



Grievance Procedure Employees and the Clerk

PURPOSE AND SCOPE

- It is the policy of the Council to give employees the opportunity to air and seek redress for any individual employment grievance relating to the Clerk which they may have.
- Grievances may be any concerns, problems or complaints relating to the Clerk which employees wish to raise with the Council.
- This document describes the procedure which aims to facilitate a speedy, fair and consistent solution to the employee's employment grievance.
- This procedure is produced in line with the ACAS Code of Practice 2009 as set out in the Employment Act 2008.
- The aim is to ensure consistent and fair treatment for all.
- It is the policy of this Council to endeavour to resolve minor grievances through informal action. If informal action does not resolve the grievance, the Council will pursue formal action as set down in this procedure.
- In the case of a grievance matter raised by an employee relating to the Clerk, the Council will, at its next Committee or Council meeting, or sooner, appoint a Grievance Panel of any three Councillors to represent the Council.

PRINCIPLES

- At every stage in the procedure the employee will be given the opportunity to state his or her case before any decision is made.
- Grievances will be dealt with promptly and consistently.
- At all formal stages the employee will have the right to be accompanied by a work colleague or trade union representative during the Grievance Hearing.
- The employee will have the right to appeal against any outcome of a Grievance Hearing.
- At no time will the employee be penalised or victimised for having raised a Grievance against the Clerk.

GRIEVANCES ISSUES

The following list is not exhaustive, but covers some of the issues that might be raised in a grievance procedure:

- Terms and conditions of employment
- Health and safety
- Work relations
- Bullying and harassment
- New working practices
- Working environment
- Organisational change
- Discrimination

THE GRIEVANCE PROCEDURE

There are two separate stages to the grievance procedure:

- **Informal action.**
- **Formal action.**

The procedure is usually implemented at the informal action stage, but may be implemented at higher stages dependent on the seriousness of alleged grievance.

INFORMAL ACTION

- Wherever possible, any grievance should be raised informally with the Chairman of the Council or the Chairman of the Working Practices Committee.
- Employment matters and the issues should be treated with discretion and **confidentiality at all times.**

Informal Action Procedure

- i. Chairman of the Council, or Vice Chairman of the Council, or Chairman of the Working Practices Committee to meet with the employee to hear the informal grievance.
- ii. The Chairman of the Council, or Vice Chairman of the Council, or Chairman of the Working Practices Committee may adjourn the meeting to seek advice from the Council's HR provider. The scope of advice should be limited to two hours, as anything more detailed may be entering into formal procedures.
- iii. The Chairman of the Council, or Vice Chairman of the Council, or Chairman of the Working Practices Committee should resume the meeting with the employee.
- iv. The matter may be resolved at that meeting.
- v. The Chairman of the Council, or Vice Chairman of the Council, or Chairman of the Working Practices Committee should keep a written note of the meeting.

- vi. If the matter is not resolved at that meeting, the Clerk will be asked to include an item in the agenda for the next available Council or Committee meeting to appoint members to a Grievance Panel and call a meeting. The Chairman of the Council, or Vice Chairman of the Council, or Chairman of the Working Practices Committee should not also be a member of the Grievance Panel.

FORMAL ACTION

Notification of Formal Action

If the employee does not consider it appropriate to raise the grievance informally, or if requested by the Chairman of the Council or Chairman of the Working Practices Committee during informal action, then the employee should submit a formal grievance in writing to the Chairman of the Council or Chairman of the Working Practices Committee.

GRIEVANCE HEARING

- A Grievance Hearing should be arranged without reasonable delay after the grievance is lodged.
- The Hearing will be held in a confidential location free from interruption.
- The Grievance Panel will investigate the substance of the complaint and hear submissions from the employee together with such other submissions or evidence as s/he shall consider appropriate and take such steps as s/he shall consider necessary to resolve the issue raised.
- It may be necessary to adjourn the meeting in order for an investigation to take place.
- Careful consideration of the evidence and the necessary steps required to resolve the problems will be given to the grievance. The employee may call witnesses by prior arrangement with the Grievance Panel.
- There is no right for a Member or Clerk implicated in the employee's grievance to cross examine the aggrieved during a grievance hearing but the Grievance Panel may wish to make their own investigations through interviewing these individuals and/or other witnesses separately.

BULLYING OR HARASSMENT

- If a grievance concerns alleged bullying or harassment the matter should be reported promptly to the Chairman of the Council or Chairman of the Working Practices Committee with an indication of the required action.
- The complaint will then be investigated through the informal action procedure and any action taken and any resolution achieved will be reported back.
- If the solution is not satisfactory to the complainant, the matter will be investigated under the formal action procedure and an alternative solution agreed.
- The employee will have the option of requesting an appeal.
- As a result of an investigation into a claim of harassment disciplinary action may be instigated against any alleged perpetrators of the action.

