

# E4: Grievance Procedure

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## Manager's Resource Centre

For further advice on this policy please refer to the [Manager's Resources Centre](#). You will find useful guidance documents, standard letters and a flowchart to help and support you throughout this procedure.

### 1. The Purpose and Scope of the Procedure

**1.1** In any organisation, employees may have problems or concerns about their work, working environment or working relationships that they wish to raise and have addressed. It is in everyone's interests to ensure that grievances are dealt with in a fair and empathetic manner at the lowest level within the organisation at which the matter can be resolved.

**1.2** This procedure deals with grievances that employees may have about the organisation (e.g. their management, their colleagues, their department or the County Council) on matters relating to their work. There are separate procedures which deal with:

a) harassment, bullying or victimisation;

b) discipline, where a separate appeals procedure exists;

c) collective grievances, that is where a grievance affects the terms and conditions of employment of a recognisable group of employees. Such collective grievances should be referred through the appropriate trade union(s) for possible consideration as part of the collective bargaining procedures and the Council's Joint Consultative and Negotiation procedures.

**1.3** The procedure applies to all employees of the County Council except teachers and staff in locally managed schools.

**1.4** Any grievance should be dealt with as quickly as possible in the circumstances; guideline timescales are specified in the procedure, which should be adhered to whenever practicable.

**1.5** The Procedure should normally be followed sequentially, although there may be occasions when the matter about which there is a grievance is sufficiently serious that it should be considered under the formal stages of the Procedure immediately.

**1.6** The opportunity to raise a grievance with the employer is an important feature of an employee's contract of employment. Its provision should be respected and not taken lightly. It should not be abused, mis-used or made vexatiously.

**1.7** The opportunity exists within both the formal and informal stages of the Procedure for consideration of the Mediation Procedure ([See Appendix A](#)) to assist in resolving a grievance. This option should be available subject to the agreement of both parties.

**1.8** Mediators will be chosen for their listening, analytical and communication skills. They must display a common sense approach to their work as mediators and be capable of engendering confidence with the parties that they are seeking to assist. There will be occasions where it is necessary to enlist outside mediators to assist with particular problems where parties in dispute cannot agree on the issues at hand or where mediators proposed are unacceptable to the parties concerned.

**1.9** Employees have a right to be accompanied by a trade union or other representatives(s) at any stage of the Procedure. It is hoped and intended that most grievances may be resolved at the informal Stage without the involvement of a third party.

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### 2. Raising a Grievance - Informal Stage

**2.1** The object of this Procedure is to enable grievances to be settled as quickly and as near as possible to their origin, employees should, in the first instance, discuss the matter with the supervisor or line manager to see if the matter about which there is concern can be resolved. In the majority of cases minor grievances and problems can be dealt with by the manager or supervisor at the time the complaint is first raised.

**2.2** Where the grievance is about the supervisor or line manager, it may be necessary, if the complainant feels unable to take it up with them directly, for the grievance to be discussed with the supervisor's or line manager's manager.

**2.3** At this stage it may be clear that the nature of the grievance is such that the offices of a third party (for example an HR Officer or, in some circumstances, an officer or external adviser with counselling skills) might assist in resolving the matter. The use of a third party to help mediate or facilitate a solution is dependent on the agreement of all persons affected by grievance. Such mediation/facilitation will be conducted over whatever timescale the parties agree.

**2.4** It will be important for the complainant to record the nature of the grievance in writing and for the management representative concerned to make written reference to recognition that the complaint is lodged and the informal process agreed upon in any attempt to resolve the issue.

**2.5** A copy or summary of the record should be given to the complainant and any employee(s) against whom the grievance has been raised.

**2.6** Managers are advised to seek advice from their HR Officer in terms of reasonable timescales and process to deal with a grievance at the informal stage. A record should be retained of the issues raised, discussions held and actions taken.

**2.7** The supervisor or line manager should respond to the concern, normally within 5 working days. In the event that the supervisor or line manager is unable to find a satisfactory resolution of the grievance promptly, then the complainant should be advised verbally that the matter will need to be discussed elsewhere.

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### 3. Raising a Grievance - Formal Stages

**3.1** If it does not prove possible to resolve a grievance informally, the formal stage of this procedure should be invoked.

#### Stage One

**3.2** A formal grievance should be raised in writing with the next level of management above the supervisor/line manager, with whom the informal grievance was raised, specifying the nature of the grievance (including full details of relevant dates, times events etc.) and the remedy that the employee is seeking.

**3.3** Where the manager at the next level of management is involved or implicated in the grievance, another manager from the same or higher tier should take their place.

