



East Herts Council

Grievance Policy

Policy Statement

Policy Statement No 4 (Issue No 3)

August 2013

Contents

1.0	Introduction	3
2.0	Scope of the procedure	4
3.0	Legal	5
4.0	Informal Greivance Procedure - First Stage	6
5.0	Mediation	7
6.0	Formal grievance procedure – Second Stage	8
7.0	The grievance hearing	8
8.0	Overlapping discipline and grievance issues	12
9.0	Employee assistance programme (EAP)	12
10.0	Appeals procedure – Third Stage	12
11.0	Policy review and amendment	13
12.0	Appendices	
	Informal Resolution Form	Appendix A
	Formal Grievance Form	Appendix B
	Procedure Guidelines	Appendix C

GRIEVANCE POLICY

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1.0 Principles

- 1.1 In accordance with the ACAS Code of Practice on Grievance and Procedures. Grievances are concerns, problems or complaints that employees raise with the employer.
- 1.2 East Herts Council encourages open communication and consultation between employees and their line managers to ensure that concerns and problems arising during the course of employment can be resolved quickly.
- 1.3 Grievances will be dealt with in a confidential manner minimising the number of people involved.
- 1.4 Employees should aim to resolve most grievances informally with their manager wherever possible.
- 1.5 Employees must state clearly what the nature of the grievance is and what is wanted as an outcome.
- 1.6 The policy will be applied to all equally and consistently, regardless of race, age, gender, marriage and civil partnership, gender reassignment, disability, sexual orientation, religion or belief.
- 1.7 All reasonable adjustments will be made for employees with disabilities to enable them to participate fully in all stages of the procedure. In circumstances where an employee's first language is not English or an employee has difficulty expressing themselves on paper, the employee is encouraged to seek help from work colleagues, UNISON or Human Resources. Similarly, such help is available for an employee who is unable to formulate a written grievance because of a disability.
- 1.8 These procedures have been drawn up based on current legislation, the ACAS Code of Practice, NJC Green Book and have been agreed by Unison.

2.0 Scope of the Procedure

- 2.1 This procedure applies to all employees of the Council with the exception of Chief Officer level and above where procedures set out in the Constitution are used.
- 2.2 Grievances related to bullying and harassment should be raised under the Council's Bullying and Harassment policy.
- 2.3 This policy does not apply to matters relating to income tax, national insurance, pensions or other issues beyond the council's control.
- 2.4 Where a grievance applies to more than one employee, it may be more appropriate for UNISON to raise the matter through the collective grievance process.
- 2.5 In a situation where an employee raises a concern as a 'protected disclosure' in compliance with the public interest disclosure provisions of the 1996 Act. The matter will be dealt with under the Council's Whistle-blowing policy.
- 2.6 The Council has a two-phase grievance procedure, comprising of both informal and formal processes. Wherever possible the aim will be to find a solution using the first phase of the procedure - the informal process. Where grievances cannot be resolved informally, the grievance will be moved to the second (formal) phase of the grievance procedure.
- 2.7 Wherever possible a grievance should be dealt with before an employee leaves the Council's employment. Grievances raised after employment ends will not be dealt with in line with the Council's formal Grievance Procedure.
- 2.8 The Council recognises the right of employees to raise grievances relating to their employment. However if an employee continues to raise grievances, which appear to be petty, repetitive and unfounded, this may be regarded as vexatious and could lead to disciplinary action being taken against them.

3.0 Legal

- 3.1 The way in which a grievance will be dealt with follows best practice as outlined in the ACAS Code of Practice on handling disciplinary and grievance procedures issued under section 199 of the Trade Union & Relations (Consolidation) Act 1992 which came into effect on 6 April 2009 and the ACAS guide to handling discipline and grievances at work.
- 3.2 A failure to follow the ACAS code does not in itself make a person or organisation liable to proceedings. However, Employment Tribunals will take the Code into account when considering relevant cases and can adjust awards by up to 25% for unreasonable failure to comply with the Code. Awards can be adjusted up or down e.g. if the tribunal believes the organisation has acted unreasonably they can award 25% more, or conversely, if they believe the employee has unreasonably failed to follow the guidance in the code they can reduce the award by 25%.
- 3.3 An employee's Written Terms and Conditions of Employment specify the person to whom a worker should go to when raising a grievance. This will normally be the line manager, and if the grievance is against the line manager, it will normally be the Head of Service.
- 3.4 Employees have a statutory right to be accompanied by a companion of their choice – a colleague or trade union representative – at any stage of the formal grievance procedure. At the discretion of the Head of People and Property and in exceptional circumstance, representation will be extended to include another companion.

