

# Grievance Policy and Procedures

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## Contents

|    |  |           |
|----|--|-----------|
| 1  | Introduction .....   | 2         |
| 2  | Purpose of the Procedure.....  | 2         |
| 3  | Scope of the Procedure.....  | 2         |
| 4  | Responsibilities .....   | 3         |
| 5  | Managers and Supervisors.....  | 4         |
| 6  | Employees .....  | 4         |
| 7  | Human Resources Department .....   | 4         |
| 8  | How to raise a grievance – the informal stage .....  | 5         |
| 9  | Formal Stage of the Procedure.....   | 6         |
| 10 | Appeal stage of the Procedure .....  | 8         |
| 11 | Circumstances where the Grievance Procedure leads to action under the Disciplinary Procedure ..... | 8         |
| 12 | Mediation .....  | 8         |
| 13 | Modified procedure – employment has ended .....  | 8         |
| 14 | Record keeping .....   | 9         |
| 15 | Further support and guidance .....   | 9         |
|    | <i>Appendix 1 Overview of resolving an employee's grievance .....</i>                              | <i>10</i> |
|    | <i>Appendix 2 Timeline.....</i>  | <i>11</i> |
|    | <i>Appendix 3 Conflict management agreement.....</i>   | <i>12</i> |

## **1 Introduction**

The Council takes positive steps to provide equality of opportunity in its employment of staff and the delivery of its services. It works in partnership with recognised Trade Unions in resolving conflicts and actively practising equality of opportunity for all employees.

All Council employees are entitled to be treated fairly and with dignity and respect. The Council expects standards of behaviour, which recognise and respect the dignity of all individuals at work. The Council does not tolerate harassment, bullying, victimisation, intimidation, discrimination or less favourable treatment.

The Council promotes positive working relationships by encouraging early conflict resolution to resolve discontent in the workplace. Behaviour which could constitute misconduct or even gross misconduct is dealt with in accordance with the Council's Disciplinary Procedure.

The Council accepts that from time to time an employee might have a problem or concern at work. The grievance procedure is a formal way for an employee to raise a problem or complaint with their employer, where it has not been able to be resolved informally.

This procedure follows the Acas Code of Practice on disciplinary and grievance procedures.

## **2 Purpose of the Procedure**

The Council aims to have a proactive and systematic approach to allow grievances to be dealt with and resolved fairly, consistently and in a timely manner. The procedure allows grievances to be properly considered.

In the first instance, employees are encouraged to discuss their grievance informally with their immediate manager in order to attempt to reach a satisfactory resolution. If the grievance is against their immediate manager and they do not feel able to raise their grievance directly with them, the employee should discuss their grievance with a more senior manager in their service or a member of the Human Resources department.

Only when informal methods to resolve the employee's grievance have been exhausted, should the formal procedure be instigated. However, the Council understands that there may be occasions where the nature of the complaint means that the informal stages are inappropriate, for example where the complaint involves a serious complaint or the employee does not want the problem or concern to be dealt with informally.

Whilst it is the stated intention of the Council that any conflict/grievance should be dealt with as quickly as possible, inevitably some cases will need considerably more time than others in order to be investigated fully.

## **3 Scope of the Procedure**

Any employee of Tendring Council is entitled to use this procedure to raise a complaint connected to their employment, which may include the following (not an exhaustive list):

- Duties – which could relate to duties which have been assigned to the employee whether temporary or permanent or are planned to be assigned.
- Conditions of service – which might include the terms and conditions of employment for example annual leave requests, pay, special leave procedures, hours of work, working environment.

- Working relationships including bias, or unfair discrimination – which might be with another colleague, line manager, other manager or personnel within the Council.
- Complaints of harassment, bullying or victimisation – in such cases, individuals should also refer to the Harassment Policy for further guidance and support.

If employees wish to raise a grievance about issues arising from any of the protected characteristics as specified within the Equality Act 2010, referral to the Council's Equality and Diversity Policy and Harassment Policy is advised.

