# Human Resources and Organisational Development

# Guide to managing grievance

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## 1. Introduction

1.1 This guide provides advice on managing and handling grievances. The guide supports the Council’s Grievance Procedure, but it is not a substitute for understanding and following the procedure in full.

## 2. Overview

1. The Grievance Procedure is designed to help staff raise and resolve grievances about their employment promptly and, wherever possible, at the lowest level, so that effective working relationships are maintained. A grievance might concern work matters, such as physical working environment, pay and benefits, working hours, health and safety, or they may be about working relationships, behaviour and general treatment at work.
2. Staff cannot raise grievances about issues which are covered by other procedures.
3. Although no two situations are ever the same, the Council wants to operate the procedure fairly and consistently. Managers must always notify Human Resources of any formal grievances raised.
4. This procedure applies to all Council staff. It does not apply to contractors or agency workers, however, where concerns are raised by these workers, managers should try to establish what the issues are and to resolve them informally if possible.
5. The grievance procedure is not appropriate to deal with formal complaints from other parties, for example, service users, agency workers, contractors, members of the public. External parties can make a complaint via the Tower Hamlets external internet page – [Comments, compliments and complaints (towerhamlets.gov.uk)](https://www.towerhamlets.gov.uk/lgnl/council_and_democracy/complaints/complaints.aspx)

## 3. Manager Responsibilities

* 1. Managers are responsible for dealing with all grievances promptly. Guidance on this is set out in Sections 4 – 6.
  2. Managers should be aware of potential issues that could lead to grievances within their team and should deal with these at the earliest opportunity. Remember that many potential grievances can be resolved through dialogue between staff and their managers. Where a formal grievance is submitted, managers must notify HR, who will record this and offer advice and guidance throughout the process.
  3. Managers should:
* Understand the Grievance Procedure and how to apply it fairly
* Know the extent and limits on their delegated authority to take action
* Comply with the Council’s policy when following this procedure
* Make sure that their staff are aware of the Council’s expectations and set appropriate standards for their team
* Check that they have all the facts before considering options
* Where appropriate, use the informal route to resolve grievances
* View the raising of grievances constructively. It provides an opportunity for the manager to resolve a workplace problem. Knowing about a problem is much better than remaining ignorant of the fact that a staff member is unhappy or disgruntled about some aspect of their employment. Adopting a positive attitude, rather than viewing a grievance as a nuisance or troublesome, may facilitate a satisfactory resolution. A negative attitude towards the grievance, on the other hand, is likely to alienate the staff member and aggravate the situation.
* Keep an open mind. It is important for managers to bear in mind that just because no one has complained of a practice before this does not mean it does not exist. For example, staff member may be reluctant to report instances of bullying or harassment out of fear of damaging working relationships with their colleagues, fear of reprisals, embarrassment or worry that they may be perceived as troublemakers.
* Treat a grievance as a priority. Grievances can be stressful for all affected parties and this can be minimised by dealing with it promptly.
* Treat any allegation of harassment, discrimination or bullying seriously. Such behaviour need not just be unlawful, the procedure can be used for any behaviour which an individual considers to be unfair, unwanted and or unacceptable.
* Consider supporting the needs of staff at the earliest opportunity if they are anxious or distressed, e.g., recommend the EAP service or refer to occupational health. The existence of a grievance may also have an escalating negative impact on staff performance and productivity.
* Remember that the Council will not tolerate victimisation of anyone initiating or taking part in the grievance process and managers are expected to ensure this does not happen and deal with any such behaviour as misconduct under the disciplinary procedure.
* Remind any party involved in grievances that they are not normally permitted to record electronically any meeting, except where it a reasonable adjustment. In such cases a transcript or copy of the recording should be provided to the parties involved.
  1. Failure to follow the Council’s procedure could result in reputational damage and financial liability for the Council.
  2. Managers need a number of qualities and skills to handle any type of grievance effectively. These include:
* an ability to listen well;
* patience;
* an ability to remain objective when hearing points of view that may not accord with their own;
* empathy;
* the ability to understand the grievance within the larger context of the organisation's needs;
* good verbal communication skills, in particular the ability to be open and honest without alienating the staff member.
  1. The Grievance procedure provides definition and examples of harassment, discrimination and bullying which managers should familiarise themselves with.
  2. Be aware that employers are liable in law for any acts of harassment or discrimination perpetrated by their staff in the course of employment. This has been interpreted widely by tribunals. Harassment that takes place at a work-related social event organised by the employer may also create liability for the employer.
  3. If it is necessary to take management action against another staff member arising out of a grievance that is upheld, this should be dealt with through the appropriate procedures – disciplinary, performance management, etc. These are separate, confidential processes and the aggrieved staff member will not necessarily be informed about this, unless they are asked to provide evidence as a witness, for example, at a disciplinary hearing.
  4. The staff member subject to an allegation arising out of the grievance process has no right of appeal through the grievance procedure. The right of appeal is afforded to the staff member who has raised the grievance. If a staff member faces a disciplinary investigation and formal disciplinary action as a consequence of a grievance from another staff member, they will have the right to representation, a fair hearing and a right of appeal under the disciplinary process.