4.0 **Informal Grievance Procedure – First Stage**

- 4.1 Employees should set out their grievance, the reasons for their grievance and the outcomes they seek using the form in Appendix A.
- 4.2 Employees shall aim wherever possible to discuss grievances informally with their immediate line manager as soon as possible after a complaint arises. It is good practice to make every effort to deal with the matter informally, before recourse is made to the formal procedure. This allows for problems to be resolved quickly and normal working relationships to resume.
- 4.3 The line manager should acknowledge receipt of the grievance and arrange an informal discussion that should be carried out within 7 working days from the date that the grievance was raised.
- 4.4 Whilst this stage is informal and therefore outside of the formal grievance procedure, when conducting an informal grievance meeting managers should:
- Hold the session in private, away from interruption
 - Listen carefully to what the employee has to say
 - Find out precisely what the grievance is about, both in terms of the facts and the feelings behind them
 - Carefully summarise what the employee has said
 - Look for solutions by encouraging the person to suggest constructive solutions and making their own suggestions to solve the problem
 - Consider offering independent mediation if appropriate
- 4.5 Managers must follow up the session by writing to the employee and also by checking that actions promised (if any) actually took place.
- 4.6 Managers should ensure that careful notes are made of grievance meetings – informal or formal. Records of grievance meetings should be retained setting out the nature of the grievance raised, the manager's response, any action taken and the reasons for it. These records should be kept confidential and retained in accordance with the Data Protection Act 1998.

- 4.7 If necessary the relevant HR Officer may be called upon to act as a facilitator in any discussions relating to a grievance.
- 4.8 Where appropriate employees must be able to clearly demonstrate that they have made every effort to discuss the issues informally, before the formal process is commenced.

5.0 Mediation

- 5.1 In accordance with the provisions of the Employment Act 2008 and as an alternative to raising the matter at the formal stage of the Grievance Procedure, the employee may request that the case be referred to mediation.

Mediation is an informal process, and can be used at any stage of the grievance process. It is a confidential and voluntary process and is conducted on the basis that both parties want to achieve a mutually agreeable outcome or solution. A successful mediation should leave both parties feeling that the outcome is fair, reasonable and appropriate under the circumstances.

The Council has a number of employees who are trained in mediation and will be appointed as a third-party mediator as required. Human Resources will be able to provide the necessary assistance in arranging this.

6.0 Confidentiality

- 6.1 Grievance proceedings should be kept confidential to those directly involved in the matters arising and not discussed with others outside of the process. Any records should be kept confidential and retained in accordance with the Data Protection Act 1998. Copies of any meeting records should only be given to those directly involved in the matter. Where a witness has been given information as part of an enquiry into the matters arising, he or she will be given a copy only of their statement and any statement that relates to them. Breaches of any confidentiality may result in disciplinary action.

In the event that the grievance cannot be resolved informally through informal discussion or mediation, then the employee with the grievance can invoke the formal grievance procedure.

7.0 Formal Grievance Procedure – Second Stage

7.1 Raising the Grievance

- 7.1.1 If the grievance has been raised informally and a solution has not been reached, or where the grievance is sufficiently serious to warrant formal action, the employee should put their grievance in writing by completing the Grievance Form (see Appendix B).
- 7.1.2 The Formal Grievance Form should then be submitted to the Head of People and Property who will allocate the grievance to an alternative HOS or Line Manager. A copy must also be sent to HR. The employee may also wish to keep a copy of the form for their own records. When completing the form, the employee should give as much detail about the grievance as possible, including what outcomes they are looking for. The timescale for completing the grievance will not start until a fully completed form is received. If in doubt the employee should contact HR for advice.
- 7.1.3 Employees should raise their grievance within 4 weeks after the event(s) have occurred. It is inappropriate to investigate grievances which are 'historical', unless they are related to a current issue.
- 7.1.4 When stating their grievance employees must avoid language which may be considered insulting or abusive.

