

Human Resources
Goireasan Daonna

Managers Guide to Grievances

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Introduction

Purpose of the Guidance:

- To ensure employee concerns are heard and dealt with fairly,
- promptly, and effectively
- To equip managers to deal with issues raised by employees
- To ensure continued employee wellbeing, motivation, and job satisfaction
- To comply with legislative requirements.

The purpose of these guidelines is to provide advice and guidance on the use of the Council's grievance procedures. It is essential that genuine grievances are dealt with fairly and promptly. It is important from the outset to be clear that the Grievance Procedure is separate and distinct from the Council's Disciplinary Procedure.

Employment law requires employees to be informed as to whom they can apply to seek redress for any grievance and how that application should be made. It also requires employees to be notified of a procedure which involves as a minimum the right to raise a grievance and to have it heard and where necessary, a right of appeal against the decision. The Council's Grievance Procedure is a local collective agreement between the Council as employer and the recognised trade unions, on behalf of employees. As such, the Grievance Procedure is incorporated into employees' contracts of employment.

The Council's Grievance Policy can be accessed on the Council's HR Microsite. This was developed taking account of employment legislation, the ACAS Code of Practice on Disciplinary and Grievance Procedures and best practice in hearing and resolving employment grievances.

The clear emphasis of the Grievance Procedure is for early intervention by managers to listen to and attempt to resolve concerns or grievances as quickly as possible, and within the specified timescale of up to 15 working days. It involves managers not only receiving and dealing with the concern or grievance, but also reaching a decision and solution and confirming it to the employee.

Definitions

Grievance Procedure

What is and what is not a competent grievance is not readily quantified. The Employment Act (Dispute Resolution) Regulations 2004 define a grievance as a concern on the part of an employee about some action taken or proposed to be taken by an employer affecting an employee, which the employee considers is to be taken for some reason unconnected with the way he or she is doing the job. The action taken or proposed to be taken by the employer could affect the employee's terms and conditions of employment including pay and other contractual benefits, working environment including location, or health and safety concerns. It may also be competent to challenge under the grievance procedure proposals to vary the way work is organised e.g., shift or rota systems, team compositions and work procedures and practices. However, by far the most common grievance involves disagreements between colleagues which reach a point where service provision and employee motivation suffer.

The Grievance & Resolution Procedure does not cover the following:

Bullying and Harassment: Any concerns of bullying and harassment should be dealt with in accordance with the Bullying and Harassment policy.

Disciplinary Matters: A grievance concerning disciplinary action taken or the decision of a designated officer to investigate an incident under the disciplinary procedure should not be considered under the Grievance Procedure. There may be circumstances where an employee alleges that the decision to take disciplinary action is wholly due to a breakdown in the working relationship between the employee and their manager and not due to misconduct on the part of the employee. Such allegations should be considered in the course of the disciplinary procedure, at the hearing stage or appeal stage, should it be required.

A Grievance is, for example:

- Any concern an employee has about action taken by management (or failure to act) which the employee does not feel is justified
- Disagreement over proposed changes to terms and conditions of employment, shift rotas and/or working arrangements

- Concerns about the working environment, health and safety or work practices/procedures (including working relationships problems between colleagues that affect work).

A Grievance is not, for example:

- Disagreement with the outcome of disciplinary Proceedings
- Issues unrelated to employment with the Council
- Taxation, National Insurance and Pension Matters
- Collective Disputes
- Matters relating to employee conduct or performance. Other avenues are available to manage this.

Issues Not Related to Employment

Employees of the Council are generally also recipients of its services. An employee cannot pursue a grievance under the Council's Grievance Procedure in respect of an issue or complaint they may have about services provided to them by the Council. Nor is it legitimate for a grievance to be raised in respect of matters affecting an employee's private life that are unconnected to their employment with the Council.

Taxation, National Insurance and Pension Matters

Matters of taxation and National Insurance are out with the control of the Council and as such, employees' concerns about such issues cannot be resolved by the Council. Such issues should be taken up with the Inland Revenue. Issues relating to pension matters should be addressed to relevant pension scheme administrators.

