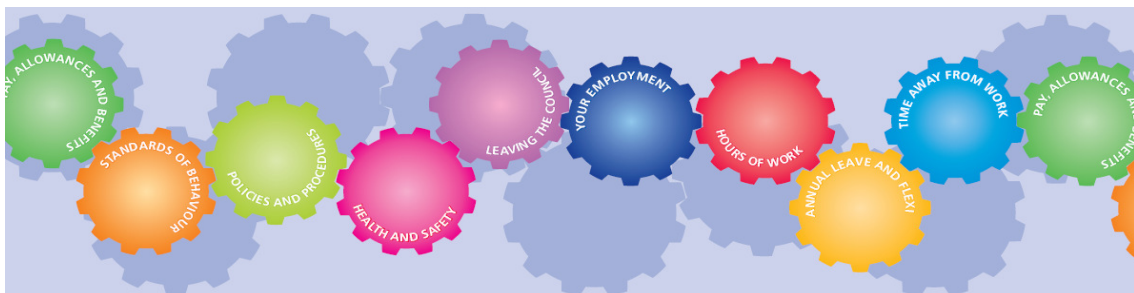


MANAGEMENT GUIDANCE

GRIEVANCE PROCEDURE

1st December 2011



GRIEVANCE PROCEDURE CONTENTS

SECTION	PAGE
1 The Council's commitment	3
2 What is a grievance?	3
3 Legal context	3
4 Scope	3
5 Employees covered by this procedure	4
6 Employees not covered	4
7 Considering any adverse impact	4
8 Disabled staff	5
9 Timescales and time limits	5
10 Right to be accompanied	6
11 Mediation	6
12 Resolving grievances informally	7
13 Dealing with grievances on a formal basis	8
14 Appeal stage	8
15 Grievances against an Assistant Director or Director	9
16 Outline stages of the grievance procedure (chart)	9
17 Informal stage	9
18 Formal grievance stage 1	10
19 Findings and decision following stage 1 meeting	11
20 Formal grievance stage 2 - lodging an appeal	12
21 Purpose of the stage 2 grievance meeting	14
22 The appeal meeting	15
23 Model procedure for the appeal hearing	16
24 Key principles:	17
24.1 Written records	17
24.2 Confidentiality	17
24.3 Support and resources for employees	17
24.4 Working arrangements during an investigation	18
24.5 Dealing with delay	18
24.6 Overlapping grievances and disciplinary action	18
24.7 Malicious or vexatious grievances	18
24.8 Multiple grievances	18
24.9 Monitoring and review	19
25 Good practice guidance for managers	19
25.1 Handling grievances	19
25.2 The format for investigating the grievance	19
26 Role of Human Resources	21
27 Appendix A proforma grievance notification form	22
28 Appendix B Invitation to a grievance meeting	23
29 Appendix C decision letter following stage 1 meeting	24
30 Template for Investigation Report findings	25
31 Appendix D Proforma appeal against stage 1	26
32 Appendix E invitation to a grievance appeal meeting	27
33 Appendix F decision following appeal meeting	28

GRIEVANCE PROCEDURE

1. THE COUNCIL'S COMMITMENT

Hammersmith and Fulham Council is committed to resolving employee grievances promptly and fairly in the interests of good employee relations and best employment practice.

In reality any employee may, at some time, have problems or concerns about their work, working conditions or relationships at work that they wish to take up with management. Naturally the aggrieved employee will want their complaint to be addressed and resolved as speedily as possible.

This policy and procedure provides a clear and effective process, which will:

- Enable employees to raise a grievance about certain issues at work
- Enable the Council to address such issues in a timely, systematic, reasonable, fair and lawful way
- Enable employees to have a right of appeal at Stage 2, if still dissatisfied following the outcome of the Formal Stage 1 grievance process.

This policy complements and is consistent with current and developing policies on:

- Code of Conduct for Employees
- The Employee Handbook
- The Equal Opportunities Policy
- The Disciplinary Procedure
- The Harassment and Bullying Procedure

2. WHAT IS A GRIEVANCE?

A grievance can be defined as a work concern, problem or complaint against another employee at work that they wish to raise with their employer. The employee will then want the employer to address and, if possible, resolve the grievance.

3. LEGAL CONTEXT

The framework for addressing employee grievances at work takes into account the provisions of the new Schedule A2 to the Trade Union and Labour Relations (Consolidation) Act, the Employment Rights Act 1996, the Employment Relations Act 1999, the Employment Act 2002 and the revised Acas Code of Practice on Disciplinary and Grievance Procedures.

4. SCOPE OF THE PROCEDURE

However, the procedure does not normally apply to:

- Complaints that the Council has dismissed or is contemplating dismissing the employee as a result of disciplinary proceedings which are already in process
- Complaints of harassment, which can be dealt with using the Council's Harassment and Workplace Bullying Policy

- Complaints about any matter that can be dealt with or is being dealt with through the disciplinary, reorganisation, redundancy, redeployment, job evaluation, probationary, managing sickness absence or managing employee performance procedures and the application of the appraisal scheme, which already offers the employee rights to challenge the management decision, and are substantially the same as those under this procedure
- Matters of Council policy
- Collective disputes between the Council and its recognised trades unions
- An employee who has already made their complaint under another procedure and the alternative procedure has been initiated.
- Matters that are decided outside the control of the Council such as tax, statutory sick pay, national insurance or pension matters, or changes in the law

Where a manager receives a grievance from an employee in connection with one of the exclusions above, regarding a decision made under another procedure, the manager must take advice from an HR adviser to determine whether in the circumstances the grievance qualifies for progression under this procedure.

