

DRAFT

Wiltshire Council Human Resources

Grievance Policy and Procedure

This policy can be made available in other languages and formats such as large print and audio on [request](#).

What is it?

This policy and procedure sets out a framework for employees to raise concerns, problems or complaints that arise at work and for managers to respond to these concerns in a fair and reasonable way.

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There is also a [toolkit of documents](#) including letter templates and guidance notes to use when following this policy

Who is covered by this policy?

This policy applies to all employees of Wiltshire Council with the exception of teaching and non-teaching staff employed in Locally Managed schools.

In grievance matters that are raised by the chief executive, corporate directors and service directors of the council these procedures must be read in conjunction with their JNC terms and conditions of employment and [Wiltshire Council's constitution](#).

When does it apply?

Issues about which a grievance may be raised include but are not limited to the following:

- terms and conditions of employment
- health and safety
- work relations
- new working practices
- working environment
- organisational change
- equal opportunities

The policy and procedure applies equally to a grievance of a group of employees, in which case the group can appoint one of their number as a spokesperson, who will then follow the procedure on their behalf and the answers given will then be deemed to apply to all members of that group.

When does it not apply?

The grievance policy and procedure will not apply to:

- Allegations of bullying and harassment which will be dealt with in accordance with the council's [dignity at work policy and procedure](#) and not under this policy and procedure.
- Reports of illegal activities, wrongdoing or malpractice and concerns relating to these issues should be raised under the council's [whistleblowing policy](#) and not under the grievance policy and procedure. However, where the employee is directly affected by the matter in question, or where the employee feels he or she has been victimised for whistleblowing, an employee may raise the matter under this policy and procedure.

- Complaints relating to the [right to request access to information requests](#) which should be raised under the [review procedure for information requests](#).
- Individual redundancies, the non renewal of fixed term contracts on their expiry and job evaluations and any other internal or external policy where there is a separate policy and procedure and appeal or review process where this is more appropriate.
- Challenges in relation to disciplinary procedures or decisions and/or sanctions awarded as part of the disciplinary process must be pursued through the disciplinary appeals process and not through the grievance process.
- Issues relating to pensions, statutory deductions from pay such as income tax and national insurance
- Personal matters not directly related to employment. Line managers may be able to assist or advice can also be sought from the Employee Wellbeing helpline on 01225 713147.
- A collective grievance raised on behalf of two or more employees by a representative of a trade union or other appropriate workplace representative. Collective grievances will be dealt with in the context of the Council's joint consultative process.

What are the main points?

1. The grievance policy provides you with a procedure for raising a grievance which is fair and consistent and:
 - provides you with the opportunity to put your case and say how you would like your concern resolved.
 - have the facts related to your concerns investigated (where appropriate and necessary) so that an informed decision can be made
 - deals with your concerns promptly
 - allows you the right to be accompanied at any formal grievance meeting
 - allows you the right of appeal against any formal decision made
2. Grievances which are considered frivolous, vexatious or malicious could lead to disciplinary action being taken against you.
3. Please note that where events are more than three months old it may not be possible to investigate them fully or to establish facts with any certainty. You are therefore encouraged to come forward with any complaints at the earliest opportunity.
4. Grievance complaints need to be set out in full and cover all the issues that you consider are relevant to your complaint. This is to ensure that all issues are investigated concurrently to provide a consistent

outcome. Please note, therefore, that second and subsequent grievances relating to the same course of events, may not be accepted if those grievances could have been included within the original complaint and there is no reasonable explanation why they were not.

What is the procedure for making a grievance?

Raising a Grievance

5. Most employment problems and concerns are often raised and settled as a matter of course during everyday working relationships. This is often the most effective route and usually allows for problems to be settled quickly.
6. Where this is not possible or you have tried this and it has not worked you are also able to raise problems and concerns as a grievance using the grievance policy and procedure.
7. The grievance procedure sets out an informal and formal stage and unless there are good reasons not to do so you should raise and resolve your concern at the informal stage first if at all possible. Raising a concern at an early stage may also assist in reaching a prompt and satisfactory outcome. Where concerns are suitable for informal resolution and this route has not been followed, you will be asked to attempt informal resolution before your complaint can be considered formally.
8. In certain circumstances, where the grievance is complex or where the informal process is not appropriate, it may be possible to go straight to the formal stage in consultation with your manager. Guidance should be sought from HR before bypassing the informal stage and where bypassing this stage occurs, the reasons for this should be recorded.
9. During the operation of this procedure the status quo will remain (i.e. the procedures and policies that applied immediately prior to the formal use of the grievance procedure) until the Council's procedure is exhausted.

