**GRIEVANCE POLICY AND PROCEDURE**

*Consulted/agreed with recognised trade unions 4 August 2020*

*Implemented with effect from: 1 October 2020*

*Transitional arrangements apply. This policy and procedure replaces the former Employee Complaints Procedure. Grievances submitted before 1 October 2020 will continue under the former procedure.*

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# Scope

1.1 This policy and procedure applies to all council employees (except those employed in schools who have their own policies and procedures). This policy and procedure does not apply to workers who are not employed by the Council, such as agency workers and contractors.

# Policy statement and introduction

2.1 This policy and procedure provides a mechanism to assist in the prompt and effective resolution of grievances raised by employees in relation to their employment.

2.2 The emphasis is on resolving grievances informally and promptly. Most problems can and should be resolved by direct but professional, courteous and confidential communication with the individual from whom a concern arises. Where appropriate, mediation may help in this process. This policy and procedure aims to encourage and empower individuals to challenge inappropriate behaviour including bullying and harassment.

2.3 All allegations will be treated seriously and sensitively. They will be investigated thoroughly, having taken into consideration appropriate informal measures to resolve, and a speedy resolution sought.

2.4 Grievances that are non-complex should be resolved within 12 weeks of the grievance being raised by the employee to the response given by management. It is recognised however that grievances can sometimes involve more complex matters. Where it is not possible to resolve in the indicated timescale, this will be communicated to employee(s) accordingly and as appropriate.

2.5 It is essential that managers and employees approach the process as an objective method of resolving differences and restoring good working relationships between team members, rather than ‘winning or losing’.

2.6 Grievances that employees may have about any disciplinary action taken against them should be dealt with as an appeal under the disciplinary procedure.

2.7 The application of this procedure will be in accordance with the council’s equalities and diversity policies and the ACAS Code of Practice on Disciplinary and Grievance Procedures. The procedure will be monitored against equalities criteria to comply with the Council’s obligation to report the impact of its policies on different groups of staff.

2.8 Unauthorised or covert audio or audio-visual recording of any meeting or interview held under this procedure is not permitted and will not be admissible as evidence in this procedure; please note these types of covert recordings may in themselves be regarded as a disciplinary offence.  Employees should also be aware that covert recording of any individual, including those working for or on behalf of the council, is governed by legislation and may be considered unlawful.

# Dignity at work

3.1 Everyone has the right to be treated with respect and dignity in the workplace, irrespective of their level, status or position within the organisation. Bullying and harassment, whether by colleagues, visitors, service users or council members, is unacceptable and will not be tolerated.

3.2 All workers have a role in promoting dignity at work and eliminating all forms of bullying and harassment. Clear standards of behaviour are set out in the council’s Code of Conduct, which is brought to the attention of all new employees as part of the recruitment process. Any employee who believes that they are not being treated with respect in accordance with the Staff Code of Conduct has the right to challenge such behaviour and/or to raise a grievance using this procedure. Individuals are encouraged to challenge unacceptable behaviour and will be protected from victimisation after seeking resolution of a genuine grievance, whatever the outcome. However, in the case of malicious grievances, see paragraph 8.4.

3.3 Appropriate action, which may include disciplinary action, will be taken where an allegation of bullying and harassment is upheld.

3.4 [Appendix B](#_Appendix_B:_Bullying) provides commonly acceptable definitions of bullying and harassment and sources of further reference.

# Confidentiality

* 1. All parties involved must respect confidentiality at all times. If one employee breaches another employee’s right to confidentiality, this may be treated as a disciplinary offence, depending on the circumstances.

4.2 Information must not be shared with anyone except those directly involved and as necessary to ensure fair process. This does not preclude a confidential consultation with a friend, colleague or trade union representative for support.

# Data protection

5.1 The council processes personal data collected during informal grievances and the formal grievance procedure in accordance with the Workforce Data Protection Policy. In particular, data collected as part of informal grievances and the formal grievance procedure is held securely and accessed by, and disclosed to, individuals only for the purposes of responding to the grievance or in the course of conducting the grievance procedure.

5.2 Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the council's Workforce Data Protection Policy immediately. It may also constitute a disciplinary offence, which will be dealt with under the organisation's disciplinary procedure.