A complaint either informally or formally related to a "protected act", means an employee must not be treated differently or be victimised because they have made a complaint, given evidence in relation to a complaint, or they intend to do so. Victimisation will not be tolerated, and disciplinary action may be taken under the Council's Disciplinary Procedure in the event that victimisation occurs.

There are some matters that are specifically excluded from the procedure, as set out below:

- Issues that are not the responsibility of the Local Authority, e.g. matters relating to tax, pension, or pay (not an exhaustive list).
- Situations where there exists a separate appeals process e.g. disciplinary, sickness absence, capability procedures.
- Appeals such as those relating to the Local Government Pension Scheme, Income Tax, National Insurance matters and the like, which are outside the scope of the Council.
- Any issues relating to the job evaluation and grading of a post which would be dealt with under the Job Evaluation Policy.
- Issues relating to Health and Safety. These must be raised initially with management, who will liaise with Health and Safety colleagues in accordance with the Health and Safety Policy.
- Any issues affecting staff in general which would normally be dealt with under collective bargaining arrangements with the Council's recognised trade unions.
- Personal matters not directly related to employment or conditions of service.
- Where there is a collective conflict and informal stages are not practical to implement for groups of staff. In this case, the complaint should be set out in writing to the Assistant Director or Head of Department.
- Where a sanction, including a dismissal, has been overturned as a result of the disciplinary appeals process and the employee is re-engaged.
- Where continuing employment contravenes a legal duty or restriction imposed by law.

Where necessary, the Human Resources department will assist in determining whether a matter can be dealt with under this procedure.

#### **4 Responsibilities**

All Council employees are entitled to be treated fairly and with dignity and respect.

The Council is liable for what their employees do during their employment, whether or not the employer knows of those actions.

Employers can avoid liability only if they can prove that they took appropriate measures to prevent the offending acts. The employer's liability is in addition to the employee's individual liability for their own actions and individuals should be aware that they might only be liable for their behaviour.

The Council undertakes to discharge its responsibilities to its employees to provide them with a safe environment in which to work, which does not undermine the dignity or integrity of its employees.

## **5 Managers and Supervisors**

Under the terms of this policy, it is the responsibility of all managers and supervisors to seek to prevent and resolve conflicts in all work related situations by:-

- Ensuring that all employees within their area of responsibility are made aware of the Council's policy.
- Ensuring, through their own actions, remarks and other behaviour, that they do not conduct themselves in a manner that contravenes Council policy, or which may be perceived as unfair or offensive.
- Having a general awareness through observation and discussions etc of the actions, remarks or behaviour of others to ensure that they do not conduct themselves in a manner which may be perceived as unfair or offensive.
- Treating the matter seriously if they see unacceptable behaviour (whether or not a complaint is made) and taking action to eliminate the behaviour in question.
- Providing adequate support in respect of complaints, ensuring the proper procedure is followed, and ensuring recommendations and actions arising are fully implemented and maintained.

## **6 Employees**

It is the responsibility of all employees of the Council to ensure that their behaviour in all work-related situations does not cause offence or distress to others. Employees can also discourage such behaviour by indicating their disapproval and supporting colleagues who are suffering such treatment. Where incidents are witnessed, employees should bring these to the attention of management.

Employees are also responsible for raising any work problems with their immediate manager at the earliest opportunity in order for them to be resolved as quickly as possible.

## **7 Human Resources Department**

The Human Resources department has a key responsibility to provide clear guidance and support to ensure grievances raised are dealt with consistently, fairly and timely manner.

They will ensure that the employee and manager is aware of support available both internal and external, and identify further support which might assist the individuals involved.

The services of a Mediator will be organised by the Human Resources department.

Members of the department will also be available to attend and provide advice in meetings held in accordance with this procedure.

The HR department will ensure that this procedure complies with current legislation, the Acas Code of Practice and general good practice. They will also undertake regular reviews of this procedure.

## **8 How to raise a grievance – the informal stage**

Employees are encouraged to raise any problem they have with their immediate manager as soon as possible. The Council considers that early intervention to resolve the conflict restores normality and minimises disruption for all concerned. It is understood that the longer matters are allowed to continue, the more difficult it is to resolve. It is not about seeking blame, but about obtaining an agreement that is satisfactory to all parties.

