

GRIEVANCE PROCEDURE

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DATE OF IMPLEMENTATION

This is a new procedure which will apply to all Grievance based cases from **Tuesday 1st November 2005. (1st Review June 2007)**

GRIEVANCE PROCEDURE

1 Introduction and Aims

- 1.1 **Purpose** - This procedure is designed to resolve grievances promptly and fairly and as near as possible to their point of origin in line with ACAS standards and the Council's Equality and Diversity Policy. The procedure assists employees to work in an environment which enables them to feel valued as an employee, to voice dissatisfaction with aspects of work when such issues arise and to have them resolved. The procedure also allows for the raising of individual, joint (two employees) or collective (more than two) complaints.
- 1.2 **Line management responsibilities – Line managers are responsible for treating employees equitably and fairly, consulting them on changes in working practices and helping them to understand what to do if they wish to raise a grievance.** Reasonable time off will be provided to the employee and his/her representative to meet to prepare for any formal meetings, prepare witnesses for the employee case subject to clearance in advance with line management.
- 1.3 **Employee responsibilities** – Employees are responsible for raising any grievance in good faith and for cooperating with the implementation of this procedure eg taking all reasonable steps to attend any scheduled grievance resolution and/or appeal meetings. Employees are also responsible for taking all appropriate steps to resolve the grievance informally prior to invoking the formal procedure.
- 1.4 **Employee representation** - Trade Union (TU) representatives or workplace colleagues are granted reasonable time off within the appropriate stages of this procedure to represent staff who make this request.
- 1.5 **Communication of this procedure** – Current employees will be informed about this procedure and new employees will receive details of this procedure during their induction and ongoing supervision meetings as and when appropriate. It is also available from HR and posted on the intranet. A full copy of the procedure is also available on request.

2 Principles – based on the ACAS Code of Practice

- Employee ('the aggrieved') to inform the employer of her/his grievance in writing
- Line manager concerned to invite the aggrieved to a meeting to discuss the grievance and provide for her/him to be accompanied
- The aggrieved to take all reasonable steps to attend this grievance meeting
- Line manager concerned to notify the aggrieved in writing of the outcome of the grievance meeting and confirm the individual's right of appeal if s/he feels that the grievance has not been satisfactorily resolved – with any such appeal meeting held as soon as possible

The following principles will also apply:

- Meetings to be conducted in a manner that enables the aggrieved to raise her/his concerns openly and without fear
- Provision, where necessary, for the alleged perpetrator(s) of the grievance to explain her/his actions at an appropriate investigation hearing
- Provision for reasonable adjustments to be made as required by the Disability Discrimination Act, where appropriate
- Provisions for grievances to be resolved at the lowest possible level, wherever possible
- Provision for issues of Child Protection and dealing with Vulnerable Adults to take precedence.
- There is no provision for managers to raise grievances 'downwards' against their staff. In circumstances where a manager has concerns about an employee's behaviour or actions, these must be resolved through informal supervision or the Disciplinary Procedure, as appropriate.

3 Scope

3.1 **Eligibility** – This procedure applies to all employees except the Chief Executive & Directors, school based staff and centrally based teaching staff, who have their own procedures.

3.2 **Examples of issues covered by this procedure** - Examples of grievances which can be raised under this procedure are:

- Terms and conditions of employment
- Health and safety
- Relationships at work, including perceived inequality in treatment
- New working practices
- The working environment.

NB This list is not exhaustive.

3.3 **Examples of issues NOT covered by this procedure** - Examples of issues **excluded** from this procedure are;

- Matters where there is an existing complaints and/or appeals procedure eg Dignity at Work, Job Evaluation, Discipline, Capability and Attendance.

NOTE - There is a separate Dignity at Work procedure, which applies to complaints regarding harassment, bullying and/or victimisation.

3.4 **Collective grievances** - Where there is a collective grievance the group of employees should select a spokesperson (who may be a TU representative or workplace colleague) to represent their concerns. The matter should be dealt with through the stages contained in this procedure, before any potential reference to the Local Joint Negotiating Committee (JNC) machinery.

