



Grievance Procedure

1 The Purpose of this Procedure

- 1.1 This grievance procedure is to make sure that employees and managers understand how the Council will deal with complaints about alleged breaches of legal or contractual rights.
- 1.2 The objectives are to make sure we deal with problems:
- as quickly as possible;
 - at the lowest appropriate level possible within the Council;
 - fairly and consistently.

2 Responsibilities

2.1 Responsibility of Assistant Directors/Directors/Managers

- To understand and comply with the policy and to ensure the compliance of others.
- To respond sensitively and promptly to any issues raised under this policy.

2.2 Responsibility of HR

- To provide support and guidance on the application of this policy.
- To ensure timescales are met and escalate where required.
- To regularly review and update this policy as required.

2.3 Responsibility of the Trade Unions

- To respond sensitively and promptly to any issues raised under this policy.

3. Eligibility

The procedure applies to all current and former Council employees.

This procedure cannot be used where the same issue has previously been determined under the Council's Dignity at Work Policy.

4 Use of this procedure

4.1 When this procedure should be used

It isn't possible to list all the circumstances, but examples of when an employee may raise a grievance could include issues about:

- terms and conditions of employment including pay;
- health and safety;
- equality.

4.2 When this procedure should not be used

Employees should not use this procedure for the issues listed because they are dealt with under separate policies:

- grading of posts;
- Dignity at work;
- any policy with its own appeals procedures.

4.3 Collective Grievances

Where a grievance applies to more than one employee, it may be appropriate for the matter to be dealt with through a collective grievance process. In these instances every effort should be taken initially to fully discuss the issues informally between the employees and their manager in an attempt to understand and resolve the situation. Should this fail, the procedure for collective grievances must be followed as set out in the Collective Consultation and Communication Agreement.

5 General principles

- 5.1 When an employee lodges a grievance the situation relating to it will stay the same (status quo will be maintained), whenever possible, until it is resolved or the procedure completed.
- 5.2 All parties will try to resolve issues as quickly as possible and timescales have been set out to achieve this. However, if there are genuine reasons why they cannot be met, these timescales can be varied if the people involved agree.
- 5.3 Employees have the right to be accompanied at all **formal** stages of the process by their trade union representative, a full-time trade union official or a work colleague. They may not have legal representation or be accompanied by their line manager.
- 5.4 Managers will keep written records, and provide copies to the employee raising the grievance, including:
 - letters;
 - reports;
 - meeting notes;
 - action plans;
 - agreements.
- 5.5 At all stages of the procedure, the employee must confirm in writing whether they are satisfied with the outcome. If they are not satisfied, they must follow the procedure for moving their grievance onto the next stage.

- 5.6 If an employee raises a grievance against an Assistant Director/Head of Service, their Director will hear stage 2 of the procedure and the Chief Executive will hear the appeal stage. If a grievance is raised against a Director, the Chief Executive will hear stage 2 and the Member Investigatory Committee will hear any appeal.
- 5.7 If an employee raises a grievance, which the HR Manager and the chair of the JCC Staff Side agree will affect other employees, then we will refer it to the Joint Consultative Committee in consultation with the employee. Everyone involved must recognise that there will be a delay in resolving the grievance during this consultation.
- 5.8 Circumstances may arise when the ill health of an employee prevents the procedure from being followed because the employee is too ill to participate in the investigation, adequately prepare for a hearing/ meeting or attend the hearing/ meeting itself. Where this is the case, the Council will act consistently with the following principles:
- A. The ill health of an employee will not be a ground for abandoning any ongoing procedures.
 - B. Where the absence is likely to be short (i.e less than 1 month), the Council will usually wait until the employee recovers and is able to take a full part in the process.
 - C. When the absence is ongoing and it appears to the Council that the employee is likely to remain off sick for an extended period, the organisation may require the employee to cooperate with a medical expert in determining whether or not he/she is sufficiently fit to take part in the process.
 - D. Where it appears that the employee is not fit to take a full part in the standard procedure, the Council will consider taking any of the measures set out below to enable the employee to participate effectively.
- 5.9 The organisation may, with the agreement of the employee, adjust the standard procedure by taking any or all of the measures set out below with a view to ensuring the effective participation of the employee in the process:
- **Venue.** The organisation will consider holding the meetings at a venue other than the organisation's premises, either to reduce the stress caused to the employee by attending the hearing or to accommodate any physical needs that the employee may have.
 - **Written representations.** Where the employee may have difficulty in explaining his/her case, consideration will be given to allowing the employee to rely on written representations, which may be prepared by a representative on the employees behalf.
 - **Documentation.** The organisation will take particular care to ensure that the employee receives all documentation relating to the process sufficiently time to allow him/her to prepare fully, taking into account any effect that the employee's health may have on his/her ability to analyse the information and prepare a response.

