

Grievance Policy and Procedure

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Introduction

The Council recognises that employees may have, from time to time, concerns about the action or behaviour of a manager or colleague or about the application of a Council policy or procedure. The grievance procedure is a mechanism for employees and managers to resolve issues in a fair and timely manner.

Scope

Employees are able to use this procedure in relation to matters that arise from their employment, which directly affect them as individuals/as a group of individuals.

The grievance procedure cannot be used:

- where an appeals mechanism exists e.g. appeal against formal disciplinary action
- to complain about the actions of employees, managers, contractors that do not directly affect the employee*
- to challenge decisions made through collective consultation/negotiation by the Council's recognised trade unions
- to raise concerns about the treatment of service users/customers*
- to raise issues about a councillors conduct - these should be raised directly with the Democratic Services Manager.

*The Whistleblowing Procedure applies in these situations.

Employees would not normally be able to pursue a grievance in relation to performance management if the performance management procedure is being applied fairly and professionally. An employee cannot raise a grievance to dispute an appraisal rating. It is not appropriate to use the grievance procedure to raise issues relating to a personality clash with a line manager or another employee. Concern/complaints relating to alleged bullying and/or harassment should be raised using the Council's bullying and Harassment Policy.

Where the concern/complaint affects a group of employees, the group should nominate a spokesperson. This spokesperson can be one of the affected employees or a jointly chosen colleague or a trade union representative.

Policy Principles

The Council encourages its employees to raise issues as they arise so that they can be resolved quickly and effectively, preventing these from developing into more serious disputes that have a negative impact on service delivery.

Employees and managers should strive, at all stages of the procedure, to constructively resolve the issue raised.

An employee must always attempt to resolve an issue via the direct resolution stage in the first instance. An issue cannot be raised as a formal grievance until the direct resolution stage has been exhausted.

Managers dealing with grievances must be impartial and listen carefully to the complaint with an open mind. It is not appropriate for a manager to consider a grievance if the grievance is against him or her, or there is a conflict of interest.

At the formal stage of the Grievance Procedure employees have the right to be accompanied and/or represented by a trade union representative or a work colleague of his/her choosing. It is the responsibility of the employee to ensure that the chosen representative is available to attend the meeting and to meet any associated costs.

Where the grievance relates to the conduct/behaviour of another employee he/she has the right to be told the details and to respond to any allegations made. In certain circumstances, however, (for example criminal investigations) some information may be withheld at the discretion of the manager.

Confidentiality will be maintained at all times. Information will be shared only with those necessary to resolve the grievance.

If an employee raises a grievance that proves to be vexatious or malicious he/she may be subject to disciplinary action.

The Council will not give financial compensation and this cannot be considered as a desired outcome at any stage of the procedure.

It is not appropriate to make an audio recording of any of the meetings during the grievance procedure.

Timescales

Every effort must be made by all parties to resolve the grievance within the indicative timescales described in this procedure. This is to avoid undue stress and concern to those involved and to limit any negative impact on service delivery.

Complaints or concerns in relation to incidents older than 12 months cannot be raised by using the Grievance Procedure. The same/related grievance **cannot** be raised within 12 months of the resolution, outcome or withdrawal of the same grievance – however an employee may ask for a grievance to be revisited if specific follow up actions agreed as part of the original grievance have not been carried out.

Direct resolution

Day-to-day issues will normally be resolved through dialogue between the employee and his/her line manager. This will be more effective if the employee raises the issue as soon as possible.

The employee should first raise any issue with his/her line manager. If the grievance relates to the line manager, the employee should discuss this with the manager's line manager.

A meeting between the line manager and the employee will allow them to discuss the issue on a one-to-one basis outside of the formal grievance procedure. The line manager and the employee will discuss the facts of the situation and attempt to find a satisfactory solution as quickly as possible.

At this stage neither the complaint nor the response should be put in writing. There is no right to representation however an employee may be accompanied by a work colleague who will provide morale support only.

In order to resolve a grievance at this stage both parties should be given the opportunity to undertake an independent mediation session/s – see information on mediation.

Formal grievance procedure

An employee may raise a formal grievance only if it has not been possible to resolve an issue directly i.e. when the direct resolution stage has been fully exhausted.

To initiate a formal grievance the employee will put details of the issue in writing to his/her line manager. This should be done in an email which clearly states that this is a formal grievance. If the grievance is in relation to the line manager, it should be sent to the manager's line manager. The employee should include all of the relevant details to allow an issue to be effectively resolved. The employee should give an indication of the outcome/resolution he/she is seeking to reach. The employee's email will be shared with others as part of the grievance procedure therefore he/she is advised to remain factual and avoid writing statements that might be offensive to others or that cannot be substantiated.

Upon receipt of a formal grievance email, the manager should seek advice from the HR Advisory Team regarding arrangements for resolving the grievance.

The HR Advisor will work with the manager to select an appropriate person to consider the grievance. Normally the grievance will be dealt with by the employee's line manager. In instances where this is not appropriate please seek advice from HR Advisory.

Prior to holding a formal grievance meeting both parties may agree to undertake an independent mediation session/s – see information on mediation.

Grievance Meeting

The manager will arrange to meet with the employee as soon as possible to fully understand the facts of the employee's grievance. This grievance meeting is the employee's opportunity to explain his/her complaint and to state how he/she considers the issue could be resolved. The employee has a right to be accompanied and/or represented by a trade union representative or a work colleague of his/her choosing.

The manager will lead the grievance meeting and be supported by the HR Advisor. The manager should:

- listen to the employee's concerns and clarify the key issues
- explore the facts of the situation
- confirm who else he/she needs to speak to
- consider options to resolve the issue to the satisfaction of the employee, any resolution must be in line with effective service delivery and cannot be decided until the matter has been discussed with the manager to seek his/her views.

