

HR Policy

Grievance Policy and Procedure
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Human Resources

Grievance Policy and Procedure

1.	Introduction	2
2.	Our approach	2
3.	Policy statement	2
3.1	Policy summary	2
4.	Managing Grievances	3
5.	Definitions and general information.....	3
5.1	Employees	3
5.2	Grievance	3
5.3	Harassment	3
5.4	Bullying.....	3
5.5	Record Keeping	3
6.	Roles and responsibilities.....	4
6.1	Employees.....	4
6.2	Line managers	4
6.3	Human Resources	4
6.4	Trades unions	4
6.5	Mediation	4
7.	Applying the grievance procedure	5
7.1	Informal Action	5
7.2	Formal Procedure	5
7.3	Investigation.....	5
7.4	Representation.....	5
7.5	Investigation Outcome	5
7.6	Timescales	6
7.7	Appeals.....	6
7.8	Appeal Hearing:	7
7.9	Collective Grievances.....	7
7.10	Criteria for collective grievances.....	8
7.11	Post-employment grievances.....	8
7.12	Employees taking sickness absence.....	9
8.	Abuse of Grievance Procedures.....	9
9.	Resolution of Grievances.....	9
9.1	Disciplinary proceedings	9
9.2	Redeployment.....	9
10.	Further Information.....	9

1. Introduction

This policy outlines the process an employee can follow where employees are concerned about issues at work which affect them personally which cannot be resolved informally.

2. Our approach

Brent aims to provide a working environment which promotes the dignity at work of all employees. We believe that diversity should be valued and respected and that the workplace should be free from all forms of bullying, harassment¹ and unlawful discrimination.

In order to accomplish this, there should be honest and open communication at all times between employees and managers about work and the working environment. When employees raise concerns they should be taken seriously and resolved as quickly as possible.

Most concerns will be resolved informally and every attempt should be made by employees to seek informal resolution where possible but if the need arises this formal procedure exists.

Employees should note that this policy should not be routinely instigated in response to any performance management issues being addressed.

3. Policy statement

3.1 Policy summary

This policy provides employees and line managers with an approach for raising and resolving personal work issues, including allegations of harassment, bullying and unlawful discrimination. If at any stage the evidence and circumstances of a case indicate that the issue is potentially a disciplinary offence, the matter should be dealt with using the Disciplinary Policy and Procedure.

Employees should make every attempt to resolve concerns informally, before moving onto the formal process. However, an individual seeking to resolve an issue through a formal process must discuss the matter with their line manager and/or a Human Resources Adviser before doing so.

Where a formal allegation is found to be malicious, vexatious or otherwise unreasonable, disciplinary action against the employee will be taken.

The procedure and eligibility criteria for Collective Grievances is detailed in 7.9 and 7.10 below.

For staff who have left the council, a post-employment grievance may be raised and will be dealt with in writing subject to certain conditions outlined in 7.11 below.

The council reserves the right to amend this policy from time to time, after consultation with trade unions recognised by the council for collective bargaining purposes.

Footnote 1 Harassment is any unwanted behaviour usually linked to protected characteristics whether intentional or not, that violates the dignity of men and women in the workplace or creates an intimidating, hostile, degrading, humiliating or offensive environment for another person. Something can still be considered harassment even if the alleged harasser didn't mean for it to be. It doesn't have to be intentionally directed at a specific person. Also see section 5.3 of this document for definition of harassment..

4. Managing Grievances

No employee will be victimised as a result of raising a concern under the Grievance procedure. This policy and procedure will not be used to prevent a manager from managing conduct or performance.

If the complaint is against the employee's line manager they should discuss the matter with the line manager of their manager and/or a Human Resources Adviser.

Where the employee formally raises a grievance concern in response to an action or proposed action by management, a decision will be made by the HR Director as to whether it is appropriate or not to delay the action pending conclusion of the grievance process.

In the event of any disagreement between management and the employee concerning the application of this procedure, (e.g. where there are exceptional circumstances justifying the complaint being raised more than three months after the event), the HR Director will decide on the way forward and their decision shall be final.

5. Definitions and general information

5.1 Employees

This policy applies to employees of the council who have a concern that they may have been unfairly treated by a colleague or a manager. It does not apply to employees of Brent Council based in schools with a delegated budget.

