

Wiltshire Council HR Policies And Procedures
Grievance Policy and Procedure

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INDEX

Section									Page(s)
1.	Policy Statement	-	-	-	-	-	-	-	3
2.	Scope	-	-	-	-	-	-	-	3
3.	Introduction	-	-	-	-	-	-	-	3 - 4
4.	Objectives	-	-	-	-	-	-	-	4
5.	Procedure	-	-	-	-	-	-	-	4 - 6
	5.1 Stage 1 - Informal Stage	-	-	-	-	-	-	-	4 - 5
	5.2 Stage 2 - Formal Stage	-	-	-	-	-	-	-	5 - 6
	5.3 Stage 3 - Appeals	-	-	-	-	-	-	-	6
6.	Relationship between grievance and disciplinary	-	-	-	-	-	-	-	6
7.	Modified Procedure for Employees who have left employment	-	-	-	-	-	-	-	7
8.	Requirement to Keep Records	-	-	-	-	-	-	-	7
9.	Contact Details	-	-	-	-	-	-	-	8

1. **Policy Statement**

- 1.1. Wiltshire Council strives to promote harmonious working relationships between managers and employees. However there will be occasions when employees will wish to raise a grievance about work related matters. Wiltshire Council accepts that its employees have the right to express a grievance and for the Council to respond to it and keep proceedings confidential. This procedure provides a clear framework to deal with grievances fairly, consistently and speedily. The procedure takes into account current employment legislation together with the revised ACAS Code of Practice (April 2009).

2. **Scope**

- 2.1. This policy applies to all Wiltshire Council Staff apart from teachers and non teaching staff appointed in accordance with the Schools Standards and Framework Act 1998 and the Education Act 2002. In grievance matters that involve Chief/Statutory Officers of the Council these procedures will be read in conjunction with Wiltshire Council's Constitution. The Council will take appropriate steps to ensure that all employees understand the grievance procedure and related statutory requirements and that it is publicised within Wiltshire Council and is available in alternative formats upon request. Appropriate training will be provided to managers and employee representatives.

3. **Introduction**

- 3.1. Many potential grievance issues can be resolved informally and this policy sets out the procedure to be followed both at the informal and formal stage. Issues that may cause an employee to raise a grievance include but are not limited to the following:-

- Terms and conditions of employment
- Health & safety
- Work relations
- New working practices
- Working environment
- Organisational change
- Equal opportunities

As this list is not exhaustive, advice should be sought on complaints not listed above from the relevant HR Advisors.

- 3.2. Allegations of bullying and harassment will be dealt with in accordance with the Council's Dignity at Work Policy & Procedure.
- 3.3. It may be appropriate, in some situations where mediation could help resolve grievances. Information about the Council's Mediation Scheme can be found in the Council's Dignity at Work Policy & Procedure.
- 3.4. This procedure shall not apply to disciplinary, pension, national insurance or income tax matters. In addition it will not apply where an employee decides to make a protected disclosure in accordance with the Council's Whistleblowing Procedure.
- 3.5. Appropriate investigations, depending on the nature of the grievance, will be made to establish the facts of the case. Any grievance investigation will be conducted by a manager who is not involved in the matter giving rise to the dispute.

- 3.6. No employee will be victimised as a result of taking out a grievance.
- 3.7. The 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.
- 3.8. This policy does not apply to collective grievances 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.
- 3.9. The time limits referred to in the procedure may be varied provided that all parties agree. However the procedure should be conducted expediently and in reasonable time to ensure compliance with statutory obligations and to ensure fairness.
- 3.10. Status Quo arrangement - 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.

NB It is possible to go straight to the formal stage if the employee or line manager considers it is not possible to resolve the matter informally. Guidance should be sought from Human Resources, before bypassing the informal stage.

4. Objectives

- 4.1. The aim of the procedure is to promote effective employee relations by trying to resolve grievances, either individual or collective, as promptly and amicably as possible ensuring fairness and transparency is applied at all times.
- 4.2. Many potential grievance issues can be resolved informally without the need to progress to the formal stage. Both managers and employees are expected to approach the procedure with the commitment to engage in constructive discussion and to adopt a positive approach in order to resolve the grievance wherever possible, at the Informal Stage.

5. Procedure

5.1 Stage 1 – Informal Stage

- 5.1.1 If an employee has a grievance they should discuss the matter initially with their immediate line manager, having made it clear that it is a grievance. If the grievance is submitted verbally the employee may be asked to follow it up in writing, to assist the line manager in fully understanding the nature of the grievance. In most cases the line manager can best deal with the grievance on an informal basis. Raising a concern at an early stage may also assist in reaching a prompt and satisfactory outcome. There is no automatic right to representation of a work colleague or trade union representative at the informal stage however where an employee indicates that s/he wishes to be accompanied this would normally be permitted. The line manager should ensure that the employee has a copy of the grievance procedure and understands the process that will be followed.

- 5.1.2 If the grievance is against the line manager the employee should raise the grievance with the line manager's manager.
- 5.1.3 The immediate line manager or the line manager's manager should keep a written record of the discussions and provide a written response to the employee of the agreed outcome within 10 working days. A copy of the notes of the discussions held should be given to all persons who were present during the informal meeting(s). Further details of the type of records that need to be kept can be found in paragraph 8 of this procedure.
- 5.1.4 If the employee is dissatisfied with the response given they can pursue the matter to Stage 2 – the Formal Stage of the procedure.