# Link with other procedures

6.1 The submission of a grievance by an employee subject to disciplinary, capability or sickness management proceedings will not prevent the application of that procedure. Grievances relating to the application of such procedures should be raised as part of that process and not pursued through this grievance policy and procedure.

6.2 Therefore, grievances raised while employees are subject to disciplinary proceedings will usually be heard only when the disciplinary process has been completed. Insofar as a grievance has any bearing on the disciplinary proceedings, it can be raised as a relevant issue in the course of those proceedings.

6.3 Grievances that employees may have about any disciplinary action taken against them should be dealt with as an appeal under the disciplinary procedure.

6.4 Formal grievances should be concerned with the way in which employees believe they have been treated by the council or managers acting on its behalf, colleagues or about any aspect of their work. Grievances that amount to an allegation of misconduct on the part of another employee will also be investigated and dealt with under the disciplinary procedure.

# Roles and Responsibilities

**Employees are responsible for**:

7.1 Familiarising themselves with the council’s [Code of Conduct](http://intranet.croydon.net/staff/handbook/Mod%2013%20Code%20Of%20Conduct%20For%20Council%20Staff.doc) and ensuring that their own behaviour is in accordance with the standards it sets out.

7.2 Undertaking all mandatory equality and diversity training as stipulated by the council and Code of Conduct e-learning.

7.3 Discouraging offending behaviour and supporting colleagues who are experiencing bullying and harassment. Employees are encouraged to challenge such behaviour if they feel able to do so.

7.4 Seeking and participating in the early and informal resolution of grievances where possible and appropriate.

7.5 Considering the needs of colleagues with disabilities, especially those with learning disabilities.

7.6 Co-operating with the operation of this procedure as required, in particular, providing statements in a timely manner and making themselves available to attend meetings in order to facilitate the timescales set out in this procedure.

**Managers are responsible for:**

7.7 Viewing constructively the opportunity to resolve a grievance issue through informal early interventions, helping to build trust and restoring their morale and good working relations.

7.8 Resolving grievance cases within a 12 week timescale from the notification by the employee to the response given by management, unless it is not reasonably possible to do so.

7.9 Ensuring that they and employees are aware of the council’s policies, procedures, values, and the standards of behaviour expected.

7.10 Making sure that their staff members and have undertaken all mandatory equality and diversity e-learning and Code of Conduct learning.

7.11 Making sure that they personally have completed all mandatory learning required in Equality and diversity including ‘unconscious bias’ learning.

7.12 Challenging unacceptable behaviour and taking all reasonable practical steps to resolve conflict in the workplace when they become aware of it, whether or not they have received complaints. Regular 1-2-1s are key to this and, where appropriate, monitoring and reinforcing improvement in line with expected standards of behaviour.

7.13 Dealing effectively, speedily and sensitively with any incidence of bullying and harassment brought to their attention and not underestimating the effect that such behaviour may have on individuals.

7.14 Considering the needs of employees with disabilities and making reasonable adjustments to this procedure where it is appropriate to do so to ensure that workers with disabilities are treated fairly.

7.15 Ensuring that any formal outcomes or recommendations under this procedure are implemented as far as is reasonably possible and in a timely way.

**Human Resources (HR) are responsible for:**

7.16 Facilitating the early and informal resolution of grievances, where possible, including the use of mediation where appropriate.

7.17 Facilitating the resolution of grievance cases within a 12 week timescale from notification by the employee to the response given of an outcome, unless it is not reasonably possible to do so.

7.18 Advising managers in the application of this policy and procedure, including advice on how to initiate and investigate grievances, assess evidence and take appropriate remedial action.

7.19 Maintaining details of investigators and mediators who may be used to resolve workplace disputes.

7.20 Monitoring the operation of the procedure to ensure consistency across the council and reporting on the numbers and the nature of grievances as appropriate

7.21 Reviewing this policy and procedure on a regular basis.

# What is a grievance?

8.1 This procedure is to address grievances by employees that arise from their employment and impact on them personally, including action that the Council has taken or is contemplating. Grievances appropriate for consideration under this procedure include those relating to: the application of the council’s employment policies and procedures; the application of terms and conditions of employment; the work environment; and being treated with a lack of respect or dignity, including complaints of harassment or bullying.

