

## GRIEVANCE PROCEDURE

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# GRIEVANCE PROCEDURE

## 1. INTRODUCTION

1.1 The Councils Grievance Procedure was approved by General Purposes Committee in March 2009. This update was agreed by Corporate Committee on 27 September 2012. The Grievance Procedure provides the formal mechanism for the Council to deal with complaints from employees about their conditions of service, work or working conditions. All new employees are provided with a copy of the procedure.

1.2 When an employee raises a grievance it is management's responsibility to ensure that the grievance is investigated and responded to in a timely and effective manner. The manager is also responsible for notifying Human Resources of all formal grievances. Human Resources are responsible for giving management appropriate advice and for recording and monitoring formal grievances.

1.3 Investigating Managers must read the 'Management Guidance – Grievance Procedure' before investigating a grievance. This document can be found on Harinet along with appropriate training courses. To raise a formal grievance the employee or his/her representative must complete an Employee Formal Grievance Submission Form Stage 1 which is attached as Appendix 1.

1.4 A grievance may cover any issue relating to an employee's conditions of service, work or working conditions, about which that individual feels dissatisfied.

1.5 A grievance should not be brought in the first instance and will not be considered where it is raised in direct response to the application of another procedure or where it can be raised under another procedure e.g. grading as a result of a job evaluation, an appeal against a disciplinary sanction etc.

1.6 Where an employee feels they are being harassed or bullied they should also refer to the Harassment and Bullying Policy, but note that if an issue of harassment and bullying needs to be raised formally the grievance procedure should be used.

## 2. SCOPE OF THE PROCEDURE

2.1 This procedure applies to all Council employees, except those teachers directly employed by the Council and all staff appointed by schools operating under the Local Management of Schools, which have their own procedure.

### 3. GENERAL PRINCIPLES

1. The efficient and fair handling of employee complaints and grievances at work can contribute significantly to the creation and maintenance of good employee relations. Sensitive handling by management can in some cases avoid minor problems turning into major disputes.
2. Where employees have a grievance relating to their employment, they have the right to express it. In the first instance they should raise their complaint informally with their line manager. Only where the matter cannot be resolved or in certain circumstances where this approach may not be appropriate should the employee move to the Council's Grievance Procedure.
3. Employees are entitled at any time to take up a grievance themselves or to ask a trade union official or work colleague to handle it for them. They also have the right to be accompanied or represented at any meeting they attend as part of the formal grievance procedure. Again this will be by a trade union official or work colleague. Grievances should be submitted no later than 3 months following the incident complained of.
4. All genuine grievances raised will be treated seriously. However, the procedure must not be used maliciously or in bad faith. Any such use of the procedure may lead to disciplinary action against the employee who has raised the grievance.
5. Where a grievance is raised by a group of employees then that group must nominate one or two employees to represent the group alongside the trade union representative(s) (if applicable). The outcome of a group grievance will apply to all individuals aggrieved where their grievances are similar and they have agreed to have their grievance considered as a group grievance. Where an employee declines to be included in the group grievance the same manager will investigate the individual and group grievance.
6. There may be circumstances where a disciplinary/sickness/capability case and a grievance are related. In these circumstances it is normal for both processes to run in parallel with each other. However, there may be exceptions, depending on the circumstances of the case where one process is put on hold until the other process has been completed. In the event that a grievance and harassment & bullying case are related then these two processes would be merged.
7. Any additional complaints linked to the original grievance that arise en-route during progress through the stages will be wrapped up in the ongoing process.
8. The manager at each stage may agree remedies subject to appropriate authorisation.
9. The option of mediation to resolve the grievance can be considered at any stage of the grievance and if not considered a reason is provided as to why it is inappropriate.

10. The investigating manager will decide how to conduct the investigation and how to construct the written response to the employee.
11. It is important that both the aggrieved person and the person against whom the grievance has been lodged are kept informed of progress and when things are going to happen.
12. In the event that an employee lodges a counter grievance on the same subject matter the same manager would normally investigate/consider both grievances.
13. If the employee who has raised the grievance or their representative cannot attend the meeting and if there is a prolonged delay because of this then the timescales for a response will automatically be extended.
14. The grievance procedure is a confidential process and those participating in it must not disclose the nature of the grievance or the outcome to any person who is not a party to the process except when seeking appropriate legal advice and/or if required to do so by law. This may include appropriate parties making enquiries of a number of employees to establish the facts of the case. If a disclosure is made that is in any way malicious or inappropriate to the circumstances of the grievance, this may lead to disciplinary action under the Councils Disciplinary Procedure.
15. If following the investigation it is concluded that there was a breach of the Council's Code of Conduct and Disciplinary rules then this will be dealt with under the Disciplinary Procedure.
16. If an employee feels they are unable to produce a written grievance, for example because of language or disability related issues s/he may seek support from appropriate parties such as her/his trade union representative, workplace colleague, Human Resources, Equalities or manager if appropriate.

