediation.

4.1 Trade Union

As previously mentioned, the employee has the option to contact their trade union representative for support and advice on the grievance case. The trade union representative will be able to go with their members to formal meetings, however there is no legal right to be accompanied during investigation meetings, the employee may request their representative to attend an investigation meeting. Further information can be found [here](#).

4.2 Employee Assistance Programme (EAP)

This service is confidential which provides counselling services related to personal, work-related, health or legal issues and can be accessed 365 days a year. When accessing this service, the employee will only be asked which directorate they work in and this is not part of the grievance procedure. The EAP service is only available for employees who are employed on a permanent, fixed term or temporary contract. Further information can be found [here](#).

4.3 Other support

For employees requesting a virtual meeting or hearing, it can be found on the intranet under user guides and training - [Microsoft teams](#). Also, employees can be referred to the Occupational Health

team for additional support when managing physical or mental health.

The manager has the option to refer the employee to Occupational Health with the employee's consent for additional support in managing any physical or mental health during the grievance process. In addition, the manager can conduct a stress risk assessment to ensure that the employee experiencing stress due to the grievance can be offered support. The Council has dedicated Mental Health First Aiders (MHFA) who are colleagues that have been trained to identify, understand, and support staff during their employment and with any employment issues.

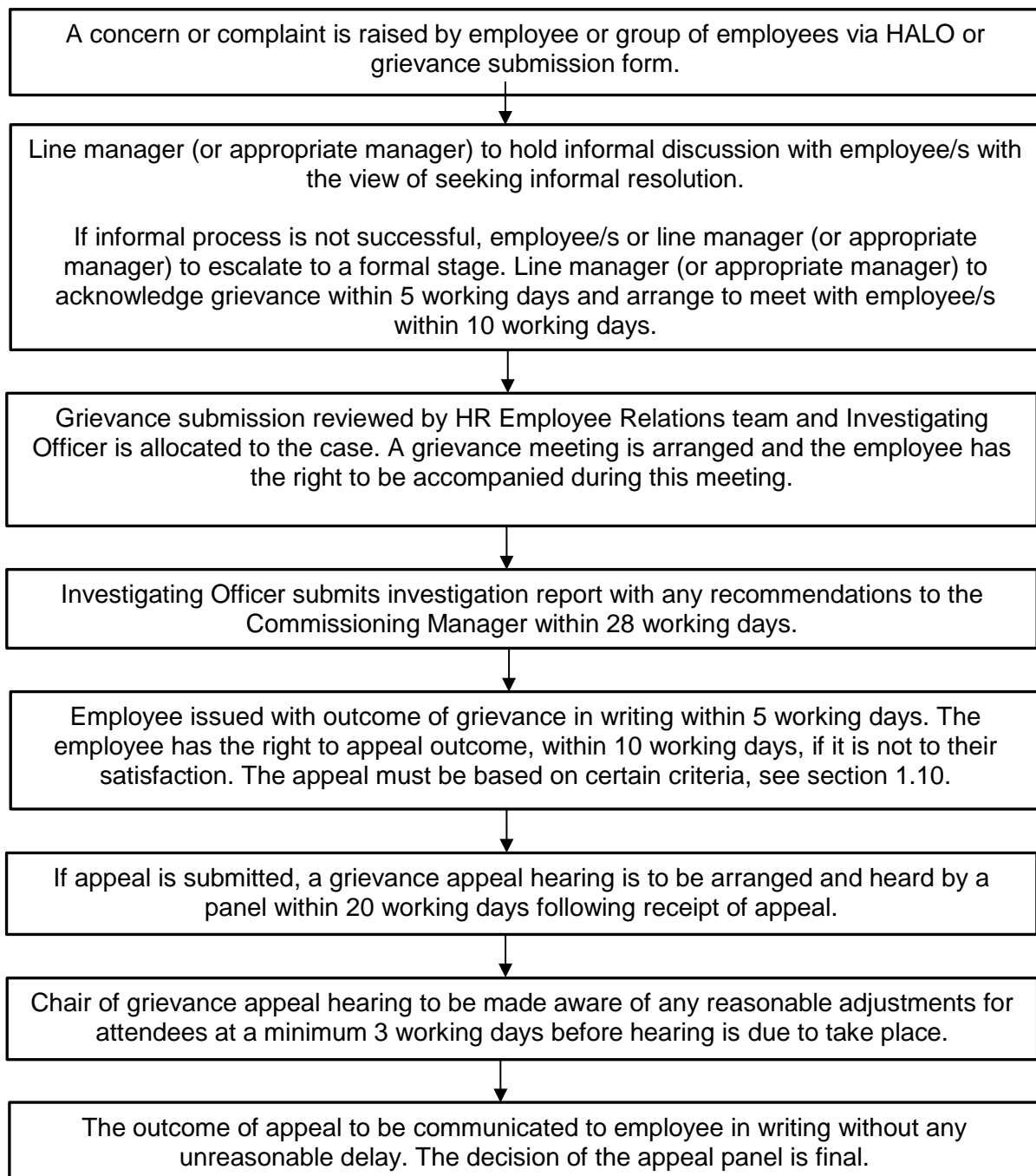
Further guidance on EAP, Occupational Health, MHFA, and stress risk assessment can be found on the Council's intranet under the Public Health section.

5 Further References

Disciplinary Policy

ACAS Code of Practice on Disciplinary and Grievance Procedure

Appendix 1 - Grievance Overview



Document Control

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