Collective Disputes

Collective disputes are defined as issues where there is a failure to agree between the employer and employee representatives, acting on behalf of a group of employees, in respect of a policy, practice or proposed change affecting that group of employees resulting from a decision taken by the Council. Such collective disputes shall not be resolved through the grievance procedure but will be the subject to the Council's Disputes Procedure.

Pay Issues

It is not appropriate to use the grievance procedure to appeal against the outcome of a job evaluation or job sizing process. However, where the concern relates to differences of opinion between the employee and manager about whether the duties and responsibilities have changed significantly, it may be appropriate to consider this



matter under the grievance procedure. Grievances may also arise out of differences of opinion concerning the application of pay enhancements or allowances.

If there is any doubt at all about the competency of a Grievance the advice of HR should be sought in the first instance.

There is a separate [Whistleblowing Policy](#) which an employee or worker should use if they suspect malpractice or wrongdoing such as: criminal offences; failure to comply with legal obligations; miscarriage of justice; health and safety danger of an individual; damage to the environment; deliberate attempt to cover up any of these issues. A link to the policy is included in the Quick Links at the end of this guidance.

Informal Resolution

Purpose:

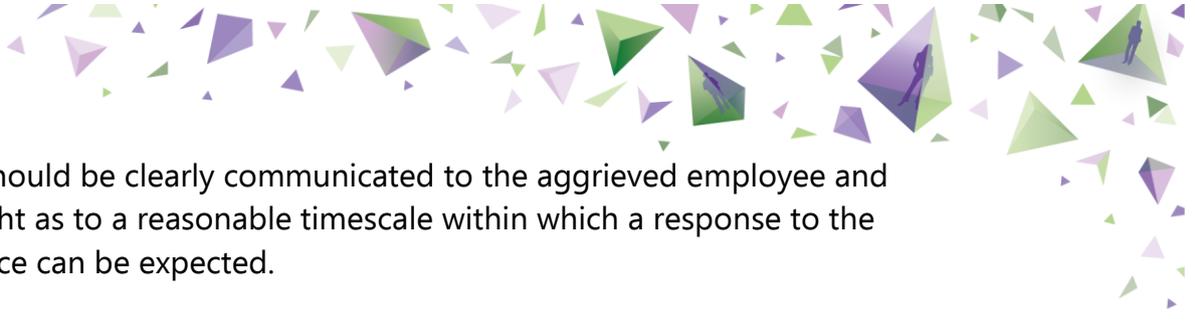
- To deal quickly with employee concerns before they become more serious
- To encourage appropriate management intervention to resolve legitimate employee concerns
- Strengthen the employee and manager relationship by encouraging two-way communication to resolve differences
- Promote employee motivation by demonstrating that work related concerns can be addressed quickly and effectively through discussion with line management.

Desired Outcome:

Employee concerns are promptly and effectively resolved through informal discussion and management intervention.

In most cases, the most effective way to deal with a grievance is through informal discussion between the aggrieved employee (or their representative) and the immediate line manager or supervisor. An informal approach from an employee does not require to be responded to in writing; however, the emphasis should be on reaching a lasting and mutually acceptable resolution to the employee's concern.

Speed of response is important. Whilst there are no specific timescales within which a manager should respond to an informal grievance, it should be recognised that a failure to respond within a reasonable period can often make matters worse, causing a grievance to become deeper seated and opposing views to become more entrenched. However, where time is required to investigate the circumstances of the



grievance, this should be clearly communicated to the aggrieved employee and agreement sought as to a reasonable timescale within which a response to the informal grievance can be expected.

Resolving informal grievances depends on effective two-way communication. It is important for the future of the manager and employee relationship that concerns raised informally by an employee with their manager are taken seriously and responded to appropriately. A manager dealing with an informal grievance might require the following skills and attributes to respond effectively:

Take the employee seriously, in most cases people do not complain without good reason. Consider whether the reason given for the grievance is the actual problem or if there is an underlying issue of concern troubling the employee.

