

Grievance Resolution Procedure

(incorporating allegations of bullying and harassment)



1. Introduction

Council Policy

The Council is committed to providing a working environment where individuals are treated with fairness, dignity and respect; this procedure allows employees to raise genuine workplace grievances and have them dealt with fairly, consistently, promptly and objectively and with a view of trying to achieve an agreed resolution.

The Procedure applies to all employees employed directly by the Council and follows the guidance contained within the ACAS statutory Code of Practice for Disciplinary and Grievance Procedures, and ACAS guidance on Bullying and Harassment at Work (effective from 6 April 2009).

The Procedure is not intended to punish employees, but to try and resolve any grievances as quickly and as fairly as possible, at the lowest appropriate level in the Council and to avoid minor issues developing into more serious matters. It is not to be used to pursue malicious or vexatious complaints and to do so will be considered a disciplinary matter that may lead to dismissal.

Grievances - Definition

The ACAS Code of Practice defines grievances as concerns, problems or complaints that employees raise with their employer.

Grievances may be concerned with a wide range of issues such as the allocation of work, physical working environment, working hours, health and safety, working relationships or general treatment at work.

Bullying and Harassment - Definition

The ACAS guide “Bullying and Harassment at Work” defines bullying and harassment as follows:

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

Harassment, as “unwanted conduct affecting the dignity of men and women in the workplace. It may be related to age, sex, race, disability, religion, sexual orientation, nationality 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”.

Appendix 1 sets out the Council’s policy on bullying and harassment, including allegations of a sensitive sexual, homophobic or racial nature etc.

Advice and Support

Human Resources will support and advise managers considering grievance matters raised through the Procedure. They will also monitor all formal grievances raised to ensure they are dealt with in accordance with the Procedure, employment and equalities legislation, and “best practice”.

Employees are entitled to be accompanied by a trade union representative or a fellow work colleague at any meetings under the “Formal Resolution” process of the Procedure. Further details of the additional advice and support available to employees are attached at Appendix 2.

Whistle-Blowing

The Council has a Whistle-Blowing Procedure, for raising concerns about any alleged wrongdoing in the workplace e.g. fraud or corruption, unlawful acts or dangers to health and safety. Matters raised under the Whistle-Blowing Procedure may be dealt with as a grievance.

The Corporate Director of Resources, or nominated officer acting on the advice of the Head of Human Resources, will decide whether allegations are more appropriately dealt with under the Whistle Blowing or Grievance Procedure. There is no right of appeal against that decision.

Work colleagues not directly employed by the Council

Managers must seek advice from Human Resources on dealing with any grievance or bullying and harassment matter raised by agency workers or work colleagues not directly employed by the Council.

2. Matters outside the scope of the Procedure

This Procedure is available to all employees directly employed by the Council, except in the following circumstances: -

- Complaints about the Council’s statutory responsibilities as an employer.
- In response to being subject to another formal investigation or hearing under the Disciplinary, Managing Performance, Grievance or Sickness Absence procedures etc.
- To restart the procedure within 12 months of the completion of action in respect of the same or a similar grievance, (unless agreed recommendations have been broken or ignored).
- Any issues for which there is a separate appeals procedure e.g. grading, disciplinary or redundancy.

- Any personal matter not directly related to the member of staff's employment or conditions of service over which the council has no control.
- Collective disputes or matters, which are properly the subject of collective bargaining between the Council and trade unions, e.g., pay issues.
- To pursue malicious or vexatious complaints, (to do so will be considered a disciplinary matter, that may lead to dismissal).
- A matter that occurred more than 3 months ago.
- As a response to a grievance taken out by another member of staff.

3. Informal Resolution

It is in everyone's interest for work place concerns to be dealt with on an informal basis and both employees and managers have a responsibility to resolve concerns at the lowest possible level.