#### 4. EQUALITIES AND DIVERSITY

4.1 Grievances will be monitored by gender, disability, ethnicity, religion, age and sexual orientation (religion and sexual orientation will be monitored separately).

#### 5. GRIEVANCE PROCEDURE

##### Stage 1

5.1 Employees, or her/his representative should advise her/his line manager or, if this is not appropriate, a more senior manager within the service or Human Resources that s/he wishes to take out a grievance. The grievance should be set out in writing (by completing an Employee Formal Grievance Submission Form Stage 1 which is attached at Appendix 1). The submission form should be copied to Human Resources.

5.2 Should the grievance relate to the conduct of another employee, then that person will be notified of the terms of the complaint and have an opportunity of being heard.

5.3 Management will on receipt of the grievance arrange to meet the employee and her/his representative ideally within 10 working days of receipt of the written grievance, to discuss the grievance and the possible remedy.

The option of mediation to resolve the grievance can be considered at this stage if appropriate.

5.4 Management will conduct a full investigation and shall consider the grievance and decide whether or not to uphold it, giving their response in writing normally within 28 calendar days of the written grievance unless agreed otherwise at the outset. If a written response cannot be given within the agreed deadline the investigating manager must agree a revised deadline with the employee.

5.5 If the case is of a complex nature involving a number of parties to investigate/hold discussions with then it is likely the timescale will be longer and as a guide the written response time can be up to 2-3 months.

5.6 If the employee considers the grievance is not being dealt with in a reasonable timescale and this can be justified s/he is entitled to request a response within the next 10 working days. A failure to respond will then allow the employee to proceed to stage 2.

## Stage 2

5.2.1 If the employee is not satisfied with management's response from Stage 1 or has not received a response within the timescales described above and wishes to take the matter further, s/he (or her/his representative) should set this complaint out in writing, using the Grievance Submission Form (Appendix 1) to her/his Senior Manager. The complaint must be received within 10 working days of the date of the written response at Stage 1 and must identify which part or parts of the Stage 1 decision the employee is dissatisfied with and the reasons for her/his dissatisfaction. A complaint raised outside this timescale will not normally be considered unless there are good reasons for the delay. A copy of the submission form should be copied to HR.

5.2.2 A Senior Manager will on receipt of the complaint arrange to meet the employee and her/his representative ideally within 20 working days of receipt, to clarify why they are dissatisfied, whether there are any new issues to be considered and to discuss any possible remedies.

5.2.3 Mediation must be considered at this stage or a reason provided as to why it is inappropriate (unless it has already been tried and been unsuccessful at stage 1)

5.2.4 The Senior Manager will review the documentation from the previous investigation and will have the right to further investigate if necessary, giving their response in writing.

5.2.5 Timescales will be determined in discussion with the aggrieved party and will be dependent on the complexity of the case. As a guide timescales will usually be 1 month for a relatively straight forward case and 2-3 months for a complex case involving a number of issues and a number of parties to investigate/hold discussions with. If a written response cannot be given within the agreed deadline the investigating manager must agree a revised deadline with the employee.

### 5.3 GRIEVANCE PROCEDURE: FLOWCHART

PROCEDURE STEPS	ACTION	TIMESCALES
<b>1<sup>st</sup> Stage</b>		
Employee or her/his rep to raise written grievance via her/his line manager or, if not appropriate, a Senior Manager or Human Resources (copied to HR)	→ Management to meet with the employee and her/his rep.  → Management to conduct a full investigation and respond in writing	→ Ideally within 10 working days  → Normally within 28 calendar days of the grievance unless agreed otherwise at outset (complex cases may be longer e.g. 2-3 months)
<b>2<sup>nd</sup> Stage</b>		
If the employee is not satisfied with the response at stage 1, and wishes to take the matter further the employee or her/his rep must put her/his complaint in writing to her/his Senior Manager within 10 working days of the date of the written response at stage 1 outlining her/his reasons for her/his dissatisfaction (copied to HR).	→ The Senior Manager to meet with the employee and her/his rep.  Mediation must be considered  The Senior Manager to review the case, further investigates if necessary, consider mediation and respond in writing.	→ Ideally within 20 working days  → Timescales for a response to be determined with the employee but will normally be 1 month for a relatively straight forward case and 2-3 months for a complex case.