In most cases it will not be possible to resolve the issue immediately and therefore the grievance meeting should be adjourned to allow the manager to:

- confirm relevant facts
- speak to any relevant witnesses (witness statements will be taken to document discussions).

Where the grievance meeting is adjourned it should be reconvened with minimum delay (within a maximum of 10 working days where this is possible).

Outcome/Resolution

Following the grievance meeting, the manager must decide if the grievance is/is not upheld. Where the grievance is upheld the manager should make recommendations as to how the issue can be resolved. Follow up actions should, where possible, look at any preventative measures that can be implemented. Any measures put in place need to be in line with effective service delivery and therefore may need to be discussed with the relevant team/service manager.

The manager will produce a written Grievance Summary. This will detail what the initial issue was, the facts that have been established, the decision that was made and the recommended follow up actions.

The manager will arrange to meet with the employee to inform him/her of his/her decision. The employee will receive a copy of the Grievance Summary.

Where the grievance related to the conduct/behaviour of another employee the manager, with advice from the HR Advisor will decide whether it is appropriate for that individual to receive a copy of the Grievance Summary. In some cases, it may be appropriate to adapt the content for sharing e.g. where the grievance had covered a number of issues only the part relevant to the third party will be shared.

Grievance procedural appeal

The purpose of the grievance procedural appeal is to decide whether the formal grievance procedure was followed correctly and whether the outcome was reasonable and proportionate to the facts established i.e. this is not a reconsideration of the original issue.

To initiate an appeal the employee will put details of the issue in writing to their Head of Service within 10 working days of meeting with the manager (in an email which clearly states that this is a grievance procedural appeal). The employee should detail how he/she considers how the grievance procedure has not been correctly applied or how the outcome was not reasonable or proportionate.

The grievance procedural appeal must be heard with the minimum possible delay (i.e. within 28 days - where this timescale is not achievable it will be heard as soon as possible after this point).

The procedural appeal will be heard by the line manager of the manager who dealt with the formal grievance. Where this is not appropriate please seek advice from HR Advisory.

He/she will:

- clarify with the employee what aspect of the grievance procedure has not been correctly applied or how the outcome is considered unreasonable.
- review the grievance summary and ask questions of the manager

The manager considering the appeal will be advised by an HR Advisor. On considering all of the information presented he/she will make a decision as to whether the grievance procedure has been properly applied and whether the original outcome/resolution was appropriate.

The decision will be delivered - either after immediate consideration at the meeting, or within 5 working days of the meeting. The decision will be confirmed in writing to the employee as soon as possible. The decision of the manager considering the appeal is final – however where the employee is represented by a recognised trade union his/her representative may raise a general point of principle at the Corporate Joint Panel (CJP).

Records

Direct resolution stage - No written record will be retained on individual personal files. Formal Procedure – the HR Advisory team will keep a record of the number of Formal Grievances and Grievance Procedural Appeals. A copy of the email to the employee confirming the outcome of the grievance meeting and/or grievance procedural appeal will be placed on his/her personal file.

Mediation

Mediation is a voluntary process, agreed by both parties whereby an independent mediator helps two or more people in dispute to attempt to reach an agreement. The agreement comes from those in dispute not from the mediator. The mediator will have had no prior involvement in the grievance. Mediation can be used at any stage of the grievance process. This will mean that any formal procedures are halted whilst the mediation route is pursued. If mediation is unsuccessful, the process will revert to the stage reached prior to mediation.

Links to the disciplinary procedure

There are several scenarios in which the grievance and disciplinary procedures may be linked:

- An employee raises a grievance as a direct result of disciplinary action being taken against him/her – the grievance should be dealt with through the appeal mechanism within the disciplinary procedure and not through the Grievance Procedure.
- An employee raises a grievance at the same time as misconduct is alleged against him/her and the two issues are not related in any way – in these circumstances the two issues should be dealt with simultaneously and be treated separately following the two different procedures.
- An employee raises a grievance that leads to the investigation of another employee or manager under the disciplinary procedure – in these circumstances the employee who raised the grievance will be expected to act as a witness in any disciplinary investigation.

Employment tribunal claims

The ACAS Code of Practice (2009) states that employees no longer need to raise a grievance with their employer before submitting a tribunal claim. However, the Council expects all employees to follow the grievance procedure and to seek to resolve any grievances in the workplace prior to considering an Employment Tribunal claim.

Former employees

Following the ACAS Code of Practice (2009), the Council is not obliged to hear grievances from former employees. The grievance procedure focuses on resolving issues raised by current employees.

When an employee raises a grievance just before leaving employment with the Council, there may be insufficient time for the grievance to be heard and/or resolved. In these circumstances the Council will deal with the complaint/concerns via the exit procedure – asking the employee to detail the issues in the exit questionnaire and offering an exit interview. The grievance procedure will not be appropriate in these cases. Issues highlighted in an exit questionnaire or exit interview will be followed up as appropriate despite the employee having left the organisation.

Grievances raised at Heads of Service level or above

Where a grievance is raised at Head of Service level or above, the direct resolution stage of this procedure and formal stage will be managed in accordance with the table below.

Person dealing with the Employee's Grievance			
Level of Employee raising a grievance	Direct Resolution Stage	Formal Grievance Procedure	Grievance Procedural Appeal
Head of Service	Service Director	Service Director	Executive Director
Service Director	Executive Director	Executive Director	Chief Executive (or delegated representative)
Executive Director	Another Executive Director	Another Executive Director	Chief Executive (or delegated representative).

Further advice

Managers who require advice on how to apply this policy should contact the HR Advisory Team.