

GRIEVANCE POLICY & PROCEDURE

Watford Borough Council and Three Rivers District Council believe in encouraging communication between employees and management to promote good employee relations and to ensure that a motivated workforce continues to provide an effective service for our customers. However, it is recognised that occasionally employees may have a concern, complaint or problem relating to their employment or to their relationships with managers or colleagues within the workplace. It is our aim to ensure that all employees who have a grievance have access to a procedure which can help them to resolve the issue as quickly and as fairly as possible.

1. SCOPE OF THE POLICY

- 1.1 This policy shall be applied fairly, consistently and equitably for all employees irrespective of race, gender, disability, age, offending past, caring or dependency status, religion or belief, sexual orientation, or gender identity and it is incumbent on those involved in managing grievance cases under this policy to ensure that this is the case.
- 1.2 This procedure applies to any grievance of an employee working within either Council and relating to their employment which must be lodged within 3 months of the date on which the alleged action occurred. Issues that may cause grievances include:
 - Terms and conditions of employment
 - Health & safety
 - Work relationships
 - New working practices
 - Working environment
 - Discrimination
- 1.3 Where a grievance is shared by more than one employee, the grievance may be presented by one or more representatives of that group or by their trade union representative/s. However, all aggrieved employees must be named and clear written authority for the chosen representative/s to act on behalf of the named individuals must be provided.
- 1.4 This procedure does not cover:
 - A complaint about the basis of pay or salary grading of that employment, those being matters covered by other procedures in the relevant conditions of service;
 - A complaint about selection for redundancy, or disciplinary or capability issues, or other procedures which have their own appeal processes. The grievance procedure may not be used to delay or hinder the application of the Council's disciplinary or capability procedures or to dispute the outcome of such hearings;
 - Policies of the Council, including establishment, staffing reviews and service reorganisations;
 - Decisions under any procedure which states that the employees have no right of appeal (for example ex gratia claims)
 - Collective disputes which are more properly dealt with between the Council and the Trade Unions/staff liaison structures;
 - Matters outside the control of the Council, e.g. national conditions of service, pension regulations, income tax, statutory sick pay, etc.

2. ACCESSIBILITY

- 2.1 If any aspect of the Grievance Procedure causes difficulty on account of any disability, or if assistance is needed because English is not the first language, this issue should be raised with Human Resources, who will make any appropriate arrangements.

3. RIGHTS OF EMPLOYEES

- 3.1 Employees have the right to be represented or accompanied at each formal stage of the Procedure by a trade union representative, staff representative or by another employee of the organisation ("the representative"). Employees must be informed of this right by their Manager in advance of any grievance meeting.
- 3.2 The representative may address the hearing in order to:
- Put the case forward and sum up the case.
 - Respond on the employee's behalf to any view expressed at the hearing and ask the witnesses any questions.
 - However, the representative has no right to answer questions put to the employee directly.
- 3.3 It is the employee's responsibility to contact their chosen representative and to ensure that the representative is willing and available to represent them. The aggrieved employee may offer an alternative date for the hearing if it is reasonable and falls within 5 working days of the proposed date, if their colleague or trade union representative is unavailable on the original date.

4. TIME FRAMES:

Every effort should be made for all grievances to be progressed and dealt with as quickly as possible and that **each** stage in the procedure is dealt with within 10 working days. The circumstances of individual cases may cause them to over-run, (e.g. the need for an investigation during the formal stage hearing), meaning time limits may need to be modified in consultation with both parties. A reasonable delay may occur, if for example, one party to the grievance is on annual leave or away due to sickness absence.

5. PROCEDURE

5.1 Informal Process:

Most grievances should be resolved through informal discussion and the normal management channels without the need to invoke the formal grievance procedure.

- 5.2 An employee should raise their grievance **orally** with their immediate line manager or supervisor, (unless the supervisor/ line manager is the subject of the grievance in which case the employee should raise the grievance with the next layer of management above). The supervisor/ manager receiving the concerns should endeavour to resolve the issues promptly. This may include discussing concerns, in confidence, with those involved; making informal enquiries as appropriate and attempting to resolve the matter quickly and fairly. A suggested resolution should be discussed with the employee as soon as possible and it may be helpful to confirm the discussion in an e-mail. Where the matter cannot be resolved informally, either because it is too complicated or the result of the informal process is not satisfactory to the employee, it should be dealt with under the formal stage of this procedure.

- 5.3 Where applicable, options such as mediation should be considered, particularly where it is evident that there has been a deterioration in working relationships. Mediation is particularly encouraged during the informal process where it can be most effective. If mediation has not been considered, or if it has been offered and not taken up this will be taken into account at the formal stage. For managers wanting to use this service or to find out more about mediation, please contact HR.