## 6. THE USE OF MEDIATION IN THE GRIEVANCE PROCEDURE

6.1 The option of mediation to resolve the grievance can be considered at any stage of the grievance and if not considered earlier must be considered during stage 2 of the procedure or a reason provided as to why it is inappropriate.

### 6.2 What is Mediation?

6.2.1 Mediation involves the parties meeting and discussing the issues with an independent person who has not been involved previously. Mediation is a voluntary activity and must be entered into with the agreement of all involved parties. Mediation may be provided by the Council using either its own staff or specialist agencies.

#### 6.2.2 Key principles of mediation

- A way of sorting out disagreements or disputes without having to go through formal procedures. A neutral third person works with those in disagreement or dispute to help them reach an agreement that will sort out their problems.
- Voluntary – you only take part if you want to.
- Confidential - nothing you tell the mediator will be passed on to anyone else unless you agree and nothing said in mediation can be used in any later Council procedures or court action.

The aim is to maintain the working relationships if at all possible and so mediation is about the future, and not about who was right or wrong.

### 6.3 The mediation process

6.3.1 The employee who has raised the grievance/the manager considering the grievance/any employee whose conduct is referred to in the grievance can request that they enter into the mediation process.

6.3.4 If all parties agree then the manager considering the grievance should, as soon as is reasonably practicable, arrange for all relevant parties to attend a mediation meeting.

6.3.5 The mediation meeting shall be chaired by a mediator (to be selected on rotation from a panel of internal staff maintained by HR or from an outside specialist Agency) and shall take place on a confidential, without prejudice basis. For the avoidance of doubt this means that the matters discussed at that meeting cannot be referred to in any resumption of the grievance process (should mediation fail to achieve a resolution), or in any subsequent legal proceedings.

6.3.6 The purpose of the mediation meeting is to endeavour to reach a negotiated outcome to the employee's grievance. The role of the mediator is to facilitate the discussion not to suggest or impose a solution or express any opinion on the validity or not of the grievance.

6.3.7 If a resolution is reached, it shall be recorded in writing and this is the only document from the mediation process that may be referred to in any further proceedings. The resolution is confidential. If mediation fails, the grievance procedure will resume from the point it was suspended.

## 7. APPEALS PROCEDURE

- 7.1 Escalation to Stage 3 of the grievance procedure may only be undertaken
- If the employee is not satisfied with the response received following Stage 2 or
  - If a response to Stage 2 has not been received within the timescales outlined

7.2 To escalate the process to Stage 3, which will be a review of the case, the employee (or his/her representative) must complete the Grievance Stage 2/3 Submission Form (attached at Appendix 1) and return this to the Head of HR within 10 working days of the date of the written response at Stage 2.

- 7.3 The form must clearly identify:
- which part or parts of the Stage 2 response the employee is dissatisfied with
  - the reasons for this dissatisfaction

7.4 An appeal may be lodged outside of this timeframe only if there are exceptional reasons for the delay. The final decision about whether or not to accept the appeal in such circumstances will rest with the Head of HR.

7.5 Failure to supply full reasons for the making the appeal will render the appeal suspended until they are supplied. The Head of HR will make the final decision as to whether the reasons are sufficient.

### 7.6 Reviewing Officers

On receipt of the Grievance Submission Form, the Head of HR will convene a meeting with another senior manager (from outside the employee's own directorate) to review the case. The officer nominated to sit with the Head of HR will be at least a 3<sup>rd</sup> tier officer.

### 7.7 Stage 3 Process

The panel of 2 officers will review all the documentation relating to the first two stages and will make an initial assessment of the case. The panel should then first meet with the employee and/or his/her representative to clarify any points or to seek a further explanation of the solution being sought. The reviewing panel will also consult with the Stage 2 decision maker to clarify how and why s/he came to their conclusion.