An issue should be raised within 3 months of the incident or concern occurring. The Council acknowledges that it is not always possible to work within this timeframe and will consider the mitigating circumstances if issues are raised after 3 months of the incident or concern occurring. The Human Resources department is available to provide advice in this situation, if necessary.

Where possible, the employee is encouraged to ask for a meeting with their immediate manager to explain their concerns. The employee is encouraged to write down their concerns to ensure that both parties are clear about their problem and concerns. If the employee does not feel able to talk to their immediate manager, they should speak to a more senior manager in their area or a member of the Human Resources department.

The manager should arrange to meet with the employee within 5 days of being informed of the employee's problem or concern. If it is not possible to arrange the meeting within 5 days, the manager should advise the employee and agree a mutually acceptable time to meet.

This will be an informal meeting and as such, the employee would not be entitled to be accompanied by a Trade Union Representative or colleague. In exceptional circumstances and at the manager's discretion, the employee might be granted permission to be accompanied, for example if the employee has a disability and requires specific support as part of a reasonable adjustment or if the employee has difficulties expressing themselves because of language or other difficulties.

Prior to the meeting, the employee should consider what they would like the manager to do to resolve the problem.

During the meeting, the manager will attempt to resolve the employee's grievance. However, the meeting might need to be adjourned to allow either party to seek advice, obtain further information or speak to other individuals involved.

The manager should remind the employee of the Employee Assistance Programme and, where necessary, consider other support and changes to the employee's working environment whilst the issues are being resolved.

At this stage, especially if the employee's grievance relates to a relationship or incident involving another individual, the manager might decide it is appropriate to suggest Mediation. The employee can also request Mediation, if they think this would be beneficial. Further information about Mediation can be found in section (9) and in the Guidance on Mediation. This can be arranged through the Human Resources department.

Following the meeting, the manager should make a brief note of the discussions during the meeting and any action agreed. A copy of this note should be sent to the employee within 5 days of the meeting.

Further guidance on how a manager can support an employee when they raise an informal complaint or concern can be found in the Guidance on Dealing with Grievances that accompanies this policy.

The Council understands that there may be occasions where the nature of the complaint means that the informal stage is inappropriate, for example where the complaint involves a serious complaint, such as sexual harassment or whistleblowing (in such cases please also refer to the Harassment Policy and Whistleblowing Policy) or the employee does not want the issue to be dealt with informally. If the employee intends to instigate the formal part of this procedure before attempting to resolve the issue informally, they are encouraged to seek advice from the Human Resources department.

## **9 Formal Stage of the Procedure**

After every effort has been made to resolve a conflict informally, and this has not been successful, the employee may raise a formal grievance by sending the details in writing to their immediate manager's manager (known hereafter in this policy as the senior manager). If the employee is not clear whom they should send their letter to, they can contact the Human Resources department for advice.

If the employee wishes to instigate a formal grievance they should send a letter to the senior manager without reasonable delay and within 3 months of the incident or concern occurring, if they have not followed the above informal stage.

The Council acknowledges that it is not always possible to work within this timeframe and will consider the mitigating circumstances if issues are raised after 3 months. The Human Resources department is available to provide advice in this situation, where necessary.

In the letter of grievance to the senior manager, the employee should include:

- What the grievance is about
- Any evidence, for example a payslip or employment contract
- What they want to be done to resolve their grievance

The senior manager will acknowledge the grievance in writing and will arrange to meet with the employee, within 5 working days of receipt of the letter of grievance. If it is not possible to arrange the meeting within 5 working days, the senior manager should advise the employee and agree a mutually acceptable time to meet.

If the immediate manager has been involved in attempting to resolve the employee's grievance at the informal stage the senior manager will also arrange to meet with them.