8.0 The Grievance Hearing

- 8.1 The Grievance should be heard by an alternative Manager who has not previously been involved in the case at the informal stage. If the grievance concerns a Head of Service then an alternative Head of Service should hear the case. If the grievance concerns a Director then another Director should hear the case.

8.2 Step 1 – Written Notification

8.2.1A Manager/Head of Service will acknowledge receipt of the grievance within 3 working days. They will invite the employee to attend a grievance hearing, please contact HR for a template letter. The meeting should take place within 10 working days of receiving the form. Any substantial delays, and the reason(s) for the delays, should be communicated to the employee. The employee may be accompanied by a work colleague or trade union representative at this meeting. An HR Officer will also be present.

8.2.2 All documents/ evidence and names of witnesses should be exchanged at least 3 working days prior to the hearing.

8.2.3 Timescales can be varied with mutual agreement of both parties.

8.2.4 If any witnesses are needed, they should be given an appropriate amount of notice and authorisation may need to be given by their manager in order to ensure their release from work.

9.0 Availability of representative

9.1 If the employees chosen representative (work colleague or trade union official) is not available on the day of the meeting the employee may reasonably request that the meeting be held within 5 working days of the meeting. However, the meeting will only be rescheduled once. If necessary, the grievance will be heard in the absence of the representative.

9.2 Employees and their representative are obliged to make every effort to attend the Hearing. If they fail to attend a hearing without good reason, a decision based on the evidence available, may be taken in the employee's absence.

10.0 Step 2 – The Hearing

10.1 Every effort should be made to discuss the issues stated and find a solution which is acceptable for both parties.

10..2 If the Manager/Head of Service reaches a point in the meeting where they need further information, the meeting should be adjourned and consideration should be given for any investigation that may be necessary.

11.0 The Hearing Process

11.1 The following people may be present at a hearing, the Manager /Head of Service hearing the case, HR Officer, the employee and their representative if required.

11.2 The Manager/Head of Service will ensure that all parties have the relevant documents and ensure that both sides understand the process that is to be followed.

11.3 The employee and/or their representative will present their case to the hearing calling any witnesses and referring to the documents that have already been submitted. The manager followed by the HR Officer will then have the opportunity to question the witnesses.

11.4 The Line Manager may then respond to the grievance.

11.5 The Manager/Head of Service will then ask any final questions before asking each side to sum up. Both parties will make final statements which summarise the key points of their case. The employee will sum up after the manager. It is not appropriate for new evidence to be presented at this stage.

11.6 The Manager will then close the meeting to consider the matter, advised by the HR Officer.

12.0 The Role of HR

12.1 The HR Officer is responsible for advising on procedure, ensuring consistency and equality. They are also entitled to ask questions of clarification of either side. The HR Officer may take notes at the hearing unless the Manager/Head of Service decides an additional note-taker should be present.

13.0 The Role of the Representative

13.1 The Employment Relations Act 1999 and the ACAS Code of Practice gives every employee the right to be accompanied in any grievance proceeding by a work colleague or trade union representative.

13.2 Under the Act itself the representative is entitled:

1. To be present
2. To address the hearing
3. To advise the worker
4. To put the workers case
5. To sum up the workers case
6. To respond on the workers behalf to any view expressed at the hearing

13.3 The representative can also confer with the employee during the hearing and ask witnesses questions. The representative has no right to answer questions on the employees' behalf, or address the hearing should the employee not wish it, or to prevent the employee from explaining their case.

13.4 A representative can only attend in a union capacity if they are a full time official, or certified by their union as having the necessary experience to perform such a role.

13.5 A Trade Union Steward or Officer is entitled to be represented by a full time Trade Union Official.

14.0 Step 3 – Written Notification of Outcome

14.1 The decision will be confirmed to the employee, in writing, within 3 working days including details of their right to appeal (please contact HR for a template letter). If the decision can be made on the day the employee will also be notified verbally, followed by written confirmation.

