

## **GRIEVANCE PROCEDURE**

<b>Procedure Ratified by Joint HR Committee</b>	<b>FEBRUARY 2015</b> <b>Procedure updated June 2017</b>
<b>Procedure Review Date</b>  <i>When under review, this procedure should continue to be used.</i>	<b>June 2020</b>
<b>This procedure is contractual</b>	
<b>Author</b>	<b>HR Dept</b>
<b>Version</b>  <i>This procedure may be amended prior to the review date to comply with any new, relevant legal procedure or organisational change.</i>	
<b>Related Procedures</b>	<b>Disciplinary Procedure</b> <b>Capability (Poor Performance) Procedure</b> <b>Mediation Framework</b> <b>Investigation Procedure</b>

## Summary

The council supports the following staff values of:

- Responsibility
- Fairness
- Respect

On this basis, it will act with these values in mind where an employee raises a concern under this procedure. This procedure has been developed following the Arbitration, Conciliation and Advisory Service's Code of Practice when undertaking grievance investigations and hearings.

Where possible, the organisation will try and resolve matters informally or by mediation. Where this is not possible, a manager of the organisation will undertake a full, fair and factual investigation into the alleged misconduct using the Council's *Investigations & Hearings Procedure*.

If the outcome of the investigation determines the matter needs to go to a hearing this will be heard by a separate manager. Should a formal sanction follow any hearing, all staff have a right of appeal.

Guidance on what constitutes a grievance is provided in the procedure.

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## **Section 1 - Purpose**

- 1.1 The Council is committed to managing employee concerns in line with the following principles;
- Fairly
  - Proportionately
  - Consistently
- 1.2 In return, the Council expects all employees to adhere to the following principles when raising concerns;
- Be respectful and professional at all times
  - Have a commitment to work towards a solution and engage fully in resolving grievances
  - Be available and willing to attend meetings
  - Be completely clear on the subject of the complaint and the outcome sought
- 1.3 The purpose of this procedure is to describe how complaints will be managed to ensure that all staff have the opportunity to raise concerns. The intention of the Council, through this procedure, is to resolve issues as quickly as possible whilst implementing sustainable solutions. The Council also aims to promote fairness and transparency through this procedure.
- 1.4 The procedure is compliant with relevant employment legislation and as far as is practicable utilises best practice advocated by the Arbitration, Conciliation and Advisory Service (ACAS). The procedure has been developed in consultation with UNISON.

## **Section 2 - Scope**

- 2.1 The procedure applies to all employees of the Council. This includes statutory Chief Officers (Head of Paid Service, Monitoring Officer and Section 151 Officer).

## **Section 3 - Definition**

- 3.1 For the purposes of this procedure, a grievance is defined as a concern, problem or complaint that the employee raises with the Council. For a grievance to be accepted under this procedure, the employee must be able to demonstrate that the issue is having a material detrimental impact on their working life. Examples are given below;
- Breach of terms and conditions of employment
  - Health and Safety practices compromised
  - Problematic working relationships
  - Bullying
  - Harassment

- Victimisation
  - Discrimination
  - Unfair treatment arising from new working practices
  - Unfair treatment arising from organisational change
- 3.2 The Council reserves the right to reject the use of this procedure when the issues raised do not qualify as a grievance. Any 'whistleblowing' issues should be dealt with under the council's whistleblowing procedure.
- 3.3 In addition a number of issues are specifically excluded from this procedure and will therefore not be managed under this procedure, even where the employee raises a grievance in connection with them. Exclusions are given below;
- Matters of pay or grading covered by the Job Evaluation Procedure
  - Decisions under Council procedures which include a right of appeal (e.g. Disciplinary Procedure, Sickness Absence Procedure)
  - Issues subject to collective bargaining between the Council and UNISON
  - Issues outside of the authority e.g. rates of income tax, pension regulations