* 1. Grievances will not be heard under this procedure:
  + Where they relate to a procedure or process that contains an appeal or complaint mechanism set up for that particular purpose e.g. disciplinary, recruitment, reorganisations and restructuring, capability, managing sickness, job evaluation, industrial injury, pensions.
* Where they relate to a collective dispute and talks about it are taking place with recognised trade union representatives.
  + To challenge decisions made by the council after consultation procedures with recognised trade union representatives have been completed.
    - To challenge decisions made outside the council, such as on tax and national insurance matters or changes in the law.
    - If raised unreasonably outside of the timescales mentioned in paragraph 10.8 (raising a formal grievance).
    - If deemed to be raised deliberately to avoid reasonable management instruction as part of the normal supervisory relationship between a manager and his/her staff.
  1. This procedure is designed for the timely and thorough investigation of genuine grievances. Whilst all grievances to be heard under this procedure will be investigated, unnecessarily detailed investigations into grievances where there is no tangible detriment to the complainant should not be expected
  2. A grievance which is considered to be malicious or vexatious will not be progressed under this policy and procedure and may be regarded as a disciplinary offence.

# Mediation

9.1 Mediation is a confidential process that seeks to help employees resolve disputes in the workplace. Mediation is most likely to be effective as early as possible in the process and when matters are being dealt with informally, but may be used at any point including during the formal process.

9.2 Mediation may only proceed where the individuals who are party to the grievance voluntarily agree to participate in mediation. Through this process individuals have the opportunity to air their differences in a voluntary, safe, confidential meeting with the other party, in the presence of a mediator.

9.3 Mediation can be used at any point in the procedure; for example, where other informal processes in place have been unsuccessful, or as an alternative to the formal procedure. The agreement to participate in mediation is voluntary. Whilst employees are encouraged to consider and participate in mediation as appropriate, there is no penalty or detriment if participation in mediation is not chosen.

9.4 If parties agree to engage in the mediation process as a way of resolving issues, the assigned manager must contact Croydon Council’s Human Resources department as soon as possible so that a mediator can be arranged.

# The Procedure

**Step 1 – Informal grievance**

10.1 Grievances can often be resolved informally and doing so will generally be more beneficial for all concerned. Unless it is unreasonable or inappropriate to do so, employees should seek an informal resolution by raising the matter directly with those concerned. If the employee, or employees (in the event of a group grievance) feels unable to do this, they should raise the matter with their line manager or seek advice from HR Consultancy or their trade union.

10.2 In resolving grievances, both managers and employees are expected to explore the alternatives to a formal procedural approach. Informal measures may include resetting standards of behaviour, training, additional supervision, mediation and facilitated discussions.

10.3 Except for in the circumstances outlined in 10.4 below, in the event that it is not possible to resolve a grievance informally and the employee wishes to progress with a formal grievance they will be expected to outline how they have tried to resolve their grievance informally.

10.4 It is unlikely that serious incidents, such as verbal or physical abuse, are appropriate for informal resolution. These should be reported in writing to the employee’s line manager or HR Consultancy and addressed formally via the disciplinary procedure.

**Step 2 – Formal grievance and process**

**Right to be accompanied**

10.5 Employees may be accompanied by a trade union official or work colleague at all formal meetings. Legal representation is not allowed. Employees are responsible for arranging their own representation. Companions may address formal meetings and assist employees in presenting their case. Management will seek a mutually agreeable date and time for the hearing with the complainant’s companion where he or she is already known.

**Raising a formal grievance**

10.6 An employee wishing to have a grievance considered formally under this procedure must submit their grievance in writing in the form at [Appendix C](#_Appendix_C:_) to their Director. If the Director is the specific subject of the grievance it should instead be submitted to the Executive Director.

10.7 As much information as possible must be provided on the formal grievance form and:

* Explain the event(s) giving rise to the grievance, including where possible, the date and times of events and the names of other parties/witnesses involved.
* Outline any informal measures taken to resolve the matter and explain why these have been unsatisfactory.
* Explain, as fully as possible, the outcome wanted by the employee.
* State the name of the complainant’s companion if they wish to be accompanied at the grievance meeting.
* Be signed and dated.