Listen to what the employee is saying and demonstrate that you are listening (summarise, clarify understanding, ask probing questions).

Build rapport - demonstrate that you are willing to resolve any legitimately held concerns, engage the employee in conversation about their concern.

Analyse what is being said and probe for more information. Consider what the employee is not saying as well as what they are. Is there a possible explanation for their concern that they are not prepared to discuss?

Be honest – if the solution being sought by the employee is not achievable, advise the employee, giving reasons.

Seek proposals for resolution from the aggrieved employee. What would improve the situation for them?

Seek agreement with the employee to the resolution proposed.

Move quickly to implement the agreed resolution and monitor the situation for improvements.

Whilst it is not necessary to respond to an informal grievance in writing, it may be necessary to retain a file note summarising the date of the meeting, resolutions proposed and whether the aggrieved employee accepted the resolution proposed.

Formal Grievance Procedure

Stage 1

Purpose:

- To provide an opportunity for an aggrieved employee to formally state the grounds for their grievance and the resolution sought
- To provide management with an opportunity to consider the statement of grievance, supporting evidence and any previous action taken (e.g. attempts at informal resolution)
- To hear a grievance in accordance with the requirements of the grievance procedure (i.e. observing timescales, etc).

Desired Outcome:

- Employee concerns are fully heard and where appropriate, means of resolving the problem are agreed.
- Where the grievance is not upheld, this is clearly communicated to the employee along with reasons for the decision.

Where a grievance cannot be settled informally, stage 1 of the formal Grievance Procedure will be invoked. To formalise a grievance the aggrieved employee must complete a [statement of grievance](#) and submit it to their Chief Officer who will nominate an officer to deal with the grievance. A copy of the grievance should also be sent to HR@highland.gov.uk.

Where a grievance relates to **Bullying & Harassment**, the statement of grievance should be submitted to one of the Nominated B&H Senior Officers listed below and copied to [HR](#).

Nominated B&H Senior Officers	
Paul Reid	Paul.Reid1@highland.gov.uk
Sue Nield	Sue.Nield@highland.gov.uk
Bob Gray	Bob.Gray@highland.gov.uk
John Mackay	John.Mackay@highland.gov.uk
Debbie Sutton	Debbie.Sutton@highland.gov.uk
Jane Forsyth	Jane.Forsyth@highland.gov.uk
Gavin Allday	Gavin.Allday@highland.gov.uk
Jane Ross	Jane.Ross4@highland.gov.uk
Gregor MacCormick	Gregor.MacCormick@highland.gov.uk
Colette Macklin	Colette.Macklin@highland.gov.uk
Donna Sutherland	Donna.Sutherland@highland.gov.uk
Fiona Malcolm	Fiona.Malcolm@highland.gov.uk

Conciliation Meeting

Where possible, a conciliation meeting that is facilitated by HR should take place with the aggrieved employee and other appropriate parties. The purpose of the meeting is to support the employee and to enable a timely, fair and transparent resolution. Where the conciliation meeting is not appropriate, or it is unsuccessful, a stage 1 grievance meeting should take place with a nominated officer or by another manager who has been nominated to act on behalf of the Chief Officer. Normally the line manager would deal with a stage 1 grievance unless it is inappropriate for them to do so. In either case, it is important that the nominated officer has authority to take action to resolve the grievance and is in a position where they can consider the grievance and make an objective judgement on its merits.

Please refer to the [checklist](#) and process flow chart which forms part of these guidelines for further information on the process of preparing to hear a grievance.

Background research after the meeting will ensure that the nominated officer understands the surrounding circumstances without developing any fixed views as to how the grievance can be resolved. It may involve speaking to people, calling for reports, searching files and examining procedures. Such research demonstrates that the nominated officer is treating the grievance seriously and in a positive way. When arranging the meeting, it is important that the nominated officer informs the aggrieved party of the intention to carry out research after the meeting. **It is not appropriate or necessary to appoint an investigating officer to carry out this background research.**

Right of Appeal

Employees have the right to appeal the outcome of a stage 1 grievance if they feel the outcome was wrong, the procedure was unfair, or because there is new evidence relating to the original grievance. The grievance appeal form ([Appendix 4](#)) should be submitted to the relevant Assistant Chief Executive within 10 days of receipt of the grievance outcome, clearly outlining the reason for appeal.