Mediation

10. Mediation may be available at any stage of the grievance procedure. If it is felt appropriate your manager may discuss this with you and any other individuals who are involved in the matter. If all the parties agree to use mediation, then the grievance procedure will be temporarily suspended. A decision about whether to continue with the grievance procedure will be made by all parties once mediation has taken place.

The process

Resolving matters informally - Stage 1

11. If you have a grievance relating to your employment you should discuss the matter initially with your immediate line manager, making it clear by stating that you are raising it as a grievance. If the grievance is raised verbally you may be asked to follow it up in writing, to assist the line manager in fully understanding the nature of the grievance.
12. If your grievance is against your line manager you should raise the grievance with your line manager's manager.
13. In all cases your line manager or line manager's manager should meet with you to discuss your grievance and ensure that:
 - a written record is made of the discussions and that a copy is given to you as a confidential record.
 - you are given a written response setting out the outcome within 10 working days of the date that the grievance was raised. In circumstances where the outcome cannot be provided to you within 10 working days i.e. during leave periods or holiday periods a response will be provided to you as soon as is reasonably possible thereafter.
14. There is no right to be accompanied by a trade union representative or work colleague at this stage, however any request to be accompanied will be fairly considered and agreed where possible.
15. If you are dissatisfied with the response given you can pursue the matter to Stage 2 – the Formal Stage of the procedure without unreasonable delay and within 10 working days of the notification of the outcome of the informal stage.

Resolving matters formally - Stage 2

16. In order to start the formal stage, you must submit your grievance in writing to your manager on the grievance notification form G1 provided for this purpose.
17. If the grievance is against your manager then you should raise the grievance with your manager's manager.
18. On the grievance notification form you should set out sufficient details of your concerns along with relevant evidence, where available, to enable your manager to establish the nature of your grievance. You may wish to seek help from a work colleague or trade union representative to complete the grievance notification form.

19. Your manager should send a copy of the grievance notification form to Human Resources.
20. Once you have submitted your written grievance your manager will establish who will be responsible for considering and responding to your grievance in consultation with HR. Wherever possible this is likely to be your manager's manager or another manager from within your service line management structure, who is not the subject of your grievance.

Grievance Clarification Meeting

21. You will be invited to a grievance clarification meeting with the manager who is responsible for responding to your grievance within 5 working days of the receipt of your grievance notification form. The purpose of the meeting will be to clarify your grievance and to explore what steps need to be taken, if any, prior to a formal grievance meeting. This should include giving careful consideration to:
 - what has been done informally to resolve the grievance
 - the remedy you are seeking
 - mediation
 - an investigation (the remit for the investigation will also be established at the meeting and the manager will make the appropriate arrangements for the investigation to commence as quickly as possible)
 - other measures including speaking to the subject (perpetrator of your grievance and or parties involved on your behalf etc).
 - whether any personal support is required
 - moving straight to a formal grievance meeting
22. At the meeting you will allowed to be accompanied by a work colleague or trade union representative, if you wish. An HR Advisor and note taker may also be present at the meeting.
23. After the meeting the manager responding to your grievance will write to you to confirm the outcome of the meeting within 5 working days of the date of the meeting. You will also be provided with a copy of the notes of the meeting.
24. In circumstances where the manager responding to your grievance considers that your grievance is clear and requires no further investigation or other measures, they may move straight to inviting you to the formal grievance meeting, without the need for the grievance clarification meeting.

