



**East Herts Council**

**Grievance Policy**

**Policy Statement**

**Policy Statement No 3 (Issue No 2)**

**June 2009**

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## **GRIEVANCE POLICY**

### **Policy Statement No 3 (Issue No 2) June 2009**

#### **1.0 Introduction**

- 1.1 East Herts Council encourages open communication between employees and their managers to ensure any issues are resolved quickly and to the satisfaction of all concerned. With this in mind, the following Grievance procedure has been developed to provide individuals with a course of action should they have a complaint (which they are unable to resolve through regular communication with their manager) and provide points of contact and timescales to resolve issues of concern.
- 1.2 Grievances concerning allegations of bullying and harassment shall be dealt with under the Council's Harassment & Bullying policy.
- 1.3 These procedures have been drawn up based on legislation, the ACAS Code of Practice, and have been agreed by Unison.
- 1.4 Management and employee representatives involved in grievance matters should be trained for the task. They should be familiar with the provisions of the grievance procedure, and know how to conduct or present at grievance hearings.

#### **2.0 Scope of the Procedure**

- 2.1 This procedure applies to all employees except Chief Officer level and above where procedures set out in the Constitution are used.
- 2.2 Employees may pursue a grievance if they have a problem or concern relating to their work, working conditions or relationships with colleagues or managers.

- 2.3 Where a grievance applies to more than one employee, it may be more appropriate for the union to raise the matter through the collective grievance process.
- 2.4 The following matters cannot be raised under this procedure:-
- Matters relating to income tax, national insurance, pension scheme rules or other issues beyond the Council's control.
  - Issues that should be raised under other Council procedures. For example, concerns about matters of public interest, harassment or bullying.
  - The procedure cannot be used to challenge the outcome of an appeal.
  - Matters previously raised, unless management has not taken action on recommendations.

### **3.0 Resolving Grievances Informally**

- 3.1 Employees shall aim wherever possible to discuss grievances informally with their manager as soon as possible after a complaint arises. This allows for problems to be resolved quickly and normal working relationships to resume.
- 3.2 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

- 3.3 Managers must follow up the session by writing to the employee and also by checking that actions promised (if any) actually took place.
- 3.4 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.
- 3.5 Where appropriate employees must be able to clearly demonstrate that they have made every effort to discuss the issue(s) informally, before the formal process is commenced. HR can provide managers and employees with help or guidance in informal resolution and mediation.

## **4.0 Formal Grievance Procedure**

### **4.1 Raising the Grievance**

- 4.1.1 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 a Formal Grievance Form (see Appendix A).
- 4.1.2 The Formal Grievance Form should be submitted to the employee's Head of Service, unless it concerns the Head of Service in which case it should be submitted to their Director. 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.

4.1.3 Employees should raise their grievance as soon after the event(s) as possible. It is inappropriate to investigate grievances which are 'historical', unless they are related to a current issue.

4.1.4 When stating their grievance employees must avoid language which may be considered insulting or abusive.

4.1.5 The details of the grievance should be kept confidential by all parties, unless otherwise agreed. Breaches of confidentiality may result in disciplinary action.

## **5.0 The Grievance Hearing**

5.0 The Grievance should be heard by a Head of Service. If the grievance concerns a Head of Service then a Director should hear the case. If the grievance concerns a Director then another Director should hear the case.

### **5.1 Step 1 – Written Notification**

5.1.1 The 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.

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

5.1.3 Timescales can be varied with the agreement of both parties.

5.1.4 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.

## **5.2 Availability of representative**

- 5.2.1 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.
- 5.2.2 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.

## **5.3 Step 2 – The Hearing**

- 5.3.1 Every effort should be made to discuss the issues and find a solution which is acceptable for both parties. If appropriate external mediation may be offered.
- 5.3.2 If the 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.
- 5.3.3 The Hearing Process
- 5.3.4 The following people may be present at a hearing, the Head of Service / Director hearing the case, the manager, HR Officer, the employee and their representative if required.
- 5.3.5 The 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.
- 5.3.6 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 Head of Service and HR Officer will then have the opportunity to question the witnesses.

- 5.3.7 The manager may then respond to the grievance.
- 5.3.8 The 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.
- 5.3.9 The Head of Service will then close the meeting to consider the matter, advised by the HR Officer.
- 5.3.10 The Role of HR
- 5.3.11 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 Head of Service decides an additional note-taker should be present.
- 5.3.12 The Role of the Representative
- 5.3.13 The Employment Relations Act 1999 gives every worker the right to be accompanied in any grievance proceeding by a work colleague or trade union representative.
- 5.3.14 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
- 5.3.15 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.



5.3.16 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.

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

#### **5.4 Step 3 – Written Notification of Outcome**

5.4.1 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.

5.4.2 In exceptional circumstances the 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.

5.4.3 Where a 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.

#### **6.0 Overlapping Discipline and Grievance issues**

6.1 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.

## **7.0 Employee Assistance Programme (EAP)**

7.1 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.

## **8.0 Appeals Procedure**

8.1 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.

## **9.0 Policy Review and Amendment**

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



## Formal Grievance Form

*Note: Before submitting this grievance form, please discuss the issues with your line manager or HR contact, so that we can ensure all steps have been taken to resolve this informally.*

*Both parts of this form must be completed by the employee.*

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### Part 1: Personal Details

Name.....

Job title.....

Service .....

Directorate.....

Telephone Number.....

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### Part 2: The Grievance

a) 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 an earlier stage

Please continue on a separate sheet if necessary. You should also submit any further documentary evidence that you refer to.

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b) What action have you already taken to try and resolve your grievance informally? (e.g. When did you meet with your line manager? What was discussed? etc)

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c) What outcome are you looking for? How do you think your grievance can be resolved?

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**Signed:**

Employee.....

Date.....