**3.4** The manager with whom the issue is now raised should convene a meeting with the parties involved and any trade union representatives to discuss the matter within 10 working days of receipt of the written notification of the grievance, where practicable. Either party may ask relevant witnesses to attend and give evidence. Full notes of the meeting should be taken and made available to the relevant parties.

**3.5** Unless it is possible for the manager to resolve the issue immediately they should either:

(a) explore whether mediation/facilitation as exemplified in [para 1.7](#) above might be an agreed and appropriate way forward to try and resolve the matter; and/or

(b) clarify the issues of concern confirm and agree them in writing and then adjourn the meeting for up to 5 working days in order to explore the possibilities of whether the grievance can be resolved. The manager should then set a date to report their decision about whether or not the grievance is upheld and, if appropriate, any proposal(s) for remedying their grievance. The decision and any proposal(s) should be confirmed in writing, together with written reasons for the decision, within 5 working days of the reconvened meeting and/or

(c) initiate a formal investigation if the manager considers the nature of the grievance to be sufficiently serious, in which case advice and guidance should be sought from the relevant HR officer.

#### Stage Two

**3.6** If it does not prove possible to resolve the grievance either by the action of the manager or through mediation/facilitation, the aggrieved employee may, within 10 working days of being notified about the outcome of Stage One, refer the grievance and the remedy sought to the Corporate Director. This reference to the Corporate Director must be in writing and detail the nature of the grievance and the remedy sought.

**3.7** Within 10 working days of receipt of the written notification of the grievance, the Corporate Director (or a senior officer nominated by the Corporate Director), who has not been previously involved in the case or implicated in it, will arrange a formal meeting to consider the grievance. This meeting should be held as soon as possible thereafter.

**3.8** Any written submissions, correspondence, witness statements or other papers relevant to the grievance, which either the aggrieved employee or the manager who previously considered the matter (as the usual representative of management) intend to rely on at the meeting should be submitted 10 working days before the meeting to the nominated senior officer who will be considering the grievance. Copies of all such papers will be made available to both parties at least 5 working days before the meeting.

**3.9** At the meeting the nominated senior officer will be advised by the HR Officer or their nominee. The procedure followed will be Stage 2 Formal Meeting Procedure.

**3.10** If the nominated senior officer thinks it appropriate and that there may be some possibility of success they may, as a means of remedying the grievance, explore with the parties the option of mediation/facilitation. Otherwise the meeting will be adjourned for the nominated senior officer to consider the issues, take advice and come to conclusions and reach a decision as to uphold or not uphold the grievance and, if it is upheld or appropriate, propose a remedy.

**3.11** The decision and any remedy will normally be conveyed to the employee within 3 working days at a reconvened meeting, but, in any event, will be confirmed clearly in writing within 5 working days of the adjourned meeting.

**3.12** That confirmation must advise the employee of his/her right of appeal if they consider that their grievance has not been remedied.

### Stage Three: Appeal

**3.13** To activate that right of appeal the employee must advise the Corporate Director and Service Director - HR in writing within 10 working days of receiving confirmation of the outcome of [Stage 2](#), that they are exercising their right of appeal.

**3.14** It will be a requirement for appellants to complete a standard pro-forma. This will specify the grounds for appeal and the name of the appellants trade union representative, where appropriate. If there is any doubt about the content of the pro-forma, either in relation to the administrative arrangements for the appeal and/or the grounds for appeal, the Assistant Chief Executive, Policy, Planning and Corporate Services and/or Service Director - HR (or their nominee) will discuss their concerns with the appellants trade union representative (where named) or the appellant directly (where not).

**3.15** All appellants will have confirmation of whether their appeal will be allowed within 5 working days of it being lodged with the Service Director - HR.

**3.16** The essence of a grievance is that an employee has a "complaint" and wants that complaint to be remedied. The procedure should not be used as a general vehicle for expressing dissatisfaction. The Grievance Procedure requires the aggrieved employee not only to set out in writing the grounds of the grievance at the outset, but also to define the desired outcome. Appeals will be limited to the grounds that due process has not been followed; there is outstanding or new evidence; or, the decision is unreasonable. The latter grounds will in practice also enable appeal against an alternative (but unacceptable) remedy proposed during the grievance procedure. In addition where severe procedural irregularities become apparent during the course of a hearing the appeals body may take a decision to remit back for a full and independent rehearing.

**3.17** The adoption of these criteria by the County Council will generally make it unnecessary for an appeal to take the form of a full rehearing of all the evidence. There may however be some circumstances which merit a full rehearing.