5. EMPLOYEES COVERED BY THIS PROCEDURE

This procedure applies to permanent and temporary employees who have a contract of employment with the Council.

6. EMPLOYEES NOT COVERED BY THIS PROCEDURE

This procedure does not apply to:

- School based staff and teachers who are employed by schools, and are subject to separate arrangements
- Chief Officers whose terms and conditions of employment are determined by the National Joint Council for Chief Officers in Local Authorities
- Non employees such as agency workers

An agency worker who wishes to raise a complaint should do so via their recruiting agency.

7 CONSIDERING ANY ADVERSE IMPACT

The Council wishes to ensure that its policies and procedures do not impact unfairly on employees with reference to race, sex, age, religion or belief, sexual orientation or disability. Managers must ensure that their application of this procedure is impartial, and that no employee is disadvantaged in terms of the management response to the issues raised because they invoke the procedure. Any individual found to have harassed an employee for raising a grievance will be subject to disciplinary action. At the same time this will not prevent a manager from subsequently taking appropriate action if required.

8. DISABLED STAFF

Reasonable adjustments should be made for an employee and/or their companion if they have a disability to ensure they are not disadvantaged during the grievance process.

9. TIMESCALES and TIME LIMITS

Employees are expected to:-

Raise matters promptly with management. In terms of the formal process, the employee should submit the grievance form in writing within 15 working days (3 working weeks) - irrespective of shift patterns - of the incident (or last in a sequence of incidents) occurring. In the circumstances where the employee is on leave or absent due e.g. to a period of sickness absence, a grievance may be raised upon the employee's return to work, but this should be done within 15 working days of the employee's return to work, irrespective of shift patterns.

The timescales in this procedure may be varied by mutual consent of the parties involved. Nonetheless, the main aim remains to resolve the grievance as soon as possible. If the employee exceeds the time limits without agreement from management or good reason, the grievance may be considered inadmissible. In any case, grievances raised more than three months after the event will not be considered, save in exceptional circumstances

Managers will:-

- Take early action, be proactive in resolving employee grievances at the informal stage and, pay particular attention to dealing with and resolving directly, problems and complaints raised by staff so not to allow matters to fester and become major problems
- Where a matter is raised formally, make every effort to deal with the matter within the set timescales as follows:

Normally the Council intends that managers will:-

- Meet with the aggrieved party within 10 working days
- Meet with any other relevant parties within 4 -8 weeks
- Conclude the grievance investigation within 16 weeks
- Hear any appeal within 4 weeks of it being lodged

In less complex cases the process may be completed more quickly

All parties to the grievance proceedings, including witnesses, have an obligation to co-operate in ensuring that the processes and timescales are followed without delay. However, where because of the nature of the investigation, dealing with the grievance would be compromised by the need to comply with the timescales; they may be extended for a reasonable period

of time. In such cases the aggrieved employee must be notified in writing and given the reasons for the extension as well as details of the steps taken to resolve the grievance to date and the date by when they can expect to hear the outcome of the investigation.

The employee is entitled to reasonable notice of the meeting convened by the Investigation Manager in response to a formal written complaint. Where the employee wishes to be accompanied to a meeting by a trade union representative or work colleague and they are unable to attend on the proposed date, an alternative date may be arranged normally within 5 working days of the original date. "Working days" are defined as Monday to Friday, irrespective of the actual days worked by the employee, but excluding public holidays.

10. RIGHT TO BE ACCOMPANIED

Employees have a right to take advice and guidance and to be accompanied or represented by a trade union representative or work colleague at any formal stage of the Grievance Procedure. The employee does not have the right to be accompanied on the same basis during any informal proceedings. However, the employee may have support from a work colleague in appropriate circumstances at the manager's discretion.

Legal representation, specialist employment law advisers and similar, will not be allowed in any circumstances.

Both parties will have the right to be accompanied by a trade union representative, or work colleague during any formal investigatory meetings and appeal hearings. The role of the representative is to support the individual, to participate by offering advice during any meetings and to confer with the employee where the need for clarification arises, but not to answer questions on the employee's behalf, or to prevent the employee from stating their own case.

At any formal hearing e.g. the appeal hearing, the representative can, if the employee wishes, address the hearing to present the employee's case, ask questions of the other side, sum up the employee's case and confer with the employee where the need for clarification arises. The representative can advise the employee or clarify any points with the employee's agreement, but must not answer questions put directly to the employee.

It is important that representatives do not have a conflict of interest or any other issues that may prejudice the case.

11. MEDIATION

Mediation can be a good way of resolving grievances, depending on the nature of the complaint. Mediation can be part of the informal or formal process. It is a voluntary process and can only apply when both parties agree to participate in the process. The mediator will be an independent person with no previous involvement in the case who can help resolve issues of conflict and enable people in dispute with each other to find a workable solution that they can both agree to as a means of ensuring good working relations for the

future. The role of the mediator will be to work with those involved to try to find a positive way forward and a mutually acceptable solution to the problem.

The mediator does not;

- take sides
- form a judgement about the merits of the complaint
- apportion blame, or,
- tell those in dispute what to do.

When considering mediation, managers should, in the first instance, seek advice from Human Resources to get an understanding of the process for putting mediation in place before fully involving both parties individually and then together, prior to their participation in the mediation process. Of course not all complaints can be resolved through mediation and it is not appropriate in every case. Therefore each case will need to be considered on its own merits and approval for mediation will rest with the relevant senior manager in consultation with an HR adviser.