Formal Grievance meeting

25. Following the completion of an investigation or other steps identified at the grievance clarification meeting you will be invited to a formal grievance meeting.
26. You will be entitled to 5 working days notice of the meeting. In the event that an investigation has taken place you will be sent a copy of the investigation report and any statements taken as part of the investigation or any other paperwork which will be relied on at the meeting. If you wish to submit any further supporting documentation for your grievance you must ensure that you submit this well in advance of the meeting.
27. At the meeting you will be allowed to be accompanied by a work colleague or trade union representative, if you wish. Further information about this and the role of the companion is provided in the [guidelines](#).
28. At the grievance meeting you will be given the opportunity to restate your grievance and how you would like to see it resolved. Where a grievance investigation has taken place you have the opportunity to receive feedback on the grievance report.
29. The manager responsible for responding to your grievance may consider adjourning the meeting if necessary to investigate any new facts which arise or to consider the information that has been provided before making a final decision on the outcome. An HR representative and an impartial note taker may also be present at the meeting.
30. If you wish to call a witness to the grievance meeting you should make a request regarding this in advance. The manager responsible for responding to your grievance will decide on the appropriateness of any witnesses and will inform you in advance if any other management witnesses will be called to the meeting.
31. Where it is inappropriate or sensitive to call a witness or the person who the grievance has been brought against to the meeting it may be appropriate to consider a signed written statement from that person instead (Where an investigation has taken place this is likely to form part of the investigation report and attached statements).
32. After the grievance meeting the manager responding to your grievance will give a written response with the outcome of the decision within 5 working days of the date of the meeting. You will also be given a copy of the notes of the meeting. The letter will set out:
 - Whether the grievance has been upheld, either in part or full
 - What action will be taken to resolve your grievance

- Your right of appeal if your grievance has not been upheld in full.
33. The manager responsible for responding to your grievance will ensure that any actions identified as part of the outcome of the grievance are communicated and implemented as appropriate.

Failure to attend the formal grievance meeting

34. You must take all reasonable steps to [attend](#) the grievance meeting. If you fail to attend the grievance meeting more than once without reasonable cause the manager hearing your grievance can decide to proceed in your absence on the basis of the information available. You will be notified of this decision and the outcome in writing. In addition to this where insufficient evidence is available in your grievance, the manager may decide that the complaint should be treated as withdrawn (due to lack of active pursuit) and any further complaints relating to the same facts and individuals will not be accepted.

Time limits

35. The time limits referred to in the procedure may be varied by the council and you will be kept informed of the reasons for this. However, the procedure should be conducted expediently and in reasonable time to ensure compliance with statutory obligations and to ensure fairness.

Transfer to another procedure

36. This procedure including the investigation may be suspended at any point where it becomes apparent that the matter would be best dealt with in line with a different policy and procedure i.e. disciplinary or dignity at work policy and procedure. An assessment of the impact of any transfer will be carried out by the manager responsible for resolving your grievance in consultation with HR.

In these circumstances you will be informed by the manager responsible for resolving the grievance that either:

- the grievance will be suspended immediately, to allow the transfer to the alternative policy and procedure to take place
- or
- the investigation will continue until the outcome is known, with the possibility that the issue may be transferred for further investigation under an alternative policy.

In circumstances where only part of the grievance needs to be transferred to an alternative policy and procedure the remaining

elements may continue to be investigated under the grievance procedure at the same time.

Right of Appeal – Stage 3

37. If you are unhappy with the grievance decision you may lodge an appeal. This must be within 10 working days of receipt of the written outcome.
38. If you decide to exercise your right of appeal you should do so in line with the council's appeals procedure.

Right to be accompanied

39. Guidance notes - right to be accompanied

Reasonable adjustments

40. If you have a disability and feel that there are adjustments which would assist you in being able to express and formulate your grievance or attend the grievance meeting you should let your manager know as soon as possible so that they can give consideration to reasonable adjustments.
41. You should also notify your manager if your companion has a disability and reasonable adjustments may be required for them to attend the meeting. Further advice can be obtained your HR Advisor.

Investigations

42. Where a formal investigation is required investigations will be carried out in accordance with the council's guidelines for conducting investigations.
43. It may be deemed necessary to investigate the matters which you raise in your grievance and you will be informed if this is the case. The aim of any investigation will be to establish the facts behind the issues raised in the grievance in a fair and impartial way. The amount of investigation will depend on the nature of the issues raised and will vary from case to case.
44. Investigations may involve interviewing and taking statements from you and from any witnesses or the person(s) whom the grievance may be against, and/ or reviewing relevant documents and records. The investigation may be carried out by your line manager or a nominee appointed to undertake this role.

