

# GRIEVANCE POLICY AND PROCEDURE

## Purpose

This policy and supporting procedure aims to mutually resolve an employee's grievance raised within the workplace at Hinckley and Bosworth Borough Council.

A grievance is defined as a concern or problem about an employee's work, such as their personal terms and conditions of employment, working conditions and working relationships. This policy and procedure can be used for both individual and collective grievances.

The council operates a separate Whistleblowing Policy to enable employees to report issues of concern, illegal activities, wrongdoing or malpractice.

The grievance procedure will also be followed should a complaint regarding bullying and harassment arise. Please refer to Appendix 1 for further information.

This procedure will be subject to periodic review and amendments following consultation with the recognised trade unions.

## Scope

This policy applies to employees of the council regardless of their length of service, except grievances against the Chief Executive which will be dealt with under the relevant JNC policies and procedures.

## Principles

- Enable an employee to air their grievance fully, openly and honestly, in a safe environment without any detriment, providing the grievance is in good faith.
- Deal with a grievance at an early stage, informally, with their immediate line manager (where possible); pursuing the formal route should be a last resort rather than the first option.
- Both parties to work together to resolve any issues in a timely manner to find a satisfactory solution for both parties. Where a grievance cannot be resolved, a compromise solution should be sought, if possible.
- Mediation is encouraged and may be explored at any time in the procedure.
- Take appropriate action to help prevent recurrence of any problem identified.
- Create and maintain a working environment where people are treated with courtesy, consideration and respect; serious complaints such as bullying and harassment will not be tolerated and immediately investigated.

## Raising a Grievance – Informal stage

- 1.1 If an employee has a grievance or complaint relating to their work or the people they work with, they should try to resolve it informally in the first instance. However, whilst the council encourages informal resolution of complaints, it is recognised that this is not always possible or appropriate for example, if the grievance relates to a serious issue such as discrimination. If the informal process does not resolve matters or is not appropriate, then employees should raise a formal grievance under this procedure.

- 1.2 Grievances should be raised as soon as possible after the event or incident complained of. Grievances should be raised within 3 months unless exceptional circumstances exist which justify a departure from this, for example a serious discrimination case or an inability to raise the grievance due to a medical illness (evidence will be required).
- 1.3 This involves talking to the line manager about the problem to ensure that:
  - The line manager fully understands what the concern is;
  - The employee and their line manager can explore possible reasons for the matter which is causing the difficulty;
  - A solution might be found, either because of improved understanding of the issue and the reasons for it, or because of changes or actions which might be taken to resolve the problem.
- 1.4 If an employee feels that they cannot discuss the matter with their line manager they may wish to seek help from their trade union representative, Human Resources, or if necessary, ask to discuss it with their line manager's manager.
- 1.5 An employee may, at any stage in the process, seek advice from their trade union representative. However, they do not have the right to be accompanied at an informal grievance meeting.
- 1.6 The date of the informal discussions and any actions agreed should be recorded, but no formal notes of the meetings are required as these discussions do not form any part of the formal process.
- 1.7 In some cases an independent mediator may help to resolve problems, especially those involving working relationships and if this is the case, the line manager should contact Human Resources for further information. Mediation may be appropriate at any stage. As per section 7.3
- 1.8 If the matter is not resolved informally, then the formal process must be followed.

## **Raising a grievance - Stage 1 - Formal Process**

- 2.1 To raise a formal grievance the employee must put this in writing to their line manager and contain a brief description of the grievance, including any relevant facts, dates and names of individuals involved and the outcome being sought. If the grievance is unclear, employees may be asked to clarify the complaint before any formal grievance meeting takes place. A response will be acknowledged within 5 working days.
- 2.2 Where the grievance concerns the employee's line manager, it may be more appropriate for the employee to address the grievance to Human Resources. A response will be acknowledged within 5 working days.
- 2.3 Before proceeding to a formal grievance meeting, it may be necessary to carry out investigations into any allegations made by the employee. This investigation will be carried out by an appropriate person in consultation with Human Resources. Prior to the grievance meeting, the employee will be provided with all the relevant information and evidence from the investigation (which include statements taken from any fellow employees or other persons). This will be issued no less than 5 working days in advance of the hearing.

