



Grievance Policy and Procedure

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Pandemic

In response to a pandemic all Council employees are expected to follow the social distancing and public health guidelines published by the Government and by the Council in order that the highest level of Health and Safety working practices are met.

Wherever possible, meetings should be held virtually either by video call or by telephone to avoid face to face contact. It is recognised that this is not possible or practical for every situation and therefore meetings should be held with only essential members present and social distancing and personal hygiene measures such as regular hand washing, use of hand sanitiser and surface cleaning at the front of mind.

Pandemic Risk Assessments must be followed at all times and any issues raised immediately with an appropriate line manager.

1. Introduction

- 1.1 The council and the trade unions attach great importance to establishing and maintaining good working relationships at all levels within the council by encouraging all employees to achieve and maintain acceptable standards of conduct and behaviour.
- 1.2 It is however recognised that, from time to time, working relationships may be affected by dissatisfaction due to a variety of reasons and any such issues should be resolved promptly in the interest of good employee relations. This policy and procedure ensure that staff are treated reasonably and consistently by providing a fair and equitable method of dealing with grievances before they develop into major problems.
- 1.3 The council encourages free communication between employees and their managers to ensure that questions and problems arising during the course of employment can be expressed and where possible resolved quickly and to the satisfaction of all concerned.
- 1.4 Both parties should be able to clearly demonstrate all reasonable efforts have been made to resolve the issues informally before the formal process is commenced.
- 1.5 Whilst a grievance is being considered the “status quo” will prevail whenever possible. “Status quo” means that any change causing the grievance will not be implemented.

2. Principles

- 2.1 This policy is designed to help managers, employees and their representatives’ deal with grievance situations in the workplace. It is clearly

in everyone's interests to resolve problems before they can develop into major difficulties for all concerned.

2.2 During the grievance procedure the following principles will be applied in order to ensure that employees receive consistent and fair treatment.

2.2.1 **Confidentiality** – Confidentiality should be maintained by all those involved, including the employee and their representative, at all stages throughout the procedure by ensuring that only those people who need to know have access to details. While respecting confidentiality, it is important that the employee is free to discuss issues with their trade union representative or work colleague who may be able to assist or support them through what is acknowledged to be difficult circumstances. Written records will be treated as confidential.

2.2.2 **Fairness** – Whenever a grievance process is being followed it is important to deal with issues fairly. There are a number of elements to this:

- Managers and employees should raise and deal with issues promptly and should not unreasonably delay meetings, decisions or confirmation of those decisions.
- Managers and employees should act consistently.
- The council will carry out any necessary investigations to establish the facts of the case.
- The council will inform employees of the basis of the hearing and give them the opportunity to put their case before any decisions are made.
- Employees have the right to be accompanied by an approved trade union representative or work colleague at any **formal** grievance meeting or interviews that are conducted as part of the investigation process.
- Employees are entitled to the right of appeal against any formal decision made with the exception of stage 3 where the decision made by the Employment Appeals Panel is final.

3. Scope

3.1 This procedure applies to all employees of the council excluding officers employed under J.N.C. Conditions of Service for Chief Officers and for Chief Executives.

3.2 This procedure does **not** apply to agency staff, external contractors or external consultants.

4. Training

4.1 All supervisors/line managers who might act as investigating officers or who lead at hearings will attend an appropriate training course or demonstrate an appropriate level of competence. Elected members who sit on the Employment Appeals Panel will also attend an appropriate training course or demonstrate an appropriate level of competence.

5. Roles and Responsibilities

5.1 It is the responsibility of individual **Employees** to:

- Be aware of the council's policy and procedure
- Maintain acceptable standards of performance and conduct

5.2 It is the responsibility of **Managers** to:

- Seek advice from Human Resources in a timely manner
- Comply with the council's policy and procedure
- Ensure employees understand the policy and procedure
- Ensure the policy and procedure is fairly and consistently applied
- Recognise where circumstances make it difficult from time to time for staff to comply fully with the council's policy and procedure
- Assist, wherever possible, the employee to correct unacceptable behaviour

5.3 It is the responsibility of **Human Resources** to:

- Ensure provision of training, support and guidance for managers
- Regularly review and monitor the operation and effectiveness of the policy and procedure including any adverse impact
- Ensure compliance with legal obligations

6. During a Pandemic

6.1 Any grievance procedure at this time must be carried out in a way that follows public health guidelines around social distancing and closure of certain business premises.

6.2 Going through a grievance procedure can be stressful in normal times, and employees might be facing other stressful circumstances at this time. The Council will give careful consideration to the health and wellbeing of employees when deciding whether and how to proceed at this time.