10.8 Subject to seeking informal resolution, grievances should be raised as soon as possible after the occurrence to which the grievance relates. Unless there is good reason for a delay, grievances should be submitted within 28 calendar days of:

* + The failure to reach a satisfactory outcome informally, or
  + The event or behavior giving rise to the grievance, or
  + The last event in a series of linked events giving rise to the grievance.

10.9 Individual employees or groups of employees can raise a grievance under this procedure. A group grievance must identify each of the individual complainants. The group must choose one or two people to represent the group; however the outcome of the grievance will apply to the whole group.

10.10 Grievances made by employees about the behaviour of an agency worker may be referred to the relevant employment agency for consideration under the agency’s policies and procedures. Management will liaise closely with the employment agency, to ensure that there is an effective resolution of the grievance.

**Investigation**

* 1. The director or executive director receiving the grievance will appoint a manager to investigate the grievance. Diversity must be taken into consideration as far as possible when appointing a manager. If the grievance is against a member of the departmental senior management team, the grievance should be referred to HR Consultancy who will find an appropriate manager from outside the department to investigate it.
  2. The manager investigating the grievance will arrange a meeting where the employee is expected to provide full details of the basis of their grievance and say how they think it should be settled. If the employee is unable to provide sufficient details the grievance cannot be progressed.
  3. If appropriate, mediation may be considered and further discussed as a means of facilitating the resolution of the grievance at this stage.
  4. Managers should aim to meet the employee, or at least provide a date for a meeting, within 14 calendar days of receiving the grievance.
  5. Historical issues are often difficult to investigate and reach robust decisions on. Where a grievance relates to a series of events, the investigating manager will decide whether it is practicable or necessary to investigate past events.
  6. With the variety of issues and circumstances that can give rise to grievances there are many different methods of resolving them. It is for the investigating manager to decide the approach after meeting the complainant and considering all relevant circumstances. Mediation, if appropriate, may be part of this approach.
  7. Depending on the nature of the grievance and all relevant circumstances, the manager holding the meeting may decide to:
* Explore further the options for informal resolution in agreement with all necessary parties. This may include mediation if appropriate and agreed by the parties involved.
* Respond to the grievance after conducting any further investigation deemed necessary.
* Refer the matter for consideration under another council procedure, including the disciplinary procedure e.g. where there is substance to a serious allegation of bullying and harassment.

10.18 The manager will confirm the outcome to the employee in writing as soon as possible and in any event should aim to do this within 28 calendar days of the meeting. If the outcome cannot reasonably be provided within 28 calendar days, the manager will explain this in writing and provide the employee with a new timescale.

**Step 3 – Appeal**

10.19 If the employee who raised the formal grievance is not satisfied with the outcome and wishes to appeal the decision they must write to their director using the form at appendix D, within 14 calendar days of receiving the decision. If the director is the specific subject of the grievance, the appeal should instead be submitted to the Executive Director.

The appeal must state:

* The grounds for their appeal, i.e. why the outcome at the earlier step 2 was incorrect and
* Their suggested remedies for resolving their grievance.
  1. Where the matter has been referred for informal resolution, which may also include mediation, the 14 calendar day period for lodging an appeal commences on completion of the breakdown of that process.
  2. Appeals will be heard by a panel consisting of the Director (or nominee) and the Director of HR & OD (or nominee). If the case concerns an allegation of bullying or harassment involving a member of the departmental management team, the panel will consist of the Director of HR & OD (or nominee) and a senior manager from a different department.
  3. The appeal panel will meet with the employee as soon as possible after undertaking a preliminary review of the employee’s grievance appeal statement and any other documentation provided. Managers should aim to hold an appeal meeting, or at least provide the employee with a date for a meeting, within 14 calendar days of receiving the employee’s appeal.
  4. The appeal panel will:
* Clarify with the complainant why they remain dissatisfied and the outcome they are seeking.
* Consider the outcomes from the original grievance outcome, including any investigation and the grounds for that decision.
* See all parties separately or together, as considered appropriate.
* Request further information or conduct further investigation as they consider necessary.
* Make a final decision based on all reasonably available information.
  1. The Chair of the appeal panel will confirm the outcome to the employee in writing as soon as possible and in any event should aim to do this within 28 calendar days of the meeting. If the outcome cannot reasonably be provided within 28 calendar days, the Chair will explain this in writing and provide the employee with a new timescale.
  2. The decision of the appeal panel is final.