Stage 2

Purpose:

To give an aggrieved employee the opportunity to challenge the outcome of the stage 1 grievance or if they feel the outcome was wrong, the procedure was unfair, or because there is new evidence relating to the original grievance.

Desired Outcome:

- Employee concerns are fully heard and where appropriate, means of resolving the problem are agreed.
- Where the grievance is not upheld, this is clearly communicated to the employee along with reasons for this decision.
- The grounds on which the employee is aggrieved are resolved; or
- The employee is clearly informed that the outcome of stage 1 is considered to be correct and that the stage 2 grievance is not upheld: or
- Further action is proposed on the basis that attempts to resolve the grievance at stage 1 have not gone far enough to resolve matters or because further incidents have taken place since stage 1.

The purpose of the stage 2 appeal hearing need not necessarily be to rehear the entire grievance (although in most cases this will be unavoidable to ensure a fair hearing). Rather, the purpose of the appeal hearing is to enable the aggrieved employee(s) to briefly state their case and the grounds on which they are aggrieved at the decision reached at stage 1 of the procedure. The manager who heard the stage 1 grievance should also be given the opportunity to justify the decision reached and any action taken. Thereafter, the nominated officer should respond in writing to the grievance appeal within 5 working days, indicating whether the appeal is upheld or not. As with stage 1 of the procedure, it is not necessary for a decision to be reached at the end of the hearing if it is considered that further investigations are required. In such a case, a timescale should be agreed when a decision will be notified.

The stage 2 appeal hearing should be conducted in accordance with the process outlined below and in [Appendix 1](#) of the Grievance and Resolution Policy.

In exceptional circumstances, it may be appropriate for an aggrieved employee to submit new evidence (i.e. that was not considered at stage 1) at the appeal hearing, if the new evidence demonstrates that action taken at stage 1 to resolve the grievance has not had the desired effect. However, it is not appropriate for an employee to introduce grievances at a stage 2 hearing that have not previously been heard at a stage 1.

The outcome of the stage 2 grievance hearing concludes the grievance process. **Except in defined circumstances for Teachers who should follow the grievance procedure outlined in [LNCT4](#) Disciplinary and Grievance Procedures.**

Hearing the Grievance

An appeal hearing should involve the following steps:

Explain that your role (as the nominated officer) is to hear the grievance, to see if there is an opportunity for resolution and make it clear that the decision at this stage is yours.

Explain the role of other people present (e.g. HR Representative, Employee's representative).

Explain the process to be followed during the meeting.

Make it clear that whilst the Grievance Procedure states that you may give your decision at the end of the meeting; if circumstances require, you may take some time to consider the response or action to be taken, particularly if further information is required.

Explain that you are prepared to consider constructive solutions which the individual(s) put(s) forward without a commitment to implement any or all.

Invite the aggrieved employee to briefly state their grievance to ensure that your understanding is clear.

Invite the aggrieved employee to call any witnesses in support of their grievance and present any supporting information (e.g. documents).

Ask questions of any witnesses called by the employee.

