

# **GRIEVANCE POLICY AND PROCEDURE**

## **1.0 Policy**

1.1 The purpose of this policy is to provide employees with a readily accessible procedure for addressing any problems or concerns they may have at work. This procedure should not replace normal dialogue between employees and the council. However, where such informal dialogue has failed to resolve an issue of concern, then an employee may utilise this procedure to have an issue resolved to their satisfaction.

1.2 It is accepted that when people work together there will inevitably be situations where misunderstandings, problems or concerns need to be resolved. It is the policy of the Council that a culture of good communication, openness, and a willingness to co-operate and listen will exist. Therefore, it is envisaged that the majority of these issues or misunderstandings will be capable of being addressed informally, in an efficient and effective manner. However, where such issues are unresolved, they may become grievances. Employees are encouraged to seek resolution of an issue by utilising this procedure.

1.3 At each grievance meeting held under the formal procedure, the employee has a right in law to be accompanied by a colleague or a trade union official (known as a companion). This includes any meeting held with them to hear about, gather facts about, discuss, consider, or resolve their grievance. The companion will be permitted to address the grievance/appeal meetings, to present the employee's case for his /her grievance/appeal and to confer with the employee. The companion cannot answer questions put to the employee, address the meeting against the employee's wishes or prevent the employee from explaining his/her case.

1.4 Where an employee is the sole employee, and is not a member of a trade union, the Council will agree to the employee being accompanied by a friend or family member.

1.5 The Council will give employees reasonable notice of the date of the grievance/appeal meetings. Employees and their companions must make all reasonable efforts to attend. If a trade union official is not available for the proposed date of the meeting, the employee can request a postponement and can propose an alternative date that is within five working days of the original meeting date unless it is reasonable to propose a later date

1.6 The grievance procedure should not be used to lodge appeals against disciplinary sanctions. The Council's disciplinary procedure contains sufficient mechanism for dealing with an employee's dissatisfaction at a disciplinary sanction applied to them.

1.7 The Council reserves the right to engage external third-party assistance at any stage of the grievance process, such as HR support from ERNLLCA or another organisation, and such an officer may be present at all formal grievance hearings.

1.8 Any grievance will be dealt with by the Council's Personnel Committee (or similar title for a committee with devolved authority to deal with employment matters) which must comprise no less than three members of the Council. ERNLLCA recommends that the Committee should comprise no more than three members of the Council.

1.9 Information about an employee's grievance will be restricted to those involved in the grievance process. A record of the reason for the grievance, its outcome and action taken is confidential to the employee. The employee's grievance records will be held by the Council in accordance with the General Data Protection Regulation (GDPR)

1.10 Audio or video recordings of the proceedings at any stage of the grievance procedure are prohibited, unless agreed by all affected parties as a reasonable adjustment that takes account of an employee's medical condition. The Council should refer to its Data Protection Policy and GDPR monitoring requirements before a decision is made to record.

1.11 If an employee who is already subject to a disciplinary process raises a grievance, the grievance will normally be heard after completion of the disciplinary procedure

1.12 If a grievance is not upheld, no disciplinary action will be taken against an employee if he/she raised the grievance in good faith

1.13 The Council may consider mediation at any stage of the grievance procedure where appropriate, (for example where there have been communication breakdowns or allegations of bullying or harassment). Mediation is a dispute resolution process which requires the consent of affected parties

1.14 The High Court in 2018 which resulted in what is known as the “Ledbury Judgement” has changed the way in which councils must deal with an employee’s grievance if the complaint is about the conduct of a councillor. Employees must refer any complaint about the conduct of a councillor towards them to the Standards Committee (via the Monitoring Officer) of the principal authority. The Council can offer to try and resolve the matter informally, such as through mediation. However the Council has no power to hear and resolve any complaint about a councillor’s conduct.

1.15 Whatever the complaint, the Council has a duty of care to its employees. It must take all reasonable steps to ensure employees have a safe working environment, for example by undertaking risk assessments, by ensuring staff and councillors are properly trained and by protecting staff from bullying, harassment and all forms of discrimination.

1.16 If an employee considers that their grievance concerns their safety within the working environment, whether or not it also concerns a complaint against a councillor, the employee should raise these safety concerns with the Clerk, at the informal stage of the grievance procedure. The council will consider whether it should take further action in this matter in accordance with any of its employment policies (e.g. its health and safety policy or its dignity at work policy).

1.17 An employee has the right to appeal against the decision about their grievance. The appeal decision is final. Any appeal will be heard by the remaining members of the Council or by a panel of no less than three members of the Council, none of whom were involved in any way with the original decision.

1.18 This policy complies with the 2015 Code of Practice and will be applied fairly, consistently in accordance with the Equality Act 2010.

## **2.0 Procedure**

2.1 In order to provide an effective and timely resolution of employee concerns, the following procedure will be followed to ensure that employee complaints or problems receive full and careful attention.

Reasonable adjustments will be made to the procedure for disabled employees. Any employee who experiences difficulty with the procedure for any reason should seek assistance from the Clerk.