3.5 **Staff Consultative Committee** - No issue of **individual** grievance is within the scope of the Staff Consultative Committee (SCC) - although the SCC may be used to raise issues of general principle.

3.6 **Job titles or roles** – These may be changed as a result of organisational changes. It is management's responsibility to determine who has authority to implement this procedure.

4 **Standards in applying this procedure**

Line managers applying this procedure should:

- Investigate the grievance fully, promptly and with sensitivity to the concerns of the aggrieved, having regard to the individual circumstances of the case and/or any mitigating circumstances and/or any relevant medical advice
- Provide for all parties affected by the grievance to present their perceptions of the issues raised
- **Ensure that the person against whom the complaint is made has early access to documentation supporting the complaint(s) at the appropriate stage to enable a full response and fair investigation**
- Seek to resolve the grievance at the lowest possible level through support, engagement of the Council's independent mediation service, problem solving and active employee involvement
- Advise the employee that if the complaint is found to be vexatious, there is a potential for formal action against the employee under the Disciplinary Procedure
- Provide for the aggrieved to progress her/his grievance at any stage of the procedure
- Have regard to the Equality and Diversity policy
- Maintain confidentiality and privacy at all times
- Maintain appropriate records, having regard to such issues as the Data Protection Act 1998

5 **Records**

5.1 Records are confidential and are kept within the requirements of the Data Protection Act 1998, which allows access to records by employees. Documents relating to child protection and other vulnerable adult investigations will be retained, together with a written record of the outcome of the investigation, in accordance with Local Authority Retention of Records Guidance.

5.2 Records will include:

- Details of the grievance made by the employee
- The findings and any action(s) taken
- The decision letter(s)
- Whether an appeal(s) was lodged
- The outcome of any such appeal(s)
- Any subsequent developments.

- 5.3 Decision letters regarding the resolution of a grievance are kept by HR on a confidential basis.

6 Authority to conduct formal grievance proceedings – includes agency staff managing Council employees

NOTE – This procedure necessarily uses the generic terms ‘line manager’ and ‘line manager’s manager’ – and each department will designate specific managers who are delegated to undertake these roles, **based on the current staff appraisal arrangements.**

- 6.1 The Council has delegated authority to Chief Officers to specify the levels of management to undertake action regarding grievances, as follows. The specification will be in accordance with this framework.
- 6.2 The line manager is responsible for investigating and, where possible, resolving any grievance raised by a member of her/his team, as detailed in the informal and formal stages of the procedure outlined below. Informal resolution is encouraged. The line manager is authorised to deal with related complaints at the same hearing even if more than one employee (e.g joint or collective complaints) is affected. This will be facilitated by concurrent investigations by one or more managers which will feed into the management report and hearing.

NOTE - Where the grievance is against the line manager, the aggrieved may elect either to discuss the matter informally with the line manager or refer the complaint directly to the line manager’s manager, using the Stage II resolution process outlined in section 10 below.

- 6.3 The line manager’s manager is responsible for conducting Stage II of the grievance resolution procedure, as outlined in section 10 below.
- 6.4 The Head of Service (HOS) is responsible for conducting the appeal stage of the grievance resolution procedure, as outlined in section 11 below - and her/his decision is final.
- 6.5 Where the aggrieved employee reports to a HOS, the HOS is the responsible manager at Stage I; the Director is the responsible manager at Stage II; the Chief Executive (CE) is the responsible appeal manager. The CE has powers of delegation to a Director who has not been involved in the grievance.
- 6.6 Where the aggrieved is a HOS, the Director is the responsible manager at Stage I; the CE is the responsible manager at Stage II. The CE has powers of delegation to a Director who has not been involved in the grievance. (For HOS there are therefore only 2 stages).