## **Section 4 – Principles**

- 4.1 The following principles apply in utilising this procedure;
- Employees should aim to settle most grievances informally with their line manager. Many problems can be raised and settled during the course of everyday working and working relationships through honest and open communication
  - As a remedy mediation is available to all parties. Mediation will only take place with express consent from all parties. See the In-House Mediation Framework which can be found on the intranet for further information.
  - Management (meaning the relevant line manager, Head of Service, , Executive Director or Chief Executive as appropriate) must deal with issues raised promptly and not unreasonably delay meetings, decisions or actions, or confirmation of those decisions or actions. Management have a duty to act fairly and reasonably at all times under this procedure.
  - The grievance procedure may be entered into at the formal stage if the employee or Council considers it appropriate to the issue being raised. Whilst employees are encouraged to deal with concerns informally in the first instance wherever possible, this does not prevent employees raising a formal grievance.
  - Where the employee's line manager is the subject of the grievance, the matter must be dealt with by the next level of line management. A

manager from another service area can also be called upon to manage a grievance if it is appropriate in the circumstances.

- Issues must be raised by an employee at the time the issue occurs. Past issues will not normally be addressed unless there is a significant material reason for doing so.
- Employees have a duty to co-operate fully with all requirements under this procedure.
- Human Resources will provide advice and assistance in grievance procedures.
- Mobile phone or other recording devices are not permitted to be used by any party in formal or informal meetings.
- Full written records will be made of actions taken under this procedure and will be kept confidentially and in line with the HR Document Retention Schedule.
- The Council reserves the right to refuse to hear grievances which have already been submitted and concluded and where there is no material change to the nature of the complaint.
- Employees have the right to be accompanied at all times during a formal grievance process. This includes employees called as witnesses.
- The employee raising the grievance will have a right of appeal against the outcome.
- Employees will not suffer a detriment or be treated unfairly as a result of raising a grievance in good faith.

## **Section 5 - Guidance for Managers and Members of Staff**

### **5.1 Informal Stage**

- 5.1.1 An employee should make their line manager aware that they have a complaint and be clear that this is being raised informally. The complaint can be made verbally. Employee responsibilities are set out fully in Appendix 3.
- 5.1.2 The line manager should explore the complaint with the employee to fully understand the employee's position and perceptions on the matter. If appropriate, the line manager should undertake a brief investigation. The line manager should conclude the informal grievance by confirming the outcome to the employee. Line manager responsibilities are shown fully in Appendix 3.
- 5.1.3 There is no right of appeal against the outcome of an informal stage grievance process.

## 5.2 Mediation

- 5.2.1 Mediation may be considered at any stage of the procedure where it is deemed as appropriate and where the parties consent. Mediation will be undertaken in line with the Council's in-house Mediation Framework.
- 5.2.2 Mediation can be used to: rebuild relationships, deal with conflict between a line-manager and their staff or for personality clashes. However, some cases are unsuitable for mediation such as: a line-manager avoiding their managerial responsibilities, a decision about a right or wrong is needed; the individual brings a claim of discrimination or harassment.

## 5.3 Formal Stage

- 5.3.1 An employee may raise a formal grievance where either a). the employee does not feel that an informal grievance has produced satisfactory outcomes or b) the employee considers the matter so serious that a formal grievance is warranted. The formal grievance must be in writing and it must be made clear that it is a formal grievance. An email is acceptable.
- 5.3.2 The following actions **must** be taken if a formal process is to be used:
- A member of the HR team will be allocated to a grievance case and will give guidance to ensure consistency and fairness. Consideration will also be given to utilising the provisions of the Disciplinary Procedure, depending upon the nature of the grievance.
  - Management will acknowledge the grievance in writing and invite the employee to a formal meeting to gather the full facts of the complaint, and the outcome sought, ideally within five working days of receipt of the written grievance. *Guidance on undertaking an investigation is available in the Investigations & Hearings Procedure.*
  - In formal cases, it is expected that an investigation will take place. The line manager will normally investigate the facts of the grievance and may be accompanied by a member of the HR team as co-investigator. If it is not appropriate for the line manager to investigate the case, an investigating officer (or team, which may include a member of HR) will be allocated to the case. They will be given a full briefing by the relevant member of management and will undertake an appropriate and proportionate investigation to establish the facts. When investigating a grievance, the investigating officer should refer to the Investigation & Hearing Procedure for guidance.
  - The employee will be notified of the outcome of the investigation (or the outcome of the grievance meeting if no investigation is required), and any subsequent actions, by the relevant member of management. Where possible, this should be done in a face-to-face meeting, but where this is not possible or would cause an unreasonable delay, the employee can be