The normal process to be followed will be as follows:

Once the mediator has met each party separately the mediation process will usually involve the mediator bringing the two parties together with the aim of reaching a mutual agreement. The mediation process allows each side to have the opportunity to describe the situation from their perspective and to listen to the other person, before moving on to look at ways in which the situation can be improved for the future or, failing that, to negotiate a mutually acceptable settlement to the claim.

If mediation produces an acceptable outcome for both parties and settlement of the dispute, all agreed matters will typically be written down by the mediator and signed by the parties, and no further action, other than that agreed during the process, will be taken. If both parties have been unable to resolve the issues with mediation, then the employee who raised the original complaint may refer the matter to the formal stage of the procedure.

Under this process any of the parties has the right to request the assistance of a third party mediator to assist resolution, but in order to proceed, both parties must agree to it. If either party does not agree, mediation cannot be used. The Head of Employee Relations or their nominated representative will make the necessary arrangements for mediation to take place as quickly as possible, normally within one month of one or both parties requesting it. Where one of the parties refuses to take part in the mediation, the Employee Relations representative will request that the party not agreeing to resolution will state their reasons in writing.

A member of the Employee Relations Team must be satisfied that the proposed mediator is appropriately trained and experienced to deal with the process and will consult with both sides on the choice of mediator. ..

12. RESOLVING GRIEVANCES INFORMALLY

Most grievances can be resolved informally through discussion between the employee and the line manager who will listen to the employee's concerns and discuss the matter with them. This allows for problems, minor disputes and disagreements to be settled quickly and nipped in the bud before matters escalate. The line manager may need to investigate the complaint further before informing the employee of the outcome and any action that will be taken. However, it is anticipated that any grievance raised informally will be dealt with and concluded promptly. At that stage the employee will be asked to confirm, whether they do/ do not wish to apply the formal stages of the Grievance Procedure.

13. DEALING WITH GRIEVANCES ON A FORMAL BASIS

If it is not possible to resolve the grievance informally the employee should raise the matter in writing promptly and within the prescribed time limits on the prescribed Grievance Form (**which is attached as Appendix A**) with the Assistant Director Human Resources; who will nominate an appropriately trained and independent Investigation Manager, possibly from another service area, or an independent consultant, to investigate the matter with support of an HR adviser if appropriate. to consider the grievance complaint. Employees should not use insulting or abusive language when drafting a written grievance.

The purpose of the form is to ensure the precise nature of the grievance and the employee's expected outcome are clearly understood and documented at the outset and to clarify that the employee is raising the matter formally so that it can be dealt with effectively.

The complaint must be against a named individual or individuals, clearly stating:-

- The employee's details and the name of the trade union or work colleague as appropriate
- The full nature of the grievance, including a description of the matter complained about and the reason why the employee is aggrieved
- The attempts taken so far to deal with the matter informally and, why the employee is not satisfied with the response (if appropriate)
- What resolution /outcome(s) the employee is seeking

The form should be signed and dated and be accompanied by any relevant documents.

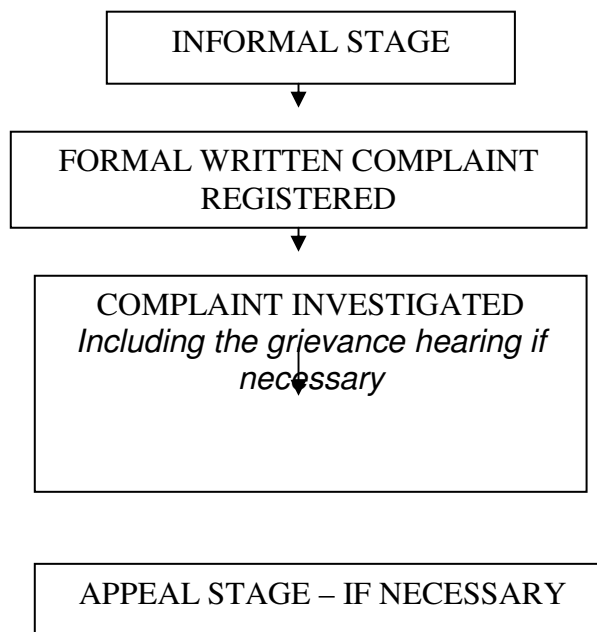
14. THE APPEAL STAGE

If the decision reached at the formal stage does not satisfy the employee, they have a right of appeal. Full details of the appeal process are set out at paragraphs 20, 21, 22 and 23 of this procedure.

15. GRIEVANCES AGAINST AN ASSISTANT DIRECTOR OR DIRECTOR

Where an employee raises a formal Stage 1 Grievance against an Assistant Director the matter will be handled at the level of another Assistant Director, or by the employing Director, if appropriate. The Assistant Director Human Resources will nominate an independent Director to hear any appeal at Stage 2. Where an employee raises a formal grievance against a Director, the matter will be handled by another Director nominated by the Assistant Director Human Resources.

