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# Grievance

## Policy and Procedure

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# Policy

## Aim

- 1 The aim of this policy is to ensure that the Council resolves grievances promptly and effectively in the workplace, following a fair procedure.
- 1.2 The Council is committed to promoting a good and fair working environment. Employees and job applicants will receive equal treatment in accordance with the Council's Equality and Diversity Policy regardless of age, disability, gender reassignment, marital or civil partnership status, pregnancy or maternity, race, colour, nationality, ethnic or national origin, religion or belief, sex or sexual orientation (known as 'Protected Characteristics'). It is recognised that on occasion disagreements occur and these should be dealt as quickly as possible.
- 1.3 The Council aims to provide employees with a working environment free from harassment, bullying and/or victimisation so that employees are treated and treat others with dignity and respect.
- 1.4 This policy sets out the Council's approach to resolving workplace grievances and complaints of discrimination at work.
- 1.5 The Council will encourage its managers to resolve issues proactively and informally before they get to a formal grievance stage.
- 1.6 Issues that could cause grievances may include (but are not limited to):
  - terms and conditions of employment;
  - health and safety;
  - work relations;
  - bullying and harassment;
  - new working practices;
  - working environment;
  - organisational change; and
  - discrimination.

## Scope

- 1.7 This policy applies to all Council employees. Where there is an appeal procedure in another Council procedure it will take precedence, unless there are exceptional circumstances.
- 1.8 This policy does not form part of any employee's contract of employment and may be amended from time to time in consultation with the Employee Side and recognised Trade Unions.

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- 1.9 Notwithstanding this point, any dispute arising from the application of this policy, procedure and guidance will be raised with and dealt with in consultation with the ES and resolved at the Council's Employee Joint Committee or escalated to formal dispute resolution procedures with the Local Government Association as appropriate.
- 1.10 This policy should be read in conjunction with the Council's Equality and Diversity Policy.

### **Roles and Responsibilities**

#### **1.11 Managers**

All Managers must ensure that they adhere to the Council's policies, including the Grievance policy and procedure, and promote the Council's aims and objectives in relation to equal opportunities.

- 1.12 Managers are responsible for ensuring employees are aware of the procedure if they wish to make a complaint and to make sure that unacceptable behaviour is robustly challenged and tackled. Managers are responsible for treating employees with dignity and respect and taking prompt action where they are aware of unacceptable behaviour.

#### **1.13 Employees**

Employees are responsible for treating both their colleagues and management with dignity and respect at all times and for cooperating with the implementation of this procedure. Employees are encouraged to take all reasonable and appropriate steps to resolve any complaint informally where possible, before raising matter through the formal grievance procedure. However this will not preclude the right of the employee to pursue a formal grievance in the first instance, should it be their wish.

- 1.14 The Council will take all grievances seriously and will investigate to establish the facts. Where after investigation a grievance is proven to be malicious or vexatious the matter will not pursued further under the Grievance Procedure.

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# Procedure

## Aim

- 2 The Council is committed to ensuring it has a fair, transparent and accessible Grievance Policy. This procedure is designed to complement that policy.
- 2.1 The Council wants to ensure that all employees have access to a procedure to help deal with any grievances relating to their employment fairly and without unreasonable delay.
- 2.2 The Council will begin to investigate any formal grievance raised within 10 working days. A meeting will then normally be held to discuss it with the employee, inform the employee in writing of the outcome and give the employee a right of appeal if they are not satisfied.
- 2.3 Grievances should be resolved as quickly and as near the point of origin as is reasonably possible. A grievance is not expected to take longer than one month from the formal complaint to final outcome.
- 2.4 The grievance procedure should not be used as a substitute for day to day management of employees and constructive dialogue between employees.
- 2.5 The existence of this procedure is not intended to prevent the informal resolution of problems, where this is appropriate.

## Scope

- 2.6 This procedure applies to all Council employees, except employees in locally managed schools and colleges and centrally employed teachers. A specific and separate procedure applies for grievances relating to the Chief Executive.
- 2.7 This procedure does not form part of any employee's contract of employment and it may be amended at any time in consultation with the Employee Side and recognised Trade Unions.
- 2.8 Issues that could cause grievances may include (but are not limited to):
  - terms and conditions of employment;
  - health and safety;
  - work relations;
  - bullying and harassment;
  - new working practices;
  - working environment;
  - organisational change; and
  - discrimination.

