



Grievance (Clerk)

Policy 1

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1. Aims And Objectives

- 1.1. It is the aim of the Council to create an environment whereby any grievance can be aired and every reasonable effort made to respond to that grievance and supply a satisfactory resolution. A grievance is defined as a complaint by an employee about an action or omission which his or her employer has taken or is contemplating taking in relation to him or her. The definition also covers the action of a third party (e.g. a colleague) in cases where the Council could be liable for their employee's action.
- 1.2. Every effort should be made to resolve grievances on an informal basis. This will usually be between the Clerk and the Chairman of the Council or the Chairman of the Finance and General Purposes Committee. If it is not possible to resolve the matter informally, the Clerk should invoke the formal grievance procedure. This should be done in writing and should set out the nature of the grievance.

2. Scope

- 2.1. This procedure can be applied by the Clerk.
- 2.2. Any grievances concerning bullying and harassment, or discrimination, are recognised to be particularly sensitive issues and the Clerk should be aware that the Council may make additional arrangements to deal with such instances.
- 2.3. The grievance procedure specifically excludes matters relating to general pay levels, any statutory deductions from pay or any matter which is already subject to the disciplinary process. Where the Clerk objects to their treatment under the disciplinary procedure their complaint should be raised in writing as part of that procedure.
- 2.4. Any queries about which policy should be used to address a grievance should be discussed with the Chairman of the Council and the Chairman of the Finance and General Purposes Committee who will decide on the matter.
- 2.5. Should the Clerk invoke the grievance procedure the following will apply:
 - 2.5.1. If the Clerk's grievance is against the Chairman of the Council the complaint should be made to either the Chairman of the Finance and General Purposes Committee or if appropriate the Vice Chairman of the Council or another Chairman.
 - 2.5.2. Case hearings will be undertaken by a panel comprising the Chairman of the Council or the Chairman of the Finance and General Purposes Committee along with two other Councillors to make up a panel of three.
 - 2.5.3. Appeals will be heard by the Full Council excluding members of the panel.

3. General Guidelines And Principles

- 3.1. At all stages, the Clerk has the right to be accompanied by a single companion, who is either a:
- 1) work colleague,
 - 2) employee representative,
- or
- 3) trade union official. (A trade union official who is not an employed official must have been certified by their union as being competent to accompany an employee).

The specific needs and circumstances of the Clerk or their representatives will be catered for as far as reasonably practicable.

- 3.2. In all cases, the Council's Equal Opportunities Policy will be adhered to.
- 3.3. The Chairman of the Council and Chairman of the Finance and General Purposes Committee or if appropriate the Vice Chairman of the Council or another Chairman is to be informed of any grievance, both formal and informal regarding the Clerk. It is particularly important to note that, where a grievance cannot be resolved informally, the Clerk must report their grievance in writing to the Chairman of the Council, or Chairman of the Finance and General Purposes Committee or if appropriate the Vice Chairman of the Council or another Chairman. If they do not raise the grievance in this way it could affect the outcome of any future Employment Tribunal proceedings.
- 3.4. In exceptional cases, a period of paid suspension may be appropriate in order to conduct a full and proper investigation. However, it should be emphasised that this course of action should only be considered if absolutely necessary, be kept under review, and it should be made clear to the Clerk that the suspension is not a disciplinary sanction. Decisions concerning suspension will be made by the panel.
- 3.5. Every effort will be made to resolve the grievance within five working days. The time limits may be modified by mutual agreement, where circumstances require.
- 3.6. Where a grievance is not dealt with within the time limits specified, including those modified by agreement, the Clerk shall be entitled to move to the next stage in the procedure.
- 3.7. Where the Clerk 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 the disciplinary cases are related it may be appropriate to deal with both issues concurrently.
- 3.8. Any queries about which policy should be used to address a grievance should be discussed with the Chairman of the Council and the Chairman of the Finance and General Purposes Committee who will decide on the matter.

4. Record Keeping

- 4.1. Records will be kept in accordance with the Data Protection Act 1998 (unless there is a legitimate reason not to do so e.g. the protection of witnesses).
- 4.2. Copies of meeting records should be given to the Clerk and their representative for agreement, including any formal minutes that may have been taken.
- 4.3. Records will include:
 - The nature of the grievance raised
 - A copy of the written grievance notification
 - The Council's response and action taken, including reasons for that action
 - Whether there was an appeal made, and the outcome of that appeal if relevant
 - Any further relative developments that may arise.
- 4.4. Records relating to grievance hearings may be retained confidentially in a file to be kept with the Clerk in order to provide a record of outcomes. These will be kept separate from (but cross-referred to) the Clerk's personal file.