16. OUTLINE STAGES OF THE GRIEVANCE PROCEDURE



17. INFORMAL STAGE

The employee is entitled to:-

- Raise the matter informally with their manager
- State the remedy they are seeking
- Have the matter dealt with promptly
- Put their side of the matter
- Be taken seriously
- Have the case treated as a confidential matter
- Be told the purpose of any meeting they are asked to attend
- Be told what action management intends to take (if any is appropriate) to remedy the matter

The manager will:-

- Ensure employees are made aware of the Grievance Procedure and where it can be accessed

- Respond promptly to try and resolve any informal complaints through the normal day to day management processes and explore the issues raised with the employee concerned
- Review and make every effort to resolve the matter informally and quickly
- Otherwise, consider whether the allegations may warrant formal management action
- Take grievances seriously, considering all relevant information and act reasonably and consistently to ensure fairness and equality
- Where appropriate, develop a plan of action with the parties involved to resolve the matter (which will include reasonable timescales)
- Consider with the employee whether alternative disputes resolution in the form of independently facilitated mediation may be helpful
- Where appropriate offer independent support or counselling to the employee through referral to Occupational Health Service
- Make notes on a confidential basis for use later (in case the matter moves on to the formal stage)
- Give the employee a copy of notes of any informal meeting

18. FORMAL GRIEVANCE - STAGE 1

The employee is entitled to:

- Raise the matter formally with the Assistant Director Human Resources (who, having discussed the matter with the employing Director will nominate an Investigation Manager to fully consider the grievance)
- provided the employee is not satisfied with:
the steps taken to resolve the matter, or
the timescale taken to progress the matter, or
the outcome itself, unless:
The matter is sufficiently serious it warrants it being raised as a formal grievance in the first instance
- Reasonable notice, (normally 5 working days) in writing of the date, time, place, purpose and format of any meetings and the issues to be discussed at the grievance meeting
- Be accompanied or represented by a trade union representative or work colleague
- Be told the name of the Investigation Manager who will hear the grievance and the arrangements for exchanging documents and witness statements (if applicable)
- Receive a copy of this Grievance Procedure
- Be provided with a written record of any agreed action or outcome to deal with the problem

The employee can:-

- Request a postponement of the meeting to be scheduled for another time within a reasonable period of the original date if their representative will not be available at the time proposed. The employee and their representative should make every effort to attend the meeting. Repeated failure to accept reasonable offers of a meeting

- date or attend scheduled meetings may result in the grievance investigation going ahead in the employee's absence
- At the meeting with the Investigation Manager put their side of the matter
- Submit evidence, documents and the names of witnesses relevant to their case
- Appeal within the allotted timescale

The Investigation Manager once appointed will:-

- Deal with the matter promptly as a formal complaint
- Acknowledge receipt of the Grievance form, normally within 5 working days. If the scope/content of the formal grievance is not clear, the Investigation Manager should ask the employee to provide written clarification before arrangements are made for the grievance to be heard
- Always meet with the complainant individually
- Ask the employee to explain the detail of the grievance and say how they think it should be best resolved
- Listen carefully to the points raised by the employee
- Meet with the employee being complained about separately
- Then decide whether to hold a meeting of all the parties together depending on the circumstances of the case, and,
- If necessary, conduct further enquiries by interviewing other employees including the manager/s and/or third parties, or calling for further documents
- Seek to clarify any contradictory evidence (This could mean a further meeting with one or all of the parties)
- Be satisfied they have sufficient information before responding to the grievance and deciding on the appropriate action to take
- Take appropriate advice from an HR adviser
- After the conclusion of the Stage 1 grievance investigation, adjourn the meeting to allow time for proper consideration of the issues
- If it is not possible to respond within this time limit because of the nature of the investigation, notify the employee of this, stating the reasons for the delay in reaching a decision and the date by when the employee can expect the response.

19. THE INVESTIGATION MANAGER'S FINDINGS AND DECISION

The investigation will conclude with a report drawn up by the Investigation Manager which will be submitted to the Director of the employing department and the Assistant Director Human Resources in the first instance.

(see attached template report at page 25, para 30)

The report which should be confined to the issues raised in the Grievance form unless otherwise agreed at the Grievance Stage 1 meeting, will normally be done within 10 working days of the final meeting and include the following:

- The findings and whether the grievance is upheld in full, partly upheld or not upheld and the reasons leading to the decision.
- The rationale for the decision

- Any proposed action(s) /recommendations to resolve the situation or that there will be no action, ensuring that any decision falls within the Council's policies and procedures

The Investigation Manager's report may also cover the following in order to resolve the issues, including reasonable timescales and monitoring

- Where appropriate consider with the parties involved whether an alternative disputes resolution in the form of externally facilitated mediation may be helpful, if this has not already been considered.
- Where appropriate offer independent support or counselling to the employee, usually via the Occupational Health Service
- Where appropriate, recommend formal disciplinary action against the employee being complained about
- If s/he concludes that the grievance was malicious, consider whether to recommend that disciplinary action should be taken against the employee.
- Make appropriate notes and records bearing in mind that a record of the hearing may be needed for an appeal or a future Employment Tribunal case.

A copy of the report findings will be sent to the complainant along with a covering letter which will explain the rationale for the individual decision and details of the appeal rights, including time limits for such appeals.

20. FORMAL GRIEVANCE STAGE 2 – LODGING AN APPEAL

If the employee who made the complaint (the complainant) is dissatisfied with the outcome of the formal grievance investigation and wishes to pursue the matter s/he is entitled to appeal in writing against the findings contained in the grievance report within ten working days of receiving the letter confirming the outcome of the investigation. The appeal must set out clearly and in detail the grounds of appeal, which must be based on one or more of the following grounds:

Procedure

Failure to follow procedure had a material effect on the decision

Redress

Where the decision is unreasonable based on the facts presented to the investigation Manager

The appeal must be submitted to the Assistant Director Human Resources, preferably using the **Appeal Form which is attached as Appendix D.**

Having considered the grounds of appeal the Assistant Director Human Resources will appoint an independent senior manager to fully consider the appeal, advised by a Human Resources adviser.

