



### Controlled Document

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## **Grievance Policy and Procedure**

### **INTRODUCTION**

It is the responsibility of the council to give employees the opportunity to air any concerns they have about their work, working conditions or relationships with colleagues. This document describes the procedure which aims to facilitate a speedy, fair and consistent solution to an individual employee's employment grievance. This procedure is produced in line with the ACAS Code of Practice 2009 as set out in the Employment Act 2008.

### **PRINCIPLES**

At every stage in the procedure the employee will be given the opportunity to state their case before any decision is made. Grievances will be dealt with promptly and consistently.

At all formal stages the employee will have the right to be accompanied by a work colleague or trade union representative during the grievance hearing.

An employee will have the right to appeal against any outcome of a grievance hearing. At no time will an employee be penalised or victimised for having raised a grievance against the council.

### **PROCEDURE**

Wherever possible, any grievance should be raised informally with the employee's line manager, or if this is inappropriate with the next level of management. In the case of the Clerk to the council raising a grievance this should be directed to the chair of the council unless the complaint is about the chair in which case another member can be identified to handle the clerk's concerns. The recipient of the grievance from a clerk should share the grievance with the Staffing Committee and the issues should be treated with discretion and confidentiality at all times.



## **WRITTEN STATEMENT**

If the employee does not consider it appropriate to raise the grievance informally, or if requested by the person the employee spoke to informally, then the employee should submit a formal grievance in writing to their line manager or if inappropriate to the next level of management.

## **MEETING OR HEARING**

Generally, within a reasonable period of time e.g. five working days of receipt of a written complaint, the line manager or the Chair of the Staffing Committee will arrange a meeting with the employee. The chair of the Staffing Committee will endeavor to make the meeting arrangements mutually convenient and will arrange a confidential location, free from interruptions.

The chair will investigate the substance of the complaint and hear submissions from the employee concerned, together with other submissions or evidence to be considered and take such steps to resolve the issue raised. It may be necessary to adjourn the meeting in order for an investigation to take place. Careful consideration of the evidence and the necessary steps required to resolve the problems will be given to the grievance. The employee may call witnesses by prior arrangement with the Staffing Committee.

There is no right for a member or employee implicated in an employee's grievance to cross examine the aggrieved during a grievance hearing but the committee may wish to make it's own investigations through interviewing these individuals and/or other witnesses separately. The committee may ask the employee what he or she would like to happen as a result of raising the grievance and bear this in mind when preparing the response.

## **RESPONSE**

The chair will advise the decision to the employee in writing and where appropriate include an action plan to assist in the resolution of the problem. Councils which handle internal disputes effectively generally consider the options and costs in a timely fashion. Then agree and publicise the work solutions, monitor, review and learn from experience. There may be some value in exploring mediation as a way in which to resolve differences between two parties. The SLCC can advise on approaches and bodies which may be able to assist (external organisations may levy a fee for such services)



## **APPEAL**

If the employee is dissatisfied with the decision of the line manager on their complaint, then they may appeal against the decision to the Chair or other elected member by written notice within five working days of the decision.

An appeal may be raised if:

- The employee thinks the finding or action plan is unfair.
- New evidence has come to light.
- The employee thinks that the procedure was not applied properly.

On receipt of the appeal the council's Appeals Panel shall arrange to meet and consult with the employee, the line manager or members concerned and any other persons, as they shall consider appropriate without unreasonable delay.

The Appeal Hearing Chair shall consider the issues and shall then take all steps, as they may consider necessary to resolve those issues. Where the council's chair has chaired the initial grievance meeting, the vice chair or chair of another committee will hear the appeal as a hearing manager the decision of the Appeal hearing will be final. The council will need to ensure that the members involved in the hearings are able to act impartially and reasonably at all times. The outcome of the appeal should be conveyed to the employee in writing in a timely manner.

## **BULLYING OR HARRASMENT**

If a grievance concerns alleged bullying or harassment the matter should be reported promptly to the employee's line manager (or another manager/member if appropriate) with an indication of the required action. The complaint will then be investigated and any action taken or resolution achieved will be reported back. If the solution is not satisfactory to the complainant, the matter will be discussed further and if appropriate and alternative solution agreed. The decision at this stage will generally conclude the enquiry. If a further appeal or review is required, the employee will be notified.

As a result of an investigation into a claim of harassment, disciplinary action may be instigated against any alleged perpetrator. Or in the case of the alleged perpetrator being an elected member, a Code of Conduct complaint will be logged by the council through the standards process (refer to the Civility & Respect Policy for further details)



## **RIGHT TO BE ACCOMPANIED**

At any formal stage of the procedure an employee may be accompanied by a fellow employee of their choice, their trade union representative or an official of a trade union (appropriately accredited). But as this is an internal procedure they will not be entitled to be accompanied by any external supporter e.g. partner, parent, solicitor etc. This right to be accompanied is enshrined in the Employment Relations Act 1999. To exercise this right, the employee should make a reasonable request. The companion will be allowed to address the hearing, sum up the employee's case, respond to views expressed at the hearing and to confer with the employee during the hearing (sometimes in adjournment). But they are not allowed to answer questions on the employee's behalf, address the hearing if the employee does not wish it or prevent the employer from explaining their case.

## **HEARING PANELS**

The SLCC advise that councils establish hearing panels to hear disciplinary and grievance hearings on an annual basis so that if a dispute arises in the workplace the elected members involved are already trained and briefed on their duties as a hearing or appeal panel member. In situations where individual members are implicated in the dispute or have undertaken an investigatory role then they will need to be substituted as panel members.

## **CONFIDENTIALITY**

So far as is reasonably practicable, the council will keep any grievance or complaint of harassment confidential between all parties involved. If it is necessary to investigate the matter with any other employee or person, they will also be advised to keep the matter confidential.

## **RECORD KEEPING**

In all cases, details of any grievances raised, appeals and subsequent developments will be retained and kept in accordance with the Data Protection Act 2018.



## **GRIEVANCE RAISED DURING DISCIPLINARIES**

In some circumstances when a disciplinary process has commenced, an employee can choose to exercise their right to raise an internal grievance about the employment relationship with the council or individual member. The SLCC recommends in line with ACAS advice, that disciplinary matters are placed on hold until grievances have been aired and actions towards a resolution have been progressed. In exceptional circumstances it is pragmatic to deal with the two disputes concurrently, But SLCC would advise caution and specialist advice should be sought if this arises.

## **GETTING IT WRONG**

Following the repeal of the 2004 Dispute Resolution regulations, employees no longer have to raise a grievance before going to an employment tribunal. However, establishing a mechanism for differences and disputes to be resolved internally can often allow the employment relationship to continue.

Failure to follow the ACAS Code of Practice when dealing with grievances can lead to an Employment Tribunal awarding an uplift of an award against the council of up to 25%.

The Code of Practice can be found available at [www.acas.org.uk](http://www.acas.org.uk).

Tribunals dealing with constructive dismissal and discrimination claims are particularly interested in whether the employer followed a procedure when dealing with an internal dispute and whether the employer acted fairly and reasonably. One way in which to avoid such a penalty is to have an agreed procedure, communicate that procedure to staff and Members, revisit and review the procedure regularly and have some training for those who are expected to operate the procedure.