Employees Responsibility

Employees must first try to resolve the matter informally by talking to their immediate line manager, (if the line manager is the subject of the grievance, they should speak to their manager's manager). The employee should:

- Explain the nature of their concern(s) and what action they feel should be taken to enable a resolution to be met
- Agree, where possible, any appropriate action necessary to resolve their grievance

Managers Responsibility

Managers must arrange a confidential time and place to meet with the employee, as soon as possible, to discuss the matter. The manager should:

- Consider the grievance seriously
- Ensure that the employee is given a full opportunity to explain their grievance
- Ensure they have a full understanding of their grievance and how the employee thinks it should be resolved
- Seek a means of resolving the grievance to the employee's satisfaction if this is possible, taking into account Council policies, procedures, rules and the need for consistency and fairness

Most issues should be resolved within 20 working days. Managers and employees should keep a written note of informal discussions.

To conclude the informal process, managers should provide the employee with a brief written summary of the outcome, including any actions agreed.

4. Formal Resolution

This is only available on completion of “Informal Resolution” process at Section 3; employees cannot go directly to the “Formal Resolution” process.

Grievance Hearing

Where the grievance has not been resolved informally, the employee should write to Human Resources, using the pro-forma at Appendix 3.

The employee should outline clearly the reason(s) for their grievance with details of any events/actions (including dates, times and any witnesses), that triggered the complaint and how they would like it resolved. If the grievance or desired outcome is unclear, the employee may be asked to clarify their grievance before any meeting takes place.

Human Resources will acknowledge receipt of the grievance in writing, normally within 5 working days. Human Resources will also liaise with the employee’s department to enable an officer to be nominated who will hear the grievance and undertake a detailed investigation. The nominated officer will then arrange a meeting with the employee to discuss their grievance.

Ideally a grievance hearing will be arranged within **10 working days** of receipt (in Human Resources) of the grievance. If this is not possible, the nominated officer must write to the employee to explain the reason for the delay and give an indication of when the hearing can be expected; this will be within a maximum 20 working days from the date the grievance was received.

The nominated officer is responsible for the “conduct” of the hearing which will vary depending on:

- The nature of the grievance
- Whether evidence is readily available to clarify the facts of the case
- The form of resolution being sought

The nominated officer will notify the employee in writing of their decision and any action that is proposed to resolve the grievance raised, within 5 working days of the grievance hearing. The timescale may be extended, (up to a further 10 working days or in some cases longer with the employee’s agreement), if further investigations are necessary.

Appeal

If the employee is dissatisfied with the outcome of the grievance hearing they have the right of appeal. The employee should write to Human Resources within 10 working days of receipt of the outcome decision letter*, using the pro-forma at Appendix 4.

***Employees must register their appeal within this period otherwise they will be deemed to have accepted the decision at the Grievance Hearing; appeals will not be accepted after this period.**

The appeal pro-forma must be completed clearly stating:

- Why the employee is dissatisfied with the outcome decision
- What alternative solution they are seeking to resolve their grievance

No new evidence, i.e. evidence that was not raised and submitted previously at the grievance hearing, by either party can be presented at the appeal.

On receipt of the appeal pro-forma Human Resources will liaise with the employee's department to enable a more senior officer to be nominated to hear the appeal, normally at least Group Manager level.

The nominated officer will contact the employee within 10 working days of receipt (in Human Resources) of the appeal to arrange an appeal hearing. If this is not possible, they will write to the employee to explain the reason for the delay, and give an indication of when the hearing will be held; this will be within a maximum 20 working days from the date the appeal was received.

If the nominated officer cannot arrange an appeal hearing within the timescale i.e. within 20 working days from the date the appeal was received, they must notify Human Resources and another officer may be appointed.

The purpose of the appeal hearing is to consider the grounds that have been put forward and to assess whether or not the conclusion reached at the grievance hearing was appropriate. The appeal is not a rehearing of the original grievance, but rather a consideration of the specific areas of which the employee is dissatisfied in relation to the original grievance.

Following the appeal hearing, the nominated officer will notify the employee in writing of their decision and any action that is proposed to resolve the grievance raised, within 5 working days of the appeal hearing. The timescale may be extended, (up to a further 10 working days or in some cases longer with the employee's agreement), if further investigations are necessary.