The manager appointed to consider the Stage 2 Appeal will be more equivalent to **or** more senior than the manager who heard the Formal Stage 1

Grievance. Wherever possible, s/he will not have been previously involved, directly or indirectly, with the case.

The decision of the manager appointed to consider the appeal is final and there shall be no further internal right of appeal. The manager will have the authority to confirm, vary or overturn the grievance decision.

An employee who is the subject of a grievance does not have a right of appeal against the outcome of the grievance hearing or any right to participate in the appeal hearing. However the employee may be called to give evidence relevant to the appeal if the Appeal Hearing Manager considers it to be relevant and necessary.

The employee is entitled to:

Appeal in writing to the Assistant Director Human Resources against decisions taken at the Stage 1 Grievance, within 10 working days of the date the employee receives the decision letter following the outcome of the Stage 1 meeting. This should include a copy of the Grievance Notification Form, **(Appendix A)** and copies of all relevant documentation

The employee must relate the appeal to the original grievance and set out clearly and in detail the grounds of appeal by completing the Grievance Appeal form **(Appendix D)** and stating why they feel the decision was wrong, why they continue to be aggrieved and whether they wish to have the appeal considered as a paper exercise; where the Appeal Hearing Manager gives full consideration to the documentation submitted and comes to a decision accordingly or, whether the employee wishes to have the appeal heard in a meeting format.

In cases where the appellant is absent from work for any reason having submitted the appeal; normally the appeal will be considered as a paper exercise in order to avoid any undue delay with progressing the appeal and concluding the matter within a reasonable timescale.

In cases where the employee elects to have the appeal heard in a meeting format, s/he is entitled to

Reasonable notice (normally 10 working days) in writing of:

- The date, time, place and purposes of the Appeal Hearing
 - The issues to be discussed
 - The format of the Appeal Hearing
 - Arrangements for exchanging documents and witness statements
-
- The opportunity to be accompanied or represented by a work colleague or trade union representative (but not a legal representative)
 - Postpone the appeal to another time within a reasonable period– only if their representative will not be available at the original time proposed
 - Put forward the grounds of appeal and bring evidence relevant to their appeal
 - Hear and be able to question the management case

- Receive a letter within 10 working days confirming the issues discussed and the decision made

The manager considering the appeal will:-

- Acknowledge receipt of the appeal notification within 5 working days.
- Confirm whether the employee has elected to have the appeal considered as a paper exercise or in a meeting format
- Confirm with the employee that all relevant documentation has been submitted. If necessary ask the employee for any clarification or further written documentation.

In cases where the employee has elected to have an appeal meeting the Hearing Manager will:

- Call a hearing of the parties promptly
- Send the employee a letter informing the employee that they have a right to be accompanied or represented by a recognised trade union official or work colleague

21. THE PURPOSE OF THE STAGE 2 GRIEVANCE MEETING WILL BE TO:

- Allow the employee to present their original grievance and state why s/he is unhappy with the outcome of the Stage 1 grievance decision and why they continue to be aggrieved
- Allow the manager who conducted the Stage 1 grievance meeting (Investigation Manager) to attend the meeting and present their case, making representations regarding their decisions taken at Stage 1
- Call any other relevant parties to attend and give evidence
- Enable the manager hearing the appeal to reach a decision about the appeal and whether to take any action
- Consider the grounds of appeal and if appropriate reconsider the decision on the grievance
- If necessary, change the grievance decision or change the redress given to the employee
- Take appropriate advice from an HR adviser
- At the conclusion of the meeting, adjourn to allow time for reflection and proper consideration of the issues
- Notify the employee of their decision in writing, normally within 10 working days of the hearing

Where it is not possible to respond within that timescale, for example, the meeting has been formally adjourned pending further enquiries, the manager hearing the appeal should notify the employee of this in writing and state the reason for the delay in reaching a decision and the date when the employee can expect a response.

The written decision must advise the employee of the manager's findings and the rationale for those findings and whether the appeal is upheld, partly upheld, or dismissed, together with any proposed action(s) or recommendation(s) to resolve the position.

22. THE APPEAL MEETING

The Investigation Manager for the Stage 1 grievance and the aggrieved employee will provide each other and the manager hearing the appeal with any documents to be used by them and the names of any witnesses to be called by the third working day before the appeal hearing.

The Investigation Manager will present the management case. If necessary a Human Resources adviser may accompany the Investigation Manager as their adviser.

A model procedure for the conduct of the appeal hearing is attached at page 16, paragraph 23.

23. A MODEL PROCEDURE FOR THE APPEAL HEARING: -

Introduction	the hearing manager introduces those present, explains the purpose of the appeal and outlines the procedure for the hearing
Employee's Presentation	the employee's side states their case based on the grounds specified when submitting the appeal, and are questioned on it by the presenting manager, then by the hearing manager and the adviser.
Employee's Witnesses (If called)	the employee's side questions own witnesses in turn. Each is then questioned by the presenting manager, then by the hearing manager and the adviser. Any witness shall withdraw after giving evidence and answering any questions put to them. Witnesses can be recalled if necessary.
Management Presentation	the presenting manager states the management case by summarising the findings of the initial investigation and explaining the reasons for the original decision/s/recommendations made. The presenting manager may be questioned by the employee's side, then by the hearing manager and the adviser.
Management Witnesses (if called)	the presenting manager questions own witnesses in turn. Each is then questioned by the employee's side and then by the hearing manager and the adviser. Any witness shall withdraw after giving evidence and answering any questions put to them. Witnesses can be recalled if necessary.
Summaries	after an adjournment (if needed) each side (employee first) takes turns to summarise the case without introducing new evidence.
Decision	normally the hearing manager will adjourn to consider the case, consult with the adviser, and then recall the presenting manager and the employee's side and give the decision. On some occasions the manager will not be able to give the decision immediately and should inform the employee of this and the expected timescale within which s/he will receive the decision.

