

GRIEVANCE POLICY

1 Introduction

Principles

- 1.1 Employees have the right to be treated with respect and have a responsibility to treat others respectfully. This policy embodies these standards and implements the rights set out in the ACAS Code of Practice on Disciplinary and Grievance procedures (ACAS Code).

Who does this Policy apply to?

- 1.2 This policy applies to all employees of the Council, irrespective of length of service, except those employed in schools under the control of Governing Bodies, for whom procedures adopted by the Governing Body will apply. Employees are as defined in section 230 of the Employment Rights Act 1996 or any substituting or amending legislation.
- 1.3 For staff whose terms and conditions of employment are governed by the Joint Negotiating Committee for Chief Officers, the Chief Executive and the Assistant Director, Transformation & HR will determine how best to deal with the matter. This may require external assistance.
- 1.4 Depending on its nature, the resolution of any complaint from an agency worker or the self employed may not be dealt with under the Grievance Policy. A complaint may be referred to the recruitment agency to investigate, for example, and complex cases may require the agency and the Council to investigate jointly. Advice should be obtained from HR in these circumstances.

What is a Grievance?

- 1.5 Grievances are (as defined in the ACAS Code) concerns, problems or complaints that employees raise with their employers. These may include: terms and conditions of employment, health and safety, working relations, bullying and harassment, new working practices, working environment, and discrimination.

Complaints not within the scope of the Grievance Policy

- 1.6 Dismissals (including redundancy dismissals or the non-renewal of fixed term contracts) - these must be raised as part of the dismissal process and cannot be considered under the Grievance Policy.
- 1.7 Grievances submitted by a recognised trade union on behalf of two or more employees will normally be raised via the Employee Relations Machinery.
- 1.8 Complaints against persons not employed by the Council - These should be raised with line management, who should investigate (as far as possible) and take action if required. Any discriminatory incident should be recorded in accordance with the Harassment Policy.

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- 1.9 Concerns regarding a Councillor - These should be made under the “Protocol on Relationships between Councillors and Officers”, which is located on the Council’s intranet.
- 1.10 Former employees – The Council will not consider any grievance, submitted by an employee after they have left the Council, under the Grievance Policy. In each case, departments should consider whether any further investigation is appropriate, outside of this process.

Mediation

- 1.11 Mediation is an alternative dispute resolution whereby an impartial third party facilitates a series of private and joint meetings with the aggrieved parties to identify a mutually acceptable resolution. It is a voluntary, non-binding process which seeks to address the underlying causes of conflict. Mediation will be arranged at the request of a Chief Officer and will involve the use of external mediators.

Grievances and Disciplinary cases (or other management action)

- 1.12 Where an employee raises a grievance when subject to disciplinary action, or other formal management action (e.g. capability, management of absence), the disciplinary or management action will continue unless there is clear evidence that to proceed would not be equitable. In such cases, temporary suspension of the management action will be considered.
- 1.13 Grievances that relate to the management action, including implementation of the procedure itself, are best dealt with together and will be directed to the on-going investigation/hearing for consideration and response.
- 1.14 Where the grievance and management action are not related, the two matters should be dealt with separately.

Reconsideration of Cases

- 1.15 Grievances raised that have been fully considered and responded to under another Council procedure, and where the action by management complied with the ACAS Code, will not be reconsidered under this policy. Managers should seek advice from HR on compliance with the ACAS Code. Similarly concerns already addressed under this policy will not be reconsidered.

Abuse of Grievance Policy

- 1.16 The Council will not tolerate any abuse of this policy. Anyone found to have harassed or treated an employee less favourably because s/he has invoked this policy, may be liable to disciplinary action.
- 1.17 Employees considered to have made malicious and/or vexatious complaints may be liable to disciplinary action. This may include repeated unfounded complaints, or submitting grievances to deliberately frustrate the application of management action.

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Witnesses

- 1.18 Any employee may be asked to provide information as part of a grievance investigation. All staff are expected to provide statements and/or make themselves available for meetings if required to do so.

Representation

- 1.19 Employees have the right to be accompanied, at formal meetings under the Grievance Policy, by a Trade Union representative or a work colleague. Further details are available in the Council's "Employee Representation – the Right to be Accompanied" procedure.

Confidentiality

- 1.20 Staff must always maintain confidentiality when involved in a grievance investigation. Information is not to be shared with anyone except those dealing with the grievance or with the employee's representative.

2 Procedure

Raising a Grievance

- 2.1 Employees should initially try and resolve issues informally. Should this be unsuccessful, or if it would be inappropriate to do so, an employee can raise a formal grievance.
- 2.2 Informal consideration is usually limited to verbal discussions. If other action is deemed necessary i.e. an investigation, employees should lodge a formal grievance. The informal process would not preclude a line manager from dealing with the matter formally.
- 2.3 Grievances are often easier to resolve when addressed promptly and must be raised no later than three months from the date the complaint arose. Where a complaint is ongoing, this would be three months from the date the employee became aware of the issue or the most recent incident.
- 2.4 To submit a formal grievance, employees should complete the on line Grievance Form and forward to their line manager or another appropriate manager. For monitoring purposes a copy will be sent automatically to HR. If employees are unable to access the on line form they can download a Grievance Form from the intranet or email askhr@hounslow.gov.uk to receive a copy.
- 2.5 Managers should be aware that employees may seek to raise grievances without completing a grievance form. In such cases managers should get clarification from the employee and encourage completion of the form. In all cases a copy of the grievance complaint must be emailed to askhr@hounslow.gov.uk.