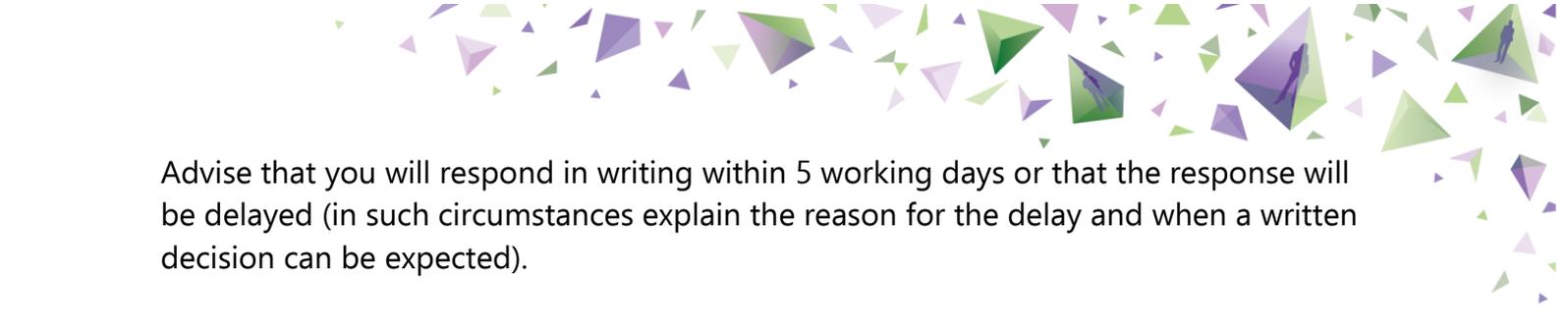
Call any witnesses whom you consider can contribute to discussion of the grievance (and in the case of complaints against another employee, invite that employee to call witnesses).

Invite the aggrieved employee to ask questions of any witnesses called.

Ensure that you keep a clear record of the important points.

Be prepared to probe points made at the meeting, including post meeting enquiries so that your decision is well informed.

At the end of the meeting, sum up your understanding of the grievance (or ask the employee to sum up their grievance), the content of the discussion, and the action that you now intend to take (to give a decision almost immediately, or to give a decision after further consideration and analysis).



Advise that you will respond in writing within 5 working days or that the response will be delayed (in such circumstances explain the reason for the delay and when a written decision can be expected).

After the meeting, carry out any further enquiries (if needed) to clarify your understanding of the situation.

Examine the Information gathered and analyse the circumstances. Consider how the grievance might be resolved and take account of the aggrieved employee's proposed resolution.

Respond in writing stating whether the grievance has been upheld, upheld in part or not upheld and briefly explain your decision, explain the resolution proposed and confirm the right of appeal, as appropriate.

It is important to ensure that the conduct of the grievance meeting is non-confrontational, but not so informal as to give the impression that the grievance is not being treated with sufficient seriousness. Where the grievance involves a breakdown in the working relationship between two or more employees, the advice of the HR Representative should be sought as to the best way of bringing the disputing parties together.

Resolving a Grievance

It is not possible nor is it desirable to be prescriptive about how grievances should be resolved and for this reason these guidelines do not include an exhaustive list of possible resolutions. However, the following issues should be borne in mind when hearing a grievance:

It is important to have an open mind as to the options for resolution that might exist. It is essential from the point of view of continued employee motivation that legitimately held employee concerns are heard and resolved promptly. At the same time focus must be maintained on the best course of action for ensuring business continuity.

Options for resolution of a grievance might include counselling for one or more employees or mediation as a means of bringing the parties of a dispute together and resolving concerns. However, there are other options for resolving a grievance and the best means of reaching a resolution will depend on the grounds for the grievance and the extent to which it is expected that management intervention can effectively resolve matters.

Mediation

While the range of issues which a manager can be asked to consider in a formal grievance meeting are diverse, by far the most time consuming can be those involving a breakdown in working relationships between two or more employees. Often there is a requirement that these employees work closely and effectively together for service delivery purposes and little option exists to redeploy one or more individuals or reallocate duties to separate the parties involved. It is also the case that such grievances can be the most damaging to continued effective service delivery and can have a long as well as short term impact on business continuity. In such circumstances, the role of the manager in bringing the parties together, getting to the root of the problem and finding an acceptable solution is crucial. It will not always be the case that the solution proposed will be to the satisfaction of all parties, however, in such circumstances the continued provision of a service is of paramount importance.

Where working relationships appear to have irretrievably broken down and the manager is presented with two (or more) conflicting versions of events, it may be appropriate to consider the involvement of an independent person to act as a mediator between the parties. The role of a mediator is to encourage open and frank discussion, without taking sides, to encourage all parties to reach an understanding of the impact of their behaviour on the other party. In many cases, understanding the impact of a particular behaviour on another person can help to encourage a change to that behaviour. In such circumstances, the advice of the HR Representative should be sought in the first instance, before moving to involve a mediator.

