



EAST HERTS DISTRICT COUNCIL  
GRIEVANCE POLICY AND PROCEDURES

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# **GRIEVANCE PROCEDURE**

## **1 Purpose**

- 1.1 In the majority of cases employees can resolve their concerns through informal discussion with their line manager, however if this fails to resolve the issue, the Council Grievance Procedure enables individual employees to raise their grievance through formal processes to resolve disputes internally.
- 1.2 This updated Grievance Procedure takes account of the Employment Act 2002 (Dispute Resolution) Regulation 2004 and has been designed to uphold the principles of natural justice.

## **2 Principles of the Grievance Procedure and Guidance in its Application**

- 2.1 The Procedure is accessible to all employees of the Council, regardless of length of service. However, the employee should, where possible, attempt to resolve the grievance with their line manager informally.
- 2.2 Whether complaints are raised using the formal procedure or where serious issues are raised informally, managers should seek advice from HR as soon as the complaint is raised.
- 2.3 If it is not possible to resolve the matter informally then the formal procedure should be invoked. It is important that all employees understand the procedure and are aware of their rights. So that, for example, an employee whose first language is not English or who requires assistance because of a disability should ask for clarification from Human Resources, their union representative or line manager.
- 2.4 The details of the grievance should be kept confidential by all parties, unless otherwise agreed. In some circumstances breaches of confidentiality may result in disciplinary action.

- 2.5 The standard 3-step procedure must be used in the majority of cases.
- 2.6 The modified 2-step procedure will apply where employment has ended and either the employer was not aware of the grievance before employment ended or the employer was aware but the standard procedure had not commenced or had not been completed AND the parties agree in writing that the modified rather than the standard grievance procedures should apply.
- 2.7 Employees who have difficulty in setting out their grievance in writing are encouraged to seek assistance from a trade union representative, work colleague or friend.
- 2.8 All parties have the right to be accompanied and/or represented at any of stage of the Standard 3-step procedure by a union representative, a colleague or friend.
- 2.9 Management may be supported by Human Resources.
- 2.10 The employee raising the grievance will be required to specify what resolution they seek.
- 2.11 If an employee raises a grievance during the course of a disciplinary process which relates to the case, consideration will be given to suspending the disciplinary procedure for a short period to deal with the grievance.

### **3 Scope of the Procedure**

- 3.1 The procedure does not apply to employees at chief officer level and above.
- 3.2 Employees may pursue a grievance if they have a problem or concern relating to their work, working conditions or relationships with colleagues or managers.

- 3.3 Where a grievance applies to more than one employee, it may be more appropriate for the union/s to raise the matter through the collective disputes procedure.
- 3.4 The following matters cannot be raised under this procedure:-
- 3.4.1 Matters relating to income tax, national insurance, pension scheme rules or other issues beyond the Council's control.
  - 3.4.2 Issues that should be raised under other Council procedures. For example, concerns about matters of public interest, harassment or bullying.
  - 3.4.3 A grievance cannot be raised when formal disciplinary proceedings are on going nor can the procedure be used to appeal against a disciplinary decision.
  - 3.4.4 Matters previously raised, unless management has not taken action on recommendations.

#### **4 The Standard Formal Grievance Procedure**

Where informal efforts have not resolved problems, or where an informal approach is inappropriate and the employee is still in employment then the following procedure may be used.

- 4.1 Stage 1: The employee must submit a formal complaint in writing to their manager. They should state the reasons for raising a formal grievance and the resolution they are seeking to achieve.
- 4.2 Stage 2: The manager should refer the matter to the Head of Service or appropriate senior manager who should invite the employee to a grievance hearing.
- 4.3 Stage 3: If the employee remains aggrieved at the stage 2 hearing, they may appeal the decision. They should advise the Head of Service upon what grounds on which they remain dissatisfied with the decision reached at stage 2.

## **5 The Modified Formal Grievance Procedure**

- 5.1 This procedure will apply in situations where the standard procedure would have applied but employment with the Council has ended and either the Council was not aware of the grievance before the employment ended or the standard procedure had not been completed by the time employment ended and both parties agree in writing the modified procedure should apply.
- 5.2 Stage 1: Statement of Grievance. The employee should write to their manager setting out the grievance and the basis for it. The employee should provide as much information as possible in a document, which will form the "Statement of Grievance". It will set out: what or who the grievance is about; the nature of the complaint, giving dates examples etc. Details of any witnesses who are prepared to support the grievance and what they seek as a resolution.
- 5.3 Stage 2: On receipt the manager should advise the Head of Service or Service Director who must investigate the complaint as fully as possible in order to reach an informed decision. They must provide, in writing, a "statement" setting out their response to the Statement of Grievance and their decision.

## **6 Timescales**

### **6.1 Standard Formal Grievance**

The timescales set out below are intended to ensure that matters are concluded as fairly and as quickly as possible. They may be varied by mutual agreement. However if after discussion agreement cannot be reached, in a bona fide case the timetable may be varied by a reasonable amount.