5. Representation

- 5.1. At all stages, the Clerk has the right to be accompanied by a single companion, who is either a:
 - 1) work colleague,
 - 2) employee representative,
or
 - 3) trade union official. (A trade union official who is not an employed official must have been certified by their union as being competent to accompany a worker).
- 5.2. To exercise the right to be accompanied the Clerk must first make a reasonable request. What is reasonable will depend on the circumstances of each individual case. However, it would not normally be reasonable for the Clerk to insist on being accompanied by a companion whose presence would prejudice the hearing, nor would it be reasonable for the Clerk to ask to be accompanied by a companion from a remote location if someone suitable and willing was available on site.
- 5.3. The companion should be allowed to address the hearing to put and sum up the Clerk's case, respond on behalf of the Clerk to any views expressed at the hearing and confer with the Clerk during the hearing. The companion does not have the right to answer questions on the Clerk's behalf, address the hearing if the Clerk does not wish it or prevent the Council from explaining their case.
- 5.4. Legal representation is not permitted. The Council will not bear costs.

6. Informal Resolution

- 6.1. At this stage the Clerk and/or their representative should discuss the issue with the Chairman of the Council and/or Chairman of the Finance and General Purposes Committee. If the complaint is against the person who would normally hear the grievance, the Clerk can approach the Vice Chairman of the Council or another Chairman.
- 6.2. Following this discussion every effort should be made to reply to the grievance as soon as possible and in any case within five working days. The reply should contain details of any actions and outcomes and should be provided to all parties.
- 6.3. It is expected that the majority of grievances raised will be satisfactorily dealt with at this stage.

7. Formal Procedure

- 7.1 Preliminary stage – Notification of Grievance
If it is not possible to resolve a grievance informally the Clerk should raise the matter formally and without unreasonable delay. This should be done in writing and should include the nature of the grievance.
- 7.2. Grievance Hearing
The panel will arrange for a formal meeting to be held without unreasonable delay after the grievance is received, and will advise the Clerk in writing. The letter will include details of the Clerk's right to representation. The Clerk should let the panel know in advance of the meeting who they have appointed as their representative. **(Standard Letter 1)**
- 7.3. All parties must take reasonable steps to attend the arranged hearing. If the Clerk's representative is unable to attend a meeting on the proposed date, the Clerk can suggest an alternative date provided it is reasonable and not more than five days after the date originally proposed.
- 7.4 The Clerk should be allowed to explain their grievance and how they think it should be resolved. Consideration should be given to adjourning the meeting or any investigation that may be necessary.
- 7.5. The decision of the panel should be communicated to the Clerk, in writing, without unreasonable delay and, where appropriate, should set out what action the Council intends to take to resolve the grievance. The Clerk should be informed that they can appeal if they are not content with the action taken. **(Standard Letter 2)**
- 7.6 Appeal
Where the Clerk feels that their grievance has not been satisfactorily resolved they should appeal in writing without unreasonable delay, setting out their reasons for the appeal.

- 7.7 Appeals should be heard without unreasonable delay and at a time and place which should be notified to the Clerk in advance.
- 7.8 The appeal should be dealt with impartially and will be heard by the Full Council excluding the Panel. The Clerk has the right to be accompanied at any such appeal hearing.
- 7.9 The outcome of the appeal should be communicated to the Clerk in writing without unreasonable delay. (**Standard Letter 3**)

8. When The Procedure Does Not Apply Or Must Be Amended

- 8.1. It is important to note that where a grievance has been raised this procedure must be used.
- 8.2. In very exceptional circumstances, if any person hearing a grievance behaves in such a violent and unreasonable manner that it could not reasonably be expected that the parties sit down together and work through the procedures or if the Clerk is on long term sick leave, the Council should attempt to resolve the grievance through other means to be mutually agreed.
- 8.3. If the Clerk behaves in such a violent and unreasonable manner that it could not reasonably be expected that the parties sit down together and work through the procedures, again, the Council should attempt to resolve the grievance through other means i.e. short term mediation through the Clerk's representative.

STANDARD LETTER 1 (Formal Action – notice of grievance meeting)

GRIEVANCE

Personal and Confidential

Dear

I am writing to advise you that prior to a formal grievance hearing to be held on [date], at[time] in[venue] , it will be necessary to hold a meeting to establish facts.

This fact finding meeting will be held on [date], at[time] in [venue]. I must stress that this meeting is not the grievance hearing and is merely to establish facts.

You have the right to be accompanied by a work colleague, employee representative or trade union official if you wish.

Please confirm your availability and that of your representative, if required.

STANDARD LETTER 2 (Formal Action – outcome of grievance hearing)

GRIEVANCE

Personal and Confidential

Dear

I refer to the grievance hearing held on at which you were accompanied by

After full consideration, I am writing to advise you that [nature of grievance] was found to be upheld/dismissed for the following reason(s):.....

.....
.....

As a result, I am suggesting that the following action be taken to resolve your grievance:

.....
.....
.....

You have the right to appeal this decision. Should you wish to exercise your right to appeal, you should write to the Chairman of the panel, giving reasons for your appeal, within five working days of the receipt of this letter.

STANDARD LETTER 3 (Appeals – outcome of appeals hearing)

GRIEVANCE

Personal and Confidential

Dear

You appealed about the decision of the grievance hearing held on I am now writing to inform you of the decision taken by [name of Chairman) who conducted the appeal meeting, namely that the decision to stands/ the decision be revoked [specify if no action is being taken or what any new action will be].

You have now exercised your right of appeal and this decision is final.