notified of the outcome in writing. All outcomes must be confirmed in writing to the employee, ideally within 5 working days of notification of the outcome.

- The employee will be notified in writing of their right of appeal against the outcome of the formal grievance process.

## **Section 6 - Appeal**

- 6.1 An employee who wishes to appeal against the outcome of their grievance should write to the Head of Organisational Development within 10 working days of receipt of the written outcome
- 6.2 The employee must clearly set out in writing the grounds for their appeal, which must be one or more of the following;
- Why they believe their complaint or issue remains unresolved
  - That new evidence has come to light or that evidence which should have been taken into account was not taken into account
  - That the procedure was not applied fairly or followed correctly
- 6.3 The appeal will be acknowledged in writing and will be heard as follows;
- Executive Director and above – by a panel convened from the Joint Human Resources Committee
  - Head of Service level and below – by the next level of management not previously involved in the case
- 6.4 The employee will be notified of the outcome of the appeal at the conclusion of the appeal hearing (wherever possible), and this must be followed up in writing within five working days of the appeal hearing
- 6.5 There is no further internal right of appeal

## **Section 7 - Collective Grievance**

- 7.1 Where two or more employees wish to raise a grievance on the same issue, a collective grievance can be raised. This may be raised directly with management or may be raised on the employees' behalf through UNISON.
- 7.2 It is expected that the informal stage will be used in the first instance for a collective grievance, to try to resolve the issue.
- 7.3 If a collective grievance cannot be resolved informally, the grievance can proceed to the formal stage as described in Section 5.2.
- 7.4 Employees wishing to pursue a collective grievance should nominate individuals to represent their interests throughout the process. These people will be referred to as 'nominated representatives'. These need not necessarily



be the same individuals at each stage of the process and may or may not be trade union representatives.

- 7.5 Nominated individuals will be responsible for representing the interests of all employees in the collective grievance, including presenting the case at meetings. The maximum number of nominated representatives allowed throughout the grievance procedure is as follows:

Number of employees with grievance:	Maximum number of nominated reps:
2 to 5	2
6 to 12	3
13 to 20	4
21+	5

- 7.6 A collective grievance letter setting out the formal grievance must include the name, job title and contact details of the nominated representatives, and whether they are acting in the capacity of a trade union representative.
- 7.7 The grievance letter must be signed by all employees to whom the grievance applies to confirm that they give their consent to be represented by the nominated representatives. The letter should be dated and a copy kept by the nominated representatives.
- 7.8 Nominated representatives will be invited to a formal grievance meeting and an investigation undertaken (if required) in line with the provisions of 5.2.2. Nominated representatives will also be notified of the outcome under these provisions.
- 7.9 Prior to the formal grievance meeting, the nominated representatives must inform the employer of the names of the people attending the meeting in their capacity as nominated representatives and any witnesses they wish to attend.
- 7.10 The right of appeal exists against the outcome of a collective grievance where the majority of employees (50% + one) feel that their grievance has not been satisfactorily resolved. Appeals will be heard in line with the provisions of Section 6.