- **Timings.** While being committed to the principle that matters should be dealt with promptly, the organisation may allow extra time for any stage of the process to ensure that the employee can participate effectively. Particular attention will be given to the duration of any meetings/hearings and its impact on the employee and the need to take appropriate breaks.

5.10 There may be exceptional circumstances when the employee will not be able to attend a meeting/hearing, whatever measures are taken.

In such circumstances, the organisation reserves the right to proceed with a hearing in the employee's absence, although full consideration will be given as to whether or not this is necessary in the circumstances.

Where this is the case, the employee and his/her representative will be informed of the time and location of the hearing and will remain free to attend. The representative will be free to attend, even if the employee is not present.

The representative will be able to present any written representations but will not be able to answer questions on behalf of the employee.

The outcome of the hearing will be communicated in writing to the employee, paying particular attention to the need to explain the details of any factual findings made and the basis of the decision reached.

6 Stages of the procedure

Stage 1 – informal

- 6.1 The employee must raise the grievance with their manager, verbally or in writing, as soon as possible and within a maximum of three months of the original issue or problem unless there are exceptional reasons why this is not possible.
- 6.2 The informal meeting should only consist of the manager and the employee, however if the matters involves another employee they may also be invited to attend if both parties agree, within five working days to try to resolve it as quickly as possible. At the meeting, the manager must take notes during the meeting detailing the issue discussed. The Manager will issue the employee with written confirmation of the decisions reached and any agreed actions within five working days of the date of the meeting taking place. The letter must also enclose copy minutes of the meeting.
- 6.3 The employee must confirm in writing within five working days whether they are satisfied with the outcome. If they do not respond within this timescale their manager will assume that they are satisfied and will write to them confirming that the issue has been resolved.
- 6.4 If the employee is not satisfied with the outcome, they should write to their Assistant Director within five working days. They should head their letter '**Grievance**' and in it state:
 - details of the issues or problem;
 - the reasons why they are not satisfied with the outcome of stage 1;

- what they want to happen as a result of their grievance.

6.5 Depending on the reasons given, the Assistant Director may refer the issue back to the line manager to make a new attempt to resolve it at stage 1 by re-following the process before the grievance moves to stage 2. The Assistant Director will notify the employee of this decision in writing. The new attempt to resolve it must be within five working days of the decision to refer it back to the line manager.

Stage 2 - formal

6.6 If the line manager cannot resolve it, or the Assistant Director decides that it is not appropriate to refer it back to the line manager, the Assistant Director will notify the HR Manager who will appoint a Presiding Officer at service manager grade or above and an Investigating Officer.

7 The investigation

The Investigation will be carried out in line with the Councils Disciplinary policy.

Roles and responsibilities during the investigation

7.1 The **Presiding Officer** will tell the employee:

- the reason for the investigation, and confirm this in writing;
- who will be investigating;
- that there may be a grievance hearing to consider the investigation report and to try to resolve the grievance.

7.2 The **HR Manager** will appoint and brief the investigating officer and notify the Presiding Officer who this will be.

7.3 The **investigating officer** will be a HR Associate or suitable alternative who will:

- interview relevant people and take statements;
- establish the facts and assemble any evidence;
- produce a factual report, giving it to the Presiding Officer, wherever possible, within twenty working days

8 The outcome of the investigation

8.1 The Presiding Officer will decide if a hearing is necessary, and will set a date to hear the grievance and write to the employees concerned setting out:

- the arrangements for a hearing, giving them at least ten working days' notice, unless the employee and the Presiding Officer agree to a shorter timescale;
- of their right to be represented by a trade union representative or work colleague;
- that if they have any special needs they must tell us so we can accommodate them at the hearing;
- of their right to call witnesses if they wish, asking them to let HR know which witnesses they would like to attend.

- 8.2 Should any additional evidence come to light after this time, any requests to submit it must be made at least 48 hours prior to the hearing. Requests for later submissions will not be accepted.

9 The hearing

- 9.1 The purpose of the hearing is:

- to give the employee an opportunity to explain their grievance;
- to give the employee's line manager an opportunity to explain their response to stage 1 of the process;
- to consider the facts in the investigation report, if there is one;
- to ask questions;
- to hear from any relevant witnesses;
- to provide an opportunity for relevant questions to be asked;
- for the Presiding Officer to reach a decision.