5.2 Grievance

Concerns at work include but are not limited to a belief by an employee that:

- A policy or procedure has not been applied correctly
- Unfair work or working arrangements exist
- They have been harassed on the grounds of gender, gender reassignment, marriage and civil partnership, age, race, disability, religion or belief, sex or sexual orientation
- They have been bullied at work
- They have been unlawfully discriminated against or treated unequally on any of the above grounds.

5.3 Harassment¹

Harassment is any unwanted behaviour usually linked to protected characteristics whether intentional or not that violates the dignity of men and women in the workplace or creates an intimidating, hostile, degrading, humiliating or offensive environment for another person. Something can still be considered harassment even if the alleged harasser didn't mean for it to be. It doesn't have to be intentionally directed at a specific person.

5.4 Bullying

Bullying involves offensive, intimidating, malicious or insulting actions and practices that are directed at one or more staff either deliberately or unconsciously.

5.5 Record Keeping

All records connected to the grievance procedure must be retained and kept securely on the employee's HR file. These records will be retained in accordance with the council's Record Retention Policy.

¹See section 5.3 of this document for definition of harassment.

6. Roles and responsibilities

6.1 Employees

Any member of staff who feels they have been unfairly treated or been the victim of bullying, harassment¹ or unlawful discrimination may experience feelings of anxiety and distress. Equally, any member of staff who is accused of unfairly treating another member of staff may experience similar feelings and should be provided with the same level of support as the alleged victim. Both parties will need access to information about the options available to them, including the council's procedures and support available. These can be obtained from a Human Resources Adviser or trade union representative.

All parties should be made aware of the support available through the Occupational Health counselling service or via the Brent Employee Assistance Programme (EAP).

Concerns should be discussed at the earliest opportunity and resolved between individuals wherever possible before pursuing formal action.

6.2 Line managers

Line managers are responsible for ensuring the workplace is free from harassment¹, bullying or unlawful discrimination and that all employees are treated with dignity and respect. Managers should be familiar with how to implement the grievance policy.

6.3 Human Resources

The role of Human Resources is to:

- Provide advice to managers on how to investigate issues of concern, how to assess the evidence and to take appropriate action
- Promote and advise on informal resolution options such as mediation and counselling
- Provide advice to managers and employees on progressing a concern using the formal grievance procedure
- Keep a record of complaints made under the grievance policy including the nature of the complaint, how the case was handled and the outcome and monitor the use of the policy

6.4 Trades unions

The role of trade unions is to:

- Assist in bringing about a speedy resolution to concerns arising in the workplace
- Provide support and advice to staff on fairness at work issues
- Provide representation to staff during the grievance process.

6.5 Mediation

To support the successful application of the Grievance Policy, the council may use a Mediation Service.

Mediation is defined as a way of resolving a dispute. It is an intervention whereby a neutral and impartial third party intervenes and assists individuals to reach an agreement acceptable to both sides.

Advice should be obtained from a Human Resources Adviser on whether mediation is appropriate.

¹See section 5.3 of this document for definition of harassment.

7. Applying the grievance procedure

7.1 Informal Action

Every member of staff is expected to behave in accordance with the Brent Code of Conduct and to respect good working practices and the terms and conditions of employment. However, there may be occasions when an issue arises between colleagues. Wherever possible these concerns should be raised at the earliest opportunity and informal resolution is strongly encouraged in the first instance. Where this cannot be achieved this policy may be instigated.

7.2 Formal Procedure

The complaint should be in writing, and where it involves other employee(s) they must be named.

The complaint should outline the grounds of the complaint and the steps taken to resolve the matter informally.

The complaint should be submitted to the employee's manager or their manager's manager (if the complaint is about their manager). The manager receiving the complaint will undertake an initial investigation of the issues raised. If it is considered that there is a potential disciplinary issue the Disciplinary Policy and Procedure will apply and advice should be obtained from a Human Resources Adviser.

7.3 Investigation

If the manager, (in most circumstances, the employee's manager), considers that it is an issue that can be dealt with under the grievance policy, the manager will advise the employee who will be undertaking the formal investigation. The manager should also write to all other parties involved in the complaint and advise them as to how the matter will be progressed.