- 2.9 It is intended that this procedure will be used for formal grievance complaints of all types, and that the practice of having different procedures for different types of complaint will be abolished. Where the grievance procedure is in conflict with another procedure, this procedure is to be used unless agreed by all parties. Where there is a process for appealing in another procedure, the process for appeal in the other procedure would normally be used.
- 2.10 This grievance procedure should not normally be used to complain about policies and procedures that have their own appeal processes. If an employee is dissatisfied with the outcome of such policies and procedures, the employee is able to submit an appeal under the appropriate policy.
- 2.11 Where an employee raises a grievance during a disciplinary process, the disciplinary process may be temporarily suspended in order to deal with the grievance. Where the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently, however the grievance should be concluded before a decision on the disciplinary is made.
- 2.12 The grievance procedure will be adapted only where it is necessary to do so, and only to the extent that it is necessary to do so. For example adaptations may be necessary in connection with grievances raised by senior officers with statutory responsibilities. In addition there may be situations which it is anticipated will be limited to certain whistleblowing complaints and collective grievances (i.e. those concerning two or more employees) raised by a representative of Employee Side, a recognised Trade Union or other representative body where an adaption can be mutually agreed .
- 2.13 Such collective grievance may arise where more than one employee has the same grievance and the same desired solutions. The grievance should first be raised with the manager who is responsible for the majority of staff involved, unless being dealt with as a collective issue by Dispute Resolution Procedure (i.e. Council and Employee Joint Committee Machinery).
- 2.14 Written grievances will be held confidentially on an aggrieved employee's personnel file for records purposes along with a record of any decisions taken and any notes or other documents compiled during the grievance process.

### **Raising Grievances Informally**

- 2.15 Many grievances can be resolved quickly and informally through discussion between the employee and their line manager. The Council encourages all employees to resolve issues informally where possible. If the employee feels unable to speak to their manager, for example, because the complaint concerns him or her, then they should speak informally to another manager (normally the manager's manager) to discuss the problem.
- 2.16 A collective grievance may arise where more than one employee has the same grievance and the same desired solutions. The grievance should first be raised with the manager who is responsible for the majority of staff involved, unless being dealt with as a collective issue by Dispute Resolution Procedure (i.e. Council and Employee Joint Machinery)

- 2.17 Employees should contact their manager either verbally or in writing by 10 working days of the incident or event, which has caused the complaint, or by 10 working days of any attempt to seeking to resolve the problem informally. If the employee is unable to submit the grievance by 10 working days they must explain why this is. If there are no reasonable grounds as to why the grievance has not been brought to the attention of the manager by no later than 10 working days of the incident or event then the grievance may not be heard.
- 2.18 The Manager will give the employee a decision on the matter verbally and in writing no later than 5 working days after it has been brought to their attention, if possible. The written response should explain the reasons for the decision. In the case of a grievance which is not heard because it is outside the timescales outlined the manager will need to provide an explanation of why they are not willing to hear the grievance. If this is not possible (e.g. due to annual leave or sickness) the manager will inform the employee of when they will be able to get a response to them, giving them a revised date.
- 2.19 If the employee is still not satisfied with the decision made from the informal process or the issue has not been resolved, the employee should follow the formal procedure below.

### **Formal Written Grievance**

- 2.20 If an employee's grievance cannot be resolved informally they should put it in writing and submit it to their manager, stating clearly that it is a formal grievance. If the grievance relates to their manager, they should submit their grievance to a more senior manager. There is no need for any particular form to be used. If the grievance concerns the line manager, they may submit it to Human Resources.
- 2.21 The written grievance should contain a description of the nature of the complaint, including any relevant facts, dates, names of individuals involved and, where possible, what the desired resolution that is being sought is. A standard pro-forma may be used. In some situations the chair may request the employee to provide further information.
- 2.22 If the employee has any difficulty at any stage of the grievance procedure because they have a disability, they are advised to discuss this with the manager/Employee Side Representative/ Trade Union Representative dealing with the grievance as soon as possible.