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Initial Assessment

- 2.6 On receipt of a grievance, the manager should assess the complaint (with advice from the HR Advisory Team if necessary) and determine whether:
- the circumstances fall within the scope of the policy **or**
 - further information/clarification is required from the employee
- 2.7 Following the assessment the manager should either:
- deal with the matter as a grievance under this policy **or**
 - if the Grievance Policy is not applicable inform the employee accordingly (and forward their complaint) to the appropriate Council procedure
- 2.8 Where the case is being progressed under this policy, the manager should consider first if any of the following actions are necessary in the circumstances:
- the investigation should be carried out by an alternative manager, in which case the Council will appoint an appropriate person
 - the complaint warrants precautionary suspension of the employee who is the subject of the grievance, if so approval of the Chief Officer is required (see Disciplinary Policy)
 - discuss with Chief Officer arrangements for external consideration of grievance (this may be an officer from another department or an external investigator) and make the arrangements via the Head of HR&OD
 - consider if external mediation is suitable (see 1.11)
 - in complex cases, managers should seek HR or other specialist support with the investigation.

Investigation

- 2.9 The manager must carry out such investigations as are necessary to gain a full understanding of the employee's grievance. The amount of any investigation required will depend on the nature of any allegations and will vary from case to case. It may involve interviewing and taking statements from employees and any witnesses, and / or reviewing relevant documents.
- 2.10 In so far as is practicable, within 5 working days of the grievance being received, the manager should contact the aggrieved employee to arrange a meeting which should take place as soon as is reasonably practical. The employee has the right to be accompanied at the meeting and is responsible for making the arrangements with their representative/ colleague. The manager should consider whether it is appropriate for someone to take a note of the meeting and make any necessary arrangements for this.
- 2.11 The purpose of the grievance meeting is to allow the employee to explain their grievance, set out the resolution they are seeking and to enable the manager to reach a decision based on the available evidence and the representations made. The manager must be satisfied that sufficient information has been gathered to investigate fully. This may involve meeting with the aggrieved employee on more than one occasion.

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- 2.12 If the aggrieved employee repeatedly fails to attend the meeting arranged, without good cause, their complaint may not be pursued and the matter will then be closed. The employee will be informed accordingly.
- 2.13 When the manager considers it necessary to meet with the person about whom a complaint has been made, they should:
- Inform the employee that a grievance has been raised and the nature of that grievance
 - Make arrangements to meet the employee, providing at least 2 working days' notice, and notifying the employee of their right to be accompanied.
- 2.14 The manager must further consider whether anyone else needs to be seen and must arrange any necessary meetings. providing at least 2 working days' notice. Employees have the right to be accompanied at these meetings.
- 2.15 Employees who need to be interviewed must make themselves available on the date requested. This is imperative to ensure that grievances are completed within reasonable timescales. A refusal to attend without good cause may be regarded as misconduct and may lead to disciplinary action.

Response Letter

- 2.16 The manager will provide a written response to the aggrieved employee, within five working days of concluding the investigation. Where circumstances result in a longer timescale, parties should be kept informed of the delay.
- 2.17 As part of the response, recommendations may be made to assist the aggrieved employee/other parties to resolve any issues of concern e.g.
- Providing support to the individuals
 - Reaching agreement on standards of behaviour
 - Providing assistance to either party to understand and change their behaviour.
 - Identify who will be responsible for considering the recommendations.
- 2.18 The response letter must include a right of appeal. A copy of the letter must be sent to the HR Policy Team. The employee(s) against whom the grievance was made should be notified of the outcome of the investigation i.e. if the grievance was upheld or not.
- 2.19 Managers should give consideration to any action which may be helpful in assisting the parties, involved in the grievance, in working together in the future. Parties should be informed of any steps that will be implemented.

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Right of Appeal

- 2.20 If the employee remains dissatisfied with the outcome, they can appeal against the decision. The appeal must be made, in writing, to their Chief Officer, within 5 working days of receipt of the response letter and must clearly state the grounds for the appeal.

Appeal Meeting

- 2.21 The appeal will be heard by an appropriate manager, nominated by the Chief Officer, who will normally be more senior than the manager who determined the grievance. HR should participate in the appeal process, if they have not previously been involved in the case. The manager should consider whether it is appropriate for someone to take a note of the meeting and make any necessary arrangements for this.
- 2.22 The appeal will be considered within 14 working days of the notification being received. Where timescales cannot be met parties will be informed of the reasons for the delay. At the appeal, the employee will attend to present their case. The manager will determine whether it is necessary to meet with or receive information from other people in order to consider fully all aspects of the appeal.
- 2.23 The appeal manager will only address the specific grounds of the appeal, as presented by the employee, and will not reconsider the whole case or any new issues. If the employee fails to attend the meeting the appeal may be considered in their absence.
- 2.24 The employee will be notified of the outcome as soon as is reasonably practicable, normally within 5 working days following the hearing.

Record Keeping

- 2.25 On completion of the investigation, the case file should be forwarded to the HR Policy Team.

Disciplinary Action

- 2.26 Any findings of misconduct and recommendations for disciplinary action arising from a grievance investigation will be progressed in accordance with the Disciplinary Policy. A further investigation will not be required. The case should proceed directly to a disciplinary hearing, and the employee facing disciplinary action being informed accordingly.

Further Information

- 2.27 The ACAS Code of Practice 1 – Disciplinary and Grievance Procedures April 2009 can be found on the ACAS website at:
<http://www.acas.org.uk/CHttpHandler.ashx?id=1047&p=0>

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