6.3 Whether the Council decides to go ahead with the procedure or postpone it, the Council will explain their decision with those involved. This will help everyone to be clear about what has been agreed and why.

6.4 Where all those involved in the procedure are still going to the workplace, the Council will consider whether the procedure can be carried out in line with public health guidelines.

For example, if interviews and meetings can be held in a place that safely allows for social distancing as well as privacy.

6.5 If some or all of those involved in the procedure are working at home, the Council will need to decide if the procedure can still be carried out in a fair and reasonable way. When making this decision the Council will consider:

- the individual circumstances and sensitivity of the case, for example if it needs to be dealt with urgently, or if it would be dealt with more fairly when people are able to return to the workplace
- if anyone involved has a reasonable objection to the procedure going ahead at this time

6.6 Going ahead with a procedure at this time might mean having to use video meetings for any investigation interviews and hearings. The Council will consider if this can be done in a fair way, including if:

- everyone involved has access to the technology needed for video meetings, for example the necessary equipment and internet connection
- anyone involved has any disability or other accessibility issues that might affect their ability to use video technology, and whether any reasonable adjustments might be needed
- any witness statements or other evidence can be seen clearly by everyone involved during the hearing
- it will be possible to fairly assess and question evidence given by people interviewed in a video meeting
- it's possible to get hold of all the evidence needed for the investigation or hearing, for example records or files that are kept in the office
- it's possible for the person raising the grievance to be accompanied during the hearing

6.7 If the Council decides to continue or start a grievance procedure, the Council will follow Acas's Code of Practice.

6.8 The right for an employee to be accompanied at a grievance hearing still applies (see section 11.6). The employee's chosen companion must be able to attend the hearing, even if it's being carried out through a video meeting.

The hearing must be set up to allow the employee's chosen companion to:

- put forward and sum up the employee's case
- respond on behalf of the employee to anything said (although it should be noted that the companion is not able to answer questions directed at the employee).
- talk privately with the employee at any point

During a pandemic, the availability of an employee's chosen companion might be more limited than usual. For example, they might have more caring responsibilities. The Council will consider if a delay of more than 5 days is reasonable in the circumstances.

7. Exclusions to the Policy

This policy and procedure will not apply in the following circumstances:

- 7.1 Where the disciplinary, capability or managing attendance procedures are invoked and the matter would be better dealt with by way of an appeal in line with the relevant procedure.
- 7.2 When a grievance is raised about a matter over which the council has no control, or where management is acting in accordance with council policy and procedures.
- 7.3 Where the grievance is the subject of collective negotiation or consultation with trade unions and staff.
- 7.4 Where an employee has serious concerns about an aspect of the council's work or those who work for the council. In such circumstances the Whistleblowing Policy is available to enable employees to raise concerns about workplace malpractices, suspicions of criminal acts, miscarriage of justice and dangers to health and safety.
- 7.5 Separate procedures are in place to deal with complaints of bullying and harassment (Dignity at Work Policy) and grading issues (Re-grading Policy) and therefore such matters are excluded from this policy.

8. Areas of Possible Grievance

- 8.1 The definition of a grievance is where an employee has a problem or concern about their work, working conditions or working relationships with colleagues that they wish to raise or have resolved.
- 8.2 This policy and procedure covers the following circumstances:
 - A grievance by an employee relating to his/her employment
 - A collective grievance held by more than one employee about a particular issue concerning their employment.

9. Multiple Grievances

- 9.1 The Council reserves the right to refuse to hear a grievance if it clearly relates to one dealt with previously, where the grievance was dealt with in a proper manner and in accordance with policy and procedure.

10. Informal Stage

- 10.1 If an employee has a grievance or concern they should, in the first instance, raise this with their line manager. If they feel unable to discuss the matter with their direct line manager they should raise it with the next manager up in the structure or contact a member of the Human Resources team.
- 10.2 The manager should discuss the matter with the employee at the earliest possible opportunity with the objective of encouraging and helping the employee to find a way of dealing with the situation and stopping the need for the matter to escalate. It is an informal process designed to work through difficulties before they become so significant that the employee feels it is necessary to submit a formal grievance. The employee and the manager to whom the grievance is raised should make every effort to resolve the issue.
- 10.3 During the meeting the manager should ascertain what the employee's concern is and how the employee believes the matter should be resolved. It may be necessary for the manager to investigate the issue further and they should keep the employee informed of their progress in doing so. Once the manager has concluded their investigation they should meet with the employee to inform them of the outcome of their findings.
- 10.4 Although this is an informal part of the process the manager should make note of:
- The nature of the grievance
 - Their response
 - Any action taken
 - The reason for the action

This information will be useful should the issue progress to the formal stage.

