

# Staff Grievance Policy and Procedure

## 1. Policy Statement

It is the policy of Cherwell District Council and South Northamptonshire Council that everyone should be treated fairly and without discrimination regardless of gender, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status (e.g. age, disability or sexuality).

We will not tolerate processes, attitudes or behaviour that amount to any form of discrimination, including harassment, victimisation and bullying through prejudice, ignorance, thoughtlessness, stereotyping or any other reason. This commitment will be demonstrated from the most senior to the most junior positions within the Councils.

The purpose of the Staff Grievance Policy and Procedure is to promote a working environment where all staff are treated with dignity and respect and where complaints, whatever their nature, are taken seriously and dealt with promptly, effectively and sensitively.

In practice this means:

- there will be clear and effective ways of raising any grievance, in confidence and without fear of recrimination;
- wherever appropriate, necessary steps will be taken to ensure the individual safety of the complainant and any witnesses or representatives/work colleagues;
- grievances can be informally/formally investigated and/or mediation used to resolve problems wherever appropriate;
- staff making a grievance can choose to be represented/accompanied at any part of the process;
- staff will be informed of any grievances made against them. They can be represented/accompanied and respond at any time during the investigation;
- all grievances will be monitored by HR;
- there is a right to appeal.

## **2. Introduction**

### **2.1 Scope**

This policy will apply to the South Northamptonshire and Cherwell District Council Senior Joint Management Team including the Chief Executive and all employees at South Northamptonshire Council and Cherwell District Council, and will apply whenever grievances are raised. This policy will not apply to third party or partner organisations where employees are not employed directly by either Council.

All staff grievances will be managed in accordance with the new procedure set out here.

## **3. The Manager's Role and Responsibilities**

### **3.1 Managers will:**

- implement this grievance procedure;
- ensure the Council's equalities policies are actively supported;
- attend appropriate training in the handling of staff grievances;
- be aware of the law and understand what constitutes discrimination (including harassment, Victimisation and bullying);
- set and monitor standards of behaviour in the workplace;
- provide advice and support to any member of staff pursuing a grievance;
- aim to deal with grievances at an early stage and, wherever possible, informally;
- ensure they are fair and equitable in their dealings with staff.

### **3.2 Working arrangements will include:**

- all informal grievances will go to the line manager unless the grievance is against the line manager. In this case, it will go to the Head of Service or Director;
- all formal grievances will go to Human Resources who will allocate a trained independent investigating officer to handle the complaint;
- all informal/formal complaints will be dealt with as quickly as possible and ideally within one month. Timescales will depend on the complexity of the case but it is important that the expectations of those individuals involved in this process are managed. This can be achieved by drawing up an outline time frame, which can be the subject of change if circumstances dictate, but that does in the first instance enable members of staff to participate in the process whilst understanding how long it may take. Where the original timescales are likely to be exceeded the appointed independent investigating officer must ensure Human Resources and the employee are kept informed with a rationale for the extension and some indication of what the timescales are changing to;
- the line manager or independent investigating officer may refer the grievance to mediation before, during or after investigation;
- on behalf of the employee, the line manager can seek external counselling or other support from Occupational Health via Human Resources;
- steps will be taken to ensure the immediate safety of the employee making the grievance and their future safety, where this is necessary;
- appropriate action is taken against the offender(s) if the grievance is upheld;

- disciplinary action will be taken against the employee making the grievance if the grievance is found to be malicious;
- action taken for formal grievances will be tracked and monitored at both service and corporate level by line managers and HR.

#### **4. The Employee's Role and Responsibilities**

Employees will:

- Work with the line manager or human resources to genuinely seek resolution.
- Co-operate with any investigation.
- Wherever try to raise the grievance informally.
- Comply with all reasonable management instructions whilst their grievance is being progressed.

#### **5. The Role of Human Resources**

- 5.1 Human Resources has responsibility for advising managers on all aspects of the operation of this policy and for helping to maintain consistency in its application. Therefore, HR should be consulted when dealing with any grievance.

Human Resources will provide links to mediation and other Occupational Health services where appropriate.

Human Resources will provide training to all investigating officers and will allocate an investigating officer to any formal grievance as appropriate.