NOTE – Where appropriate, the line manager concerned makes arrangements for the release of any witnesses and arranges a note taker for any appropriate formal grievance hearing and/or appeal hearing. (For confidentiality reasons the note taker will be a Council employee who is not related to the parties concerned)

7 The role of Human Resources (HR)

- 7.1 To assist all parties to identify the full facts of the case and advise the Council's officers on the appropriate action(s) at all stages of the procedure.
- 7.2 To ensure that all parties are made aware of the support available through the Council's confidential staff counselling (EAP) and mediation services at all stages of the Procedure.
- 7.3 To seek to ensure fairness and consistency in the application of this procedure and advise on the HR implications of relevant codes of practice.
- 7.3 To maintain confidential grievance files.
- 7.4 To conduct regular reviews of grievance monitoring data with Staff Side eg equality and diversity issues.
- 7.5 To attend all formal grievance and/or appeal hearings when requested by the line manager concerned, and confirming the administrative arrangements for such meetings eg the date, time, venue and circulation of documentation. (However, the line manager concerned is responsible for arranging a note taker, as appropriate) The same HR representative can attend all formal meetings unless a conflict of interest exists.

8 The Informal stage (conducted by the line manager)

- 8.1 The aggrieved should in the first instance discuss the grievance informally with her/his line manager as soon as possible after the matter arises, and explain what s/he sees as a resolution. The line manager deals with the grievance seriously and promptly – and, in turn, the aggrieved provides the line manager with the opportunity to resolve the grievance at an informal level. The line manager should remind the employee of the support available through the confidential staff counselling service (EAP).

NOTE - Where the grievance is against the line manager, the employee may elect either to discuss the matter informally with the line manager or refer the matter directly to the line manager's manager ie move straight to Stage II within the formal procedure, as outlined below in section 10. There may be circumstances where the employee's line manager's manager may be personally involved or implicated in the issue. In such cases, the HOS may decide to appoint an appropriate manager who is independent of the case to conduct the investigation or hearing. These persons can be from within or outside of the employee's Department, however the Head of HR and Director must be consulted before such a decision is made.

- 8.2 Where the grievance is about an employee from another department/work area, the aggrieved seeks the help of their own line manager to resolve the issue informally.
- 8.3 Where the line manager cannot respond to the grievance issue when the aggrieved first raises it s/he should do so within five working days.
- 8.4 The line manager either takes appropriate action which resolves the grievance or, where the aggrieved is not satisfied with the proposed outcome, advises the aggrieved of her/his right to move to Stage I of the grievance resolution procedure outlined below, using the Grievance Resolution form in appendix 1. (which should be completed within ten working days of the discussion outlined above – see section 9 below)

9 Formal grievance resolution procedure: Stage I (conducted by the line manager)

Arrangements for the Stage I grievance resolution meeting

- 9.1 The aggrieved submits her/his grievance in writing using the Grievance Resolution form outlined in appendix 1. S/he must answer the questions contained in the form, sign and date it and give it to her/his line manager. Any such formal complaint must normally be lodged within 10 working days of the alleged incident – unless it is an accumulation of alleged incidents over a period of time. (in which case within 10 working days of the latest incident)

NOTE – Where the grievance is against the line manager, the completed Grievance Resolution form should be given to the line manager's manager instead. (which means that the grievance is progressed to the Stage II procedure with immediate effect) Where the allegation has been made by a complainant(s) outside of the employee's Department, the investigation will still be conducted by the immediate line manager.

- 9.2 The line manager registers the grievance formally by acknowledging it within five working days of its receipt.

The line manager must be thorough and conduct a balanced investigation. All potential witnesses must be interviewed and statements gathered to support the investigation. The manager can decide to conduct separate questioning of the complainant/alleged perpetrator/witnesses where requested or where this would assist with the speedy progression of the complaint.

- 9.3 The line manager consults the aggrieved, and her/his representative where appropriate, over the date of the grievance resolution meeting, which should be held without unreasonable delay, and normally within five working days of receipt of the grievance.