The senior manager, in conjunction with the Human Resources department, will consider whether it is necessary to appoint another manager or member of the Human Resources department to conduct an independent investigation into the matter or whether the senior manager will investigate the employee's grievance

If an independent investigating manager is appointed, they will have the role of finding out the facts which might involve interviewing witnesses who were involved in the incident or issue. If it is decided an independent investigation is required, the formal meeting might be delayed. In such situations, all parties will be advised that an independent investigating manager has been appointed and of the amended time frame. The Council is committed to conducting investigations as quickly as possible.

As part of any investigation both parties will be given the opportunity to submit supporting information and documentation which will be shared with the other party. In exceptional circumstances, the senior manager might decide it is not appropriate to share the full information or documentation disclosed due to confidentiality or the sensitive nature. In this situation, advice will be sought from the Human Resources department.

Further information and advice on investigating a grievance can be found in the Guidance on Dealing with Grievances.

Following the independent investigation, the senior manager will write to invite the employee to attend a formal meeting.

If there is no independent investigation, the senior manager will invite the employee to attend the formal meeting when they acknowledge their letter of grievance.

If the senior manager is felt to be the source of, or otherwise implicated in the grievance, another senior manager without prior knowledge of the complaint should chair the meeting.

The senior manager may decide to meet with both parties together if they feel this could assist in resolving the issue.

Both parties have the right to be accompanied by a Trade Union representative, or a colleague who works for the Council. The senior manager will be accompanied by a Human Resources representative. The senior manager might also arrange for someone not involved in the grievance to attend to take notes of the meeting.

The senior manager will consider whether any adjustments need to be made to support the employee if they have a disability or if the employee has difficulties expressing themselves because of language or other difficulties.

The senior manager will chair the meetings in order to provide an opportunity for both parties to formally present their views on the matter, and to have them heard. During the meetings, the employee will be given ample opportunity to explain their grievance and any suggestions on how it could be resolved. The manager will also be given the opportunity to respond to the grievance and explain what action they took and why at the informal stage (if applicable). The employee should provide details of any witnesses they wish to attend their meeting at least 3 days prior to the meeting.

The senior manager might feel it is necessary to adjourn the meeting at any time if they are required to undertake further investigations (for example to obtain further information or speak to other individuals involved) or seek advice.

Further guidance on conducting a formal grievance meeting can be found in the Guidance on Dealing with Grievances.

Once the senior manager has considered all the information and sought necessary advice, if required, they will make a decision. The senior manager will either reconvene the meeting or write to all parties to confirm the outcome of the meeting.

Within 10 days of the meeting, the senior manager will complete the Conflict Management Agreement (as found in Appendix 3) and write to the employee which will confirm the main areas discussed at the meeting, the outcome of the meeting, and whether the employee's grievance has been upheld. If there is more than one issue, the senior manager will inform the employee which issues have been upheld and which have not been upheld, as



necessary. In the letter the senior manager will outline the employee's right to appeal and what they are required to do should they wish to appeal against the decision.

Prior to, during, or as an outcome of the meeting, the senior manager might decide it is appropriate to recommend Mediation as a way to resolve the problem. The employee can also request Mediation at any stage if they think this would be beneficial. Further information about Mediation can be found in section (9) and in the Guidance on Mediation. This can be arranged through the Human Resources department.

## **10 Appeal stage of the Procedure**

Where the employee feels their grievance has not been satisfactorily resolved they are entitled to appeal. The employee should confirm in writing the grounds for their appeal within 10 days.

In the employee's letter of appeal they should state:

- That they are appealing and if there is more than one issue, clearly state which issue they are appealing against.
- Explain why they do not agree with the decision.

The employee should refer to the Appeals Procedure for further information. The decision by the Appeal panel will be final.

## **11 Circumstances where the Grievance Procedure leads to action under the Disciplinary Procedure**

Following the formal meeting, the senior manager might conclude that the issue is serious enough to warrant disciplinary action, in which case a disciplinary investigation will be invoked. The matter will not necessarily require further investigation if all the facts have been established. If the matter proceeds to a disciplinary hearing, the Chair of the formal meeting will be the presenting officer at the hearing.

In such cases, the employee who submitted the grievance might not be advised of the full outcome of the Disciplinary hearing to protect the confidentiality of the individual concerned.