Human Resources will monitor the outcome of all grievances made under this procedure. Remedial action will be taken wherever necessary as part of the Council's commitment to tackle and eradicate inequitable treatment in the workplace.

#### **6. Grievances Made Against the Chief Executive**

- 6.1 For grievances made against the Chief Executive, these should be submitted to the Councils Monitoring Officer initially who will determine whether a formal grievance process is appropriate or whether an alternative course of action is more suitable. For example the Monitoring Officer might decide that the grievance is actually about a council service, rather than a grievance that is actually about the Chief Executive personally. In this case the Monitoring Officer would refer the matter back to the aggrieved employee, or their line manager, and indicate that the matter is one that they could raise under the appropriate complaints process for the council.
- 6.2 Under the ACAS code a two stage process is required so for grievances made against the Chief Executive the first stage (informal) would be dealt with by the Councils Monitoring Officer (who may nominate an independent Investigating Officer) (or the Councils Section 151 Officer if the Monitoring Officer is already implicated). If the matter remains unresolved then a panel of elected members (Joint Appeals Committee) will need to hear the grievance on behalf of the employer (stage two). The panel having the power to either uphold or dismiss the grievance, and can be advised by both a HR representative and a legal representative from within the Council. Only in exceptional cases will someone independent be bought in to do the investigation or advise the panel.
- 6.3 Any issues regarding any sanctions or outcomes of the grievance will be dealt with by the Joint Personnel Committee.

## 7. Training Need to look at Council/s

- 7.1 The Council recognises that it employs a diverse workforce with many staff likely to have very different expectations of the kinds of behaviours that are acceptable at work. The Council accepts that it has a responsibility to provide training for those staff in a supervisory position in how to recognise, prevent and deal with grievances. This training is to be mandatory for all employees who have supervisory or line management responsibility. Service Heads will identify this need through Personal Development Plans and it will be available through the regular corporate programme. All new staff will be made aware of the Grievance Policy and Procedure through induction.

## 8. Confidentiality

- 8.1 Strict confidentiality must be maintained when dealing with grievances. **All those involved in the grievance** including managers, the employee, colleagues, witnesses and representatives must maintain strict confidentiality **at all times** in order to ensure the integrity of the investigation process.

Records should be kept detailing the nature of the grievance raised, the response, any action taken, and the reasons for it. These records should be kept confidential and retained in accordance with the Data Protection Act, which requires the release of certain information to individuals on their request. Copies of any meeting records should be given to the individual concerned, although in certain circumstances, some information may be withheld (for example to protect a witness).

## 9. Types Of Grievance

- 9.1 There are many forms of grievance that staff may have. They can range from work related issues, to concerns about and employees fellow workers' or a clients' actions that affect them. They can also cover terms and conditions of employment; health and safety; relationships at work; new working practices; organisational change and equal opportunities. Whilst not exhaustive, the following list identifies the main grievances that can be brought under this procedure.

### Types of grievance may include:

- Direct discrimination
  - Indirect discrimination
  - Direct disability discrimination
  - Victimisation: race, sex, disability, age, religion, belief and sexual orientation
  - Terms and conditions of employment
  - Unfair application of Council policy
  - Health & Safety complaints
  - Violence complaints
  - Complaints about racial abuse
- 9.2 To provide an exhaustive list is not possible. Staff should use their judgement when applying Council standards and policies, but should also be guided by the principle that the determining issue is how the member of staff is affected, not the intention.
- 9.3 This procedure covers all types of grievances **except** those relating to grading, pensions or disciplinary issues for which separate procedures exist. (see separte Council policies as appropriate

- 9.4 Re Investigation. Will managers from both Councils be able to investigate grievances in both councils
- 9.5 If the officer investigating the case reaches the conclusion that formal disciplinary procedures should be implemented, a formal disciplinary hearing will be scheduled. The investigation will form the basis of the management case and the disciplinary procedure will be invoked at the stage of convening a hearing. The panel hearing the disciplinary cannot include the manager who investigated the original complaint but they can present the management case where appropriate.