- 9.2 People attending the hearing will be:

- the Presiding Officer;
- an HR adviser to the Presiding Officer;
- investigating officer, if applicable;
- the employee;
- their representative ;
- any companion required to provide special needs support;
- the line manager who tried to resolve the grievance at stage 1;
- witnesses called by the Presiding Officer or the employee.

The hearing process

- 9.3. The Presiding Officer will:

- ask the investigating officer to outline the findings in the investigation report, if applicable;
- ask the employee or trade union representative to explain their grievance, or clarify it further;
- ask the line manager to explain their response at stage 1, or clarify it further;
- call relevant witnesses ;
- adjourn the hearing to make a decision;
- inform the employee of their decision and the reasons for it.

The Presiding Officer will appoint an administration assistant to take notes of the Hearing

- 9.4 The **HR adviser** will:

- provide professional, technical and legal guidance to the Presiding officer;
- make sure that everyone follows Council policies and procedures;
- make sure that everyone involved is provided with the appropriate support, in accordance with Council policies;

- 9.5 Within five working days of the hearing, the Presiding Officer will write to the employee:

- confirming their decision;
- detailing any agreements proposed;
- asking them to confirm within five working days whether they accept the proposals;
- explaining their right of appeal if they are still not satisfied.

A copy of this letter will be placed on the employee's file.

- 9.6. If the employee does not confirm whether they accept the proposals within five working days, the Presiding Officer will assume they are satisfied and will confirm this in writing.
- 9.7 If the employee is not satisfied with the outcome of the stage 2 meeting, they must put this in writing to the HR Manager within ten days confirming:
- that they are not satisfied with the outcome of the stage 2 hearing;
 - why they are not satisfied with the outcome;
 - that they wish to appeal against the Presiding Officer's decision;
 - what they expect to happen as a result of the grievance.

10 **Stage 3 – The appeal hearing**

- 10.1 The HR Manager must confirm receiving the appeal within five working days and arrange an appeal hearing date within 20 working days of the date of the acknowledgement, if possible. The HR Manager will appoint a new Presiding Officer to hear the Appeal. The Presiding Officer will be at Assistant Director level or above. The administration assistant will make arrangements for the appeal hearing and take notes at the meeting.
- 10.2 People attending the appeal hearing will be:
- the Presiding Officer;
 - HR or legal service officer to support the Presiding Officer;
 - the employee;
 - their representative ;
 - the original Presiding Officer;
 - the HR representative who sat on the panel at the original hearing to advise the Presiding Officer.
- 10.3 HR will provide copies of the paperwork listed here to everyone attending the appeal hearing (at least ten days before the hearing):
- the employee's original grievance letter;
 - the employee's letter confirming why they were not satisfied with stage 1 and stage 2 of the grievance procedure;
 - the investigation report, if applicable;
 - notes of the meetings already held.
- 10.4 At the appeal hearing, everyone will be given the opportunity to state their case, starting with the employee raising the appeal. At the end of the hearing, the

Presiding Officer will inform the employee of their decision, confirming it in writing within five working days. There is no further right of appeal.

11 Employee illness or absence

- 11.1 It is the responsibility of everyone involved in a grievance to try to resolve matters as quickly as possible and therefore the Council has set a limit of holding a hearing within 20 working days of submitting their grievance at Stage 2 or appeal at Stage 3.
- 11.2 Where an employee is unfit to attend a hearing within that time, their Trade Union representative or work colleague should attend the hearing to represent the employee's interests. The employee can elect to additionally submit written representations for consideration.
- 11.3 Alternatively, the employee can elect not to have a representative, in which instance a decision will be made by the Presiding Officer based on the available information at the time of the hearing. The employee should be encouraged to submit written submissions for consideration in such instances.
- 11.4 The Presiding Officer will consider the submissions and will confirm their decision in writing within five working days of a hearing taking place.
- 11.5 If the matter was considered at Stage 2, the letter will confirm the employee's right of appeal. If the matter was considered at Stage 3, the letter will confirm there is no further right of appeal.
- 11.6 This modified procedure will also apply to former employees, subject to their agreement. If they do not agree to the use of the modified procedure, we will follow stages 2 and 3 of the full procedure.

12 Vexatious or malicious grievances

- 12.1 We will not allow an employee to raise the same grievance again after this procedure has been exhausted (after stage 3).
- 12.2 In addition, the Council will commence a disciplinary investigation against an employee if, at any stage, the Presiding Officer considers that their grievance is vexatious or malicious.

13 Review of policy

- 13.1 This policy will be reviewed at intervals of three years, or earlier at the request of either the management or staff side.

Human Resources
October 2014

Approving Body & Date

JCC 13 January 2015

Executive 19 January 2015

The Grievance Procedure