Stage 1	Employee writes to manager advising that they are aggrieved.	
Stage 2	Acknowledge receipt of grievance	within 3 working days
	From receipt of the grievance to the date of the hearing	15 working days
	Notification of date, time and place of hearing and copies of all supporting documentation	10 working days before the date of the Hearing
	Time allowable to reconvene meeting if the employee's companion is unable to attend	5 working days
	Any individual named in a complaint may submit evidence and call witnesses prior to the hearing	3 working days prior to the hearing
	Confirmation of Hearing decision in writing from date of hearing	5 working days from the end of the hearing
Stage 3	Employee writes to Head of Service invoking the appeal stage,	7 working days from date of letter
	Timescales for notification of dates, receipt of further statements etc.	as for stage 2 hearing

## **7 Responsibility for Hearing a Grievance**

- 7.1 Managers should make every effort to resolve grievances informally but must inform HR that an issue has been raised as soon as they receive a complaint from a member of staff regardless of whether it is raised as a grievance or not.
- 7.2 If they are unable to resolve the problem, and the employee decides to invoke for the formal procedure, then they should refer the matter to a senior manager. As a general this should be the Head of Service, or if the grievance involves the Head of Service, the hearing should be conducted by the relevant Director. If the grievance concerns a director then the case will be heard by the Executive Director.
- 7.3 The procedure for grievance hearings may vary by mutual agreement depending on the nature of the grievance and the nature of the evidence being presented and will have the primary focus of resolving the grievance.
- 7.4 Appeal hearing should be conducted by the Chief Executive.

7.5 HR may provide support for management and will provide advice to officers hearing the case at stage 2 and 3.

## **8 Other Considerations**

8.1 The right of an employee to invoke the formal grievance procedure is statutory. However as already stated every effort should be made by both parties to reach a mutually acceptable resolution informally.

8.2 Managers should note that once an employee decides to pursue a formal grievance, this policy must be followed.

8.3 Managers should be aware that assistance may be required by some staff to ensure they have equal access to this procedure. If in doubt about this, please contact HR or Unison for further advice.

8.4 Employees should note that they must exhaust the grievance procedure before they seek other remedies.

8.5 Both parties should respect the confidentiality of the process in order to achieve an effective and lasting resolution. Failure to do so may result in disciplinary action.



**THE CONDUCT OF GRIEVANCE HEARINGS (STAGE 2)**

1. The Hearing Officer will be accompanied by an HR officer, whose role is to advise on procedure, to advise on ensuring consistency and equity of treatment, to take notes of the proceedings of straightforward, and to ensure that the letter setting out the decision of the hearing is sent to the employee. He/she may also ask questions of clarification of either side.
2. The Hearing Officer will decide whether an additional note taker should be present.
3. The Hearing Officer will:
  - ◆ Ensure that all the relevant documents have been received by the parties
  - ◆ Confirm each side has been advised of any witnesses being called.
  - ◆ Provide an opportunity for either side to raise any concerns about procedural matters.
4. The employee, or her/his representative, will present their case and set out what they require of management to resolve the grievance.
5. The employee will then call her/his witness/es. They will ask questions of the witness/es; then management and finally the Hearing Officer will be able to put questions.
6. Management will then respond to the grievance
7. Management will question witness/es; followed by the employee and then the Hearing Officer.
8. The Hearing Officer will ask any final questions before asking each party to sum up without introducing any new evidence. Management will conclude her/his case followed by the employee.

9. The Hearing Officer will then ask everyone, except the HR Officer to leave the room whilst he/she considers the matter, advised by the HR Officer.
10. Both sides will then be called back to be told the decision and, where applicable, details of the right of appeal. If more time is needed to reach a decision, both sides may be informed of the decision in writing. Such delays should be avoided wherever possible and only in exceptional circumstances exceed 1 working day.

### **THE CONDUCT OF APPEAL HEARINGS (STAGE 3)**

1. Appeal hearings will not rehear the whole case, but will focus on the grounds of appeal which have not been accepted. Except where the appeal is based on new evidence, therefore, appeal hearings will not take evidence from witnesses.
2. The Hearing Officer Stage 3 will ensure that all the parties have the relevant documents and ensure that both sides understand the grounds of appeal that that are to be considered.
3. The employee or her/his representative will set out the grounds of the appeal and their justification, referring to the documents that have already been submitted.
4. If witnesses are called they will be questioned by the appellant or her/his representative and cross questioned by the presenting manager. The hearing officer and the HR Officer may then ask questions.
5. At the conclusion of the case for the appeal, the presenting manager, the hearing officer and the HR Officer may question the employee or her/his representative.
6. The presenting manager will then respond to the case for appeal in a similar fashion.

7. At the conclusion of her/his response she/he may be questioned by the employee or her/his representative, the hearing officer and the HR Officer.
8. The hearing officer will then ask everyone, except the HR Officer to leave the room whilst he/she considers the matter, advised by the HR Officer.
9. Both sides will then be called back to be told the decision. If more time is needed to reach a decision it may be given to both sides in writing. Such delays should be avoided wherever possible and only in exceptional circumstances exceed 1 working day.