## **10. Using the Grievance Policy**

- 10.1 All genuine grievances raised will be treated seriously. However, employees should be aware that they must not use the policy to raise concerns without just cause and with the intent of causing distress to others. In appropriate use of the policy may result in the employee, who has raised the grievance being subject to disciplinary action.
- 10.2 An expectation of this policy is that before individuals invoke the formal stages of the procedure, that they first attempt to resolve their complaint informally by discussing their complaint with their line manager, or another suitable person.
- 10.3 With regards to performance management, an employee may wish to raise a grievance about the way performance management is handled by their manager, which may include any grievance regarding bullying or harassment. However it is not expected that this policy will be used solely because the manager is seeking to performance manage an employee and then disagrees with the decision.

## **11. Collective Grievances**

If a collective grievance arises, involving a group of employees within the same or different departments, but relating to the same issue, this may be dealt with through this policy and the group of staff may nominate a spokesperson to represent their case.

## **12. Staff Grievance Procedure**

### **12.1 Stage One - Informal route**

All employees may choose and are encouraged to discuss the grievance with their line manager (or their line manager's manager where the grievance concerns the line manager) to see if the matter can be resolved informally and without invoking the formal grievance procedure.

Employees should try to take the informal route initially as this approach benefits both parties, often resulting in a quicker and more satisfactory resolution.

Informal procedures concentrate on conciliation, not sanctions. For example, asking someone to stop doing something or to apologise. Managers must take any issue raised with them seriously. Managers should be aware of, and be prepared to explore, alternative methods of resolving any grievances that arise by discussing the issue and examining a range of possible solutions with the employee.

It should take no more than approximately a month to deal with an informal grievance. If the employee is not satisfied with the handling of the grievance or timeliness, then they should consider making a formal grievance.

In most instances, there is an expectation that staff will attempt to resolve their grievances informally, before following any formal route. When staff make a formal grievance and complete the grievance form (Appendix 1), they are asked whether any informal route has been pursued and if so when.

## 13. Mediation as an Informal Option

13.1 Mediation is an option that can be available to the employee, in appropriate circumstances, as an alternative way of resolving a grievance. Mediation is when an impartial, professionally trained, third party helps to facilitate discussion and seeks to support resolution between parties in order that working relationships can be maintained.

- if both parties are willing and the matter is appropriate for mediation, the mediation process will be considered.
- mediation can be used at most stages (if it is felt appropriate), apart from during a formal investigation. If it is deemed appropriate the manager or Human Resources can approach the parties concerned to determine if they are agreeable to mediation and explain what it involves. If the parties are agreeable Human Resources will arrange mediation.
- the aim of mediation will be for both parties to reach a mutually acceptable outcome, and to feel able to maintain their working relationship. If this is not possible, then the grievance can still be dealt with under the formal grievance procedure as described below.
- if the manager is referring staff to mediation it may sometimes be necessary to undertake a preliminary informal investigation to determine whether mediation is appropriate. For example, if the grievance were of a serious nature and would most likely lead to formal disciplinary action for serious misconduct, mediation would not be appropriate. The manager can ask the employee what outcome they are seeking from their grievance.
- if mediation is not deemed to be appropriate or is not acceptable to all parties, the manager can still informally/formally investigate the grievance. Similarly, if having commenced mediation it becomes apparent to the mediator that it is not appropriate, the issue will be referred back to the manager (via Human Resources) to investigate.
- mediation can be used not only to resolve complaints, but also as a key tool to building better working relationships and assisting in improving a difficult situation.
- mediation can help resolve issues which:
  - the parties have the power to settle;
  - the parties are prepared to work out;
  - the parties have equal power to negotiate and resolve;
  - do not require any expert knowledge.
- some examples of mediatable disputes are those about:
  - behaviour, management/work styles;
  - working arrangements;
  - environmental conditions.

## 14. Stage Two

### 14.1 Grievance in Writing

- this grievance process commences formally when the matter is raised in writing which must be done within three months of the event or issue occurring. The employee should complete a staff grievance form (which can be found at Appendix 1). The staff member making the grievance should send the grievance form to the Head of Transformation.
- A trained independent person will investigate the grievance, This need clarification a manager from another service area. An independent person from outside the Council can be used where it is agreed that this is appropriate and necessary. This might be appropriate where, for example, particular expertise is required such as technical skills or the ruling out of criminal possibilities.
- The trained independent officer will be selected by a member of the HR team so that an appropriate person is selected.
- HR will ensure the line manager/Head of Service is informed of the grievance when appropriate (i.e. it must be ensured that any investigation is not jeopardised). The HR team will also ensure the line manager is kept up to date at appropriate intervals.