RIGHT TO BE ACCOMPANIED

- The employee has the right to be accompanied at a Grievance Hearing and can make a reasonable request for such a person to accompany them.
- The employee can ask any other employee or a trade union representative or an appropriately accredited official employed by a trade union to accompany them, to give support and help them prepare for the Grievance Hearing. This right is enshrined in the 1999 Employment Relations Act. However it would not be reasonable to be accompanied by an employee whose presence might prejudice the meeting or who might have a conflict of interest.
- The companion can address the meeting, put and sum up the employee's case, respond on behalf of the employee to any views expressed at the meeting and confer with the employee.
- The companion cannot however answer questions on the employee's behalf or address the hearing if the employee does not wish him/her to, or prevent the employee explaining their case.

PROCEDURE FOR THE GRIEVANCE HEARING

- All papers to be produced at the meeting by either the Council or the employee must have been made available in advance of the meeting.
- The Council will arrange, if possible, for another member of staff unconnected to the case to take notes during the meeting.
- The employee should re-state their grievance and how they would like to see it resolved. With prior agreement, the employee may call witnesses now.
- The Grievance Panel should then be able to put any questions they have to the employee or their representative.
- The employee or their representative sums up their case.
- The Grievance Panel then sums up the Council's case.
- The Grievance Panel may ask the employee what he or she would like to happen as a result of raising the grievance and bear this in mind when preparing the response.
- The meeting will be adjourned for the Council to decide the response to the grievance.

RE-ARRANGED GRIEVANCE HEARING

- The employee who is unable to attend a Grievance Hearing should notify the Council in advance whenever possible and should arrange another meeting.
- The Grievance Panel may make a decision in the employee's absence if he/she fails to re-arrange or attend the re-arranged meeting.
- If the employee's companion cannot attend the meeting on the proposed date, the employee can suggest another date so long as it is reasonable and not more than five working days after the date originally proposed by the Council. This five day limit may be extended by mutual agreement.

GRIEVANCE RESPONSE

- The Grievance Panel will advise the decision to the employee in writing whether the grievance has been upheld or dismissed.
- If the grievance is dismissed, the reasons why will be explained.
- If the grievance is upheld and it has highlighted any issues with policies, procedures or conduct, these will be referred to the Working Practices Committee for further investigation and action.
- An action plan may be mutually agreed to assist in the resolution of the problem.
- The employee will be advised by the Grievance Panel that they have the right to appeal against the decision.

THE RIGHT OF APPEAL

- The employee who wishes to appeal against a grievance hearing decision should inform the Council within five working days, in writing and giving reasons for the appeal.
- An appeal may be raised if the employee thinks the finding is unfair, new evidence has come to light or the employee thinks that the procedure was not applied properly.
 - The appeal will be heard by an Appeals Panel formed from three Councillors appointed at the next Committee or Council meeting, not including the three Councillors on the Grievance Panel, who will view the evidence with impartiality.
- The employee will have the right to be accompanied at the appeal.
- The outcome of the appeal and reasons for it will be advised to the employee as soon as possible after the meeting and be confirmed in writing.
- The decision taken at the appeal hearing will be final.

DISCIPLINARY PROCEDURES – LINKS TO GRIEVANCE PROCEDURES

Where the employee raises a grievance during a disciplinary procedure the disciplinary procedure may be temporarily adjourned in order to deal with the grievance. Where the discipline and grievance cases are related, it may be appropriate to run both cases concurrently.

CONFIDENTIALITY

- So far as is reasonably practicable, the Council will keep any grievance or complaint of harassment confidential between the Grievance Panel investigating the grievance or complaint, the employee and the Clerk.
- If it is necessary to investigate the matter with any other employee or the Clerk, the employee will be so advised.

PAPERWORK

It is a requirement that all paperwork associated with the matter of a Grievance Hearing is kept under the Confidential Information classes of both the Data Protection Act 1998 and the Freedom Of Information Act 2000.

A written record of the grievance procedure will be kept and a copy given to the employee, although certain information may be withheld in exceptional circumstance, e.g. to protect a witness.

The written record will include:

- The nature of the grievance.
- What was decided and actions taken.
- The reason for the actions.
- Whether an appeal was lodged.
- The outcome of the appeal.
- Any subsequent developments.

ABANDONMENT OF THE PROCEDURES UNDER THE ACT

It will be recognised as reasonable to discontinue proceedings where one party has made all reasonable attempts to comply but has been prevented from doing so.

The exemptions are specified:

- Unacceptable behaviour by one party through violence or abuse.

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