- 2.4 The grievance meeting should be planned to be held without a reasonable delay whilst allowing the employee reasonable time to prepare their case.
- 2.5 Employees may bring a workplace colleague or recognised trade union representative to any formal grievance meeting under this procedure.
- 2.6 If an employee's representative is not available at the time proposed by the employer, the employer must postpone the meeting to a time proposed by the employee, provided that the alternative time is both reasonable and not more than 5 working days after the date originally proposed.
- 2.7 If the employee falls ill or other circumstances beyond their control prevent them attending the meeting, then an alternative date should be arranged. The council will consider holding the meeting at a neutral venue if this is helpful. However, it is unlikely that it would be reasonable to defer the meeting more than once.
- 2.8 If the employee is signed off as unfit to work by a General Practitioner during the procedure, they will still be invited to a meeting and various options will be offered to the employee to help them to participate i.e. Microsoft Teams or a neutral location. Advice may be sought from Occupational Health regarding how the council can support the employee to attend any meeting(s).
- 2.9 Where the individual fails to participate in the process, despite reasonable adjustments being made, the council will write to give one month's notice of the withdrawal of the grievance unless participation (even via employee representation) can be arranged.
- 2.10 A meeting will be arranged by the line manager (or another senior manager if relevant) and will be held as soon as is reasonably practicable. This will be subject to any investigations being concluded.

### **3. Stage 1 Grievance Meeting**

- 3.1 The manager conducting the meeting will invite the employee to explain their grievance and how they would like to see it resolved.
- 3.2 The employee will be asked to present any evidence they have to support their grievance, including giving advance notice to the manager of any witnesses who can attend the meeting to support their allegations. Please see further details on witnesses at section 7.5.
- 3.3 The manager should adjourn the meeting prior to taking any decisions to reflect and consider all points raised. Where the line manager considers it necessary, they will investigate further or talk to identified witnesses.
- 3.4 Individuals who are the subject of a grievance will be informed about the nature of the complaint against them and be given an opportunity as part of the process, to put forward their version of events, including identifying witnesses who can be contacted to provide evidence to support their case.
- 3.5 The manager dealing with the grievance should ensure that all affected parties are offered wellbeing support and kept up to date with any developments or outcomes in a timely manner.

- 3.6 The manager should be mindful of any course of action proposed which impacts upon another service of the council and should ensure that this action is agreed by the relevant manager in advance.
- 3.7 The manager should advise the employee of the outcome of the grievance, any action they propose to take and the timescales for that action.
- 3.8 The manager must let the employee know that they may appeal against the outcome of the grievance meeting and progress to the final stage if they consider that the grievance has not been satisfactorily resolved. A copy of the grievance and the relevant notes should be put on the individual's personnel file. The decision letter should contain the decision made and the reasons for reaching it and confirm the employee's right to appeal and to whom.

## **Raising a grievance – Stage 2 - Appeal**

- 4.1 If the employee considers that their grievance has not been satisfactorily resolved at Stage 1, the employee can appeal.
- 4.2 An appeal will be heard by a nominated senior manager (Appeal Manager).
- 4.3 An appeal meeting will be held as soon as possible and where achievable, within 10 working days. The meeting will be chaired by the Appeal Manager, employee and their representative and an HR representative and if applicable, the manager who dealt with the Stage 1 Grievance Meeting.
- 4.4 The purpose of the appeal meeting is to consider the grounds that the employee has submitted and assess whether the conclusion reached in the Stage 1 was appropriate. The appeal is not a re-hearing of the original grievance, but consideration of the specific areas with which the employee is dissatisfied in relation to the original grievance. The Appeal Manager may therefore confine discussion to those specific areas rather than reconsider the whole matter afresh.

## **5. Stage 2 Appeal Meeting Process**

- 5.1 The employee raising the appeal will be asked to present their grounds of appeal and what outcome they are seeking. The Appeal Manager will be able to ask further questions for clarification if appropriate and necessary.
- 5.2 The Appeal Manager will then summarise the main points made.
- 5.3 The meeting will be adjourned prior to taking any decisions to reflect and consider all points raised.
- 5.4 The decisions available to the Appeal Manager are:
  - To uphold the employee's grievance and advise the relevant line manager to take the necessary action or
  - To dismiss the grievance. The decision of the Appeal Manager is final and there is no further right of appeal.