24. KEY PRINCIPLES

24.1 WRITTEN RECORDS

Managers should make and retain all relevant records. It is advisable to retain records of the outcome of informal complaints. It is essential to maintain full written records regarding formal grievances. Records should be arranged chronologically (earliest to latest) and include:

- The nature of the grievance raised
- A copy of the written grievance
- The manager's response
- What was decided and the action taken
- Reasons for actions taken
- Whether an appeal was lodged
- Outcome of any appeal
- Any follow up developments.

Once a grievance is completed the respective managers responsible for investigating the grievance and for hearing the appeal should send the records to the Human Resources adviser providing advice on the case, to be retained in accordance with HR record keeping practices.

The managers should take notes at grievance meetings for their own purposes sufficient to enable them to make key decisions. Such records must be treated in the strictest confidence and stored in accordance with the requirements of the Data Protection Act 1998. However, certain information may need to be withheld, in order, for example, to protect a witness.

24.2 CONFIDENTIALITY

Grievances are sensitive and confidential matters and everyone involved, whether making a complaint or involved in any aspect of the investigation, is responsible for observing the high level of confidentiality that is required. Information must not be shared with anyone except those directly involved and their representatives. In particular an employee who is the subject of a grievance will not be entitled to a copy of the written grievance against them or the grievance decision report and accompanying letter. However they will be entitled to know that a grievance has been made against them and the substance of that grievance; the Investigating Manager advised by the HR Adviser will write to the employee in that context.

Distribution of information will be that which is necessary and relevant to enable a full and fair investigation and consideration of the grievance. Unnecessary or inappropriate disclosure of confidential information may lead to disciplinary action being taken in accordance with the Council's Disciplinary Procedure.

24.3 SUPPORT AND RESOURCES FOR EMPLOYEES

Employees may wish to consult with their trade union representative or a work colleague or HR adviser to talk through the grievance process with them on a confidential basis. Employees who have difficulty expressing themselves may find this source of support to be helpful.

24.4 WORKING ARRANGEMENTS DURING THE INVESTIGATION

Where the employee formally raises a grievance in response to an action or proposed action by management the status quo prior to the action or proposed action will not necessarily continue pending conclusion of the grievance process. Therefore, normally any employee pursuing a grievance will continue to work as normal while the grievance is being investigated and considered. Where a grievance is about a decision which is due to affect, or which has already affected an employee, then that decision can be implemented and it does not have to be postponed pending the outcome of the grievance.

24.5 DEALING WITH DELAY

There are occasions where delay in dealing with a grievance is unavoidable. In such circumstances, HR will regularly review outstanding grievances every 6 weeks and contact the aggrieved party at that stage in writing to advise where the grievance process is up to. Managers must make every effort to deal with grievances promptly in order to avoid the aggrieved employee or the subject of the grievance suffering from anxiety and or stress from a long outstanding unresolved grievance.

24.6 OVERLAPPING GRIEVANCE AND DISCIPLINARY ACTION

Where an employee raises a grievance at the commencement of, or during the course of disciplinary action, normally this will not of itself prevent the disciplinary process from going ahead. Where the grievance relates to the disciplinary action itself then the normal process is that the employee can make any representations at the appropriate time during the disciplinary hearing or at appeal, but not as a separate grievance.

Where disciplinary action is taken against an employee and that employee raises a grievance about a matter not related to the disciplinary action, then in such circumstances the grievance investigation can be conducted separately and be investigated by an independent person in parallel to the disciplinary process.

Where during the investigation of the grievance it becomes clear that either the aggrieved employee or another employee have engaged in serious disciplinary offences, careful consideration may need to be given as to whether disciplinary proceedings need to be instigated immediately against the employee in question.

24.7 MALICIOUS OR VEXATIOUS GRIEVANCES

The Council will not tolerate grievances that are vexatious or malicious. Therefore, where a grievance is found to be malicious the employee may be subject to action under the Disciplinary Procedure. Deliberate dishonesty during the grievance process will be considered to amount to allegations of gross misconduct which could result in dismissal.

24.8 MULTIPLE GRIEVANCES

Where an employee raises multiple grievances about the same, similar or related matters at the same time, the same manager will normally consider and respond to them together so that any linkages or wider implications are

explored at the same time. Managers should seek advice from Human Resources when handling multiple grievances.

24.9 MONITORING AND REVIEW

The Council will consistently monitor the application of the Grievance Procedure and regularly evaluate its effectiveness against key performance indicators. The Grievance Procedure will be reviewed, updated and amended as necessary. Employees and the recognised trades unions will be consulted on any proposed changes to the procedure.

25. GOOD PRACTICE GUIDANCE FOR MANAGERS

25.1 HANDLING GRIEVANCES

In case the matter goes beyond the internal process i.e. to an Employment Tribunal, managers must be able to show to the tribunal that they have:

- Conducted a thorough and independent investigation
- Considered all the evidence (statements and documentation)
- Acted fairly, consistently and promptly
- Taken a balanced view
- Treated the matter seriously and confidentially
- Dealt with it effectively and in a systematic way
- Addressed **all** the grievances/ complaints raised (unless otherwise agreed)

25.2 THE FORMAT for INVESTIGATING the GRIEVANCE

The Manager investigating the grievance will always meet the employee raising the grievance and will normally meet individually with the other key people involved. The process for the investigation will follow the format set out in the Disciplinary Procedure. But in terms of preparing for the grievance meeting, as the Investigation Manager you should prepare as follows:

- Familiarise yourself with the Grievance Procedure so that you apply it correctly
- Carry out a full investigation in line with the process outlined in the Disciplinary Procedure
- Make sure you gather all relevant facts and documents and take notes of all interviews
- If possible arrange for a note taker to be present at the meeting to enable you to fully engage with the employee.
- Arrange a suitable time, date and venue for the meeting
- Inform the employee in plenty of time so they can prepare their case and consult with their representative or companion as appropriate.