- 9.4 The aggrieved is allowed one change to the grievance resolution meeting date if either s/he, or her/his representative, is unable to attend for reasons which were unforeseen when the meeting was arranged. This reconvened meeting must take account of the availability of all parties and be within five working days or by mutual agreement. Sickness will only be treated as a reason for non attendance where the health condition of the employee is such that s/he cannot attend the hearing or follow the proceedings. Any such delay does not count against the projected limit of fifteen working days to investigate and, where possible, resolve the grievance. (Where it is not possible to investigate and resolve the grievance within fifteen working days, the line manager provides an explanation for this and advises the aggrieved when a response can be expected).

Conduct of the grievance resolution procedure

- 9.5 The line manager meets with the aggrieved, and her/his representative as appropriate, to review the Grievance Resolution form and discuss potential resolutions. Where necessary to substantiate or clarify facts, the line manager may then decide to hold (separate) discussions with any witness(es) nominated by the aggrieved and/or the alleged perpetrator(s) of the grievance and/or any other relevant person(s). When the investigation process is complete, the line manager meets with the complainant, and her/his representative as appropriate, as soon as is practicable. During the meeting the line manager obtains the views of the complainant about the investigation report, discusses any recommendations that have been made and, as appropriate, considers the statements made by the alleged perpetrator. The line manager then confirms the actions that s/he proposes to take to resolve the complaint – and arranges for a written record of the meeting to be made which will remain confidential. (although it may be presented as evidence at any subsequent Grievance appeal and/or Disciplinary hearing that may arise)
- 9.6 All documentation submitted by witnesses, the employee and/or his representative and management will be provided to all parties prior to the meeting to ensure a fair and balanced process. The manager has a right to instruct attendance of any key witnesses to any meetings arranged under the formal procedure.

Communicating the outcome

- 9.6 Where possible, the line manager gives the decision and reasons for it verbally to the aggrieved on the day of the grievance resolution meeting. S/he also provides in writing within five working days a decision letter confirming whether or not the grievance has been upheld, the reasons for the decision, any remedial action that is being taken and the person to whom a referral can be made if the aggrieved remains dissatisfied with the outcome. (Any such referral to Stage II of the procedure by the aggrieved must be made within five working days of the date of the Stage I decision letter)
- 9.7 If the aggrieved is not satisfied with the outcome of the Stage I process, s/he may then progress the grievance to Stage II of the procedure, as outlined in section 10 below.

Subsequent progress review with the aggrieved

- 9.8 The line manager meets with the aggrieved after an appropriate interval, usually within 4/6 weeks, to check that the grievance has been resolved.

Potential disciplinary action against the alleged perpetrator

- 9.9 If potential disciplinary issues emerge against the alleged perpetrator of the grievance the Stage I review manager makes arrangements for an investigation at the appropriate stage of the Discipline procedure, subject to advice from HR as appropriate. Although the line manager may request the complainant to attend any such Disciplinary investigation hearing against the alleged perpetrator of the grievance, the complainant may elect **not** to attend any such hearing eg if s/he believes that it would be stressful (recognising that the cause(s) of her/his grievance will have already been documented during the initial grievance review/investigation process).

10 Formal grievance resolution procedure: Stage II (conducted by the line manager's manager – hereafter called the Stage II review manager)

Arrangements for the Stage II grievance resolution meeting

- 10.1 The aggrieved can decide to move to Stage II of the procedure if s/he is either dissatisfied about the outcome of Stage I and/or considers that the procedure has not been carried out to the appropriate timescales eg the unavailability of appropriate persons to interview or a delay in investigating and gathering information.
- 10.2 The aggrieved submits a written statement outlining her/his grievance to the Stage II review manager by completing the Grievance Resolution form outlined in appendix 1 - confirming why s/he remains dissatisfied, how the grievance affects her/him, what s/he proposes as a resolution, and the availability of her/his representative for a Stage II meeting. (S/he may also submit any other supporting evidence, such as the Stage 1 decision letter)
- 10.3 The Stage II review manager formally acknowledges the completed grievance resolution form within five working days of its receipt, and then applies the arrangements outlined in paragraphs 9.3 – 9.4.