However, there may be occasions when it is not appropriate for the line manager to undertake the formal investigation (i.e. the manager is the subject of the complaint or for another substantial reason). In this case a different manager who is independent should be appointed to handle the case with the support of a Human Resources Adviser as appropriate.

The manager appointed to conduct the formal investigation should individually meet with the key people involved to understand the issues of the case, seeking advice from a Human Resources Adviser as appropriate.

7.4 Representation

The employee who has raised the concern, and any employee about whom the concern has been raised, will be advised that they may choose to be represented by a Brent Council worker or a trade union representative, (but not a legal representative) at the formal investigation meeting. The employee will be invited to submit to the manager any documents that they feel are relevant to their complaint.

If the employee's chosen representative cannot attend the meeting and cannot propose a reasonable alternative date and time for the meeting within five working days of the date for the meeting proposed by the manager then the meeting should proceed without the representative as it is in the interests of all parties that issues are addressed as soon as possible. Alternatively, the employee may elect to bring another representative.

7.5 Investigation Outcome

Upon conclusion of the investigation a report should be written, containing the manager's findings and recommendations. The report should state whether the original formal complaint should be upheld in full, partly upheld or not upheld. The decision should be confined to the issues raised in the original formal complaint.

If the manager undertaking the investigation is not the manager of the complainant then they will present the report containing their findings and recommendation(s) to the relevant manager. This will be the employee's line manager or a more senior manager in the management line or a manager nominated by a senior manager to deal with the complaint who will be at the same level or more senior to the complainant's manager.

Where the investigating manager's recommendations are accepted and disciplinary action is one of the recommendations, the Disciplinary Policy and Procedure should be invoked. Where an independent investigator is involved, they will need to refer this matter to the manager of the employee who raised the concerns or a more senior manager, if the employee's manager is the subject of the complaint, for a decision. Advice should be sought from a Human Resources Adviser before this course of action is undertaken.

The relevant line manager or nominated manager will be responsible for feeding back and disclosing the findings and recommendations to the complainant and all relevant parties.

7.6 Timescales

Complaints will not be considered except in exceptional circumstances if they are raised more than three months after the incident which is the subject of the complaint.

A decision to refuse to consider an issue on the grounds it is out of time should only be made by the manager after receiving advice from a Human Resources Adviser.

Every attempt will be made to progress any formal investigation promptly.

7.7 Appeals

An employee who is dissatisfied with the outcome of their grievance has a right of appeal against the findings of the investigation. Any appeal must be submitted in writing within 10 working days of the date of the letter confirming the outcome of the investigation. Failure to abide by those timescales may result in an appeal being denied.

The appeal must be submitted to the manager who confirmed the outcome of the investigation.

An appeal can be lodged on one or more of the following grounds:

- Procedure – there was a failure to follow procedure and this had a material effect on the decision
- Redress – where no reasonable person, on the facts presented, would have decided on that re-dress
- New evidence is available that could not have reasonably have been raised during the investigation and the absence of which had a material effect on the decision.

The appeal submission must also set out clearly:

- The detailed basis, as far as possible, for each ground of appeal to be relied on
- Details of any new evidence and any supporting documentation to be relied on
- Specific grounds of appeal for each contributing factor to the complaint.

An appeal will only be considered if the above grounds are covered in the written appeal.

The manager hearing the appeal will either be a more senior manager than the manager who considered the findings of the investigation or a manager at the same level. They will not have been previously involved, directly or indirectly, with the case.

7.8 Appeal Hearing

The manager hearing the appeal will write to the employee to confirm that the appeal has been received, investigate the relevant paperwork and invite the employee to a Grievance Appeal meeting giving reasonable notice in writing of the:

- Date, time, place and purposes of the appeal
- Issues to be discussed
- Format of the appeal meeting
- Arrangements for exchanging documents and witness statements
- The opportunity to be represented by a Brent Council worker or an trade union representative (not a legal representative)
- The manager hearing the appeal has the discretion to postpone the appeal once only normally by up to five working days of the original date – if the employee's representative is not available at the time proposed.

The presenting manager (who will normally be the manager who determined the outcome of the complaint) and the employee will provide each other, and the manager conducting the appeal hearing, with any documents to be used by them and the names of any witnesses to be called in advance of the appeal hearing.