45. If you are an employee who has had a grievance raised against you, you will be informed of this as soon as it is possible and appropriate. You will be given a copy of the grievance notification form, or in cases where the grievance also relates to other matters, a copy of the part which is relevant to you.
46. Where you are invited to take part in an investigation you will be expected to co-operate fully and promptly with any investigation process.
47. The manager responsible for responding to the grievance will ensure that you are kept informed in writing, at regular intervals, of the progress of the investigation if you are either raising a grievance or are the subject of a colleague's grievance. Line managers who are not part of the grievance process or witnesses may also need to be kept informed of progress as appropriate.

Roles and Responsibilities

Line manager and senior manager responsibilities

Manager responding to the grievance - responsibilities

48. To manage the grievance including the process, timescales, outcomes and the flow of information to all parties to the grievance in line with the grievance policy and procedure following HR advice.
49. To establish whether an issue, concern or complaint raised by an employee is a grievance or not and whether it is appropriate to deal with it under the grievance policy and procedure or another procedure.
50. To ensure that HR are informed of any grievance raised under the grievance policy and procedure and are sent a copy of the grievance notification form where a formal grievance is raised.
51. To ensure that grievances are dealt with promptly and at the informal stage in the first instance where possible.
52. To ensure that careful consideration is given at the formal stage, to who should consider and respond to the grievance, conduct the investigation (where appropriate), hear the appeal and provide support to the employee who has raised the grievance and other staff and managers who are the subject of or are affected by the grievance.
53. To make arrangements for formal meetings (including the investigation and appeal), including ensuring appropriate note taking is organised.

54. To ensure that the employee raising the grievance is offered support as outlined in the policy and procedure and is informed and kept up to date with details of the grievance process and timescales.
55. To ensure that where the grievance is against another employee that they are:
 - informed of the details of this as soon as possible as appropriate and that they are given a copy of the grievance notification form (or in cases where the grievance also relates to other matters) a copy of the part which is relevant to them.
 - offered support at the same time as the above
 - informed and kept up to date with details of the process and timescales.
56. To respond to all grievances in a fair, impartial and consistent manner having regard to equal opportunities and in line with the grievance policy and procedure.
57. To try and find positive and constructive ways of resolving grievances where a resolution is possible.
58. To give careful consideration to using mediation where appropriate.
59. To ensure that where recommendations are made as a result of a grievance that these are communicated to all those involved in the grievance and those who need to implement the recommendations. This also includes informing employees who are the subject of the grievance of the outcome in relation to their part in the grievance.
60. For line managers to review where recommendations have been made that they have been implemented successfully at a suitable interval following the final grievance meeting.

Investigation officer responsibilities

61. To undertake an impartial fact finding investigation in line with the investigation brief from the manager responsible for responding to the grievance and in line with the guidance for investigating officers, equal opportunities and the grievance policy and procedure.
62. To undertake correspondence with the employees involved in the investigation in relation to meetings and drawing up summary notes (statements) of meetings and arranging for these to be signed.

63. To keep the manager responsible for responding to the grievance up to date with the progress of the investigation so that they can keep all parties up to date with the timescales.
64. To consider the facts that have been gathered in an impartial manner and to draw up a report for the manager responsible for responding to the grievance containing recommendations relating to the issues which have been raised in the grievance.

Employee's responsibilities in relation to raising a grievance are:

65. To provide as much relevant information as possible to enable your manager or manager's manager to clarify and respond to your grievance, including how you would like the grievance to be resolved and to make it clear to your manager that you are raising the matter as a grievance under the procedure, at both the informal and formal stage.
66. To complete the grievance notification form as requested to initiate the formal stage of the procedure.
67. To commit to approaching the procedure with a positive approach and engaging in constructive discussion in order to resolve the grievance wherever possible, at the informal stage.
68. To maintain a professional approach towards colleagues in respect of your working responsibilities whilst the grievance process is ongoing. A discrete and co-operative approach will be expected to ensure that information collected from witnesses is independent and not unduly influenced by external sources.
69. To make every effort to attend meetings set up under the grievance procedure and to notify the manager who has invited you to the meeting, if you are unable to attend and the reasons for this.
70. If you have requested that a trade union rep or work colleague should be present you will need to ensure that you arrange for them to attend the meetings that you have been invited to promptly and that you inform the manager who has invited you to the meeting if your companion is unable to attend as soon as possible.
71. You should let the manager who invited you to the meeting know if you or your chosen companion require any adjustments to be made for the meeting.
72. If it is decided that an investigation is required in to the matters you have raised you should be prepared to fully participate and co-operate in any investigation, including attending an interview with the