## **Section 8 - Adjustments**

- 8.1 Where the employee may suffer a detriment due to their personal circumstances, for example a disability, is under the age of 18 or is in some other way considered as vulnerable, the informal and/or formal process may be adjusted to take account of this and to mitigate any detriment which may arise. For example, to permit the employee to be accompanied by a family member or other third party, such as a social worker. Adjustments may also be made to enable a chosen companion to attend.

## **Section 9 - Right to be accompanied**

- 9.1 Employees will always have the right to be accompanied throughout the formal grievance process by an accredited Trade Union representative or fellow employee, including grievance investigation meetings. These people are referred to as 'companions'. Chosen companions do not have to agree to the request to attend.
- 9.2 It is the employee's responsibility to organise a companion. Failure on the part of the employee to find a companion will not be reason to delay the grievance hearing.
- 9.3 The Council reserves the right to refuse a chosen companion where a conflict of interest is perceived. Employees are not entitled to be accompanied by a legal representative.

## **Section 10 – Grievance during notice period**

- 10.1 Where an employee raises an informal or formal grievance and subsequently begins their contractual or statutory notice period, the Council will continue with the informal/formal stages as described in this procedure.
- 10.2 In the event that the employee's notice period expires before the outcome can be concluded, the outcome will be notified to the employee in writing as soon as possible. The Council will endeavour to conclude the grievance process during the notice period.
- 10.3 The employee will have a right of appeal, even if their notice period has expired. The appeal will be considered by the employee's former Head of Service or Executive Director in line with section 13.1 below. There will be a right of appeal if the individual is still employed by the Council and their notice period has not yet expired.