## 4. What to do when handling a grievance

* 1. Managers should firstly determine whether the issue should be dealt with under the grievance procedure, or another procedure. HR can advise if this is unclear.
  2. When dealing with any form of grievance managers are recommended to do the following:
     + Acknowledge the grievance. If verbal, listen carefully to the person who has raised the issue. Staff want to be listened to and taken seriously when they make a complaint.
     + Listen with an open mind and do not jump to conclusions without exploring the matters fully (informally or formally).
     + Try to seek an informal resolution to the problem in the first instance, wherever possible.
     + If faced with one or more angry or upset staff members, suggest a cooling down period as this can often prevent things escalating or things being said without reflection which staff may later regret.
     + Treat the grievance process and all information obtained through it confidentially in accordance with the procedure.
  3. Managers should be aware that vexatious, malicious or frivolous grievances may lead to disciplinary action being taken against the complainant. This may occur when a staff member has demonstrated bad feelings or anger towards another staff member and is seeking to punish or tarnish their reputation.
  4. Many staff may be reluctant to report instances of bullying or harassment out of fear of damaging working relationships with their colleagues, fear of reprisals, embarrassment or worry that they may be perceived as troublemakers. It is important for managers to bear in mind that just because no one has complained this does not mean that no bullying or harassment is taking place.

## 5. Handling an informal grievance

* 1. Where possible, managers should always try to resolve grievances informally.
  2. By dealing with the grievance promptly and authoritatively, it may be possible to draw a line under the issue. The longer a grievance goes unresolved, the more likely it will develop into an entrenched dispute which becomes difficult to resolve. The grievance needs to be dealt with as a matter of urgency.
  3. If a manager becomes aware of a serious issue arising out of a grievance complaint, they may choose to deal with this through the disciplinary procedure. Serious issues would typically represent a significant risk to an individual staff member, or a significant risk to the Council’s reputation.
  4. Staff are not entitled to have a trade union representative or work colleague with them at an informal grievance meeting. In the spirit of keeping matters informal the procedure advocates a one-to-one meeting between the manager and staff member.
  5. Managers can also suggest referring the matter for mediation (this is a voluntary process that cannot be imposed upon the parties. They both have to agree to participate in mediation). Mediation is a confidential process whereby an impartial third party (a trained and qualified mediator) assists individuals or groups who have a dispute and/or where there is a break-down in relationship(s). The process is based on the principle of problem solving, but with a strong emphasis on the future and building relationships. Mediation can also be an outcome of a formal process; however, relationships may be more difficult to repair at the end of a formal adversarial process.
  6. Managers should look to establish the facts before reaching a decision; they may need to make further enquiries before an informed decision can be reached.
  7. Dos and don'ts of conducting an informal meeting:
* **Do** make sure that there will be no interruptions.
* **Do** make an effort to put the staff member at ease.
* **Do** allow staff to explain their complaint fully.
* **Do** listen actively to what staff have to say and take it on board.
* **Do** distinguish between facts and opinions.
* **Do** avoid emotional reactions such as anger or impatience.
* **Don't** interrupt staff unless this is necessary to keep the discussion on track.
* **Don't** react negatively, for example by expressing criticism or disapproval.
* **Don't** adopt a judgmental attitude.
* **Don't** allow any personal like or dislike of the person to influence your responses.
* **Don't** forget to summarise towards the end of the meeting in order to check understanding.
* **Don't** make any decision about what to do about the grievance until all the facts have been aired and, if necessary, checked.
  1. Remember that the issue may sometimes be resolved by acknowledging that a matter has caused annoyance and may be best handled by discussing the issue but taking no further action.
  2. If a grievance involves conflict between two individuals, managers can consider speaking to each party separately to determine their issues and then facilitate a joint informal meeting to try and resolve the matter(s). Or it may be sufficient to hear both sides and reach a decision if a joint meeting this would not be appropriate. Where it is agreed that both parties will meet to discuss a grievance, the manager can run the meeting in the following way:
     + Conduct the meeting in private and ensure that there will not be any interruptions.
     + Remind both sides that they are there to attempt to seek a resolution to the problem and explain that you will give both parties an opportunity to talk but that they must also listen carefully to what the other has to say and be respectful.
     + Where possible, ask the person who has raised the grievance to explain what he or she likes, values or respects about the other person. Whilst this can be difficult, it can help to set a positive tone for the meeting.
     + Then ask the other person to summarise what they have heard – help them if they are finding this difficult.
     + Reverse the process so that the second person does the same thing.
     + Then ask the first person to explain the difficulty or issue in their own words. Ask the second person not to interrupt and to listen carefully even if they disagree to what is being said. Allow questions of clarification at the end of the explanation only.
     + Ask the second person to summarise what they understand the difficulty to be. Allow the first person to correct any errors, where relevant.
     + If required, reverse the process.
     + Ask the complainant what they want in order to resolve the situation. Try to reach agreement on positive and achievable objectives and then implement them. You should not, however, compromise where an issue does not warrant it.
     + Agree a date to review the matter which should be within a reasonable time scale, where necessary.
     + If the discussions become overly heated, take a short break to allow all parties to compose themselves.
  3. Managers are recommended to keep notes of what was agreed at the informal meeting, share the notes and confirm the outcome with the staff member who has raised the grievance.