investigating officer and providing as full information as possible. You will also be asked to sign a summary statement of the interview.

73. If it is felt that matters are best resolved by using mediation then you should be prepared to engage with this recommendation.
74. If you raise a grievance this should be a genuine concern and should be made in good faith. Malicious and vexatious complaints against colleagues and any intimidation of witnesses as a result of an investigation will not be tolerated and will be pursued in order to determine whether action could be taken for a disciplinary offence.
75. If at any point during or at the end of the investigation a decision concludes that there have been actions of misconduct then the matter will proceed under the disciplinary or dignity at work formal procedure and you may be required to attend as a witness.

The role of Human Resources (HR)

76. An HR advisor will be allocated to support managers where they are informed that a grievance has been received.
77. The role of HR will be to provide:
 - professional advice and guidance to managers to enable them to make an informed management decision.
 - an overview of the grievance to help ensure a timely resolution and progression of the matter
 - an audit trail and chronology of the grievance
 - co-ordination of the involvement of any other stakeholders (if necessary) e.g. mediators, other HR advisors or legal
 - support to managers during grievance meetings where appropriate
 - support to managers during grievance investigations where appropriate
78. In most cases the HR Advisor will become involved at the formal rather than informal stage of the grievance although this will depend on the nature and complexity of the issue. HR Advisors will not be responsible for note taking at any meetings under this policy and procedure.

Employee's responsibilities if you have had a grievance raised against you:

79. These are set out in the [guidance and support for staff who are the subject of a grievance](#)

Support

80. Details of the support available to you if you are raising a grievance or if you are the subject of a colleague's grievance are set out in the
- Guidance and support for staff raising a grievance
 - Guidance and support for staff who are the subject of a grievance

Relationship between grievance and disciplinary procedure

81. Where an employee raises a grievance during a disciplinary process the disciplinary process may be temporarily suspended in order to deal with the grievance. Where the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently.

Requirement to keep records

82. It is important to keep written records during the grievance process. Records should include:
- The nature of the grievance raised
 - A copy of the written grievance
 - Notes of meetings held during both informal and formal stages
 - The manager's response
 - Action taken
 - Reasons for action taken;
 - Whether there was an appeal and, if so, the outcome; and
 - Subsequent developments
83. Managers should send copies of all grievance records to HR to retain on employee's file. Records will be processed in accordance with the Data Protection Act 1998.
84. **What do I do if I don't want to use the formal procedure yet?**

Employment problems and concerns are often raised and settled as a matter of course during day to day management. Often if your manager is aware of your concern or issue they can work with you to resolve it. As such you should aim to settle most concerns informally and quickly with your line manager.

However, there will be situations where matters are more serious or where an informal approach has been tried and has not worked. If informal action under the procedure does not resolve the matter, or the grievance is considered serious, you should raise a formal grievance. The grievance procedure will be used to manage your grievance.

85. **When should I not use the grievance procedure?**

You cannot use this procedure to raise a grievance regarding a matter that has already been dealt with under the grievance procedure. You should consider whether your issue would be better dealt with under separate policies and procedures that deal specifically with the matter concerned please see section [when the procedure does not apply](#). Other issues it may be helpful to consider include whether the grievance procedure is the best way of achieving your outcome, how old the issue is and whether it is now realistically resolvable.

86. Does anyone else need to be told about my grievance?

Your grievance will be treated confidentially but there are likely to be a number of people who are involved in your grievance who will need to know details of all or part of your grievance in order to be able to assist in the process of resolving it. This will include your line manager and any other manager hearing your grievance or appeal (if it gets to this stage), the investigation officer (if one is appointed) and HR staff assisting managers.