This is the final stage; there is no further right of appeal.

Human Resources will automatically update the Procedure to comply with any changes to legislation and / or ACAS guidance and notify employees of the amendments.

Appendix 1:

Allegations of Bullying and Harassment

Policy

The Council is committed to providing a working environment for all its employees that is comfortable and free from all forms of bullying and harassment. Any employee who is found to have bullied and/or harassed a work colleague or customer of the Council will be subject to disciplinary action, up to and including summary dismissal.

Employees are encouraged to report any incidents of bullying and/or harassment they experience or witness so that the Council can investigate and resolve the matter. The Council will take all such complaints seriously and an employee who makes a genuine complaint of bullying and/or harassment will be protected and not be penalised or victimised in any way.

Note: The Council will also instigate an investigation into alleged bullying or harassment if it has grounds to believe that an employee may have been bullying and/or harassing another work colleague or customer, whether or not there has been a formal complaint.

Managers and Employees Responsibilities

Managers are responsible for implementing and raising awareness of this Policy. **All managers and employees** have personal responsibility for their own behaviour and for ensuring that they comply with this Policy.

Bullying and Harassment – Definition

ACAS defines bullying and harassment as;

Bullying as offensive, intimidating, malicious or insulting behaviours, an abuse or misuse of power through means intended to undermine, humiliate, or injure the recipient.

Harassment as unwanted conduct affecting the dignity of men and women in the workplace. It may be related to age, sex, race, disability, religion, sexual orientation, nationality 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 unacceptable behaviour may include:

- Picking on someone or setting them up to fail
- Inappropriate behaviour or language at meetings
- Spreading malicious rumours, or insulting someone (particularly on the grounds of age, race, sex, disability, sexual orientation and religion or

belief); this includes postings on notice boards and social networking sites

- Copying and/or circulating memos/letters/e-mails/texts/reports or any other written or electronic communications that are critical about someone to others who do not need to know
- Exclusions or victimisation
- Unwelcome jokes or comments of a sexual or racial nature or about and individual's age, disability, faith and gender etc
- Unwelcome sexual advances – touching, standing too close, display of offensive materials, asking for sexual favours, making decision on the basis of sexual advances being accepted or rejected.

Dealing with Allegations of Bullying and Harassment

General

Bullying and harassment are potentially serious disciplinary offences and the Council will use the Disciplinary Procedure to address such issues where, in its view, that is the appropriate course of action. The alleged victim(s) will be consulted but will not have a veto over the course of action decided upon.

Bullying must be distinguished from the right of, and obligation placed on managers, to exercise proper direction and supervision of employees in the course of their duties. The Council will not tolerate the abuse of this Procedure to challenge and undermine managers exercising legitimate authority. Such instances will be dealt with as disciplinary offences.

Working Arrangements During Investigations

Allegations of bullying and/or harassment can place particular stresses on both the alleged victim and alleged perpetrator. As such, they must be dealt with promptly and, wherever possible, in ways that seek to minimise the stress on the parties involved.

Whilst individual circumstances and service needs must always be taken into account, the presumption is that working arrangements will be adjusted whilst complaints under this procedure are being investigated so that the alleged victim and alleged perpetrator are separated. Reporting arrangements may be changed and either or both parties required to work at a different location.

Human Resources will advise on the options and the Head of Service will take account of the wishes of the parties involved and service needs in reaching their decision; decisions will make no inferences regarding relative guilt and no such inferences may be drawn.

Other considerations

In very exceptional circumstances, where the alleged victim can demonstrate plausible grounds for feeling particularly intimidated or threatened by the alleged perpetrator, and on the advice of Human Resources, it may be necessary to offer a degree of anonymity and/or make arrangements to ensure that the parties do not have to meet directly at meetings or hearings called under this or any other Council procedure.