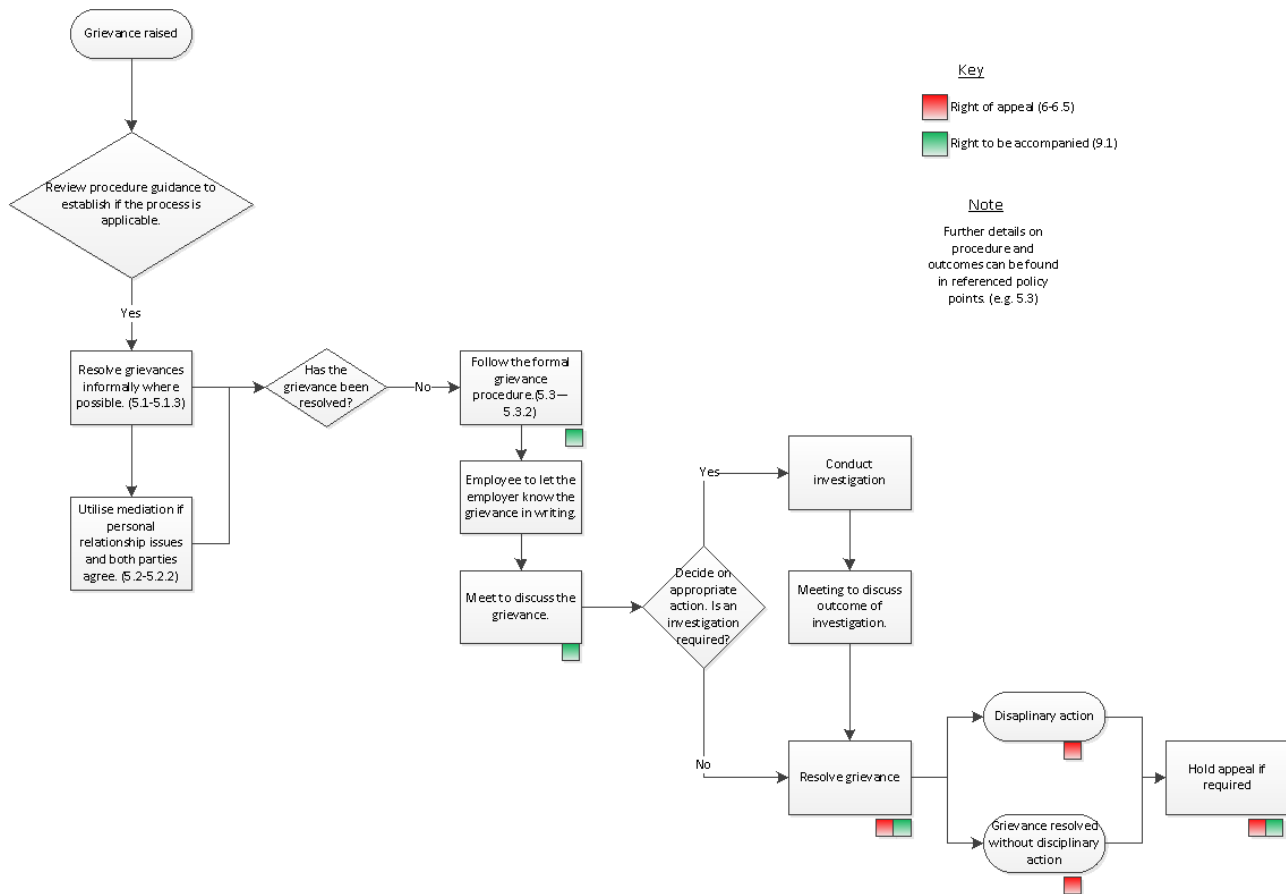
## **Section 11 – Disciplinary action**

- 11.1 Where a grievance is found to have been lodged maliciously the matter shall be dealt with under the Disciplinary Procedure.

## **Section 12 - Review**

- 12.1 This procedure will be reviewed every 2 years by Human Resources, or at the request of UNISON, or as required to remain consistent with current employment legislation.

## Section 13 - Handling a Grievance – An Overview



## Appendix 1 – Responsibilities

The following table sets out the responsibilities of each party.

	<b>Employee</b>	<b>Line Manager/Management</b>	<b>Human Resources</b>
<b>Informal Grievance and/or Mediation</b>	<ul style="list-style-type: none"> <li>Advise line manager of complaint as soon as possible.</li> <li>Attend informal meeting with line manager to fully detail the complaint and how it has arisen.</li> <li>Provide evidence to support grievance e.g. description of incident(s), date(s), time(s), witness(es).</li> <li>Be clear on what the complaint is and how it has come about.</li> <li>Provide evidence of attempts to resolve the problem prior to approaching the line manager.</li> <li>Provide constructive suggestions for resolutions.</li> </ul>	<ul style="list-style-type: none"> <li>Assess if the grievance needs to be dealt with by another manager.</li> <li>Discuss issue with HR.</li> <li>Arrange to meet informally with employee as soon as possible.</li> <li>Create a 'safe' and confidential environment to enable the employee to explain their complaint.</li> <li>Be clear on the detail of the complaint.</li> <li>Undertake a discreet investigation (if required)</li> <li>Notify employee of investigation outcomes and any next steps.</li> <li>Consider solutions put forward by the employee.</li> <li>Confirm whether the grievance is upheld, partly upheld or not upheld.</li> <li>Provide employee with a summary note of the process undertaken for their records.</li> <li>Consider root cause of issues raised and solutions e.g. an amendment to working practices or environment, improvement of working relationships, coaching, mentoring.</li> <li>Monitor situation if grievance is resolved informally.</li> <li>Ensure service delivery is not affected and take remedial action if necessary.</li> <li>Monitor possible indicators of unsettled employee e.g. short term/intermittent sickness absence, work underperformance, withdrawal, change in</li> </ul>	<ul style="list-style-type: none"> <li>Be available for employee who wishes to confidentially discuss a possible complaint.</li> <li>Agree next steps (if any) with employee.</li> <li>Assess whether another HR team member should give advice to line manager on informal stage, if advice given to the employee already.</li> <li>Consider whether any changes to HR practice, policies, procedures are necessary from the issue(s) raised by the employee.</li> </ul>