5.4 We acknowledge that it can be difficult for all parties concerned when going through a Grievance process and therefore all employees can seek support through this process by:

- Using the Employee Assistance Programme (where appropriate) or
- Seeking advice from their Trade Union or Staff Representative.

6. FORMAL STAGE

6.1 Step 1:

If it is not possible to resolve the Grievance informally, employees should raise the matter formally and within a maximum of 3 months from the alleged incident, with the next level of management within the service, who is not the subject of the Grievance or with Human Resources. This should be done in writing as a statement of the case, using the grievance form attached (Appendix A), and should set out:

- What the grievance is.
- What steps have been taken to resolve the grievance and the reasons they have not been satisfactory or met expectations.
- What steps would they like management to take to deal with their grievance i.e. how do they believe this matter should be resolved? (Please note that the outcome that they are seeking may not always be achievable).

Further details of what this should include can be found in Section 11.

6.1.1 Where their grievance is against their line manager/supervisor then they should approach the next level of management (i.e. their manager's manager). However, if they have grounds to believe that this manager may not be impartial they can take their grievance to HR, together with valid reasons why they believe that the manager is not impartial. Consideration may be given to the appointment of an alternative officer to deal with the grievance.

6.2 **Step 2:** On receiving a formal grievance, the Manager should consult with Human Resources in order to arrange an initial hearing. The employee who has lodged the grievance should be advised, in writing, by the Manager within 10 working days of receipt of the grievance, how the matter is to be dealt with and who has been appointed as the Hearing Officer.

- The Hearing Officer will invite the aggrieved employee to a Hearing, giving at least 10 working days notice, and inform them that they have the right to be accompanied, either by a work colleague, a trade union representative or Staff Representative. The Hearing Officer will be supported by a member of HR.
- The Hearing Officer will also notify the employee against whom the grievance is raised and provide them with full details of the nature of the grievance. That employee will also be invited to the Hearing and be informed that they have the right to be accompanied by either a work colleague, a trade union representative or staff representative.
- If applicable, the line manager who heard the informal grievance may also be invited as they will be required to explain to the Hearing officer what steps they took to resolve the grievance informally.
- ACAS Guidance reminds managers that a Grievance hearing is not the same as a disciplinary hearing, and "is an occasion when discussion and dialogue may lead to an amicable solution".

- Due to the complexity or sensitivity of the matter, the Hearing Officer may need to adjourn a hearing in order to instigate an investigation or obtain further information or evidence.
- If after the adjournment, the Hearing Officer is in a position to inform the aggrieved employee the basis on which the grievance is accepted or rejected, on the same day, they will do so verbally and confirm the decision in writing. Otherwise, they will inform the aggrieved employee, in writing, within 10 working days of the Hearing. The letter should also include information on the Right to Appeal and could be copied to the line manager, if appropriate.
- The Hearing Officer will also inform the employee about whom the grievance is against the outcome of the grievance and any impact it may have on them.
- If the outcome of the grievance is unsatisfactory to the aggrieved employee, then they have the right to appeal and may take the matter to the next stage of the procedure.

7. WITNESSES:

- 7.1 Witnesses for either party may be called to support the case. The responsibility for arranging the attendance of witnesses will fall upon the party concerned. If a member of staff is being called as a witness, management need to ensure that their staff member is available to attend.
- 7.2 A witness should only be present for the part of the proceedings in which she/he is giving evidence or being questioned. Only one witness should be present at a time.

8. APPEAL STAGE:

- 8.1 If the aggrieved employee feels that the grievance has not been satisfactorily resolved, they must inform the Head of Human Resources, in writing, within 10 working days of receipt of the Hearing Officer's letter, that they wish to appeal against the decision. They must indicate their grounds of appeal, in a constructive manner and set out how they wish their grievance to be resolved.
- 8.2 An appeal hearing will be arranged, within 10 working days of receipt of the appeal letter (or as soon as practicable). The employee will have the right to be accompanied by a trade union representative or work colleague. The manager who hears the appeal will normally be a more senior manager than the Manager who heard the grievance and will be accompanied by an HR representative. This should be the same format as the formal hearing, however, the Manager who heard the grievance should be in attendance to present the reasons why they came to their decision.
- 8.3 The Appeal Hearing Officer's decision is final and will be confirmed in writing within 10 working days. The aggrieved employee will also be reminded that this is the final stage of the grievance procedure.

9. GRIEVANCE INVESTIGATIONS

In exceptionally rare cases of a complex or sensitive nature, it may be considered necessary, for an investigation panel to be formed to conduct a detailed investigation of the grievance. For example, this will be in cases where there may be more than one employee with a grievance against a manager or if an employee has a grievance against more than one person or if the grievance crosses over to other policies or procedures, such as harassment or capability. This will involve fact-finding interviews and examination of relevant documentation. The panel will consist of an independent manager and an HR representative. The panel will interview the aggrieved employee as part of the investigation and the employee will have the right to be accompanied at that interview by a colleague or local trade union representative.