Decision and Follow Up

Key Features:

- Written response within 5 working days of the meeting
- Clearly state whether the grievance has been upheld or not
- Propose resolution to the grievance where appropriate
- Propose arrangements to monitor impact of resolution, where appropriate
- Notify the aggrieved employee of the conclusion of the grievance process.

As stated above, the nominated officer may be required to conduct further research before reaching a decision. It is not likely that every grievance raised will be resolved in the way employees wish. It is an important skill for the person hearing the grievance to be able to say "no" - but with an explanation of why such a decision was reached. The decision must not be given in vague or inconclusive terms and should,

wherever possible, be given verbally first. **It is the responsibility of the nominated officer to confirm the decision in writing within 5 working days.** [Template letters](#) are available.

Post-Employment Grievances

The Grievance Procedure requires that grievances submitted by a former employee must be heard in accordance with procedure where that grievance is submitted up to 4 months after the employee leaves the employment of the Council. The only exception to this provision would occur where it would not be practicable for the former employee to attend a hearing (for example because they have left the country). In such cases, and with the agreement of the aggrieved former employee, a modified procedure should be followed in which the former employee submits a detailed written statement of grievance which is investigated and responded to in writing.

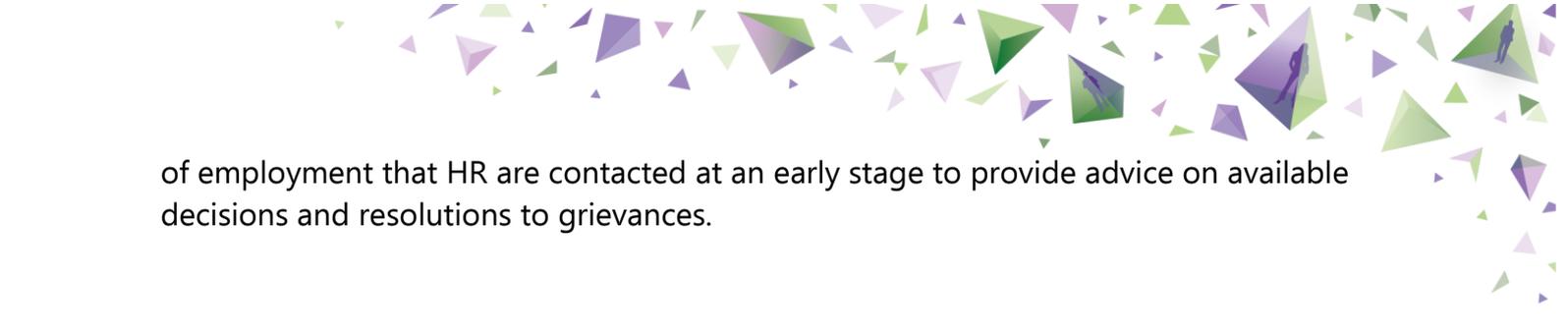
Separation from the Disciplinary Process

It is possible that potential disciplinary matters may arise through a grievance. The procedure for dealing with disciplinary matters is laid out in the Council's Disciplinary Procedures, including appeals. The Grievance Procedure should not be used for disciplinary purposes. Similarly, the Grievance Procedure cannot be used by employees to complain of the application to them of disciplinary sanctions. Should it emerge while hearing a grievance that there is a potential disciplinary issue, the grievance hearing should be suspended until the relevant matters have been investigated under the Disciplinary Procedure. Following this, the employee should be informed of the process to be followed.

Role of HR

It is appropriate that the hearing of grievances is the responsibility of the Service. HR will be able to give advice and guidance on the application of the procedures, competent issues for consideration under the Grievance Procedure and the effectiveness of potential decisions and solutions. It may be that support from the [Employee Assistance Programme](#) is required, and HR can signpost this and other support measures to managers and employees.