## 6. Handling a formal grievance

* 1. Where managers receive a formal grievance, they should first establish whether any attempts have been made to deal with the matter informally (if appropriate). Where possible, managers should try to resolve all grievances informally in the first instance, including formal grievances.
  2. If managers receive a formal grievance this should be raised with HR.
  3. The manager who is to hear the grievance should have had no prior dealings in the matter (for example as a witness).
  4. Managers need to be clear whether they are handling the grievance informally or formally. Even if a matter is raised formally the manager can seek to resolve informally with the staff member’s agreement.

**NB** - staff have a right to have their issue dealt with formally. In such instances the manager can recommend an informal route, as this may be more successful, and advise the staff member that they can always revert to the formal route if an informal route is not successful.

* 1. For the formal procedure to be started, the staff member needs to raise the issue in writing (it can be to their immediate line manager or, if the grievance is about the line manager, with a more senior manager or with HR). The Grievance Procedure contains a form in Appendix 2 which staff are encouraged to use as this sets out clearly what the issues are and it will help to manage formal grievances. A formal written grievance need not be presented in this format for it to be valid. It need only be in writing. This form has been created to help understand the nature of any grievance, establish key details, and establish what resolutions the staff member is seeking, and its use should be encouraged.
  2. Once a grievance is received managers should acknowledge the complaint in writing and send a copy to HR who monitor formal grievances and can support managers throughout the process.
  3. Staff have the right to be accompanied by a workplace colleague or trade union representative at any formal grievance meeting, interview, or subsequent appeal.
  4. **Formal meeting**
     1. The manager will meet with the staff member to discuss their grievance and to establish what resolution they are seeking. The meeting will be held as soon as is reasonably practicable, but within 10 days of receipt of the grievance. At least 5 working days’ written notice will be given for the formal meeting.
     2. The manager will usually conduct the meeting on their own; however, they may request that HR attend the meeting in an advisory capacity, particularly if the matter is complex. They may also have a note taker at the meeting.
     3. When arranging a formal meeting, if the trade union representative is known, it may be helpful and convenient to also check their availability to avoid the need to rearrange.
     4. If the staff member or their trade union representative or workplace colleague is unable to attend for good reason, such as circumstances beyond their control, the meeting can be rearranged one further time and within 5 working days of the formal meeting. Failure to attend without explanation may result in an outcome being decided in the staff member’s absence. As an alternative, the individual may be permitted to provide a written submission.
     5. The manager will explore the details of the grievance, what action has been taken to resolve the matter thus far, and confirm what action the staff member wants to resolve the matter.
     6. It is important to manage expectations about what resolution can be achieved. If a required resolution is for management action to be taken against another staff member, you should be clear that, whilst this may the outcome, they are not able to determine what that action should be – this is a management decision, so any outcome may only say that management action will be taken, not what that will be as this will breach confidentiality of other procedures.
     7. Consider whether further investigation may be necessary before an informed decision can be reached. Where appropriate, the meeting may be adjourned to allow this to take place. For relatively straightforward matters, you may be able to do this quickly yourself. If the issue is more complex and involves more people, you may want to consider asking an independent to investigate. To appoint an investigating officer, the manager should contact the ER & Engagement team in HR.
     8. If you are able to make a decision about an outcome without further investigation, then this should be set out in writing to the staff member as soon as reasonably possible, but within 10 working days of the meeting. Any outcome letter should include a right of appeal.
     9. If an investigation is necessary then the formal meeting should be readjourned to discuss the findings and an outcome should be given within the same timescales set out in 6.8.6.
     10. The arrangements for a readjourned formal meeting are set out in 6.10.
     11. The decisions and outcome from the formal meeting will:
  + Uphold the grievance;
  + Partly uphold the grievance
  + Not uphold the grievance
  + Set out what actions, if any, are proposed
  1. **Investigation**
     1. If a formal investigation is required, the manager will set out the terms of reference, including timescales, in writing to all parties before the investigation commences. This will include details of the complaint, what needs to be investigated, whether there is any potential breach of a particular policy (for example the Code of Conduct) and any other relevant details.
     2. The investigation must be objective and handled with due respect for both the complainant and the person subject to the complaint. Both parties may be accompanied by a trade union representative or work colleague at meetings with the investigating officer.
     3. The time required to complete an investigation will depend upon the complexity of the issues and the scope of the grievance. The investigation should be completed as soon as is reasonably possible, but usually within 4 working weeks. Any extensions must be justified and the relevant parties informed in writing. This will normally be no longer than a further 10 working days. If it is clear that the investigation will take longer, for example, one of the crucial parties is sick or outside agencies’ reports are needed, further extensions may be necessary. This should be discussed with the manager who commissioned the investigation, who will decide on a revised date for completion and will inform the staff member.
     4. The investigating officer’s report must set out their findings on the specific complaints made by the staff member as set out in the terms of reference. It will be given first to the manager, who will send it to the staff member ahead of the readjourned formal meeting.
     5. The investigation report must be kept confidential. The report will usually be shared in full with the staff member; however, the manager may decide to redact some elements of the report to maintain the confidentiality of witnesses. Managers should be aware that staff can request any information held about them through a subject access request so this should be considered when not sharing the entire report.
     6. How to handle investigations is provided in a separate guide for Investigating Officers.
  2. **Readjourned formal meeting**
     1. If an investigation has taken place the Investigating Officer may be invited to the meeting to present their findings and be available to answer any questions.
     2. Recommended running order for a formal meeting:
* Introductions by the manager including names/roles of everyone in the room.
* Investigation Officer presents their findings
* Manager asks questions for clarification
* Staff member and/or their representative asks questions for clarification
* Outcome is given verbally if possible
* If more time is needed to consider the matter before reaching a decision, the manager will close the meeting and state that a written decision will be communicated (within 10 working days). Even if a decision is issued verbally this must be still confirmed in writing within 10 working days.
  + 1. At a formal meeting the trade union representative or workplace companion may:
* address the meeting;
* ask questions on behalf of the staff member;
* present and summarise the issues;
* respond to any views expressed at the meeting;
* confer with the staff member during the meeting;
* request adjournments, where reasonable.
  + 1. The trade union representative or workplace companion may not:
* answer questions on behalf of the staff member;
* address the meeting against the wishes of the staff member;
* prevent the investigating officer or the manager from providing their findings.