- Set up interviews for any relevant witnesses you wish to interview including those named by the employee.

Holding a grievance meeting

As the Investigation Manager for the grievance you may wish to have an HR adviser to investigate the grievance in conjunction with you, for example where the grievance is considered to be of such a nature (e.g. because of its complexity or sensitivity) that it would not be appropriate to be dealt with by a single manager.

- As the Investigation Manager you must deal with the grievance sensitively
- Ensure the meeting place is private and that you will not be interrupted
- Introduce those present at the meeting
- Explain the reason for the meeting and how it will be conducted
- Listen carefully to the individual's explanation of the problem
- Listen to any conflicting points of view
- If necessary talk to other relevant parties and consider any relevant documentation
- If appropriate consider holding a meeting at which both parties are present
- Take any other reasonable action required to determine the facts in order to resolve the matter promptly and fairly

Making the decision

Once you have met with all the parties and considered all relevant documentation you must:

- weigh up all the evidence
- review any decisions or action which gave rise to the grievance
- decide what action to take
- decide whether or not to uphold the grievance in full or in part try to balance fairness to the employee without compromising the Council's business or any of the parties involved.

Consider offering independent mediation (provided both parties agree)

Depending on the nature of the grievance, advise the employee complained about that a possible outcome of the grievance process is a recommendation for disciplinary action.

Where you recommend that disciplinary action should be taken against the employee complained about, the matter will be referred to the relevant senior manager to be dealt with in accordance with the Disciplinary Procedure.

Post Employment Grievances

Arrangements will be put in place to consider grievances which are lodged with the Council after employment has ended; only in cases where the grievance event took place less than 3 months before the end of employment and, the grievance is lodged within 3 months of the employee's last day of service with the Council. The former employee must set out in writing the

nature of the grievance, the basis for it and why the matter could not have been raised during employment. Any such grievances should be addressed to the Assistant Director Human Resources who will determine the appropriate arrangements for considering the complaint. Where the grievance is lodged before the employee's last day of service, but the procedure has not been started or completed before employment has ended, the employing department will consult with the Assistant Director Human Resources to decide the mechanisms for considering or concluding the grievance. Normally such matters will be dealt with via written responses rather than face to face meetings.

26. ROLE OF HUMAN RESOURCES

At all stages of the grievance procedure Human Resources may be consulted for advice. The responsibilities of HR include:

- Providing advice to managers on the recommended approach for the informal resolution of grievances
- Providing advice to managers on the recommended approach to responding to a formal grievance under Stage 1 of the procedure
- Providing advice to managers and attending Stage 2 grievance appeal meetings
- Providing advice to managers on the wording of written grievance outcome letters
- Undertaking monitoring requirements, including adherence to timescales, evaluation and wider application of learning from the case
- Providing advice as appropriate to the aggrieved employee on the recommended approach to resolving the grievance.
- Retaining confidential records of grievances on employee personal files in accordance with HR record keeping practices and the requirements of the Data Protection Act 1998.

27.

APPENDIX A

GRIEVANCE NOTIFICATION FORM

COMPLETE THIS FORM & SEND IT TO THE ASSISTANT DIRECTOR HUMAN RESOURCES WHO WILL NOMINATE THE INVESTIGATING MANAGER

TO:

In accordance with Stage 1 of the Grievance Procedure, I wish to submit the following grievance relating to my employment for your consideration.

DETAILS OF THE INFORMAL STEPS TAKEN: *if appropriate*

DETAILS OF THE FORMAL GRIEVANCE (i.e. the name of the person who the grievance is against)

EFFECT OF MANAGEMENT /EMPLOYEE ACTION ON ME:

OUTCOME / REDRESS SOUGHT:

NAME /DEPARTMENT: (Please print)

SIGNED:

DATE:

NOTE: If you have any difficulty in completing this form please ask your representative to help you.

Model Letter Inviting an Employee to a Grievance Meeting

Note: All correspondence should only be sent after consultation with Human Resources

[Title, initial and last name of employee raising the grievance]

[Address 1]

[Address 2]

[Address 3]

[Postcode]

[Date]

Dear [Title and last name of employee]

I am writing to confirm that you have been invited to attend a meeting to discuss the grievance that you raised in writing dated [*insert date of initial grievance letter/form*] in accordance with the Council's Grievance Procedure. The meeting will take place on [*insert date*] at [*insert time*] in [*insert place*].

Your grievance will be investigated by me and I will be advised by [*insert name of the HR representative*].

You are entitled, if you wish to be accompanied by a work colleague or a trade union representative.

If you intend to produce any documentary evidence, please provide this to [*insert name*], by [*insert date*] in order to facilitate the distribution of copies to all parties concerned. Additionally, if you think it would be helpful for me to interview any relevant witnesses in support of your grievance complaint please advise (*insert name*) of the details by the same deadline.

Please contact me on [*insert telephone number and/or email address*] if you have any queries.