14.2 In exceptional circumstances the Manager/Head of Service may decide to postpone the decision in order to give more time for deliberation / clarifications. If it is necessary to clarify any of the evidence presented, including recalling witnesses, all parties

will be recalled, even if the point of clarification only concerns one party.

- 14.3 Where a Manager/Head of Service upholds the grievance the employee will be given a Statement of Outcome to complete with their manager. This outlines the actions that will be taken in relation to the grievance. A review meeting should be held within three months to ascertain whether the resolutions have resolved the matter.

15.0 Overlapping Discipline and Grievance issues

- 15.1 Where an employee raises a grievance during a disciplinary process the disciplinary 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.

16.0 Employee Assistance Programme (EAP)

- 15.1 The EAP is a confidential advice, information and counselling service that is available to all employees. The EAP can provide advice and guidance to employee. Further details can be found on the intranet.

17.0 Appeals Procedure – Third Stage

- 17.1 An employee has the right to appeal against the outcome of this procedure in accordance with the Council's Appeals Policy. The appeal must be submitted within 10 working days of the date of the written notification of the decision.
- 17.2 Where the employee continues to be aggrieved in respect of the original grievance and is dissatisfied with the decision at the second stage then an appeal should be sent within 10 working days to the Head of People and Property, who will allocate the appeal to the relevant Director of the original service.
- 17.3 The decision following the Appeal with the relevant Director will be final and there will be no further internal right of appeal.

18.0 Policy Review and Amendment

18.1 This policy shall be reviewed after three years, or sooner in line with legislation and best practice to reflect the best possible level of support and management.

REQUEST FOR INFORMAL RESOLUTION ON AN INDIVIDUAL GRIEVANCE

EMPLOYEE'S NAME:

POST:

DIRECTORATE:

DETAILS OF GRIEVANCE: (Set out the grounds of your grievance, the outcome that you are seeking, include any supporting documentation and continue on separate sheets if necessary.)

EMPLOYEE'S SIGNATURE:

DATE:

Following Informal Meeting (relevant documentation to be attached):

Summary of management response	Action taken	Reason for action

APPENDIX B

REQUEST FOR ACTION ON A FORMAL GRIEVANCE

Where you continue to be aggrieved following any informal discussion with your manager, you should complete this form and submit it to your manager. Continue on separate sheets as necessary.

EMPLOYEE'S NAME:

POST:

DIRECTORATE:

DETAILS OF GRIEVANCE:

Please complete this section, giving a summary of the Grievance. It is not sufficient to refer to other documents without first summarising your Grievance below. You should include where appropriate:

- What the grievance is about
- Relevant dates of event(s)
- Witnesses to event(s)
- Where the event(s) took place
- Relevant background information leading up to the grievance
- Why the grievance has not been resolved at the informal stage (please state reasons)

EMPLOYEE'S SIGNATURE:

DATE:

Following the grievance hearing (relevant documentation to be attached):

Summary of management response	Action taken	Reason for action

APPENDIX C

Informal Stage

- Employees should set out the reasons for their grievance and the outcome that they seek;
- Line Managers should acknowledge receipt of the grievance and arrange an informal discussion with the employee within **7 days** from the date that the grievance was raised;
- Clear and careful notes should be made of what is discussed with the employee, outlining any action the manager is going to take;
- Managers must follow up the discussion in writing to the employee outlining the the points discussed and any agreed actions.

Formal Procedure

- If the grievance has been raised informally and no solution has been reached, an employee can now raise the grievance formally within **4 weeks** of the events occurring;
- The grievance should be heard by an alternative Manager/Head of Service who has not been previously involved at the informal stage;
- The Manager/Head of Service must acknowledge receipt of the grievance within **3 working days**.
- The Manager/Head of Service should invite the employee to a grievance hearing within **10 working days** of receiving the grievance.
- The decision of the grievance hearing must be confirmed to the employee within **3 working days** of the hearing.

Appeal

- Where an employee continues to be aggrieved in respect of their original grievance and is dissatisfied with the decision at the second stage an appeal should be sent within **10 working days** to the Head of People and Property;
- The appeal will be allocated to the relevant Director of the original service. The decision following the Appeal with the director will be final.