## **12 Mediation**

Mediation is completely voluntary and confidential. It involves an independent, impartial person helping both parties to reach a solution that is acceptable to everyone. The Mediator is there not to judge, to say one person is right and the other is wrong, or to tell those involved in the Mediation what to do. The Mediator is in charge of the process of seeking to resolve the problem but not the outcome.

Mediators may be employees of the Council who have been trained and an accredited by an external Mediation service to act as internal Mediators in addition to their day jobs. The Council may also engage external Mediators who are not employed by the Council.

Further information can be found in the Guidance on Mediation.

## **13 Modified procedure – employment has ended**

The modified procedure will apply only where employment has ended and either:

- Both parties agree in writing that the modified procedure should apply.
- It is not reasonably practical for one or other of the parties to follow the standard procedure such as where the former employee is unable to secure time off work from their new job to attend a meeting.

The modified procedure is:

- Step 1 The employee sets down in writing the nature of the alleged complaint.  
 Step 2 The senior manager sets out a response in writing. There is no right of appeal.

#### **14 Record keeping**

All records relating to a grievance will be treated as confidential and kept in accordance with the Data Protection Act 2018, which gives individuals the right to request and have access to certain personal data. Refer to Data Protection Policy for further guidance.

The Human Resources department will keep a written record of any formal grievance cases dealt with and the managers will keep a written record of any informal grievance dealt with.

Copies of meeting notes will be given to the employee. In certain circumstances (for example due to confidentiality or the sensitive nature of the grievance) the Council might withhold some information.

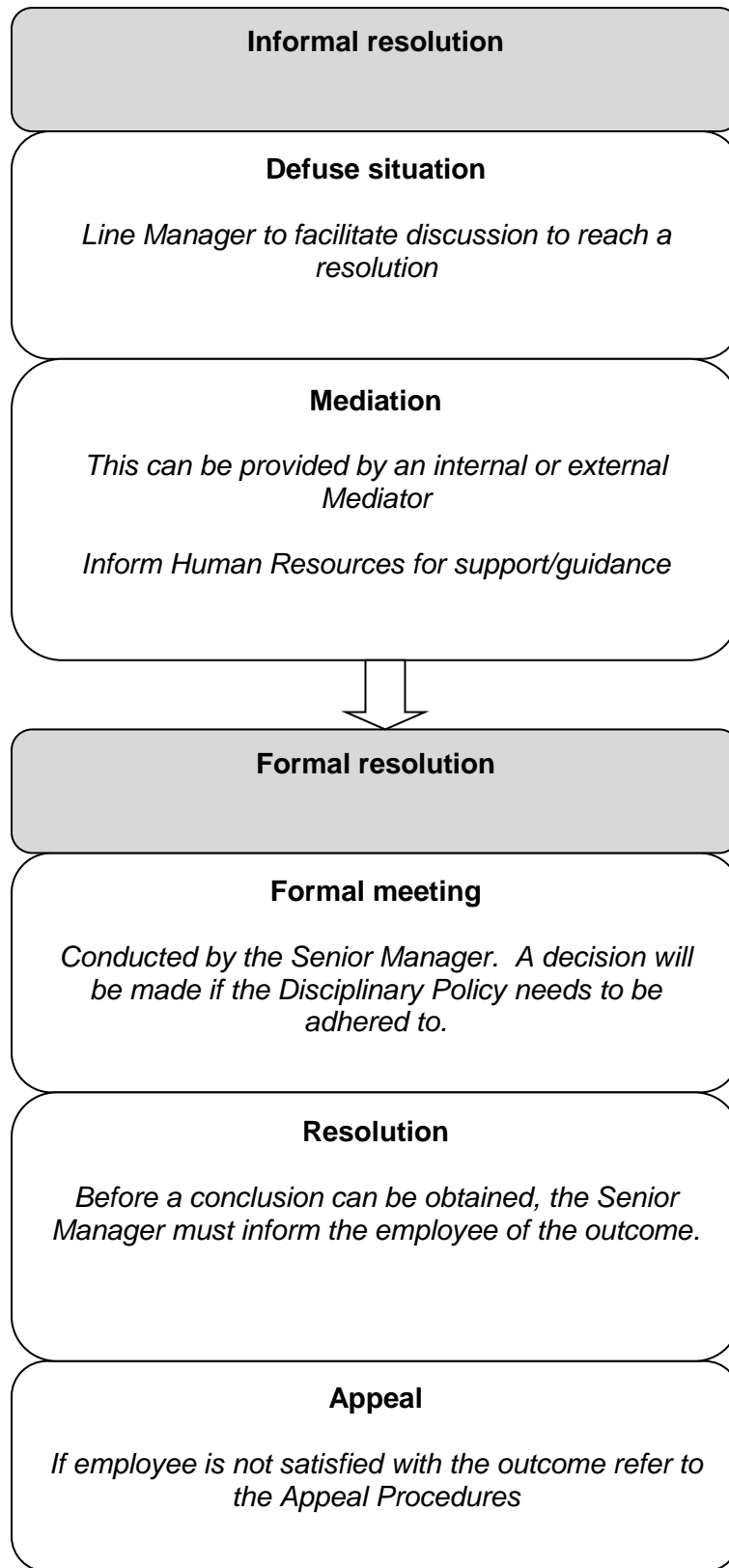
#### **15 Further support and guidance**