## 15. Representation

- if the employee is invited to a hearing/meeting to discuss the grievance, they will be advised of their right to be accompanied by a trained trade union representative or a work colleague. The employee making the grievance can be represented at any part of the process.
- if the grievance is against another member of staff and if the grievance were substantiated (i.e. could result in formal disciplinary action being taken), then that member of staff (perpetrator) should also be advised of their right to be represented at any hearing to discuss the complaint.
- the representative must be permitted to address the hearing, and to confer with the person they are representing during the hearing in order to clarify issues, however, the representative is not entitled to answer questions on behalf of that person.
- the hearing must be postponed if the representative is unavailable, but they must propose a reasonable alternative date and time within five working days from the postponed hearing date. However, a postponed hearing may proceed if the representative is not available within 2 working weeks of the original postponed hearing date. This need some clarification
- it is inappropriate for someone to insist on a representative whose presence would prejudice the hearing or who might have a conflict of interest.

## 16. Timing

- a key and essential feature of the Staff Grievance Procedure is dealing with grievances promptly.
- the actual timescale may often depend on the nature of the grievance and the circumstances. However, there are some key stages of the process where a deadline can normally be adopted.
- dependent upon the nature of the grievance, it may be appropriate to deal with it immediately. It may be necessary, for example, to take immediate steps to ensure

the safety of the employee making the grievance. Such action could include reorganising or relocating work to avoid close or regular contact. In serious cases, pending a short urgent investigation, the member of staff complained about may have to undergo a precautionary suspension.

- any suspension will be on full pay for a period of not normally more than ten working days. If the investigation is not completed within this timeframe, the suspension period may be extended, subject to a review after each ten day period, with the aim of keeping the period of suspension as short as is reasonably practical. Who suspends, where recorded circumstances
- following receipt of the grievance form (Appendix 1), the HR team should contact the employee making the grievance normally within 5 working days. This will be to discuss the grievance and the arrangements for investigation or mediation where appropriate.
- where it is not possible to respond within specified time periods the employee making the grievance should be given an explanation for the delay and told when a response can be expected.

## **17. Investigation**

### **17.1 Natural Justice**

In conducting the investigation and reaching a decision the investigating officer must follow the rules of natural justice i.e. the employee whom the grievance is against must:

- know the complaints against him/her;
- have the opportunity to state his/her side of the case before any decision is made;
- have the opportunity to be represented; and
- must be dealt with fairly, reasonably and impartially at all times.

The purpose of the investigation is to obtain, collect and analyse all the evidence and information about a situation. This may be something that has happened, an individual incident, a series of incidents etc. Decisions are made on the basis of the accumulated information and evidence, and these decisions determine how the issues are handled. The investigation must gather all the facts which are relevant to the matters under consideration. Decisions are taken on the balance of probabilities.

Those conducting the investigation will be guided by the principles for investigations contained in the The Disciplinary Procedure and Policy.

If an investigation is required, this must begin as soon as possible. Investigating officers may need to justify the time taken in dealing with a grievance, therefore, a record should be kept of the reasons for any delays.

Less complex grievances should be dealt with normally within days or weeks - certainly a maximum time of 20 working days.

If any less complex grievance is not finalised within four working weeks, the manager needs to notify their Service Head/Director and Human Resources:

- the complaint has extended beyond four weeks; the reasons why;
- the expected time-frame for completion; and
- what the employee making the grievance has been advised.

Complex cases will depend on the circumstances, but must begin without delay.

Two months should normally be the maximum time taken to conclude a complex matter.



- for any form of grievance, the employee should be kept advised of progress within each 10 day period and given an explanation for any delay, they should also be told when a response can be expected.
- where an employee raises a grievance about the behaviour of a manager (in the course of a disciplinary case), consideration should be given to suspending the disciplinary procedure for a short period, until the grievance can be considered separately. And/or bringing in another manager to deal with the disciplinary case.
- where the grievance involves equality issues or any other serious allegations, the grievance procedure will be followed to completion, even if the employee bringing the grievance resigns or leaves the service.