**3.18** The date of the appeal meeting will be convened as soon as reasonably practicable, providing a minimum of 20 working days notice of a hearing (unless a shorter time period is agreed). Any Statements of Case, written submissions, correspondence or other papers relevant to the grievance, which either the aggrieved employee or the manager who previously considered the matter at Stage Two (as the usual representative of management) intend to rely on at the meeting should be submitted to the Service Director - HR for exchange no later than 10 working days before the Hearing. Copies of all such papers, which should also include the written conclusions of the Stage Two hearing, will be distributed in accordance with constitutional requirements.

**3.19** As stated in [paragraph 3.13](#) appellants should register their appeal within 10 working days of the decision.

**3.20** The Statement of Case should reiterate the exact basis of the appeal and the outcome sought/remedy specified at the time of the notification of appeal. These should be submitted by both sides at least 10 working days before the hearing and should include written details of any witnesses to be called, and how their evidence 'fits' with the Statement of Case.

**3.21** Requests for the release of witnesses from work, where they are employees of the County Council, should ideally be done at least 10 days before the hearing.

**3.22** Where exceptional cases prevail, delays must be agreed by the panel Chair, taking in to account any compassionate circumstances and the availability of advice to the appellant.

**3.23** Out of time issues will be considered at the commencement of a hearing and the appeals body will take a decision as to whether to allow the appeal to proceed. Departments and the appellants should come to such meetings fully prepared for the eventuality that the case could proceed.

**3.24** Advice at the appeal hearing will be available from the HR Team for the relevant department. However, where previous involvement necessitates, independent advice from another HR Team will be provided.

**3.25** HR advice to appeals bodies should be 'neutral' in the sense that the adviser should not have been previously involved with the case. This will require HR staff to work across departmental boundaries.

**3.26** If a departmental head has been personally involved in the decision against which an appeal is made, the appeal would have to be to an 'independent' nominee.

**3.27** The procedure at the appeal will be for:

(a) The employee and/or their representative will state their case and answer any questions put by the management representative, by the officer hearing the appeal or by the adviser. Any witnesses called in support of the employee's case may also have to answer any questions put to them.

(b) The management representative will state their case and answer any questions put by the employee (or their representative), by the officer hearing the appeal or by the adviser. Any witnesses called in support of the Management's case may also have to answer any questions put to them.

(c) Both parties will be given the opportunity to summarise their case once the officer hearing the appeal is satisfied they are clear about the issues.

**3.28** The appeal will be adjourned for the appeal panel to consider the issues, take any necessary advice and come to conclusions and reach a decision to uphold or not uphold an appeal.

**3.29** The officer presenting the management case at appeal should be either (at the discretion of the department concerned) the officer who chaired the initial hearing against which appeal is made or the HR Officer who advised at the hearing.

**3.30** The outcome of the appeal will normally be conveyed within 5 working days to a reconvened meeting but, in any event, will be confirmed clearly in writing within 5 working days of the adjourned meeting.

**3.31** The appeal is the final stage of the Grievance Procedure and no further right of internal appeal exists. It is essential they have the credibility with staff as well as ensuring that, in the event of a reference to an employment tribunal, the Council's interests are protected. Consequently those hearing appeals will be properly trained.

**3.32** The appeals body has the power to dismiss the appeal or to uphold fully or in part. Where the appeal is upheld in part the appeals body may modify the decision, with due regard for consistency, or refer it back for a new hearing or take other appropriate action.

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## 4. Special Considerations

**4.1** Where an employee has a belief and concern that wrong doing may be taking place at work [this includes fraud, theft, danger and cover ups] they have the rights of the Public Interest Disclosure Act 1998 to protect them should they make complaint. The County Councils 'Whistleblowing' Procedure describes how such complaint may be made and details the rights and protection afforded to employees who chose to use it.

**4.2** It might further arise that where employees are subjected to Bullying or Harassment at work, they will wish to make complaint under the Harassment Complaints Procedure. The harassment might be racial, sexual or relate to disability. Employees should seek advice from their HR Officer and/or their trade union if they are unsure about the nature or use of these procedures.

**4.3** Records should be kept of all grievances raised, the employers responses, any actions taken and the reasons for such actions. Such records shall be kept confidential and retained in accordance with the provisions of the Data Protection Act 1998.

**4.4** In appropriate circumstances managers may consider temporary redeployment or suspension of an employee in connection with a grievance that has been raised. Managers should seek advice from their HR Officer in such cases.

**4.5** The grievance procedure should not be used to frustrate action already being taken under other processes/policies e.g. disciplinary, attendance or performance procedures. Any grievance raised about such proceedings will only be considered after the primary issue has been dealt with.