The employee should be given a copy of any notes taken at this meeting or written confirmation of the discussion and agreed actions.

- 10.5 Where the grievance is about a disagreement with or the behaviour of another employee, mediation could be considered as a possible solution at this stage. Mediation is a process where a neutral person – the mediator - works with the individuals who have a disagreement to help them find a solution and reach an agreement that will sort out their problem or improve the situation. The mediator will not take sides or judge who is right or wrong. The aim of mediation is to find a way or reaching a resolution to a matter so that the two individuals can work together and agree a way forward.

11. Formal Grievance Procedure

- 11.1 Where the employee feels that a satisfactory resolution has not been reached informally, the employee should raise the issue formally by completing the Grievance Pro-forma (see Appendix 1) if they haven't already done so. It should be noted that no new issues can be considered once the pro-forma

has been submitted and the formal stage of the grievance procedure has commenced. Where new issues are to be considered, a separate grievance would normally need to be submitted.

11.2 The Grievance pro-forma should be submitted to the employee's Line Manager who should consult with the Head of Business Support. If the grievance is about the employee's Line Manager it should be submitted to the Head of Business Support.

11.3 The Head of Business Support in liaison with the Line Manager or relevant Head of Service/Service Director will determine the appropriate person to deal with the Grievance.

11.4 If a pro-forma is received without first considering the informal process it will be referred back to the employee to be dealt with in line with section 9 of the policy.

Only in situations where it is considered that the grievance is so serious to negate the need for the informal procedure will this be bypassed.

11.5 **Advice from Human Resources**

To ensure compliance with the law, fairness and consistency, managers must consult with the Head of Business Support or a Human Resources Advisor before embarking on the formal procedure.

11.6 **Right to be Accompanied**

At all stages of the formal procedure including investigation meetings the employee has the right to be accompanied by a recognised trade union representative or work colleague.

Any other employee interviewed as part of a grievance investigation also has the right to be accompanied.

It is the employee's responsibility to arrange to be accompanied.

The chosen representative is able to contribute to and ask questions at the meeting/ hearing. However the chairperson is entitled to expect the employee and not the representative to answer any questions asked.

If the chosen representative is not available at the proposed time of the meeting, the employee may request an alternative time and date so long as it is reasonable and falls within five working days of the original date. This alternative date must have regard to the availability of the other employees involved in the hearing and may be extended by mutual agreement.

There is no entitlement to external representation, legal or otherwise.

11.7 **Stage 1**

11.7.1

The manager nominated to deal with the grievance will invite the aggrieved employee to a meeting. The purpose of the meeting is to enable the manager to fully understand the nature of the grievance and to explore with the employee how the grievance might be resolved amicably for all concerned. The employee has the right to be accompanied at the meeting.

This meeting should be arranged as soon as possible without unreasonable delay but ideally within 10 working days of receipt of the grievance pro-forma.

All hearings and investigation meetings during a pandemic will be held virtually where possible. See section 6.

During the a pandemic it may be necessary to extend this period to a reasonable length as deemed appropriate by the Head of Business Support.

- 11.7.2 Where necessary the nominated manager will carry out further investigation and meet with any other persons that may assist with the grievance.

Any employees questioned as part of an investigation will have the right to be accompanied.

- 11.7.3 At the end of the investigation the manager will inform the employee in writing of his/her decision and where appropriate will set out what action is intended to resolve the grievance. The letter will also inform the employee of the right of appeal to the next stage of the procedure. If it is decided that feedback should be provided face to face the employee will be advised of their right to be accompanied. The manager will also complete the management response section of the grievance pro-forma.

- 11.7.4 The manager dealing with the grievance will also ensure that feedback is provided to any person named as part of the grievance.

11.8 **Stage 2**

- 11.8.1 If the employee continues to be aggrieved then they can refer the matter to the relevant Head of Service/Service Director using the original pro-forma and the management response. This should normally be done within 10 working days of receiving the Stage 1 decision.

A meeting will normally be convened within 10 working days of receiving the appeal, with the Head of Service/ Service Director supported by a representative from the Human Resources team who may attend in an advisory role. The manager who held the meeting at stage 1 of the procedure will also attend to present their reasons for the decision made. The employee has the right to be accompanied at the meeting.

At least 5 working days' notice of the hearing will be given.

During a pandemic it may be necessary to extend this period to a reasonable length as deemed appropriate by the Corporate Director hearing the grievance.