The panel will also interview any parties or witnesses to the grievance, who will also have the right to be accompanied. A written record of all interviews will be made, however the detailed investigation notes will not be circulated to the complainant and the person being complained against unless and until the grievance proceedings lead on to a subsequent disciplinary action or some other circumstance which dictates that access should be given to the original material.

A report of the findings will be forwarded to the formal grievance panel, the aggrieved employee and the person who the grievance is against, (if applicable). The investigating panel (or a representative of the panel) may be asked to attend the formal grievance meeting to present their findings/recommendations. All parties will then have the opportunity to ask questions of the investigation panel.

The employee will be informed of the progress of the investigation within five working days. Thereafter, notification should take place fortnightly. Any delay due to witnesses or other related parties being on annual leave or sick leave should be communicated to the aggrieved employee and representative and the HR Business Partner dealing with the Grievance case.

10. FAILURE TO ATTEND A GRIEVANCE MEETING

10.1 If an employee is off sick for more than a week prior to the arranged Hearing date, then advice from the employee's GP or Occupational Health should be sought to ascertain whether the employee is fit to attend the Hearing. If they are not fit then the hearing should be re-arranged for a time when the employee returns to work. If the grievance issue is the reason for the employee being off, then further advice should be sought from Human Resources and Occupational Health.

10.2 Failure of any of the parties to attend a grievance meeting due to unforeseen circumstances (e.g. unforeseen transport problems or unexpected sickness) will result in the meeting being rearranged. If the any of the parties are not available for a second time, it may result in the meeting going ahead in their absence. They will have the opportunity of providing a written statement or being represented by a nominated representative.

11. DOCUMENTATION:

All documentation relating to the grievance including a statement of the case* and any supporting statements will be submitted to the relevant parties 5 working days before the meeting or appeal hearing, including names of any witnesses either party wishes to call.

* The supporting statement of the case from **either party** should cover:

- The background to the case (the issues and the people involved).
- The essential elements of the grievance (with supporting documents as appropriate).
- Steps taken to resolve the grievance to date.
- A statement of what is required to settle the grievance from the point of view of the complainant, or representative (as appropriate).

It is up to the complainant to produce the supporting documentation, with the support and guidance of their representative.

12. RECORDS:

Records will be kept detailing the nature of the grievance raised, the Council's response to the grievance, any action taken and the reasons for this action. The records will be kept confidential and retained in accordance with the Data Protection Act 1998.

13. CONFIDENTIALITY:

The grievance procedure will be carried out in confidence, unless otherwise agreed by the parties involved, e.g. where a manager may need to discuss issues resulting from the case with a third party. All parties will be expected to respect the confidentiality of the process.

If confidentiality is found to have been breached by any of the involved parties, this may lead to disciplinary proceedings being taken against them.

14. SPECIAL CIRCUMSTANCES:

14.1 Grievances raised during Disciplinary or Performance Proceedings

The Grievance Procedure cannot be used for appealing decisions made in Disciplinary, Performance or Pay & Grading processes, as these have separate appeals procedures. However if staff have a complaint regarding the way these procedures were handled, they may raise their concerns as a grievance. If necessary the Disciplinary or Performance procedure may be suspended for a short time whilst the grievance is considered or investigated.

14.2 When the Grievance is against the Managing Director / Chief Executive:

If a grievance is against the Managing Director of Watford Borough Council or Chief Executive of Three Rivers District Council, this should be put in writing and addressed to the Head of HR. All attempts will be made to resolve the issue informally, however, if informal attempts have been tried and failed or are considered inappropriate then the grievance should be referred to the Council's Monitoring Officer or Section 151 Officer for investigation. This would then be covered by JNC guidelines.

14.3 When the Grievance is against an Elected Member:

If a grievance is against an Elected Member of either Watford Borough Council or Three Rivers District Council, this should be put in writing and addressed to the Monitoring Officer of the Council concerned and this will be dealt with under the Member's Code of Conduct.