### **Investigations**

- 2.23 The responsible manager, nominated by the Council will prioritise their time to carry out an investigation into the grievance at the earliest possible opportunity. This manager will have had no prior knowledge or involvement with this case or any of the parties involved. The scope of any investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from the employee and any witnesses, and/or reviewing relevant documents. The investigation may be carried out by the manager dealing with the grievance or by someone else appointed by that manager, if agreed by all parties.
- 2.24 All parties must co-operate fully and promptly in any investigation. This may include informing the Council of the names of any relevant witnesses, disclosing any relevant documents and attending interviews, as part of the Council's investigation. All parties

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have the right to be accompanied by a workplace colleague/Employee Side Representative or Trade Union Representative.

- 2.25 The Council may decide to undertake an investigation before holding a grievance meeting. Where it considers this appropriate, subject to agreement by all parties, a review of the timescale may be required. In other cases the Council may hold a grievance meeting before deciding what investigation (if any) to carry out. The manager's actions should be designed to address the grievance thoroughly and without any undue delay. All actions/decisions should be recorded in writing and provided to the employee.

### **Right to be Accompanied**

- 2.26 The employee may bring a workplace colleague, Employee Side Representative, Trade Union Representative or Trade Union Official to any grievance meeting or appeal meeting under this procedure. At the meeting, the employee's representative may make representations to the Council and ask questions, but should not answer questions on their behalf, except in exceptional circumstances (see below). The employee may talk privately with their representative at any time during the meeting by requesting an adjournment.
- 2.27 The Council may, at its discretion in exceptional circumstances, allow the employee to bring a companion who is not a work colleague or union representative to address an issue of reasonable adjustments in respect of the Equality Act 2010. This person will be allowed to speak on behalf of the individual.

### **Grievance Meetings**

- 2.28 The employee and their representative (if any) should make every effort to attend grievance meetings (held at a mutually convenient time/date/place). If the employee or their representative cannot attend at the time specified, the employee should inform the Council immediately and the Council will endeavour to agree an alternative time.
- 2.29 The purpose of a grievance meeting is to enable the employee to explain their grievance and how they think it should be resolved, and to assist the Council in reaching a decision based on the outcome of the investigation, evidence and the representations the employee has made.
- 2.30 At this point the employee's Service/Senior Manager may request further time to investigate. This will be discussed with the employee and a timescale outlined and agreed.
- 2.31 Where the outcome of the grievance and any further action that the Council intends to take to resolve the grievance, has not been confirmed to the employee in a meeting, it will be confirmed to the employee in writing. Time for exercising the employee's right of appeal will run from when the outcome is received in writing by the employee.



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## Appeals

- 2.32 If the grievance has not been resolved to the employee's satisfaction the employee may appeal in writing to a Human Resources manager, within 10 working days of the date on which the decision was received in writing by the employee. Any such appeal should set out clearly the reasons for the appeal, and attach any documentation relied upon (except for any documentation already disclosed during the grievance procedure).
- 2.33 A manager more senior to the manager hearing the original grievance of at least Executive Head level will be appointed to consider the appeal, and the employee will be notified of the date of the appeal meeting. The employee has the right to bring a representative (as explained above) to the meeting. Any decisions made by the manager hearing the appeal which affect the Service need to be communicated to the individuals concerned.
- 2.34 The Council will confirm its final decision in writing. The appeals process is not expected to last longer than one month's from the receipt of the appeal. This is the end of the procedure and there is no further appeal.

# Additional Guidance

## Aim

- 3.1 The Council is committed to ensuring it has a fair, transparent and accessible Grievance Procedure. This guidance is designed to complement that procedure.

## Scope

- 3.2 This guidance is designed for use by managers and employees, and provides guidance on the application of the Grievance policy and procedure.
- 3.3 This guidance follows and meets with the ACAS Code of Practice on Disciplinary and Grievance Procedures.
- 3.4 This guidance does not have contractual status and may be amended by the Council from time to time in consultation with the Employee Side and recognised Trade Unions.
- 3.5 There is no obligation on the Council to follow this procedure or to hear grievances raised by a former employee unless lodged prior to their leaving the Council.