The Council recognises that raising a grievance and being involved in the process can be stressful for everyone involved.

Employees are reminded that the Employee Assistance Programme is available to them throughout the procedure.

Where there are signs that someone involved in the process is extremely distressed by the process or there are concerns about their mental health, the Human Resources department will advise on how the individual can be supported. This might involve considering how the procedure can be adjusted in some way to support the individual or identifying further support for the individual including seeking medical advice.

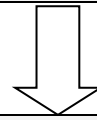
**Appendix 1** Overview of resolving an employee's grievance



## Appendix 2 Timeline

The following time-frame is to be used as guidance only. Although it is encouraged that a resolution is not unduly delayed.

|                       |   |   |
|-----------------------|---|---|
| Start                 | Employee raises grievance with immediate line manager   |   |
| Day 1 – 5             | Manager writes to employee to seek a meeting to resolve the matter informally and meeting held. |   |
| Informal intervention |   |   |
| Day 5 – 10            | Manager and employee able to resolve matter   | Manager and employee not able to resolve matter |
| End of procedure      |   |   |



|                            |   |  |
|----------------------------|---|--|
| <b>Formal intervention</b> |   |  |
| <b>Day 10 – 20</b>         | Employee submits formal written grievance to Senior Manager | <b>Senior Manager</b> <ul style="list-style-type: none"><li>▪ Arranges to meet with the employee and advises them in writing of the date of the meeting and that they are entitled to bring a representative to the meeting</li><li>▪ May consider whether the matter could be resolved via Mediation.</li><li>▪ Considers whether the matter can be resolved or whether formal fact finding is necessary and / or independent investigator appointed.</li><li>▪ Determines the need to interview any witnesses or other employees involved in the dispute.</li><li>▪ Takes notes of each meeting / interview and gives to the interviewee for any comments.</li><li>▪ Employee advised of outcome and right to Appeal if not satisfied.</li></ul> |



| Type of intervention (delete as appropriate) |                      |                |
|--|----------------------|----------------|
| Mediation (internal)                         | Mediation (external) | Formal meeting |

|                 |  |      |  |
|-----------------|--|------|--|
| Chairperson     |  |      |  |
| Date            |  | Time |  |
| Location        |  |      |  |
| Parties present |  |      |  |

|  |   |
|--|---|
| <b>Issues discussed</b>                                  |   |
| <b>Details of resolution</b>                             |   |
| <b>Next stage</b>  | Mediation - external / Formal Meeting / Appeal / Disciplinary Investigation (Delete as appropriate) |
| <b>Resolution agreed</b>                                 | Yes / No  |
| <b>Details for implementation</b>                        |   |
| <b>Additional comments</b>                               |   |
| <b>Signed</b><br><i>All parties to sign in agreement</i> |   |
| <b>Date:</b>   |   |