Procedure

The procedural arrangements for dealing with allegations of bullying and/or harassment are the same as detailed for grievances. However, there are four possible outcomes for allegations of bullying and/or harassment made;

1. The investigation of the allegation(s) demonstrates sufficient preliminary evidence to justify referring the matter directly to be dealt with under the Disciplinary Procedure. Then a disciplinary investigation will be set up and all further action will be taken under that procedure. No further action will be taken under the Grievance Procedure.
2. In exceptional cases there may be a recommendation of transfer, (unless provided for in the employee's terms and conditions if they suffer a detriment by it, for example additional expense or a less responsible role).
3. There is substance to the allegation(s) and informal means, such as mediation, conciliation, coaching, counselling, training, should be used to address the issue.
4. The allegation(s) was unfounded.

Appendix 2:

Additional Advice and Support

Occupational Health – Any employee that is involved in a claim of bullying and/or harassment may find it helpful to talk to the Occupational Health Adviser and therefore will be given the option of a referral.

Counselling – The Council provides a confidential external service for staff through our Occupational Health Service.

EAP – Employee Assistance Programme - is a welfare initiative available by telephone to give counselling, information, signposting and support.

Note: To include contact details

Trade Unions – The Council recognises the important role that trade unions have in resolving and supporting such issues and encourages employees to approach their TU Representatives for support in addressing unacceptable and inappropriate behaviours. The recognised trade unions are as follows:

Non-Teaching:

- APEX
- GMB
- Unison
- Unite

Teaching:

- ATL
- NAHT
- NASUWT
- NUT

Note: To include contact details

Staff Support Networks - The Council has well established support networks that provide valuable support, including confidential advice, on both work related and personal matters. The staff support networks are as follows:

- BME Staff Support Network
- Disabled Staff Network
- LGBT Staff Support Network

Note: To include contact details

Other Support

Note: To include contact details

Grievance Pro-Forma – Formal Resolution

Section 1: Employee Details

Name: Contact No:

Post: Location:

Department: Section/Service:

Section 2: Employee Representative Details

Please detail the name of your representative. (You are entitled to be represented by a trade union representative or a work colleague at any stage of the formal procedure).

Name: Contact No:

Name of trade union (if applicable):

Section 3: Grievance Details

Please detail your grievance overleaf giving full details of dates, incidents, parties involved, witnesses, circumstances, etc. Additionally, where possible, please ensure that you include or reference the following specific details:

- The date that this issue commenced
- Whether this is a one-off issue, or part of a sequence of events
- Which policies, procedures or employment terms do you believe have been breached
- What action/steps you have taken to resolve the issue informally, when and who with?
- Copies of any relevant documentary information
- What you are looking for as a satisfactory outcome

Please note that the procedure is not intended to punish staff, but to try and resolve any grievances as quickly and as fairly as possible, at the lowest appropriate level in the organisation and to avoid minor issues developing into more serious matters. It is not to be used to pursue malicious or vexatious complaints and to do so will be considered a disciplinary matter that may lead to dismissal.

Please state your grievance:

(Please continue onto a separate sheet if necessary)

B) Please state what you are seeking as a satisfactory outcome to your grievance

Signed:..... **Date:**.....

Name (Please Print):

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Grievance Pro-Forma – Appeal

Section 1: Employee Details

Name: Contact No:

Post: Location:

Department: Section/Service:

Section 2: Employee Representative Details

Please detail the name of your representative. (You are entitled to be represented by a trade union representative or a work colleague at any stage of the formal procedure).

Name: Contact No:

Name of trade union (if applicable):

Section 3: Appeal

Where you are appealing against the outcome at the Grievance Hearing; ensure that you detail the specific reason(s) why you are dissatisfied with the Nominated Officer's decision.

A) Please state you reasons for appealing against the outcome at the Grievance Hearing:

(Please continue onto a separate sheet if necessary)

B) Please state what you are seeking as a satisfactory outcome to your grievance:

C) How the Nominated Officer's reasons for rejecting the alternative solution might be addressed (if applicable)

Signed:..... **Date:**

Name (Please Print):

.....

Grievance Procedure - Flowchart