7.8 Following consultation with both parties, the panel will then make a decision based on all the information available to them and will notify the employee of the outcome, in writing, ideally within 20 working days of date of the receipt of the Submission Form. If the grievance is related to another member of staff, s/he will also be informed of the final decision.

7.9 The decision of the panel will be final.

## APPENDIX 1



## EMPLOYEE'S FORMAL GRIEVANCE SUBMISSION FORM – Stage 1

This form must be used to raise a formal grievance at stage 1 of the procedures. You will be required to evidence attempts to resolve your complaint informally in the first instance. All sections must be completed and supporting documents must be attached. Your grievance will not be logged until all this information is received. On completion of this form you should send this and the supporting documents to your manager or where this is not appropriate to a more senior manager within your service or Human Resources (all forms and documents should be copied to Human Resources). **Prior to raising a formal grievance please refer to the Council's Grievance Procedure and Management and Employee Guidance which can be found on the Personnel pages of Harinet.**

<b>Name</b>		<b>Service</b>	
<b>Job Title</b>		<b>Contact Telephone</b>	
<b>Line Manager</b>		<b>Trade Union Rep</b>	

**Name of person(s) you are making your complaint(s) against**

**Have you raised your complaints informally with your manager or another suitable person?**

**Yes / No - If no please explain why. If yes please specify the date and give a summary outcome of the informal stage.**

**Would you consider mediation to resolve your grievance? The Mediation Guidelines can be found on the Personnel Pages of Harinet.**

**Yes / No – if no, please explain why not.**

**What is the outcome/solution that you are seeking which will resolve your grievance?**

<p>Please outline your grievance being as specific as you can about the complaints you are making giving relevant background information, dates, times, events, witnesses and what evidence you have to substantiate your complaints. As you will appreciate the investigation will need to be based on relevant evidence. When cases are based on 'one persons word against another' it is very difficult for any grievances to be upheld.</p>	
<p><i>please continue on a separate sheet, if necessary, and attach it to this form</i></p>	
<p><b>Does documentary evidence exist to support your allegations / complaints?</b></p>	
<p>Yes / No – If yes, please list them here and enclose them with this form. If no, then please explain why.</p>	
<p><b>Did anybody witness the allegations/complaints you are making?</b></p>	
<p>Yes / No – if yes, please list them here</p>	
<p><b>Signature</b></p>	<p><b>Date</b></p>

## APPENDIX 2

## EMPLOYEE'S FORMAL GRIEVANCE SUBMISSION FORM – Progression to either Stage 2 or Stage 3

This form must be used when you have already submitted a formal grievance and you wish to proceed to the next stage of the grievance procedures. All sections must be completed and supporting documents must be attached. Your grievance will not be logged until all this information is received. On completion of this form you should send this and the supporting documents to your Senior Manager for Stage 2 grievance (copied to Human Resources) or to the Head of HR for Stage 3 grievance. **Please refer to the Council's Grievance Procedure and Management & Employee Guidance which can be found on the HR pages of Harinet.**

Name		Service	
Job Title		Contact Telephone	
Line Manager		Trade Union Rep	

Please tick the appropriate box to identify which stage of the grievance procedure you are submitting this form for (please refer to the grievance procedure).

Stage 2 ☐

Stage 3 ☐

Name of person(s) you are making your complaint(s) against
Please attach a copy of your grievance(s) raised at the earlier stage(s), the supporting documents you submitted and a copy of the response(s) you received. If you have any new evidence or additional grievances to submit or new witnesses please list them here and attach any relevant documents. Also explain why these were not available at the earlier stage(s).
Would you consider mediation to resolve your grievance? The Mediation Guidelines can be found on the Personnel Pages of Harinet.

Yes / No – if no, please explain why not.

What is the outcome/solution that you are seeking which will resolve your grievance?

Please outline why you believe that the decision at the earlier stage(s) of your grievance was inappropriate and why you still remain dissatisfied. This should either be on the basis of an error or omission of key evidenced facts and/or on the basis that sufficient weighting was not applied to the evidenced facts. Please specify.

(When cases are based on one persons word against another it is unlikely that any grievance will be upheld in the absence of corroborating evidence)

*Please continue on a separate sheet, if necessary, and attach it to this form*

Signature

Date