

Procedure for Hearing Employee Grievances

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PROCEDURE FOR HEARING EMPLOYEE GRIEVANCES

(All employees except the Chief Executive and Teaching Staff)

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PROCEDURE FOR HEARING EMPLOYEE GRIEVANCES

(All employees except the Chief Executive and Teaching Staff)

1. PURPOSE

The council and trade unions recognise that on occasions, employees may wish to raise concerns relating to their employment on an individual or collective basis. The purpose of this procedure is to provide a mechanism to raise any such concerns with a view to resolving them, whenever possible, through discussion and agreement and as speedily as possible.

The procedure does not apply to the Chief Executive and Teaching Staff for whom separate arrangements apply.

1.1. PRINCIPLES

Whilst recognising the need for a formal procedure the council and trade unions accept as a general principle that grievances are best resolved informally and as close to the point of origin as possible. In accordance with this principle it is agreed that the formal procedure should not normally be initiated until attempts at informal grievance resolution in accordance with Paragraph 3 of this document have been tried and failed.

1.2 GRIEVANCES – UNACCEPTABLE BEHAVIOUR

This procedure acknowledges the fact that grievances may take the form of complaints of alleged harassment and bullying at work. An employee who feels subjected to unacceptable behaviour, as defined within the council's [Policy & Procedure with Dealing with Complaints of Bullying and Harassment at Work](#), is entitled to raise a complaint under the terms of that procedure and have the matter investigated and addressed appropriately.

If despite pursuing a complaint under that procedure, the employee feels that the unacceptable behaviour in question has not ceased, he/she is entitled to lodge a grievance at stage 2 of this procedure on the grounds that the council has not met its obligations under the Policy on Dealing with Complaints of Bullying and Harassment. In those circumstances, it is important that both procedures are read in conjunction to ensure their provisions are applied effectively.

2. SCOPE OF PROCEDURE

2.1 Matters which may be pursued through this procedure are as follows:

- (a) any question as to an employee's rights generally under the relevant National Scheme of Conditions of Service;

- (b) any question in relation to an employee's salary banding and/or placing within the relevant salary band;
 - (c) any question as to whether there has been discrimination against an employee contrary to the terms of the relevant National Scheme of Conditions of Service or the council's Equal Opportunities in Employment Policy and related policies or the relevant statutory provisions;
 - (d) any question as to the rights in respect of which an employee has a right to complain to an Employment Tribunal, excluding termination of employment for which separate appeals arrangements apply;
 - (e) all other grievances
- 2.2 The right to a grievance hearing set out in paragraph 2.1(b) is for the purpose of securing uniformity in the gradings of posts. Such a right will only exist and be exercised on the grounds that:
- (a) there has been a substantial change in the duties and responsibilities of the post since it was established, or since the post was last regraded; or
 - (b) the salary placing applied to the post has been incorrectly determined.
- 2.3 This procedure will not be activated in circumstances where the grievance issue is the subject of a report to be considered, or under consideration, by the council or its appropriate Committee. In such circumstances, the council must adopt its policy prior to the procedure being activated. It is accepted, however, that this would not preclude the procedure being used where the grievance concerns other aspects of the issue (eg lack of timeous progress).
- 2.4 The right to a grievance hearing contained in paragraphs 2.1(c) and 2.1(d) above will not preclude an employee from registering a complaint on the same or similar grounds with an Employment Tribunal.

3. INFORMAL GRIEVANCE RESOLUTION

- 3.1 It is accepted that, where an employee has concerns relating to his/her employment, initial efforts at resolving the matter should be made through informal discussions between the officer and his/her immediate line manager.
- 3.2 The aim of these informal discussions, is to identify the nature and cause of the concerns, the possible courses of action that could be taken to resolve the issue(s) concerned and the potential implications of pursuing those actions.

At the conclusion of these discussions (and in any event within three working days), the employee will be notified of any action intended to be taken in response to the issue(s) raised.

- 3.3 Should the employee remain dissatisfied with the verbal response, the matter may be lodged in writing as a formal grievance either by the employee or his/her representative. Thereafter the matter will be processed in accordance with the formal procedure.