Other Policies to refer to: Stress Management Policy and Guidelines
 Employees Code of Conduct
 Disciplinary Policy and Procedure
 Harassment and Bullying Procedure

SUMMARY OF THE FORMAL GRIEVANCE PROCEDURE			
Step	Action To Be Taken	Person Responsible	Time Limit
1: Statement of Grievance using the attached form	The employee must set out the grievance in writing and submit it to management.	Employee	A grievance must be lodged within 3 months of its occurrence.
2: Hearing	Management will invite the employee to a formal Grievance Hearing, giving at least <u>10 working days notice</u> , to discuss the issue (both parties should take all reasonable steps to attend). The employee has the right to be accompanied and will be able to present their case. The line manager that heard the informal grievance may be asked to present their case., The Hearing may need to be adjourned if further investigation is required.	Hearing Officer and HRBP	10 working days from the receipt of the grievance in writing (unless an extension is agreed)
	<ul style="list-style-type: none"> The Hearing will be adjourned while the Hearing panel will make a decision on the evidence they have received and heard. The Hearing Officer will then write to the employee, within <u>10 working days of the hearing</u>, informing them of the decision and offering them the right to appeal. 		
3: Appeal	<ul style="list-style-type: none"> If the employee wishes to appeal they must notify the Head of Human Resources, in writing, within 10 working days of receipt of the grievance outcome. An appeal hearing will be arranged, <u>within 10 working days from receipt of the appeal</u>. A Corporate Director or nominated Head of Service (not previously involved) will hear the case. After the meeting the complainant will be informed of the final decision, in writing, and reminded that this is the final stage of the grievance procedure. 	Employee Appeal Hearing Officer and HRBP	10 working days from receipt of the appeal in writing.

Appendix A

GRIEVANCE NOTIFICATION FORM

Notice of a Grievance

Name:

Department:

Address:

Section:

Job Title:

Post No.:

Details of Grievance (other than a grievance about issues not subject to this procedure)

(Please continue on a separate sheet if necessary)

Appendix B

Guidance for Managers – How to conduct a Grievance Hearing:

- 1 Under the formal part of this procedure, the employee will be advised, in writing, of the time, date and location of the Hearing and provided with a copy of the Grievance Procedure. The employee should be given at least 10 working days notice of the hearing date and this letter should be written by the Hearing Officer, in consultation with HR.
- 2 The employee will also be advised of their right to be accompanied at the Hearing by a Trade Union Representative or work colleague. Should the employee wish to be accompanied he/she should confirm the identity of the representative to Human Resources, in order that all appropriate details are forwarded to that person in reasonable time, including a copy of the Grievance Procedure.
- 3, The grievance hearing should be conducted as follows:-
 - (i) The Hearing Officer will introduce those present and explain why they are there, explain the purpose of the meeting and how the meeting will be conducted.
 - (ii) (If applicable) The Investigation Officer will be invited to present their report and findings. The aggrieved employee will be invited to ask questions of the Investigation Officer, as will the Hearing Panel.
 - (ii) The Hearing Officer will invite the aggrieved employee to state his/her case i.e. the circumstances that have led to the grievance, the nature of the grievance and why he/she feels aggrieved. The aggrieved person may do this personally, or the employee's representative may do this on their behalf. This could be done in the presence of the person whom the grievance is against. (if applicable).
 - (iii) The aggrieved employee will refer to any documentation on which they are seeking to rely. The Hearing Officer will refer to any written evidence that has been gathered in the course of an investigation, including witness statements.
 - (iv) (If applicable) The person whom the grievance is against may ask questions of the aggrieved employee and any witnesses called.
 - (v) The Hearing Officer and HR Representative may ask questions of the aggrieved employee and any witnesses called.
 - (vi) At each stage of the Hearing and before any witnesses are released, the Hearing Officer will give those present the opportunity to ask questions and make any comments.
 - (vii) (If applicable) The person whom the grievance is against will put his/her reply in the presence of the complainant and call any witnesses as necessary.
 - (viii) (If applicable) The aggrieved employee may ask questions of the person whom the grievance is against and their witnesses. The Hearing Officer and HR Representative may also ask questions of the person whom the grievance is against and their witnesses.
 - (ix) The aggrieved employee will have the opportunity to sum up if so wished.
 - (x) (If applicable) The person whom the grievance is against will have the opportunity to sum up if so wished.

4. The grievance hearing will then be adjourned for the Hearing Officer to consider the facts of
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the case and make a decision. The aggrieved employee may be recalled to clear points of uncertainty on evidence already given. If recall is necessary, both parties will return regardless of which party is concerned with the points in doubt.

5. The hearing may be reconvened and the decision, together with the reasons for that decision, be given to the aggrieved employee. The decision will be confirmed in writing, within 10 working days of the hearing and giving the right of appeal.

Notes:

1. The Hearing Officer may alter the sequence of events if they consider that this would help conduct the hearing better, particularly if the Investigation Report has been circulated before the hearing.
2. The line manager may be asked to present what had happened at the informal stage and how they sought to resolve the issues.
3. Documentation (including the Investigation Report) should be circulated to all parties a minimum of 5 working days before the Hearing date.