Where your grievance is against another member(s) of staff or involves other member(s) of staff as witnesses they will need to be made aware of the parts of your grievance which relate to them in order that the matter can be investigated fully with them and to potentially involve them in the resolution of the grievance and outcome.

87. What is mediation and does it suit my circumstances?

If your grievance concerns your working relationship with your manager or another member(s) of staff mediation should be considered and might be helpful. Mediation is a method of helping people resolve disputes and finding ways of working together more effectively and can be beneficial either prior to a formal grievance being raised or at any stage during the grievance procedure.

An external mediator will use specific skills which are impartial and they will facilitate a process that aims for a workable agreement between parties.

Mediation introduces a new dynamic to any discussion involving disagreements or disputes and enables people to restore and develop healthy working relationships.

You should seek advice from your line manager or their manager to decide whether mediation support could be a productive way forward.

88. Is it appropriate for me to continue working with the person I have complained about?

This will very much depend on the nature of your grievance and the circumstances. Wherever possible the status quo will be maintained and support may need to be put in place for you and others affected. Your manager (or their manager where the grievance is against your line manager) will take into account your views, those of the person your grievance is against and possibly other members of your team. Your manager may take advice on possible ways forward from an HR Advisor before a decision can be reached about this. The council does not have any obligation to offer you employment in any other area of the council if you raise a grievance.

89. I have just become aware that a colleague has raised a grievance against me. What support is available to me?

Your manager should inform you if a grievance is raised about you and you should be given details of the complaint (you will only be given details of the parts which relate to you if there are a number of facets to the grievance). Your manager or their manager will involve you in trying to seek to resolve the matter informally in the first instance where possible. You may be invited to take part in mediation either at the informal or formal stage of the procedure.

If the grievance moves to the formal stage of the procedure you may be invited to an investigation meeting and if this is the case you will have the opportunity to be accompanied by a trade union representative or work colleague. The investigation officer will give you the opportunity to respond to the complaint made against you and will arrange for a statement of the meeting to be drawn up which you will have the opportunity to check and sign.

They should also keep you informed of the timescales for resolving the grievance. You will also be entitled to be informed of the outcome of the grievance where appropriate and where it relates to you (which might not be the full grievance). For further information and details of the support available please refer to the guidance for staff who have a complaint made against them.

90. What happens if my grievance is upheld?

Where the grievance is upheld the manager who has heard your grievance is responsible for ensuring that the outcome and any recommendations are communicated to your line manager or the manager responsible for implementing them.

Where the grievance is against another member of staff and the outcome of the grievance is that there has been an issue of misconduct the matter may be referred to a disciplinary hearing. If this is the case

you may be called as a witness at the hearing and copies of the grievance meeting records and /or statements obtained during any investigation may be used at the disciplinary hearing. In addition or as an alternative to disciplinary action, the manager may consider taking some other action to resolve any outstanding concerns for example, extra training, re-clarification of accepted standard of work, reallocation of tasks etc. You will not know the outcome of any disciplinary action relating to another member of staff as the matter will be confidential.

Relevant Legislation

From 6 April 2009 the key statutory provisions governing grievances at work are to be found in:

- the Employment Act 2008, and
- the Employment Tribunals (Constitution and Rules of Procedure) (Amendment) Regulations 2008.

The policy and procedure takes in to account current employment legislation together with the revised ACAS Code of Practice (April 2009).

Further advice

There are a number of related policies which you should be aware of:

- Dignity at Work policy and procedure
- Appeals procedure
- Whistleblowing policy and procedure
- Disciplinary policy and procedure
- Capability policy and procedure
- Absence Management policy and procedure

For further information please speak to your supervisor, manager, service director or contact a member of your [human resources advisory team](#).

Toolkit

Guidance for Managers

Guidance for Investigating Managers

Guidance on holding formal meetings

Guidance on the right to be accompanied

Guidance and support for staff raising a grievance

Guidance and support for staff who are the subject of a grievance or a witness

The mediation scheme

Template letters

Flowchart

Policy author	HR Policy and Reward Team – (CC)
Policy last updated and implemented	24 November 2010