		normal behaviour, change in normal habits (arriving for work later, leaving early for example).	
	<b>Employee</b>	<b>Line Manager/Management</b>	<b>Human Resources</b>
<b>Formal Grievance</b>	<ul style="list-style-type: none"> <li>• Advise line manager/next level of management of complaint as soon as possible.</li> <li>• Submit the grievance in writing and be clear that it is a formal grievance.</li> <li>• Attend formal meeting with management to fully detail the complaint and how it has arisen.</li> <li>• Provide evidence to support grievance e.g. description of incident(s), date(s), time(s), witness(es).</li> <li>• Be clear on what the complaint is and how it has come about.</li> <li>• Provide evidence of attempts to resolve the problem prior to submitting a formal grievance.</li> <li>• Provide constructive</li> </ul>	<ul style="list-style-type: none"> <li>• Assess if the grievance needs to be dealt with by another manager/next level of management.</li> <li>• Discuss issue with HR.</li> <li>• Consider interim support mechanism for employee/other team members e.g. EAP, HR support, other managers.</li> <li>• Arrange to meet formally with employee as soon as possible, advising of the right to be accompanied.</li> <li>• Create a 'safe' and confidential environment to enable the employee to explain their complaint.</li> <li>• Be clear on the detail of the complaint.</li> <li>• Undertake an investigation or appoint an investigating officer (if required).</li> <li>• Hold any follow up meetings to complete the investigation process.</li> <li>• Notify employee of investigation outcomes and any next steps in a follow up formal meeting.</li> <li>• Consider solutions put forward by the employee.</li> <li>• Confirm whether the grievance is upheld, partly upheld or not upheld.</li> <li>• Provide employee with a written outcome the grievance process.</li> <li>• Consider root cause of issues raised and solutions e.g. an amendment to working practices or environment, improvement of working relationships, coaching, mentoring.</li> <li>• Monitor situation if</li> </ul>	<ul style="list-style-type: none"> <li>• Be available for employee who wishes to confidentially discuss a formal complaint.</li> <li>• Assess whether another HR team member should give advice as a formal stage case, if advice given to parties at informal stage already.</li> <li>• Consider whether any changes to HR practice, policies, procedures are necessary from the issue(s) raised by the employee.</li> </ul>

	<p>suggestions for resolutions.</p>	<p>grievance is resolved formally.</p> <ul style="list-style-type: none"> <li>• Ensure service delivery is not affected and take remedial action if necessary.</li> <li>• Monitor possible indicators of unsettled employee e.g. short term/intermittent sickness absence, work underperformance, withdrawal, change in normal behaviour, change in normal habits (arriving for work later, leaving early for example).</li> </ul>	
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**PRIVATE & CONFIDENTIAL**

Name  
Address  
Address  
Address

Enquiries to: Direct Line: Email: My Reference: Date: xxx
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**GRIEVANCE INVESTIGATION – INVITE TO MEETING**

Thank you for your e mail/letter of xxx raising a grievance against xxx.

*Name (Job Title)*, has been appointed to investigate your complaint and the issues you have raised. As per the letter sent to you acknowledging your grievance, xxx has been appointed as they are impartial to the issues raised.

I would like to clarify that xxx aims to complete his/her investigation in a timely manner. His/her role is to conduct an impartial, thorough and proportionate investigation with a view to recommending whether any action is to be taken.

To assist with the investigation, I would like to invite you to a meeting with xxx so you can clarify in more detail your concerns and what outcomes you are seeking. This meeting will take place:

**Date:**        **xxx**  
**Time:**       **xxx**  
**Location:**   **xxx**

Please note you do have the right to be accompanied by a work colleague or trade union representative at this meeting. It is your responsibility to arrange this.

In the meantime, I'd like to remind you that we have a free an impartial employee assistance service available and they can be contacted 24 hours a day, 7 days per week on **0808 168 2143**.

Yours sincerely

**Name**  
**Job Title**  
**CC:**   Personal File