

7. Fairness at Work

Procedure	Page
1. Aim	1
2. Key Points	1
3. Outline	3
4. Informal Stage	4
5. First Formal Stage	5
6. Appeal (Final Formal Stage)	6

Fairness at Work Procedure/Policy



1.0 The aim of the procedure

1.1 ***Our aim is to:***

- 1 enable staff to raise and have the Council address effectively any employment related grievance or problem at work relating to them specifically.
- 2 ensure that effective, fair, prompt and lawful action is taken to deal with incidents of bullying and harassment
- 3 give managers the opportunity to deal with issues that might otherwise undermine staff morale
- 4 give senior managers the opportunity to ensure that the organisation deals fairly with staff.

1.2 However, the procedure cannot be used¹ to question decisions:

- 1 taken under any procedure which already offers the employee a right of appeal
- 2 over which the Council has no discretion or authority.
- 3 relating to your pay-grade (this is a job evaluation issue) or tax/National Insurance (these are outside the Council's control)

1.3 Provide a fair procedure for staff to raise issues of genuine concern.

2.0 Key points

2.1 ***Normally, an employee will:***

- 1 attempt to resolve problems at work or grievances informally with management (usually their line manager, although if the complaint is about this person, it may be raised with the manager's manager, or with the directorate's HR unit)
- 2 take a matter to the first formal stage only if they are not satisfied with:
 - 1 the steps taken to resolve the matter
 - 2 the time taken to progress the matter
 - 3 the outcome.

1 In any dispute about whether a matter is excluded, either party can take advice from the appropriate HR Business Partner (or another person they nominate).

Fairness at Work Procedure/Policy



2.2 *Our managers will:*

- 1 tackle employee problems promptly and, where a matter is raised formally, within time scales¹
- 2 act upon the wishes of the person making the complaint in distinguishing between cases which can be handled informally and those which require formal action²
- 3 understand and apply the Council's provisions to support the employee making the complaint **AND** anyone being complained about, through...
 - 1 trade union or other representation
 - 2 Care First
 - 3 the opportunity for counselling (where appropriate)
- 4 consult the employees involved and their representatives in setting the dates of meetings and hearings
- 5 ensure that appropriate notes and records are taken, written up promptly and shared with the parties involved. Notes of meetings should be an accurate reflection of the meeting, not verbatim.
- 6 while recognising the right to confidentiality of any person being complained about
 - 1 support and keep the employee making the complaint informed of any action to be taken as a result of the investigation
 - 2 support and keep other affected staff informed as appropriate
- 7 call witnesses (if the witnesses are employees they can be required to attend). In circumstances where there is a good reason why a witness cannot attend in person, request written witness statements (if the witnesses are employees they can be required to provide these.) In such cases the manager must specify the reason. The calling of witnesses should be proportionate and where they are relevant to the case.
- 8 record, monitor and report as required by the Council any incident of harassment or bullying.

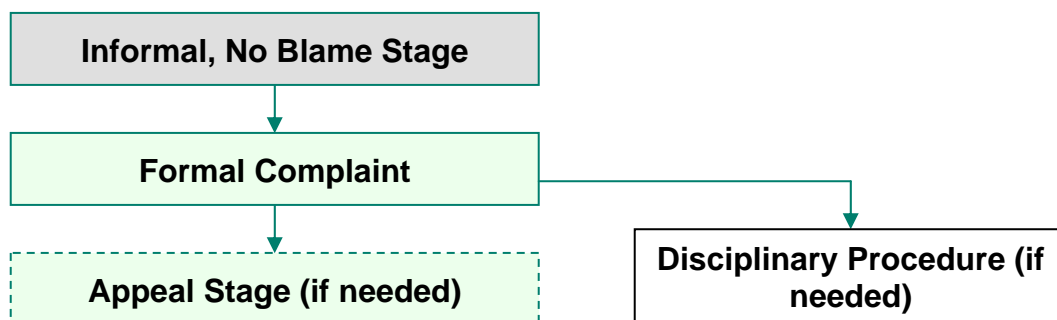
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1. The Council's target is for managers (subject to the availability of witnesses and trade union representatives)
 - at the formal stage to meet the parties within a week and deal with the matter in a month
 - where possible, deal with appeals within 30 days
 2. The case may require a manager to take action under the disciplinary procedure or to involve audit, or even the police or other external agencies. Normally a service head or their nominee will make a decision to involve the police.

Fairness at Work Procedure/Policy



3.0 Outline of procedure

- 3.1 This procedure has an informal stage followed by two formal stages. All parties should seek to resolve the issues at the informal stage. Subject to the agreement of all parties, mediation and/or counselling may be arranged where appropriate to help. At the informal stage, it is assumed that wherever possible the issues will be dealt with in a no-blame setting. At formal stages, the Council may invoke the disciplinary procedure if the matter being raised involves a breach of the Council's disciplinary rules.
- 3.2 An employee can opt to deal with a matter **informally** by raising it with an appropriate manager to seek an **informal, no blame resolution**. All parties are encouraged to seek a resolution at the informal stage. If action is recommended to resolve the issue it should be set out clearly and followed up to ensure it is taken.
- 3.3 At the **first formal** stage, an employee can register a [Formal Complaint](#). Any formal complaint must be raised within 10 working days of the end of the Informal Stage.
- 3.4 The **final formal** stage gives employees a right of appeal against the outcome of the first formal stage. Any appeal must be raised within 10 working days of the end of the first formal stage. [Appeal Form](#) Grounds must be given and new evidence, unless it has come to light only after the first final stage has concluded, will not normally be accepted. The manager who conducted the first formal stage will prepare a written outline response to the appeal and provide it to all parties at least 5 working days before the hearing. Any further comments from the employee should be provided at least 1 working day before the appeal hearing.