5.2 Stage 2 – Formal Stage

- 5.2.1 In order to start the formal stage, the grievance must be submitted by the employee in writing to his/her manager (if the grievance is against the manager then the employee should raise the grievance with the manager's manager) with a copy sent to Human Resources providing sufficient detail to establish the basis of the grievance. Where possible this should include the outcome that the employee wishes to see along with relevant evidence where available. An employee may wish to seek help from a work colleague or trade union representative. (Under the Disability Discrimination Act 1995 employers are required to make reasonable adjustments which may include assisting employees to formulate a written grievance if they are unable to do so themselves because of a disability).
- 5.2.2 Once an employee has submitted a written grievance, the manager, or nominee, should respond as soon as possible by inviting the employee to a grievance hearing to discuss the grievance giving at least 5 working days' notice. This should also include advising the employee that they can be accompanied by a work colleague or trade union representative. If the employee and/or companion cannot attend on the proposed date they can offer a further date as long as it is reasonable and usually not more than 5 working days after the originally proposed date. The employee must take all reasonable steps to attend the grievance hearing. Guidance notes on the role of a work colleague can be accessed via the HR on-line website.
- 5.2.3. It may be necessary to delay the hearing of the grievance in order that an investigation can be undertaken. Investigations will be carried out in accordance with the Council's 'Guidelines for Conducting Investigations'. The manager/nominee will ensure that the employee is kept informed in writing, of any delay in hearing the grievance and the progress of the investigation.
- 5.2.4 Any grievance hearing should be conducted by a manager who is not involved in the matter giving rise to the dispute.
- 5.2.5 At the grievance hearing the employee should be given the opportunity to explain the grievance and say how they think it should be settled. The manager/nominee will be advised by an HR representative. A meeting against whom the grievance is brought will be arranged separately.
- 5.2.6 The employee's companion may address the grievance hearing, put or sum up the case and respond on behalf of the employee to any view expressed at the hearing if the employee wishes but is not able to answer questions put to the employee.

5.2.7 After the grievance hearing the manager/nominee will give a written response with the outcome of the decision within 5 working days of the date of the hearing. The letter will also give details of the right of appeal. It is important to note that like by like cases should be treated consistently.

5.2.8 If the employee is unhappy with the grievance hearing decision s/he must lodge an appeal, in writing and state the grounds for the appeal to their Service Director (who may nominate an appropriate Senior Manager to hear the appeal, who may not always be from the employee's Directorate) and copied to the HR Advisor who has been involved with the case. This should be within 10 working days on receipt of the written outcome.

5.2.9 Notes of all meetings should be recorded and a copy given to each person present.

5.3 Stage 3 – Appeal

5.3.1 As soon as possible (and in any event within 25 working days of the appeal being received) the employee will be invited to an Appeal Hearing.

5.3.2 The employee and his/her representative will be given notice in writing at least five working days in advance of the time and place of the grievance hearing. Any extension on the time frames must be agreed in advance by both parties.

5.3.3 The Appeals Panel will consist of a Senior Manager who has not had prior involvement with the case, advised by a representative from Human Resources. The manager will be, wherever possible, more senior than the officer who originally heard the grievance. At the appeal hearing both parties (i.e. the individual who is appealing against the outcome of their grievance and the officer who is presenting the management case (this officer is the person who heard the grievance before the appeal)) have the opportunity to state their case and to ask questions of each other. Both parties may call and question witnesses. The employee may be accompanied to the appeal hearing by a work colleague, a union representative, or an official employed by a trade union. Once they have heard the case the panel will make the following range of decisions. As a matter of record, notes of the Appeal Hearing will be taken.

5.3.4 The nominated representative hearing an appeal against the outcome of the grievance may:-

- dismiss the appeal; or
- uphold the appeal; or
- allow the appeal and substitute a different outcome

There is no further right of appeal against the decision of the Appeals Panel.

The Appeals Panel will usually announce the decision to the parties after the hearing or within two working days of the hearing. The employee will be informed of the decision in writing within five working days.

6. Relationship between grievance and disciplinary procedure

- 6.1 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.

7. Modified Procedure for Staff who have left Employment

- 7.1 If the employee has left employment with the Council and the above procedure has not commenced or been completed, a modified procedure may apply but the employee must give written agreement to this.
- 7.2 The modified procedure differs in that the grievance is considered without holding a Stage 2 meeting and Stage 3 will not apply as there is no right of appeal. The modified procedure may apply where it would be unreasonable to oblige the parties to follow the standard procedure, including attending meetings.
- 7.3 If an employee wishes to raise a grievance after leaving employment s/he should write to his/her former manager setting out the basis for the grievance as soon as possible after leaving. If the grievance is against the manager the employee should write to the manager's manager. The former manager will clarify, following advice from Human Resources, whether the standard or modified procedure is to be used.
- 7.4 Where the modified procedure is used, the former manager/nominee, after carrying out an appropriate investigation if required, will consider the matter and write back setting out his/her response.

8. Requirement to keep records

- 8.1 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 employer's response
 - Action taken
 - Reasons for action taken;
 - Whether there was an appeal and, if so, the outcome; and
 - Subsequent developments

- 8.2 Records should be treated as confidential and kept in accordance with the Data Protection Act 1998.

9. Contact Details

- 9.1 HR Advisory Team