HR has an important role and provides support to managers and employees. It is essential in the case of grievances against proposals to change terms and conditions



of employment that HR are contacted at an early stage to provide advice on available decisions and resolutions to grievances.

Supplementary Issues

Status Quo Ante

The purpose of the status quo ante provision is to protect employment rights, working arrangements and contractual terms and conditions which are subject to proposals for change, until such time as the affected employee(s) has had sufficient opportunity to voice concerns about the proposed change and to seek to make a case to management against the proposed change.

However, as an over-riding principle, the operational needs of service delivery take precedence and the status quo ante provision should not therefore be regarded as a mechanism for blocking or preventing the implementation of legitimate management decisions taken following consultation and having due regard to the circumstances of the individuals affected by the proposed change.

In general, it would be appropriate for the grievance procedures to be exhausted before a change is made. However, it should be recognised that management are entitled to make decisions about the way in which services are delivered, in the best interests of service recipients, and which may have an impact on employees. Where there are concerns that a grievance has been lodged purely as a means of obstructing, delaying, or otherwise preventing the effective management of service delivery then the status quo ante need not necessarily apply, provided objective justification for overriding this provision can be demonstrated. However, such a decision should only be taken in consultation with and with the authorisation of the Chief Officer (Corporate Finance) or Chief Officer (HR and Communications).

Withdrawal

Where an employee indicates verbally their intention to withdraw a grievance, they should in all cases be asked to confirm in writing that they no longer wish to pursue their grievance. However, in certain circumstances, where there are sufficient grounds for concern, it may be appropriate to advise the employee that the matter originally complained of will still be investigated or monitored for a period, notwithstanding the grievance will be deemed to have been abandoned. This may particularly be the case where concerns are raised about the treatment at work received by one employee from another employee or group of employees.



Collective Grievances

A collective grievance is defined as a concern shared by two or more employees. This should be differentiated from a collective dispute between the Council and a group of employees, represented by employee representatives, concerning a decision of the Council. Such collective disputes should not be handled in terms of the Council's Grievance Procedure but should be subject to the Council's Disputes Procedure. The Chief Officer (HR and Communications) should be contacted regarding a collective dispute.

Collective grievances should be dealt with in the same way as a grievance from a single employee and in accordance with the procedure and these guidelines.

Confidentiality

It is important that all parties involved in the grievance process understand that the process is confidential and can often concern matters of a personal nature to the employee who has taken out a grievance. It is the responsibility of the nominated officer dealing with the grievance to ensure that all participants (including witnesses) understand the confidential nature of the process.

Grievances that are raised against employees will be shared with those employees to enable them the opportunity to fully respond.

Timescales

The Grievance Procedure requires that, when a formal grievance is lodged, a grievance meeting should normally be arranged within 15 working days. Following the hearing of the grievance a written response should normally be issued within 5 working days thereafter. Officers responsible for hearing formal grievances must wherever possible ensure that these timescales are observed. However, where, for example, further information is required or some other delay would make it impossible to respond fully within the timescales specified in the procedure, agreement should be reached on an acceptable timescale with the employee(s) who has lodged the grievance.

Quick Links

The Hyperlinks listed here will redirect you to the related guidance, letters, information, and relevant organisations mentioned in this policy.

HR Microsite	Click Here
Grievance and Resolution Webpage	Click Here
Disciplinary Page	Click Here
Grievance & Resolution Policy	Click Here
Bullying & Harassment at Work Policy	Click Here
Mediation Guidance	Click Here
Sexual Harassment Policy	Click Here
Bullying & Harassment Contacts	Click Here
Stage 1 – Grievance Hearing – Invite Template Letter	Click Here
Stage 2 – Grievance Appeal Hearing – Invite Template Letter	Click Here
Stage 1 – Grievance Outcome Letter Template	Click Here
Stage 2 – Grievance Outcome Letter Template	Click Here
Grievance Hearing Checklist	Click Here
Mediation Request Form	Click Here
Whistleblowing	Click Here
Appendix 1 – Formal Grievance Procedure	Click Here
Appendix 2 – Grievance Stages, Appeals & Time Limits	Click Here



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