11.8.2 Paperwork for the hearing

Before a grievance hearing is held all the papers and documents, including the outcome of the Stage 1 Meeting and any investigation undertaken must be sent to the employee no later than 5 working days before the hearing. This should be sent with the letter calling the employee to the hearing.

Documents which the employee wishes to be considered and details of any witnesses s/he intends to call at the hearing must be provided to Human Resources at least 3 working days before the hearing.

All parties must respect the need for confidentiality, at all times, in relation to any information exchanged.

11.8.3 Inability to Attend the Grievance Hearing

Employees should make every effort to attend the grievance hearing. If an employee feels that they are unfit to attend they should contact the Head of Service/Service Director who is to chair the hearing. It may be appropriate to seek advice from Human Resources and/or seek a medical opinion from the Occupational Health Advisor. If the employee fails to attend an arranged occupational health appointment the hearing will normally go ahead and a decision will be made based on the information available.

If the employee fails to attend the arranged hearing, the hearing will be re-arranged. If the employee fails to attend the re-arranged hearing the hearing will go ahead in their absence and a decision will be made based on the information available. In exceptional circumstances the employee may send their representative to the hearing on their behalf.

11.8.4 The procedure followed at the hearing can be seen at Appendix 2.

The Chair will state at the close of the hearing that the decision reached will be confirmed in writing within 5 working days of the hearing and that the employee has the right to appeal against the decision reached.

After the meeting the Chair will complete the management response section of the Grievance pro-forma and send this with the letter confirming the decision reached at the hearing to the employee.

11.8.5 There may be circumstances where with the mutual agreement of both the Chair and the aggrieved employee that the grievance is dealt with in writing negating the need for a face to face hearing.

11.9 Stage 3 – Employment and Appeals

11.9.1 If the employee continues to be aggrieved then the matter can be referred to the Employment and Appeals Committee whose decision on the matter will be final.

This stage of the procedure is also used as the final stage of the appeal process that will be used in all relevant council policies.

- 11.9.2 An appeal under stage 3 will be submitted in writing to the Head of Business Support within 10 working days of receiving the Stage 2 decision (or letter confirming dismissal under relevant policies). The Head of Business Support will then liaise with Democratic Services.

On receipt of the appeal Democratic Services will make arrangements with the Chair of the Employment Appeals Committee (or his/her deputy) to convene an Employment Appeals Panel which will normally be within 20 working days.

All hearings and investigation meetings during a pandemic will be held virtually where possible. See section 6.

During a pandemic it may be necessary to extend this period to a reasonable length as deemed appropriate by the Chair of the Employment Appeals Committee (or his/her deputy) hearing the grievance

- 11.9.3 The agreed paperwork will be circulated to the parties 5 working days in advance of the hearing which will include:

- Original Grievance Submission/letter of dismissal
- Any relevant papers supporting the stage 2 grievance/dismissal
- Letter of Appeal
- Specific detail of what the employee wishes to appeal against.

- 11.9.4 The employee submitting the appeal will be responsible for informing the Democratic Services manager of the names of any witnesses they may wish to call in support of their appeal. It will be the responsibility of the employee to notify the witnesses of the date, time and location of the hearing.

Any witnesses who are employees of Wyre Council that the employee submitting the appeal wishes to be available at the hearing will be responsible for informing their line manager of any request to attend an appeal hearing.

11.10 **Grievances About Other Employees**

If the grievance is against a specific individual the relevant line manager will be informed that a grievance has been raised. The manager must then inform the employee about the grievance outlining what it is regarding and advising that they will have the chance to give their version of events and provide any documentary evidence.

At the conclusion of the process the manager hearing the grievance will communicate the outcome and any recommendations to the manager of that employee. They will then communicate it to the employee concerned and act on any recommendations as required.

11.11 **Support for Employees involved in the Grievance Process**

It is recognised that the formal grievance process can be stressful for any persons involved. Human Resources will communicate with employees to

support them during the process. Occupational Health and/or the Employee Support Programme will be available to any member of staff needing some additional support.

12. Overlapping Grievance and Disciplinary Cases

- 12.1 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.

13. Appeals

- 13.1 Any employee dissatisfied at the decision made at a grievance hearing has the right of appeal to the next stage of the procedure, with the exception of stage 3 where the decision made by the Employment Appeals Panel is final.

14. Effect of Resignation on Outstanding Grievance

- 14.1 Wherever possible a grievance should be dealt with before an employee leaves employment. If however, this is not possible, agreement with the employee will be sought on whether and how the grievance should be progressed.
- 14.2 In the case of a collective grievance the grievance will continue in accordance with this procedure for those employees who remain in the employment of the council.