The manager will hold the Grievance Appeal meeting to consider the grounds of appeal and will take appropriate advice from a Human Resources Adviser. The appeal hearing will not be a rehearing of the issues and will focus the specific grounds of appeal set out in the employee's appeal submission.

Where the employee has lodged an appeal on the grounds of new evidence the presenting manager will also be entitled to present new evidence.

The presenting manager will also be able to seek to correct any deficiencies in the original decision by relying on his or her own new evidence.

The manager conducting the appeal has the authority to confirm, vary or overturn the original decision. The outcome could be:

1. Uphold the appeal in full
2. Uphold the appeal in part
3. Not uphold the appeal.

Where the manager decides to uphold the appeal on grounds of procedure or new evidence they will have to refer the complaint back to the manager who considered the original grievance with advice from a Human Resources Adviser. The content of the panel's decision will be discussed with the manager and appropriate action taken.

The decision of the manager hearing the appeal is final and there shall be no further right of appeal.

The outcome, with reasons and any redress, will be confirmed in writing to the employee.

7.9 Collective Grievances

Collective grievances may be raised in the event of an industrial dispute between the council and a group of its employees or between one group of the council's employees and another group of its employees. If multiple employees raise the same/similar concerns regarding an individual member of staff this will be managed in accordance with the normal grievance procedure. If a number of

employees raise separate/unrelated grievances against the same individual, these will be dealt with as individual grievances.

Informal resolution of any potential collective grievance is encouraged through normal line management arrangements however in the event of a formal collective grievance being raised this must be done in writing directly with the HR Director.

In the event of a collective agreement which is an industrial dispute between the council and a group of its employees or between one group of council employees and another group of its employees the HR Director will convene a meeting with the appropriate parties to discuss the grievance. If the group of employees is not represented by a union, then the employees will nominate a staff representative. If an agreement is reached, written outcomes will be provided to all parties by the HR Director. The HR Director will engage the relevant Director in this process as appropriate. If there is failure to agree, HR Director will have the final say and this will be confirmed in writing to all parties. In reaching this decision the HR Director will consider the following:

- Mediation
- involvement of a regional Trade Union official
- Conciliation by ACAS
- Declaration of a formal dispute

The HR Director will determine and make arrangements in this respect.

Where a collective grievance is submitted by staff and does not involve an industrial dispute the same procedure will be followed without involvement of a trade union and the decision of the HR Director on the grievance shall be final.

7.10 Criteria for collective grievances

Collective grievances will normally be concerning one of the following issues however this list is not exhaustive:

- Terms and conditions of employment
- Contractual issues
- Employment law
- Equal pay
- Fundamental breach of equality duties

It is anticipated that disputes concerning management and staff relations will be more likely to be dealt with as a grievance, rather than a collective grievance, however this is assessed on a case by case basis.

7.11 Post-employment grievances

Post-employment grievances may be raised by former employees up to three months after the occurrence of an incident which gives rise to a grievance. In some circumstances it may not be appropriate for the council to deal with the grievance. If this is the case, the council will inform the former employee by written communication otherwise the grievance will be considered through correspondence.

7.12 Employees taking sickness absence

If a grievance is raised and either party subsequently takes leave of absence on grounds of sickness, the council will continue with their proceedings as far as possible in their absence. In the event of long-term sickness, how to proceed with a grievance will be determined on a case by case basis as advised by the HR Manager, taking into account the individual's wellbeing and considering whether resolution of the grievance may assist in the individual's recovery where the absence is related.

8. Abuse of Grievance Procedures

Where a formal allegation is found to be malicious, vexatious or otherwise unreasonable, disciplinary action against the employee will be taken.

9. Resolution of Grievances

9.1 Disciplinary proceedings

If a grievance against an individual or group of employees is upheld, the individual(s) may be subject to disciplinary proceedings in accordance with the council's Disciplinary Policy.

9.2 Redeployment

If a grievance is upheld there may be instances where it could be appropriate to consider redeployment of one of the individuals within the council where there is evidence of an irretrievable breakdown in relationships and where a suitable alternative vacancy exists.

10. Further Information

Further information with regards to this policy should be sought from Human Resources.