- 5.5 The Appeal Manager should reconvene the meeting on the same or a different day to explain the decision, the reasons for it and any further action proposed to rectify the issues raised.
- 5.6 In appropriate circumstances and with the agreement of the employee, it may be possible to agree for the decision to be communicated in writing only but in any event, all decisions should be confirmed to the employee in writing within five working days of the Appeal Meeting.

## 6. Collective Grievances

- 6.1 Where an identical grievance is made by two or more employees (collective grievance) and all employees agree, a joint written grievance can be submitted. In such circumstances this should be headed "Formal Collective Grievance" and include:
- detail of the nature of the grievance and the outcome being sought;
  - identify the individuals who wish to raise the grievance;
  - identify any nominated trade union representative or colleague to represent them all;
  - state that all have voluntarily consented to use the collective grievance process;
  - confirm that everyone understands that the grievance will give each of them the right to only one collective grievance meeting and outcome, and (if applicable) appeal meeting and outcome. If it is not agreed, separate grievances will apply.

## 7. Further guidance

- 7.1 **Timescales** all grievances should be handled in a timely manner without any unreasonable delays. The timescales within this policy are recommended timescales only.
- 7.2 **Reasonable Adjustments** will be made as appropriate and proportionate to enable parties to participate fully.
- 7.3 **Mediation** this is a voluntary process, agreed by both parties, whereby an independent mediator helps two or more people in dispute to attempt to reach an agreement. The agreement comes from those in dispute, not from the mediator. Mediation can be used at any stage of the grievance process. This will mean that any formal procedures are halted whilst the mediation route is pursued. However, this route should be followed with appropriate urgency, bearing in mind the importance of obtaining a resolution to the situation. If mediation is unsuccessful, the process will revert to the stage reached prior to mediation.
- 7.4 **Record Keeping** a written record must be kept of any grievance that is dealt with via the formal process. Documentation kept on file will be removed and destroyed after 12 months or following satisfactory resolution, whichever is sooner.
- 7.5 **Witnesses** whilst witnesses are asked to come forward to provide evidence, this is voluntary. Employees should understand that witnesses are an essential part of most grievance cases, and their cooperation supports an efficient and fair decision-making process. Witnesses do not have the right to be represented under this policy.

- 7.6 **Confidentiality** as far as reasonably practicable, confidentiality will be maintained throughout the grievance procedure, subject to any statutory requirements. Where it is necessary to directly involve others, the importance of confidentiality within the procedure will be made clear to all involved.
- 7.7 **Grievances resulting in disciplinary action** if an employee's grievance results in disciplinary proceedings against another employee, then these will be handled in accordance with the Disciplinary Policy and Procedure. The employee raising the grievance has no right to be informed of the outcome of the disciplinary proceedings although they may be called as a witness to any disciplinary hearings which may subsequently occur.
- 7.8 **Harassment & Bullying Claims (see Appendix 1)** the grievance procedure will be used in all cases of bullying and harassment.
- 7.9 **Overlapping grievance and disciplinary cases** where an employee raises a grievance whilst undergoing a disciplinary process, and dependent upon the circumstances, the grievance may be considered as part of the disciplinary process or both the disciplinary and grievance processes may run concurrently. In exceptional circumstances the disciplinary process may be suspended to allow the grievance to be dealt with separately. Please refer to Human Resources for further guidance and support.
- 7.10 **Counter grievance** a counter grievance is one that is submitted by an individual in response to a grievance against them. Where a counter grievance has been submitted, no decision will be reached until both grievances have been concluded.
- 7.11 **Abuse of the grievance procedure** employees who abuse the grievance policy by making unfounded complaints or operating the procedure vexatiously may be subject to disciplinary action.
- 7.12 **Grievances from employees who leave the council part way through the process** if a grievance is already being progressed and the employee leaves before the process has been completed, the council's procedure should still be followed where practically possible, to try and resolve the issue. Managers should contact HR for further advice.
- 7.13 **Grievances against senior management** -will be dealt with under this policy. HR will seek independent and expert advice where necessary (i.e. through the Local Government Association). Grievances against the Chief Executive however will be dealt with under the relevant JNC policies and procedures.