Fairness at Work Procedure/Policy



4.0 Informal stage

4.1 The employee is entitled to:	4.2 The manager will, in an informal, no-blame setting:
<ol style="list-style-type: none"> 1 raise the matter informally with their manager¹ who will normally be responsible for conducting the investigation 2 where appropriate receive a copy of and be made fully aware of the Procedure for Dealing with Harassment and Bullying and be given appropriate assistance and support 3 put their side of the complaint² 4 be accompanied by a Trade Union representative or fellow worker (LBWF employee) (but not a paid legal representative)² 5 be taken seriously² 6 have the case treated as a confidential matter, if this is appropriate² 7 where appropriate use the support mechanisms set out in the Procedure for dealing with Harassment and Bullying 8 be told before the meeting the purpose of any meeting they are called to², and the names of those who will be present. 9 be told what action management intends (if any is appropriate) to remedy the matter² 10 be informed of the outcome of the informal consideration within 20 working days 11 move the matter to the formal stage by completing a fairness at work form and giving it to management. 	<ol style="list-style-type: none"> 1 explore the issues promptly with the employees concerned 2 take stock and decide if <ol style="list-style-type: none"> 1 they can deal with the matter informally 2 the allegation warrants formal disciplinary action or the involvement of the police 3 form and carry out a plan of action³ (which will include reasonable time scales) 4 inform the employee of the outcome of the informal consideration within 20 working days 5 where appropriate offer independent support or counselling (or both) to the employee⁴ 6 take notes and provide these to the employee(s) concerned as soon as possible. 7 ensure that any case requiring formal action is referred to a manager with authority to deal with it.

1. If the complaint is about the manager, the employee can raise the matter with the manager's manager.
2. These entitlements also apply to an employee being complained about.
3. Do nothing to abridge the rights guaranteed by the Council's disciplinary procedure (if the matter requires, or is likely to require disciplinary action).
4. This should be provided both for the employee making the complaint AND the one being complained about (if there is one).

Fairness at Work Procedure/Policy



5.0 First Formal Stage

5.1 The employee is entitled to:	5.2 The relevant manager will:
<ol style="list-style-type: none"> 1 raise the matter formally with their manager¹ 2 reasonable notice² (normally 5 working days but less by mutual agreement) in writing of <ol style="list-style-type: none"> 1 the date, time and place of formal meetings 2 the issues to be discussed 3 the opportunity to be represented by their trade union or another person (but not a paid legal representative)² 4 postpone meetings² to another reasonable time normally within 5 working days of the original date - if their representative will not be available at the time proposed³ 5 hear and know what the other employee has to say, put their own side of the matter and contribute to any action plan that may resolve the matter² 6 a written record of any agreed action plan to deal with the problem² 7 be told the outcome of the investigation (excluding information that would breach the confidentiality of others) 8 appeal within the time period of the action plan and 10 working days afterwards. 	<ol style="list-style-type: none"> 1 deal with the matter promptly³ as a formal complaint, aiming to meet the parties within a week and complete the stage within a month. 2 keep the parties informed of progress and likely timescales 3 explore the issues with the employees involved² 4 investigate the matter thoroughly to the standard set out in the Council's disciplinary procedure (Investigation Stage) 5 meet with the employees², (together or separately) to develop a plan of action to resolve the issue - including reasonable time scales and monitoring. (Subject to any appeal at the Final Formal stage the investigation officer's decision is final.) 6 where appropriate, consult a competent independent advisor on the issues in the case 7 where appropriate <ol style="list-style-type: none"> 1 take formal disciplinary action against the employee being complained about 2 involve the police, audit or other external assistance (normally only a service head or their nominee will make a decision to involve the police). 3 offer independent support or counselling (or both)² 8 make appropriate notes and records.

1. If the complaint is about the manager, the employee can raise the matter with the manager's manager or with the directorate's HR section. The complaint must be in writing on the "fairness at work" form.
2. These entitlements also apply to an employee being complained about.
3. The date should be chosen after consulting with the parties, including the employee's trade union representative, to avoid unnecessary postponements.

Fairness at Work Procedure/Policy



6.0 Appeal (Final Formal Stage)

6.1 The employee is entitled to:	6.2 A Service Head will:
<ol style="list-style-type: none"> 1 appeal Appeal Form against decisions at the first formal stage within 10 working days¹ 2 reasonable notice² (normally 5 working days but less by mutual agreement) in writing of <ul style="list-style-type: none"> - the date of the meeting - the issues to be discussed 3 the opportunity to be represented² by their trade union or another person (but not a paid legal representative) 4 postpone meetings² to another reasonable time normally within 5 working days of the original date - if their representative will not be available at the time proposed³ 5 put their side of the matter and hear, question and rebut the case of the manager or the other employee² 6 a letter, normally within 5 working days confirming the issues discussed, and the decisions made². 	<ol style="list-style-type: none"> 1 consider (in a hearing) any grounds of appeal based on: <ol style="list-style-type: none"> 1 the outcome of the investigation into the case 2 the action plan to deal with the problem, including the time scale 3 the remedy the employee is seeking 2 take into account the right to fair treatment of any employee being complained about 3 where appropriate, consult a competent independent advisor on the issues in the case 4 put right any defect they may find in the handling of the case. 5 confirm their decision in writing

1. The appeal must be lodged in writing with the Head of Human Resources. It must set out the grounds for an appeal. The service head or someone they appoint will hear the appeal supported by at least one other person, usually an HR Adviser
2. These entitlements also apply to an employee being complained about.
3. With good communication there should be no need for any delay. More than a single postponement would be unusual.