## Informal Procedure

- 3.6 The Council encourages all employees to resolve issues informally where possible.
- 3.7 Managers should support Employees to seek to resolve grievances informally. If this is not possible, the employee should not delay unreasonably before submitting a formal written grievance.
- 3.8 Grievances should be resolved as quickly and as near the point of origin as is reasonably possible.
- 3.9 The grievance procedure should not be used as a substitute for day to day management of employees and constructive dialogue where all staff should be treated with dignity and respect.

## Formal Procedure

- 3.10 A formal grievance should be in writing, clearly stating that it is a formal grievance, what the grounds for the grievance are, and, where possible, what resolution the employee is seeking. The employee should provide details of any reasonable adjustments / assistance they may need during the procedure due to, for example, disability.
- 3.11 The manager should begin the formal process within 10 working days after a grievance is received. This could include beginning an investigation, or holding a meeting if appropriate.
- 3.12 At a grievance meeting, the manager, the employee and their workplace colleague, Employee Side Representative or Trade Union Representative should make every effort to attend. Employees should be allowed to explain their grievance and how they think it could be resolved, if possible.

- 3.13 Periodic adjournments may be necessary for refreshments, comfort breaks or to allow the employee to consult with their representative.
- 3.14 When the meeting is concluded, the manager should communicate the decision in writing as soon as possible, including (where appropriate), details of any action it intends to take to resolve the grievance and recommendations made for further actions that must be undertaken.
- 3.15 Managers are expected to complete the grievance procedure as quickly as practicable but it is anticipated that this will take no longer than one month from receipt of the formal grievance to final outcome.

### **Investigations**

- 3.16 The Council may initiate an investigation at any time where appropriate. The investigation will be thorough and will be conducted within a reasonable timescale by a manager who is not involved in the subject matter of the grievance.

### **Right to be Accompanied**

- 3.17 Employees have the right to be accompanied by a companion at a grievance meeting. The chosen companion may be a workplace colleague, Employee Side Representative, Trade Union Representative or Trade Union Official.
- 3.18 It will not normally be considered reasonable for the employee to insist on being accompanied by someone whose presence may prejudice the meeting or where the availability of that person is such that the meeting cannot be held within a reasonable timescale. Insofar as the employee wishes to be accompanied by someone other than a workplace colleague, Employee Side, Trade Union Representative or Trade Union Official, this will not normally be allowed. Managers should, however, take into account the provisions of the Equality Act 2010 at all times (e.g. a disabled person may need to be accompanied by someone specific and this would amount to a reasonable adjustment).

### **Sickness During the Formal Procedure**

- 3.19 Where an employee is absent due to sickness, they should confirm whether or not the reasons for their absence prevent them from attending a meeting. Where appropriate, and reasonable, consideration could be given to holding the meeting away from Council premises (not in the employees home). In some cases, holding the meeting and addressing the issues at an early stage can enable an employee to return to work sooner.
- 3.20 Where the delay arising from such absence becomes problematic, the manager should find a way to enable the employee to attend the meeting as soon as practicable. The overriding objective of the Grievance Procedure is to deal with and resolve grievances without unreasonable delay.
- 3.21 If the delay is such that there is no possibility of the employee attending the meeting in a reasonable timescale, consideration could be given to holding the meeting by telephone, or by the manager posing questions to the employee in writing. If the employee is unable to attend a meeting which takes place following an investigation, it may be that the parties can agree to dispense with such meeting and that the decision be confirmed in writing.

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## Appeals

- 3.22 The manager should inform the employee that they have a right of appeal when they communicate their decision. If the employee is not satisfied with the outcome, they should appeal in writing, within 10 working days, specifying the grounds of appeal.
- 3.23 The appeal should be dealt with impartially at a meeting, which should be conducted by a manager who has not been previously involved and is more senior than the original investigating manager. The employee should be informed in advance of the time and place of the appeal meeting and has the right to be accompanied.
- 3.24 The manager should communicate the final decision in writing within 5 working days setting out a clear rationale as to how the decision has been made.