Conduct of the Stage II grievance resolution procedure

- 10.4 The Stage II review manager meets with the aggrieved, and her/his representative as appropriate, to discuss the facts of the grievance, the response to the aggrieved from the line manager under Stage I and the resolution that is proposed by the aggrieved.
- 10.5 Where necessary to substantiate or clarify facts, the Stage II review manager may then decide to hold (separate) discussions with any witness(es) nominated by the aggrieved and/or the alleged perpetrator(s) of the grievance and/or any other relevant person(s). When the investigation process is complete, the line manager meets with the complainant, and her/his representative as appropriate, as soon as is practicable. During

the meeting the Stage II review manager obtains the views of the complainant about the investigation report, discusses any recommendations that have been made and, as appropriate, considers the statements made by the alleged perpetrator. The Stage II review manager then confirms the actions that s/he proposes to take to resolve the complaint – and arranges for a written record of the meeting to be made which will remain confidential. (although it may be presented as evidence at any subsequent Grievance appeal and/or Disciplinary hearing that may arise)

Communicating the outcome

- 10.6 Where possible, the Stage II review manager gives the decision and reasons for it orally on the day. S/he also provides in writing within five working days a decision letter confirming whether or not the grievance has been upheld, the reasons for the decision, any remedial action that is being taken and the person to whom an appeal can then be made if s/he remains dissatisfied with the outcome. (Any such appeal must be made within five working days of the date of the decision letter)
- 10.7 If the aggrieved is not satisfied with the outcome of the Stage II process, s/he may then appeal to the HOS, using the appeal procedure outlined in section 11.

Progress review regarding any proposed resolution

- 10.8 The line manager meets with the aggrieved after an appropriate interval, usually within 4/6 weeks, to check that the grievance has been resolved and that there are no outstanding issues.

Potential disciplinary action against the alleged perpetrator

- 10.9 If potential disciplinary issues emerge against the alleged perpetrator of the grievance the Stage II review manager makes arrangements for an investigation at the appropriate stage of the **Discipline** procedure, subject to advice from HR as appropriate and the provisions outlined in paragraph 9.9.

11 Appeals procedure (conducted by the HOS – hereafter called the appeal manager)

Arrangements for the grievance appeal meeting

- 11.1 The aggrieved can elect to move to the appeal stage of the procedure if s/he is either dissatisfied about the outcome of Stage II and/or considers that the procedure has not been carried out to the appropriate timescales eg the unavailability of appropriate persons to interview or a delay in investigating and gathering information. If the complaint was raised by more than one employee
- 11.2 The aggrieved completes and submits to the HOS the Grievance Resolution form outlined in appendix 1. (Paragraph 10.2 refers) If the complaint was raised by more than one employee, the form must clearly state whether the appeal remains joint/collective otherwise individual forms must be submitted setting out each employee's grounds of appeal.

- 11.3 The HOS applies the same process as outlined in Stage II of the procedure. (Paragraphs 10.3 – 10.6 refers)
- 11.4 The decision of the HOS is final.
- 11.5 If potential disciplinary issues emerge against the alleged perpetrator of the grievance the HOS makes arrangements for an investigation at the appropriate stage of the **Discipline** procedure, subject to advice from HR as appropriate and the provisions outlined in paragraph 9.9.
- 12 **Grievances relating to any Disciplinary investigation that arises from the Grievance process**
- 12.1 It is possible that the alleged perpetrator of the grievance may face a disciplinary investigation. In these circumstances, s/he may submit a grievance under **this** procedure if her/his grievance about the conduct of the disciplinary investigation is a complaint of unlawful discrimination or that the real reason for the disciplinary action is not the reason put forward by management. In these circumstances, the employee must submit her/his grievance in writing to her/his line manager's manager within 10 working days of the grievance outcome. The grievance submission will be progressed as soon as is practicable. The line manager's manager should take advice from either the HOS and/or HR as appropriate to consider suspending the disciplinary process for a short period while the grievance is dealt with. The manager, in liaison with the HOS and/or HR as appropriate, may also decide to bring in another manager to deal with the disciplinary process.
- NOTE** Reference will be made to the current ACAS Code of Practice on Disciplinary and Grievance procedures.
13. **Sickness absence during the grievance resolution procedure**
- 13.1 An employee who is unfit to attend a scheduled grievance resolution meeting must provide a medical certificate confirming that s/he is incapable of attending the meeting.
- 13.2 In circumstances such as 13.1 above or others where delays arising from such an absence may become problematic, the line manager should meet with the employee's representative to attempt to resolve the grievance and then invite the aggrieved to attend any subsequent grievance resolution meeting as soon as is practicable.
- 13.3 Where sickness absence has made it impossible to arrange a grievance resolution meeting under Stages I, II or the appeal process above within 20 working days, the line manager should cancel the scheduled meeting and write to the aggrieved with the proposed resolution and inform her/him to whom the grievance can be referred if s/he remains dissatisfied.