4. GRIEVANCE PROCEDURE – GENERAL

- 4.1 In raising a formal grievance, the following procedural requirements will apply;
- (a) the employee or his/her representative will complete a Written Statement of Grievance setting out the nature of the grievance together with any supporting documentation (Appendix 1 refers).
 - (b) following receipt of the Written Statement, the appropriate officer will arrange a hearing to consider the matter;
 - (c) the officer conducting the hearing will ensure that all relevant information is presented and considered. If appropriate, officers involved at an earlier stage will attend the hearing to facilitate discussions.
 - (d) the officer conducting the hearing may be advised by a Human Resources Adviser or in the case of a grievance lodged by a Chief Officer, by the council's Chief Solicitor (or representative).
 - (e) the employee will have the right to call witnesses subject to the names of any such witnesses being provided in advance to the officer conducting the hearing;
 - (f) the employee will have the right to be accompanied/represented by a trade union official or some other person of their choice; and
 - (g) where the issue relates to a group of employees, up to three spokespersons, together with their representative, if any, may attend the hearing.

5. STAGE 1 GRIEVANCE PROCEDURE

- 5.1 A formal grievance will be considered in the first instance by the immediate line manager who will arrange for a hearing to be held within ten working days of receipt of a written statement of the grievance.
- 5.2 Following the above hearing, the employee will be provided with a written response and a copy will be forwarded to their representative (if any) within five working days of the hearing.
- 5.3 In some instances, depending on the nature of the grievance, it will be inappropriate for the matter to be considered by the immediate line manager and in those circumstances the matter will be referred directly to the Depute Chief Executive (or in the case of a Head of Service to the Chief Executive) to be considered at Stage 2 of the formal procedure. A grievance will not however be referred to the Depute Chief Executive (or Chief Executive) solely on the grounds that the employee's supervisor has already considered the matter informally.

6. STAGE 2 GRIEVANCE PROCEDURE

- 6.1 Should the employee remain dissatisfied with the response, he/she may request a further hearing by referring the matter to the Depute Chief Executive in writing within ten working days of being notified of the outcome of the Stage 1 hearing.

- 6.2 The Chief Executive, Depute Chief Executive or other senior nominated officer as appropriate, following consultation with Human Resources, will arrange a hearing within 10 working days of receipt of the written statement.
- 6.3 Following the above hearing, the employee will be provided with a written response and a copy will be forwarded to his/her representative (if any) within five working days of the hearing.

7. STAGE 3 – APPEALS COMMITTEE

- 7.1 Should the employee remain dissatisfied with the response following a Stage 2 hearing, he/she may exercise their right of appeal to the council's Appeals Committee in accordance with the procedures set out in Appendix 2 of this document.
- 7.2 No further internal right of appeal against a decision of the council's Appeals Committee will exist and the procedure be deemed to be exhausted at that stage.

8. PROCEDURAL AMENDMENTS FOR DEPUTE CHIEF EXECUTIVES

- 8.1 Grievance matters raised by Depute Chief Executives will be dealt with in accordance with 8.2 to 8.4 below. By virtue of the council's scheme of delegated authority and governance structure, the procedure is limited to two formal stages.
- 8.2 Where attempts to resolve a grievance informally have failed or are inappropriate, a formal grievance by a Depute Chief Executive will be heard in the first instance by the Chief Executive.
- 8.3 Should the Depute Chief Executive remain dissatisfied with the response following consideration by the Chief Executive, he or/she may exercise their right of appeal to the council's Appeals Committee in accordance with the procedures set out in Appendix 2 of this document.
- 8.4 No further internal right of appeal against a decision of the council's Appeals Committee will exist and the procedure is considered to be exhausted.

9. TIME LIMITS

- 9.1 The time limits relating to this procedure may be varied by mutual agreement.

PROCEDURE FOR HEARING EMPLOYEE GRIEVANCES

(All employees except the Chief Executive and Teaching Staff)

STAGE 1 SUBMISSION

WRITTEN STATEMENT OF GRIEVANCE

Name:	
Employee Number:	
Service Area:	
Line Manager:	
Name of Representative: (TU or other work colleague)	
Date of infomal meeting:	
Informal Grievance heard by:	

Outline the main points of your grievance:

Please continue on an additional sheet if required.