Yours sincerely

Name:

Investigation Manager

Model Letter Giving the Council's Decision After a Stage 1 Grievance Investigation meeting

Note: All correspondence should only be sent after consultation with Human Resources

[Title, initial and last name of employee raising the grievance]

[Address 1]

[Address 2]

[Address 3]

[Postcode]

[Date]

Dear [Title and last name of employee]

I refer to the grievance meeting that was held on *[insert date]* at *[insert time]* in *[insert place]* to discuss the grievance that you raised in writing dated *[insert date of initial grievance form]*.

Your grievance complaint related to (insert nature of the grievance complaint). I investigated your grievance and I was advised by (insert name of HR adviser as appropriate). As part of my investigation I also interviewed (insert names of any witnesses, third parties or manager/s as appropriate and I considered the following documentation.

I have given careful consideration to all of the oral and written evidence put before me. Having done that and in response to your grievance, I have decided that *[insert details of decision]*

A full account of my findings is included in the attached report.

If you are not satisfied with my decision, then in accordance with Stage 2 of the Council's Grievance Procedure you have the right of appeal against it by writing to *[insert name Assistant Director, Human Resources]* within ten working days of receiving this letter; indicating whether you wish to have your appeal considered as a paper exercise, or in an appeal meeting format.

Please contact me on *[insert telephone number and/or email address]* if you have any queries.

Yours sincerely

Name:

Investigation Manager

30. TEMPLATE

EMPLOYEE GRIEVANCE - OUTCOME OF INVESTIGATION REPORT

1. INTRODUCTION

2. BACKGROUND

3. DETAIL OF COMPLAINT (address each key point as set out in formal complaint)

4. DETAIL OF THE INVESTIGATION

5. REFERENCE WITNESSES INTERVIEWED

6. CONCLUSION

7. SUMMARY OF FINDING

as appropriate reference documents previously referred to in the report

8. DECISION (COMPLAINT FULLY UPHELD/PARTLY UPHELD/NOT UPHELD)

9. ACTIONS (*discuss feasibility and process of any proposed course of action with Employing director and Assistant Director, Human Resources prior to disclosing the report to the complainant to ensure the recommendations are appropriate and/or feasible*).

For example:

- An action plan to resolve the issues including reasonable timescales and how the matter will be monitored
- Mediation
- Support or counselling via the Occupational Health service
- Invoking the Disciplinary Procedure

10. LEARNING POINTS (If applicable)

SIGNED: _____

DATE: _____

GRIEVANCE PROCEDURE - APPEAL AGAINST STAGE 1 DECISION**IF YOU WISH TO APPEAL, COMPLETE THIS FORM AND SEND IT WITH A COPY OF YOUR ORIGINAL GRIEVANCE TO THE ASSISTANT DIRECTOR HUMAN RESOURCES WHO WILL NOMINATE THE APPEAL HEARING MANAGER****TO:**

In accordance with Stage 2 – Appeal - of the Grievance Procedure, I wish to submit the following grounds for appeal against the Stage 1 grievance decision.

REASON FOR APPEAL:

Full and detailed grounds must be based on one or more of the following:

Procedure: failure to follow procedure had a material effect on the decision

Redress: the decision is unreasonable based on the facts presented to the Investigation Manager

OUTCOME / REDRESS SOUGHT:

I would like you to arrange to have my appeal considered *as a paper exercise/*in an appeal meeting. At the appeal meeting I intend to be accompanied by [name]..... who is *a work colleague/*a trade union representative.

*Delete as appropriate.

(continued over)

NAME & DEPARTMENT (Please print)

SIGNED: **DATE:**

NOTE: If you have any difficulty in completing this form please ask your representative to help you.

Model Letter Inviting an Employee to a Grievance Appeal Meeting Stage 2

Note: All correspondence should only be sent after consultation with Human Resources.

[Title, initial and last name of employee raising the grievance]

[Address 1]

[Address 2]

[Address 3]

[Postcode]

[Date]

Dear [Title and last name of employee]

In response to your appeal dated [*insert date of appeal*] against the decision concerning your grievance that was discussed at a grievance meeting held on [*insert date*] at [*insert time*] in [*insert place*], I am writing to confirm that you have been invited to attend a grievance appeal meeting on [*insert date*] at [*insert time*] in [*insert place*] in accordance with Stage 2 of the Council's Grievance Procedure.

Your grievance will be heard by myself and I will be accompanied by (insert name) as my Human Resources adviser [*insert names as appropriate*. Insert name, the investigation manager will also be in attendance.

The decision of this grievance appeal meeting will be final and there is no further right of review.

You are entitled, if you wish to be accompanied by a work colleague or a trade union representative.

If you wish to provide any documentation in support of your grievance appeal you should submit those to me by ----- (insert date) in advance of the hearing.

Please contact me on [*insert telephone number and/or email address*] if you have any queries.

Yours sincerely

Name

Appeal Hearing Manager

Model Letter Giving the Council's Decision After a Grievance Appeal *Paper Exercise/ *Meeting Stage 2
--

Note: All correspondence should only be sent after consultation with Human Resources
--

[Title, initial and last name of employee raising the grievance]

[Address 1]

[Address 2]

[Address 3]

[Postcode]

[Date]

Dear [Title and last name of employee]

I refer to the grievance appeal *paper exercise/*meeting that was held on [insert date] at [insert time] in [insert place] to discuss your appeal dated [insert date of appeal].

In response to your appeal, I have decided that [insert details of decision].

You have now exercised your right of appeal under the Council's Grievance Procedure and this decision is final.

*delete as appropriate

Yours sincerely,

Name

Appeal Hearing Manager