15. Equality Impact Assessment And Monitoring

- 15.1 The operation of this policy will be monitored for its impact on different equality groups in line with the Equality Act 2010. This will enable the Council to assess whether any differences have an adverse impact on a particular group, such that further action would be required.

16. Data Protection

- 16.1 In implementing this policy, the Council will ensure that any personal data relating to the application of this policy will be obtained, processed and destroyed in line with Data Protection requirements.

Appendix 1
Grievance Pro-Forma



Name(s):

Service Area:

Section:

Post Title:

Background – What has happened? Please give details of time(s) and date(s) if appropriate. Please also give details of any action carried out as part of the informal process.

Why are you aggrieved?

What remedy do you want?

Signed (Employee)

Date:

Received (Manager)

Date:

Management Response to the Grievance

Signed:

Date:

The response(s) to the grievance and any proposed remedies are acceptable/not acceptable

If not acceptable why do you remain aggrieved?

(To be submitted to your Director, within 10 working days of receipt of management's response if you wish to register an appeal)

Signed:

Date:

NB: If you wish to provide further information, please continue on a separate sheet

Appendix 2

Procedure for the Grievance Hearing

Introduction

The chair of the hearing will introduce those present and explain their reason for attendance. They will also explain the purpose of the hearing and how it will be conducted. A representative from Human Resources will normally be present to advise and support the Chair.

Employee's Statement of Grievance

The employee will state their grievance and desired outcomes. As part of this witnesses may be called.

The investigator, chair & HR representative may ask questions of the employee and any witnesses.

The investigator's Statement of Findings

The investigator will provide a summary of the investigation and its findings. As part of this witnesses may be called.

The employee, chair and HR representative may ask questions of the investigator and any witnesses.

Final Statements

Both the investigator and employee may sum up their case and make a final statement if they so wish.

Further Investigation

The chair may consider adjourning the meeting if it is necessary to investigate any new facts that arise.

Adjournment

The employee, investigator and any witness will then withdraw. The chair with the HR representative will consider the evidence. If it is necessary to recall either party or witness in order to clear up any point of uncertainty on the evidence given, both parties will be recalled notwithstanding the fact that only one may be concerned with the point giving rise to doubt.

Decision

The chair will, if possible, give a decision to the parties immediately after the hearing. On occasions, time constraints may make it necessary to adjourn the hearing for a longer period to properly consider the information provided. In this case, it will be agreed to re-adjourn the meeting at a later date or that the employee will be informed of the decision in writing. In any case, the decision made will be confirmed in writing within 5 working days of the hearing including what action, if any, should be taken, by whom and the agreed timescales. The employee will also be informed in the letter of their right to appeal against the decision reached.

Note: References to employee include the representative acting on the employee's behalf.

Appendix 3

Procedure for the Employment Appeals Hearing

Introduction

The chair of the Employment Appeals Panel will introduce those present and explain their reason for attendance. They will also explain the purpose of the hearing and how it will be conducted.

A representative from Human Resources (or Independent Advisor) will be present to advise and support the Panel. A further representative may also be in attendance to advise and support the chair of the stage 2/dismissal hearing (management representative). The chair of the Employment Appeals Panel will confirm that the hearing is a grievance appeal hearing or appeal against dismissal hearing and will explain how it will be conducted.

Employee's Statement of Appeal

The employee will state their grievance and desired outcomes. As part of this witnesses may be called.

The panel, the management representative and their relevant advisors may ask questions of the employee and any witnesses.

Presentation of the Management Representative

The management representative will provide a statement including the reasons for their decision at the stage 2 grievance hearing or dismissal. As part of this witnesses may be called.

The employee, the panel and their relevant advisors may ask questions of the management representative and any witnesses. The HR Advisor to the management representative may contribute as required.

Final Statements

Both the management representative and employee (last) may sum up their case and make a final statement if they so wish.

Adjournment

The employee, management representative (including their HR Advisor) and any witness will then withdraw. The panel with their advisor will consider the evidence. If it is necessary to recall either party or witness in order to clear up any point of uncertainty on the evidence given, both parties will be recalled notwithstanding the fact that only one may be concerned with the point giving rise to doubt.

Decision

The chair will, if possible, give a decision to the parties immediately after the hearing. On occasions, time constraints may make it necessary to adjourn the hearing for a longer period to properly consider the information provided. In this case, it will be agreed to re-adjourn the meeting at a later date or that the employee will be informed of the decision in writing. In any case, the decision made will be confirmed in writing within 5 working days of the hearing.

This is the final stage of the Council's internal process and the decision of the panel is final.

Note: References to employee include the representative acting on the employee's behalf.