



## **Grievance Process Policy 3**

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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 will be 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. If it is not possible to resolve the matter informally, employees should raise the matter formally and without unreasonable delay with the Clerk, if the Clerk is not the subject of the grievance. This should be done in writing and should set out the nature of the grievance.

## **2. SCOPE**

- 2.1. This procedure applies to all employees of the Council. The term 'employee' includes temporary, casual and part time employees. Individuals who undertake work for the Council on a genuinely self employed basis, or those employed by a temporary agency, are not covered by this procedure.
- 2.2 Any grievances concerning bullying and harassment, or discrimination, are recognised to be particularly sensitive issues and employees 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 an employee objects to their treatment under the disciplinary procedure their complaint should be raised in writing as part of that procedure. Where appropriate a group of employees may present a grievance collectively.
- 2.4. Any queries about which policy should be used to address a grievance should be discussed with the Clerk who will decide on the matter.
- 2.5 In the case of the Clerk submitting a grievance, this will be dealt separately under the Clerk's Grievance Policy.
- 2.6 The provisions of this Policy do not apply to grievances raised on behalf of two or more employees by a representative of a recognised trade union or other appropriate workplace representative.

### **3. GENERAL GUIDELINES AND PRINCIPLES**

3.1. At all stages, the employee 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 employees 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 Clerk is to be informed of any grievance, both formal and informal. It is particularly important for employees to note that, where a grievance cannot be resolved informally, the employee must report their grievance in writing to the Clerk. 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 employee that the suspension is not a disciplinary sanction. Decisions concerning suspension will be made by the Clerk.

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 employee shall be entitled to move to the next stage in the procedure.

3.7. 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 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 Clerk 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 employee 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 personal file of any employee who, as a result of the grievance being raised, has been identified as requiring some developmental action.

## 5. REPRESENTATION

5.1. At all stages, the employee 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).

5.2. To exercise the right to be accompanied an employee 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 employees to insist on being accompanied by a companion whose presence would prejudice the hearing nor would it be reasonable for an employee 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 employee's case, respond on behalf of the employee to any views expressed at the hearing and confer with the employee during the hearing. The companion does not have the right to answer questions on the employee's behalf, address the hearing if the employee 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 employee and/or their representative discuss the matter with the Clerk. If the complaint is against the Clerk who would normally hear the grievance, the employee should approach the Chairman of the Council.

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, employees should raise the matter formally and without unreasonable delay with the Clerk, if the Clerk is not the subject of the grievance. This should be done in writing and should set out the nature of the grievance.

### **7.2. Grievance Hearing**

7.2.1. The Clerk will arrange for a formal meeting to be held without unreasonable delay after the grievance is received and will advise the employee in writing. This letter will include details of the employee's right to representation. The employee should let the Clerk know in advance of the hearing who they have appointed as their representative. (Standard Letter 1).

7.2.2. All parties must take all reasonable steps to attend the arranged hearing. If the employee's representative is unable to attend a meeting on the proposed date, the employee can suggest an alternative date provided it is reasonable and not more than five days after the date originally proposed.

7.2.3. Employees should be allowed to explain their grievance and how they think it should be resolved. Consideration should be given to adjourning the meeting for any investigation that may be necessary.

7.2.4. The decision of the Clerk should be communicated to the employee, in writing, without unreasonable delay and, where appropriate, should set out what action the Council intends to take to resolve the grievance. The employee should be informed that they can appeal if they are not content with the action taken. (Standard Letter 2).

### **7.3. Appeal**

7.3.1. Where the employee feels that their grievance has not been satisfactorily resolved they should appeal in writing to the Clerk without unreasonable delay, setting out their reasons for the appeal.

7.3.2. Appeals should be heard without unreasonable delay and at a time and place which should be notified to the employee in advance.

7.3.3. In cases where the Clerk has chaired the formal hearing an appeal will be heard by a panel comprising either 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.

7.3.4. The appeal should be dealt with impartially. The employee has the right to be accompanied at any such appeal hearing.

7.3.5. The outcome of the appeal should be communicated to the employee 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 would attempt to resolve the grievance through other means, i.e. the grievance should be dealt with by the Deputy Clerk.

8.3. If the employee raising the 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, again, the Council should attempt to resolve the grievance through other means e.g. short term mediation through the employee's representative.

## 9. STANDARD LETTER 1 (Formal Action – notice of fact finding 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 ..... [details of venue], it will be necessary to hold a meeting to establish facts.

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

**10. 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 Clerk, giving reasons for your appeal, within five working days of the receipt of this letter.

### **11. 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 ..... [insert Chairman of appeal panel] 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.