## Appendix 1

The council's Equality Policy recognises the importance of a positive working environment where all employees are treated with dignity and respect and that employees feel valued and safe. Bullying or harassment will not be tolerated and anyone who is found to have harassed or bullied a colleague will be subject to disciplinary action, which could lead to dismissal.

### Bullying, harassment and victimisation

- **Bullying** can be defined as offensive, intimidating, malicious or insulting behaviour and/or an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient.
- **Harassment** can be defined as unwanted conduct related to a relevant protected characteristic (such as age, disability, gender reassignment, race, religion or belief, sex, sexual orientation) which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.
- **Victimisation** someone is treated unfairly because they made or supported (or perceived to have supported) a complaint of discrimination or harassment.

Unacceptable behaviour does not necessarily have to be face-to-face; it can also be via telephone or written communications. The behaviour can be persistent or an isolated incident.

Employees should report any incidents of bullying or harassment that they have experienced or witnessed so that they can be investigated. The test would be that the conduct, whether unintentional or deliberate, is unacceptable to the recipient and/or witnesses and would be judged as harassment or bullying by any reasonable person.

All complaints must be taken seriously and where appropriate, investigated.

### Examples of unacceptable behaviour

- Spreading malicious rumours or insulting someone (particularly on the grounds of age, race, sex, disability, sexual orientation and religion or belief).
- Ridiculing or demeaning someone – picking on them or setting them up to fail.
- Displaying offensive materials (on paper or electronically).
- Abuse through email, text, websites or other electronic media.
- Exclusion or victimisation.
- Unfair treatment.
- Overbearing supervision or the misuse of power or position.
- Unwelcome sexual advances – touching, standing too close, display of offensive materials, asking for sexual favours, making decisions based on sexual advances being accepted or rejected.
- Making threats or comments about job security without foundation.
- Deliberately undermining a competent worker by overloading them with work and constant criticism.
- Preventing individuals developing by intentionally blocking promotion or training opportunities.

The council is opposed to any incident or behaviour which could reasonably be classified as unacceptable behaviour, whether explicitly stated within the examples above or not. Incidents involving colleagues that take place outside of the workplace (i.e. work-related social events held either on or off the council's premises or bullying comments made via social media) will also fall within the remit of this policy.

### **Counter complaints**

Managers are responsible for appropriately managing an employee's behaviour or job performance where there are legitimate and justifiable reasons to do so. Carrying out these functions in a fair, firm and consistent manner does not constitute unacceptable behaviour, although it is recognised that some staff may feel stressed or anxious whilst the procedures are ongoing.

Managers who are using council procedures to address an employee's performance, attendance or conduct will not be regarded as demonstrating unacceptable behaviour unless there is evidence to show that they have acted inappropriately. Where a complaint is solely or largely related to the commencement of these procedures, a manager who has had no prior involvement with the instigation of these procedures will meet with the complainant to discuss their concerns. The complaint will only be investigated further under this policy if evidence is provided which suggests that the manager has acted inappropriately, or the concerns raised are not a consequence of the instigation of these procedures. Complaints that relate to disciplinary or performance management proceedings should be raised as part of those proceedings and/or any related appeal process.

### **Third Party Harassment**

This is unacceptable behaviour directed at an employee of the Council by a third party (e.g. customers, suppliers, contractors, agency staff, member of the public) and should be reported immediately to the employee's manager to be investigated further.

The council as an employer, should take reasonable steps to prevent all forms of harassment and should it occur, take appropriate steps to prevent it re-occurring. It is acknowledged that sanctions cannot be applied as is the case with an employee, however dependent upon the third party involved and context of the case, preventative measures (following further investigation) could be put in place by managers such as:

- Ensuring that the policy on Management of Unacceptable or Violent Policy is followed;
- Support any employee who has been subjected to unacceptable behaviour and signpost to employment assistance programme if necessary;
- Address the perpetrator with a view to withdrawing their services if appropriate;
- Where the complainant is likely to remain in contact/close proximity with the alleged perpetrator it may be appropriate to make a request to the contractor / agency / supplier for the alleged perpetrator to be temporarily removed from the workplace if possible / appropriate;
- Only where the employee has requested a transfer or has asked not to deal with the third party again, and the council provides a statutory service to the user, should substitution of staff be considered. Not every case can be covered by such advice and managers must use their discretion in appropriate circumstances. Further advice and support can be obtained from Human Resources.