## **18. After the Investigation is Complete**

- 18.1 At the end of the investigation, the investigating manager will draft a report normally within 10 working days, outlining the process followed, the decision reached and the reasons for the conclusions.
- 18.2 The report will be made available to the employee making the grievance. Any alleged offender will be party to the report only if appropriate to move forward and with the agreement of the employee making the grievance.
- 18.3 This investigative report will be the basis of the case file. It may also be used as a management statement of case for any formal disciplinary hearing or used at any appeal hearing under this grievance procedure, and will form the basis of the grievance meeting. Needs clarity about redacting etc.
- 18.4 Once the investigation is complete a grievance meeting will be set up within five days of the completion of the investigation report being sent to the Head of Transformation. The meeting will include the Head of Transformation (or delegated other HR Rep) and the employee's line manager to go through the report and inform the employee of the findings. Any other party(s) involved should be seen by their line manager (wherever practicable) and informed of the outcome of the investigation and the appeals procedure, once the employee undertaking the grievance has been informed by HR. This should be confirmed in writing.
- 18.5 If there is no case to answer, all records of the matter will be disregarded entirely. If the Council's disciplinary procedure is invoked and the allegation is upheld, then action will be taken up to and including summary dismissal.
- 18.6 If an allegation cannot be substantiated following a formal investigation, and there is a reasonable belief that the employee making the grievance acted maliciously, disciplinary action may be taken against him or her. The employee bringing the grievance should be reminded before the investigation begins that making a malicious allegation constitutes a disciplinary offence. However, this would be only if there were firm grounds to believe that the claim was vexatious, not only on the basis that a grievance or appeal was not upheld.
- 18.7 In cases where the parties are to remain in the service of the Council, and are from the same work area, it may be necessary for them to be separated. Wherever possible, it will be the offender who is moved if a grievance has been upheld against him/her. Even if the grievance is not upheld, the employee making the grievance and the alleged offender may still be separated, where practical, in the interests of good relations.
- 18.8 Resistance to the grievance, either by confrontation by the alleged offender or by complaint to management, can sometimes result in further victimisation of the employee making the grievance. This may include hostility, criticism of work performance, transfer, loss of promotion or job. The Council views such victimisation as wholly unacceptable and, if founded, such allegations could lead to summary dismissal of the victimising party through the disciplinary policy.

## 19. Stage Three

### 19.1 Appeal

- the complainant can appeal against the decision/outcome following the investigation. This appeal must be made to Head of Transformation in writing **on the form found at appendix 2** within 5 working days of receiving the decision in writing (this time may be extended if there are extenuating circumstances which prevent the appeal being logged in time).
- the Head of Transformation will then be asked to make a statement in response within 5 working days.
- this appeal will be heard by the Appeals Panel (or the Joint Appeals Committee for staff in JMT) who will convene a hearing to examine the findings of the investigation **once all statements have been received**. Each party will be expected to attend the appeal to answer any questions.
- a panel date may be postponed if representation is not available but must be reconvened within 1 working week of the original date. If either party fails to attend without prior notice the appeal will be decided in their absence.
- the Appeals Panel should give a decision within 5 working days. This decision is final.

# Staff Grievance Form

Appendix 1

Your Name	
Your Job Title	
Your Service Area and Line Manager	

## Details of your grievance (Please continue on separate sheet if required)


When did you speak informally to your line manager about your grievance?	
Why are you dissatisfied with the response?	
What do you think should be done to put things right?	

Name of trade union/other representative (if appropriate)	
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Signature	
Date	

Please send or give this form to Human Resources.

## Appeal Statement

This statement should be completed only if you have reached the end of Stage 2 of the Grievance Procedure and wish to appeal against the decision. You should attach copies of all supporting documentation to this form.

Your Name	
Your Job Title	
Your Service Area and Line Manager	

### Details of your appeal (Please continue on separate sheet if required)


Why are you dissatisfied with the response?

What do you think should be done to put things right?

Name of trade union/other representative (if appropriate)	
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Signature	
Date	

Please send this form to the Head of Transformation **within 5 working days** of receiving your grievance decision in writing.