## Appeals

* 1. A staff member who remains dissatisfied with the outcome of at the formal stage can appeal to their Director (or senior manager who is appointed to deal with the matter on their behalf).
  2. This should be in writing and within 10 working days of receipt of the formal grievance outcome. This should include the grounds of appeal (i.e., the basis on which the individual is dissatisfied with the response at stage 1 of the formal procedure), and what remedy the individual seeks.
  3. Where any Director or senior manager has been involved at the earlier stage, the appeal will be to the Corporate Director or an alternative Corporate Director (as appropriate).
  4. The manager hearing the appeal will:
* convene a meeting to consider the written submissions;
* listen to presentations from the complainant and the manager that held the formal meeting;
* determine the final outcome.
  1. The appeal manager may request that HR attend the meeting in an advisory capacity, particularly if the matter is complex. They may also have a note taker at the meeting.
  2. The appeal hearing will examine the grounds of appeal, review the outcome at the formal stage, and decide if all reasonable steps have been taken to resolve the grievance through investigation and action. It will not normally be a rehearing of all the evidence presented at the formal meeting, unless deemed necessary by the appeal manager. The remit of an appeal is to consider the matters raised in the original grievance, not to consider new issues that may have arisen.
  3. The recommended running order of the meeting is the same as identified above for formal meetings, except the manager who made the previous decision will attend, rather than the investigating officer.
  4. The manager that considered the grievance at the formal meeting will be asked to provide a written statement responding to the grounds of appeal within 10 working days of the request.
  5. At least 5 working days’ written notice will be given for the appeal meeting.
  6. If the staff member or their companion is unable to attend because of circumstances beyond their control, they should inform the appeal manager as soon as possible. The meeting will be rearranged one further time and within 5 working days. Failure to attend without explanation may result in an outcome being given in the staff member’s absence.
  7. The decisions and outcome from the appeal hearing will:
* Uphold the grievance;
* Partly uphold the grievance
* Not uphold the grievance
* Set out what actions, if any, are proposed
  1. The appeal manager will provide a decision in writing as soon as reasonably possible, and normally within 10 working days of the appeal meeting.
  2. This decision is the final stage of the Council’s procedure and there is no further right of appeal.