The council's Procedure for Hearing Employee Grievances requires that the formal procedure should not normally be invoked until attempts at informal grievance resolution have been exhausted. **Please detail the informal action that you have taken to date and the outcome of this:**

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It is important that you clearly specify the remedy you wish to achieve from your grievance as this will assist your line manager in addressing the matters concerned. **Please specify the resolution sought below:**

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Employee's Signature:	Date:
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Completed form **and any supporting documentation** should be submitted to your line manager.

Action required: Hearing to be held within 10 working days of receipt of this Statement.

PROCEDURE FOR HEARING EMPLOYEE GRIEVANCES**(All employees except the Chief Executive and Teaching Staff)****STAGE 2 SUBMISSION****WRITTEN STATEMENT OF GRIEVANCE**

Name:	
Employee Number:	
Service Area:	
Line Manager:	
Name of Representative: (TU or other work colleague)	
Date of Stage 1 Hearing:	
Stage 1 Grievance heard by:	

Outline the main points of your grievance:

Please continue on an additional sheet if required.

In line with the council's Procedure for Hearing Employee Grievances your grievance has already been considered at Stage 1. **Please confirm whether your grievance was not upheld or upheld only in part and why you remain dissatisfied with the decision taken at Stage 1:**

It is important that you clearly specify the remedy you wish to achieve from your grievance as this will assist the Depute Chief Executive (or other nominated Senior Manager) in addressing the matters concerned.
Please specify the resolution sought below:

Employee's Signature:

Date:

Completed form **and any supporting documentation** should be submitted to the Depute Chief Executive.

Action required: Hearing to be held within 10 working days of receipt of this Statement.

EMPLOYEE APPEALS COMMITTEE**PROCEDURE FOR CONSIDERATION OF GRIEVANCES**

(All employees except the Chief Executive and Teachers)

1. TERMS OF REFERENCE

- 1.1 The Employee Appeals Committee will be convened to hear an appeal against a decision taken in consideration of a grievance raised by an employee at Stage 2 of the Procedure for Hearing Employee Grievances or in the case of Depute Chief Executives, a decision taken at 8.3 of the procedure.
- 1.2 The Employee Appeals Committee will have delegated power from the Council to decide grievances and will be the council's final arbiter on such matters.

2. CONDITIONS RELATING TO AN APPEAL

- 2.1 For the Employee Appeals Committee to be convened, notice of appeal must be lodged with the Committee Services Manager within ten working days of the appellant receiving written notification of the decision in response to their grievance.
- 2.2 The notice of appeal, which must be in writing, may be lodged by the appellant or their trade union or by some other person of the appellant's choice.
- 2.3 The appellant and their representative, if any, will be given a minimum of ten working days' notice in writing of the date, time and place of the appeal hearing.

3. MEMBERSHIP OF THE EMPLOYEE APPEALS COMMITTEE

- 3.1 The Employee Appeals Committee comprises a panel of eight members. Five members are called to Employee Appeals Committee meetings and three form a quorum.
- 3.2 Where a meeting of the Employee Appeals Committee is adjourned for any reason, only those members in attendance at the original hearing will be eligible to attend the reconvened hearing.

4. REPRESENTATION AND ATTENDANCE OF OFFICERS

- 4.1 With the exception of circumstances where the Depute Chief Executive is the appellant, the Depute Chief Executive will represent the council at the appeal hearing (where the Depute Chief Executive is the appellant, the Chief Executive will represent the council).
- 4.2 The appellant has the right to be represented at the appeal hearing by a trade union official or officials or by some other person of their choice. Where the grievance or appeal is of a collective nature the appellants will nominate a representative and a maximum of three spokespersons from within their number.

- 4.3 The Committee Services Manager or representative will act as Clerk to the Employee Appeals Committee.
- 4.4 The Head of Corporate Services or representative will act as adviser to the Employee Appeals Committee.
- 4.5 If an appeal hearing is adjourned, all parties involved will ensure that, other than in exceptional circumstances, the original representatives attend the re-convened hearing for continuity purposes.