14. Employees who leave the Council

- 14.1 Where an employee leaves the Council, a modified grievance procedure is in operation, to comply with statutory obligations. The modified procedure is used only where a) the employer and ex-employee agree in writing that the modified procedure will be used and b) the standard procedure was not completed by the last day of the ex-employee's employment with the Council (If either a) and/or b) above do not apply the standard statutory procedure should be followed unless the ex-employee did not commence the grievance whilst in employment and it is not reasonably practical for the ex-employee to put the grievance in writing). Where an employee has exhausted the internal process and subsequently leaves the Council's employment and raises a grievance under the Statutory procedure, if there is no new evidence the manager, in consultation with HR, will formally advise the employee that the original decision remains unchanged.
- 14.2 The ex-employee **must** submit the following details in writing to the manager of her/his ex line manager within ten calendar days of leaving employment stating:
- The nature of the grievance: what is wrong; who is involved
 - Dates of any events
 - How it affects her/him
 - What s/he sees as a resolution.
- 14.3 The line manager's manager acknowledges the grievance within five working days and sets out her/his response in writing without unreasonable delay – and normally within fifteen working days of its receipt. Where necessary, the line manager's manager investigates the facts and interviews any person against whom the grievance is made. Where the fifteen working days investigation period is impracticable, the line manager's manager advises the ex-employee when s/he will receive a response.
- 14.4 The decision letter should state:
- The nature of the grievance
 - Whether the grievance is upheld or not and, if so, the resolution
 - The reasons for the decision
 - That this decision is final.

15. Review of the procedure

- 15.1 The Council has delegated powers to the Chief Executive to determine and implement this procedure.. The procedure has been developed following detailed consultation with a wide range of stakeholders, and will be reviewed on a regular twelve monthly basis in accordance with 'best value' continuous improvement principles.

Ged Curran

Chief Executive

Grievance Resolution form

**THIS FORM IS STRICTLY PRIVATE AND CONFIDENTIAL
TO – SEE NOTE BELOW**

Name of aggrieved: Job Title:

Section: Department

- 1 Have you either discussed your grievance informally with your manager or raised it at an earlier formal stage of the Grievance procedure?

Yes/No

- 2 If **yes**, please state when you did this, why you remain dissatisfied with the outcome and your proposed resolution. If you have **already** raised the grievance formally, please provide a copy of your original Grievance Resolution form(s) and the response.

- 3 If **no**, please outline the **nature** of your grievance.

4. Please outline the **basis** of your grievance eg give examples and background details, such as names of witnesses, dates and places

5. Please state how and why the grievance affects you.

6. What would you like to happen now as a result of your grievance?

7. Who do you wish to accompany you at any grievance resolution meeting? What is their **NON availability** during the next 10 working days?

Signed: Date:

NOTE -

1. For a Stage I grievance please give this completed Grievance Form and any attachments to your line manager. (**or** to your line manager's manager if the Grievance concerns your line manager)
2. For a Stage II grievance please give this completed Grievance Form and any attachments to your line manager's manager.
3. For an appeal beyond Stage II please give this completed Grievance Form and any attachments to your HOS.

NB Please continue on an additional sheet if required.