### **2.2 Informal grievance procedure**

The Council and its employees benefit if grievances are resolved informally and as quickly as possible. As soon as a problem arises, the employee should raise it with the Clerk to see if an informal solution is possible. Both should try to resolve the matter at this stage. If the employee does not want to discuss the grievance with the Clerk, the employee should contact a member of

the Personnel Committee. If the employee's complaint is about a councillor, it may be appropriate to involve that councillor at the informal stage. This will require both the employee's and the councillor's consent.

## 2.3 Formal grievance procedure

If it has not been possible to resolve the employee's grievance informally, they have the right to submit a formal grievance in writing. The letter should explain the nature and extent of the grievance and indicate the outcome the employee seeks.

The Personnel Committee will hear the grievance. No councillor, with direct involvement in the matter, shall be serve on the committee.

## 2.4 Investigation

It is often appropriate to appoint an investigator to carry out an investigation before the grievance meeting to establish the facts of the case. The investigator should be independent of the decision-making in respect of the grievance. The investigation may include interviews with the employee submitting the grievance, other employees, councillors, and others as may be appropriate.

The investigator will summarise their findings (usually within an investigation report) and present their findings to the Personnel Committee

## 2.5 Notification

The Council will make every effort to hold a grievance hearing with 14 days, but this may not be achievable if an investigation has bene launched. The employee will then be asked, in writing, to attend a grievance meeting. The written notification will include the following:

- the names of its Chairman and other members
- the date, time and place for the meeting. The Council will make every effort to ensure the employee is given as much notice of the meeting as possible
- the employee's right to be accompanied by a workplace colleague, a trade union representative or a trade union official; [or a friend or family member if the Council's policy so allows]
- a copy of the Council's grievance policy
- confirmation that, if necessary, witnesses may attend (or submit witness statements) on the employee's behalf and that the employee should provide the names of his/her witnesses as soon as possible before the meeting
- confirmation that the employee will provide the Council with any supporting evidence in advance of the meeting, usually with at least three days' notice
- findings of the investigation if there has been an investigation
- an invitation for the employee to request any adjustments to be made for the hearing (for example where a person has a health condition).

## 2.6 The grievance meeting

The Grievance Hearing is a meeting of the Personnel Committee and a Meeting Notice must be published. At the grievance meeting:

- the Committee will resolve to exclude the press and public, with exception of those persons whose attendance is necessary for the Hearing to proceed, owing to the confidential nature of the business to be discussed
- the Chairman will introduce the members of the sub-committee to the employee
- the employee (or companion) will set out the grievance and present the evidence

- the Chairman will ask the employee questions about the information they have presented and seek clarity about action does the employee wants the Council to take
- any member of the Committee may ask questions of the employee
- witnesses may be called to give their statements and the Chairman and other members of the Committee may ask questions of them
- the employee (or companion) will have the opportunity to sum up the case

A grievance meeting may be adjourned to allow matters that were raised during the meeting to be investigated by the sub-committee.

The Chairman will provide the employee with the sub-committee's decision, in writing, as quickly as possible and no longer than within five working days of the meeting. The letter will notify the employee of the action, if any, that the Council will take and of the employee's right to appeal.

## 2.7 The appeal

If an employee decides that their grievance has not been satisfactorily resolved by the Committee, they may submit a written appeal to the Council. An appeal must be received by the Council within seven days of the employee receiving the Committee's decision and must specify the grounds of appeal.

Appeals may be raised on a number of grounds, e.g.:

- a failure by the Council to follow its grievance policy
- the decision was not supported by the evidence
- the action proposed by the sub-committee was inadequate/inappropriate
- new evidence has come to light since the grievance meeting.

The appeal will be heard by the remaining members of the Council, or by a panel of no less than three members of the Council, none of whom were involved in any way with the original decision.

If there are insufficient members of the Council to form an Appeal Panel, advice sought be sought from ERNLLCA.

The employee will be notified, in writing, usually within 7 days of receipt of the appeal. The employee will be notified of the time, date and place of the appeal meeting within 14 days of the Council's receipt of the appeal. The employee will be advised that they may be accompanied by a workplace colleague, a trade union representative or a trade union official or a friend or family member.

Where an employee wishes to introduce evidence, or witnesses, which provide fresh insight into the grievance, that written evidence and the names of any witnesses to be called (or witness statements produced) should be presented to the Council no less than three days before the appeal meeting.

## 2.8 Appeal Meeting

The Appeal is a meeting of the Council and a Meeting Notice must be published. At the grievance meeting:

- the Committee will resolve to exclude the press and public, with exception of those persons whose attendance is necessary for the Hearing to proceed, owing to the confidential nature of the business to be discussed
- the Chairman will introduce the panel members to the employee
- the Chairman will explain the purpose of the meeting, which is to hear the employee's reasons for appealing against the decision of the staffing sub-committee
- the Chairman will explain the action that the appeal panel may take.

- the employee (or companion) will be asked to explain the grounds of appeal
- the Chairman and members of the Committee may ask questions of the member of staff
- new evidence or witnesses or witness statements may be introduced by the member of staff
- the Chairman and members of the appeal panel may ask questions about the new evidence and of the new witnesses
- the employee (or companion) will have the opportunity to sum up the case
- the Chairman will inform the employee that they will receive the decision and the panel's reasons, in writing, within five working days of the appeal meeting.

The appeal panel may decide to uphold the decision of the Personnel Committee or substitute its own decision.

The decision of the appeal panel is final.