5. PROCEDURE PRIOR TO APPEAL HEARING

- 5.1 Following submission of a written notice of appeal, the appellant or their representative will submit to the Committee Services Manager:
- a written statement indicating the nature of the grievance;
 - copies of any written statements made by witnesses for the appellant which were considered at earlier hearings;
 - a copy of any other documents to be placed before the Employee Appeals Committee; and
 - the names of any witnesses to be called to give evidence on behalf of the appellant.
- 5.2 The Council's representative will submit to the Committee Services Manager:
- a written statement indicating the response to the appellant's grievance;
 - copies of any written statements made by witnesses for the council which were considered at earlier hearings;
 - a copy of any other documents to be placed before the Employee Appeals Committee; and
 - the names of any witnesses to be called to give evidence on behalf of the council.
- 5.3 The Committee Services Manager will issue the agenda for the meeting of the Employee Appeals Committee, which will contain all the documents submitted under paragraphs 5.1 and 5.2 above, not less than 5 working days in advance of the appeal hearing.
- 5.4 The Employee Appeals Committee may order such other information and/or documents to be submitted as it may consider appropriate.

6. PROCEDURE TO BE FOLLOWED AT APPEAL HEARING

- 6.1 Witnesses will be excluded until called unless it is agreed that they should be present from the start of the hearing.
- 6.2 The appellant or their representatives will present the case in the presence of the council's representatives and may call witnesses.
- 6.3 The council's representatives will have the opportunity to ask questions of the appellant, their representatives and witnesses.
- 6.4 The Employee Appeals Committee members will have the opportunity to ask questions of the appellant, their representatives and witnesses.

- 6.5 The appellant or their representatives will have the opportunity to re-examine witnesses on any matters referred to in their questioning by Employee Appeals Committee members or the council's representatives.
- 6.6 The council's representatives will present the case, in the presence of the appellant and their representatives, and may call witnesses.
- 6.7 The appellant or their representatives will have the opportunity to ask questions of the council's representatives and witnesses.
- 6.8 The Employee Appeals Committee members will have the opportunity to ask questions of the council's representatives and witnesses.
- 6.9 The council's representatives will have the opportunity to re-examine witnesses on any matter referred to in their questioning by Employee Appeals Committee members, the appellant or their representatives.
- 6.10 The appellant or their representatives, then the council's representatives, will have the opportunity to sum up their cases if they so wish. The summing up will not introduce any new matter.
- 6.11 If at any stage new facts are alleged or new evidence produced, the Employee Appeals Committee, either at the request of one or both parties or of its own volition, may adjourn the hearing for such period as it may deem reasonable.
- 6.12 At the conclusion of the evidence the council's representatives, the appellant and their representatives and any witnesses will withdraw.
- 6.13 The Employee Appeals Committee, together with the officers appointed to assist the Committee, will deliberate in private, only recalling the council's representatives and the appellant and their representatives to clarify points of uncertainty on evidence already given. If recall is necessary both parties are to return, notwithstanding only one is concerned with the point giving rise to doubt.
- 6.14 The Employee Appeals Committee will, if practicable, announce its decision to the parties at the conclusion of the hearing. In any event the decision will be notified, in writing, to the appellant and their representatives by the Committee Services Manager within three working days of the date of the hearing.

7. POWERS OF THE EMPLOYEE APPEALS COMMITTEE IN GRIEVANCE/APPEAL CASES

The form of the decision of the Employee Appeals Committee:

"that the grounds of the grievance have been substantiated and the appeal be upheld"

"that the grounds of the grievance have been substantiated in part and the appeal be upheld to the extent that

"that the grounds of the grievance have not been substantiated and the appeal be not upheld".

8. REPORTING TO THE COUNCIL EXECUTIVE

The decision of the Employee Appeals Committee will be reported to the Council Executive at the earliest opportunity.

9. TIME LIMITS

The time limits in this procedure may be varied by mutual agreement.