# After the grievance outcome

11.1 Following a grievance, whether it is upheld or dismissed, it is recognised that there is a need in most instances to resume professional working relationships. Managers should seek advice from HR where further advice and support may be required to facilitate this.

11.2 Managers, in conjunction with HR, must consider, as appropriate to the particular circumstances of the grievance and in maintaining confidentiality, how those subject to a grievance (i.e. employees who have had a grievance submitted against them) are informed of the conclusion of the grievance procedure.

End

# Appendix A: Further advice and guidance

Further useful advice and guidance can be found in the following links:

**ACAS:**

[ACAS website - Bullying and Harassment](https://www.acas.org.uk/discrimination-bullying-and-harassment)

[Dealing with a problem raised by an employee](https://www.acas.org.uk/dealing-with-a-problem-raised-by-an-employee)

[Bullying and harassment in the workplace - a guide for managers and employers](https://archive.acas.org.uk/media/304/Advice-leaflet---Bullying-and-harassment-at-work-a-guide-for-managers-and-employers/pdf/Bullying-and-harassment-in-the-workplace-a-guide-for-managers-and-employers.pdf)

[Bullying and harassment at work - a guide for employees](https://archive.acas.org.uk/media/306/Advice-leaflet---Bullying-and-harassment-at-work-a-guide-for-employees/pdf/Bullying-and-harassment-at-work-a-guide-for-employees.pdf)

[Mediation at work](https://www.acas.org.uk/mediation)

[ACAS online learning](https://elearning.acas.org.uk/)

# Appendix B: Bullying and Harassment

**What is bullying or harassment?**

The recognised definitions of bullying and harassment are as follows:

Bullying is:

“offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient.”

Harassment, in general terms, is

“unwanted conduct affecting the dignity of men and women in the workplace. It may be related to age, sex, sexual orientation, race, disability, religion or belief, national or any personal characteristic of the individual, and may be persistent or an isolated incident. The key is that the actions or comments are viewed as demeaning and unacceptable to the recipient.”

Examples of bullying and harassment and other offensive behaviour are provided in the the Standards of Bevaviour section of the [Staff Code of Conduct](http://intranet.croydon.net/staff/Handbook/Mod%2013%20Code%20Of%20Conduct%20For%20Council%20Staff.doc).

# Appendix C: Grievance Form

**FORMAL GRIEVANCE FORM**

This form is used to raise a grievance formally in accordance with Croydon Council’s Grievance Policy and Procedure. Please complete indicating all details requested below and submit to the appropriate person as per the aforementioned policy and procedure

|  |  |
| --- | --- |
| Name |  |
| Department/Division |  |
| Contact number / email address |  |
| *Who the form is submitted to*  Name  Job title |  |
| Name of Trade Union Representative (if applicable) |  |
| What steps have you taken to resolve the issue(s) informally? |  |
| Why are you not satisfied with the informal outcome? |  |
| Has mediation been considered/undertaken? What was the outcome? |  |
| Grounds for formal grievance – please state specific grounds, including where possible date and times of events and the names of other parties/witnesses involved |  |
| What outcome are you seeking? |  |
| Any further relevant information? |  |
| **Signed:** |  |
| **Date:** |  |

# Appendix D: Grievance Appeal Form

**FORMAL GRIEVANCE APPEAL FORM**

This form is used to appeal against a formal grievance outcome in accordance with Croydon Council’s Grievance Policy and Procedure. Please complete indicating all details requested below and submit to the appropriate person as per the aforementioned policy and procedure.

|  |  |
| --- | --- |
| Name |  |
| Department/Division |  |
| Contact number / email address |  |
| *Who the form is submitted to*  Name  Job title |  |
| Name of Trade Union Representative (if applicable) |  |
| What are the grounds for your appeal? |  |
| What remedies do you suggest for resolving your grievance? |  |
| Has mediation been considered/undertaken? What was the outcome? |  |
| Any further relevant information? |  |
| **Signed:** |  |
| **Date:** |  |