**4.6** There may be circumstances where an employee leaving the Council may raise an issue that would need further investigation and time may not allow for an appropriate investigation of the issue to take place before they leave. In these circumstances the former employee should send in the written complaint to their former manager normally within 2 weeks of leaving employment (If the complaint is against their direct line manager, then it should be directed to an alternative Senior Officer). On receipt of the written complaint, the manager should seek advice from HR. It may be appropriate in some circumstances to invite the former employee to a meeting to discuss the issue further.

**4.7** Whether or not an employee chooses to use the Procedure does not affect their right to pursue an application to an Employment Tribunal or court in respect of any statutory rights they may have. However the Council and the trade unions expect the majority of grievances to be resolved internally.

**4.8** Any grievance shall be dealt with as quickly as possible and within the agreed time limits. If difficulties are experienced such that the specified timescale cannot be met, the aggrieved employee should be informed of the position and the time limits will be discussed and modified as necessary.

**4.9** In raising a grievance there should be no fear of victimisation.

**4.10** Managers responsible for resolving a grievance should consider carefully if there are any conflicts of interest which indicate they should withdraw from the case. Similarly, an employee who has cause to believe an officer responsible for resolving their grievance has a conflict of interest but hasn't withdrawn from the case should, if necessary use the Grievance Procedure to challenge their continued involvement. Normally these considerations should be made at the outset unless the difficulty becomes apparent during the process.

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## Appendix A - Grievance Mediation

### 1. Purpose

**1.1** Mediation is a process which enables assistance to be given to help resolve grievances at the informal stage. It does not replace established procedures but enhances the probability of resolution at the informal stage.

**1.2** Mediation involves an independent and impartial person (the mediator) facilitating communication between the parties involved in the grievance. For it to be effective it needs the consent and participation of all the parties concerned and they need to have, or gain quickly, confidence in the mediator.

**1.3** It is important that the mediator is a person with the appropriate experience and training and they have no previous conflict of interest/bias towards one of the parties involved. If necessary appropriate training will be provided.

**1.4** The mediator's task is to help promote a settlement of the grievance, acceptable to both parties. If this cannot be achieved there may at least be a better understanding of the issues and viewpoints of each of the participants.

**1.5** The mediator does not have the authority to decide any issue for the parties, but will attempt to facilitate the informal voluntary resolution of the dispute by the parties concerned. The mediator may suggest ways of resolving the dispute, but should try to avoid imposing his/her own judgements.

## 2. Process

**2.1** In order to help resolve the grievance the mediator may sometimes suggest to both parties initially separate meetings to offer ideas to assist achieve a settlement. If necessary, the mediator may also obtain additional expert advice, including that from HR, concerning technical, professional and organisational aspects of the dispute. Once it appears that an agreed settlement may be achievable then it may be possible for all the parties to meet together.

**2.2** The Mediator will normally arrange the time and location of any meetings and agree the issues to be discussed. It may be helpful to the mediator if the parties set out for them their views and provide copies of any relevant documents.

**2.3** Mediation sessions are usually private. The parties and their representatives obviously attend such sessions. Other persons attend with the permission of the parties involved and with the consent of the mediator.

**2.4** While neither party is asked to commit to settle their case in the mediation process, all parties commit to participate in the proceedings in good faith with the intention to settle, if at all possible.

**2.5** It is important that the parties engaged in the process should have the necessary authority to reach an agreed settlement, accepting that the individual will wish to seek their own advice and management representatives may need to seek formal approval to any proposals.

**2.6** Confidential information disclosed to a mediator by the parties, or by witnesses, in the course of the mediation is not divulged to other parties without agreement. In order for the mediation process to be effective the mediator should not be required to divulge any of the information disclosed in internal or external proceedings without the prior agreement of the parties involved.

**2.7** Similarly the parties should not introduce as evidence in any subsequent internal proceedings:

- a) views expressed or suggestions made by another party with respect to a possible settlement of the grievance.
- b) admissions made by another party in the course of the mediation proceedings.
- c) proposals made or views expressed by the mediator or
- d) the fact that another party had or had not indicated willingness to accept a proposal for settlement made by the mediator.

**2.8** The mediation process is normally finished when:

- a) there is a settlement agreed by the parties concerned with the outcome formally recorded; or
- b) the mediator or either party feels that further efforts at mediation are no longer worthwhile and the matter should proceed to the formal stage of the Grievance Procedure. Management and the relevant HR Officer would need to be informed that this stage had been reached.

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