



MEETING : LOCAL JOINT PANEL
VENUE : COUNCIL CHAMBER, WALLFIELDS, HERTFORD
DATE : TUESDAY 3 SEPTEMBER, 2013
TIME : 2.30 PM

MEMBERS OF THE PANEL

EMPLOYER'S SIDE:

Councillors M Alexander, L Haysey, A Jackson and J Thornton

Substitute:

Conservative

J Ranger

STAFF SIDE – UNISON (Two Vacancies)

Mr A Stevenson (Chairman) and Mr S Ellis

Substitutes: S Gray and J Francis

(Note: Substitution arrangements must be notified by the absent Member to Democratic Services 24 hours before the meeting)

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DISCLOSABLE PECUNIARY INTERESTS

1. A Member, present at a meeting of the Authority, or any committee, sub-committee, joint committee or joint sub-committee of the Authority, with a Disclosable Pecuniary Interest (DPI) in any matter to be considered or being considered at a meeting:
 - must not participate in any discussion of the matter at the meeting;
 - must not participate in any vote taken on the matter at the meeting;
 - must disclose the interest to the meeting, whether registered or not, subject to the provisions of section 32 of the Localism Act 2011;
 - if the interest is not registered and is not the subject of a pending notification, must notify the Monitoring Officer of the interest within 28 days;
 - must leave the room while any discussion or voting takes place.

2. A DPI is an interest of a Member or their partner (which means spouse or civil partner, a person with whom they are living as husband or wife, or a person with whom they are living as if they were civil partners) within the descriptions as defined in the Localism Act 2011.

3. The Authority may grant a Member dispensation, but only in limited circumstances, to enable him/her to participate and vote on a matter in which they have a DPI.

4. It is a criminal offence to:

- fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register;
- fail to notify the Monitoring Officer, within 28 days, of a DPI that is not on the register that a Member disclosed to a meeting;
- participate in any discussion or vote on a matter in which a Member has a DPI;
- knowingly or recklessly provide information that is false or misleading in notifying the Monitoring Officer of a DPI or in disclosing such interest to a meeting.

(Note: The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.)

AGENDA

1. Apologies

To receive apologies for absence.

2. Minutes (Pages 5 - 8)

To confirm the Minutes of the meeting held on 3 July 2013

3. Chairman's Announcements

4. Declarations of Interest

To receive any member's Declarations of Interest.

5. Reports by Secretary to the Employer's Side

(A) Grievance Policy (Pages 9 - 28)

6. Reports by Secretary to the Staff Side

7. Urgent Business

To consider such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration and is not likely to involve the disclosure of exempt information.

MINUTES OF A MEETING OF THE
LOCAL JOINT PANEL HELD IN THE
COUNCIL CHAMBER, WALLFIELDS,
HERTFORD ON WEDNESDAY 3 JULY 2013,
AT 1.00 PM

PRESENT: **Employer's Side**

Councillors M Alexander, J Ranger and
J Thornton.

Staff Side (UNISON)

Mr A Stevenson (Chairman) and Mr S Ellis.

OFFICERS IN ATTENDANCE:

Glenda Bennett	- Interim Head of People and Property
Martin Ibrahim	- Democratic Services Team Leader
Adele Taylor	- Director of Finance and Support Services

1 **APPOINTMENT OF CHAIRMAN AND VICE CHAIRMAN**

It was moved by Councillor M Alexander and seconded by Mr S Ellis that Mr A Stevenson be appointed Chairman of the Panel for 2013/14. After being put to the meeting, on a show of hands, Mr A Stevenson was appointed Chairman of the Panel for 2013/14.

It was moved by Councillor J Ranger and seconded by Mr S Ellis that Councillor M Alexander be appointed Vice-Chairman of the Panel for 2013/14. After being put to the meeting, on a show of hands, Councillor M Alexander was appointed Vice-Chairman of the Panel for 2013/14.

RESOLVED – that Mr A Stevenson and Councillor M Alexander be appointed Chairman and Vice-Chairman

respectively of the Panel for 2013/14.

2 APOLOGIES

Apologies for absence were submitted on behalf of Mrs B Dodkins and Councillors L Haysey and A Jackson. It was noted that Councillor J Ranger was substituting for Councillor A Jackson. The Panel further noted that Mrs B Dodkins had resigned as a Staff Side Member.

3 MINUTES

RESOLVED – that the Minutes of the meeting held on 19 February 2013 be approved as a correct record and signed by the Chairman.

4 RECRUITMENT POLICY

The Secretary to the Employer's Side submitted a report on revisions to the Recruitment Policy. She explained that updates to the policy had been necessitated by changes to legislation including the Equality Act 2010, the Disclosure and Barring Service and the Immigration and Nationality Act 2006. The revised policy, as now submitted, complied with these Acts as well as the National Joint Council Green Book.

The Panel made a number of comments and the Secretary to the Employer's Side dealt with various questions. The Panel highlighted the following comments:

- **The need to check the list of countries for eligible workers in paragraph 3.1;**
- **paragraph 6.16 should include reference to the Redeployment Register; and**
- **the need to include reference to Apprentices within the policy.**

Subject to these comments, the policy as now submitted was supported by the Panel.

RECOMMENDED – that the revised Recruitment Policy as now submitted and subject to the comments now detailed, be approved.

5 **EMPLOYING AND MANAGING PEOPLE WITH DISABILITIES**

The Secretary to the Employer’s Side submitted a report seeking to update the Employing and Managing People with Disabilities Policy. This policy had not been reviewed since 2006 and revisions to take account of recent legislation had become necessary.

In response to various questions and comments, the Employer’s Side Secretary commented that guidance to staff on what constituted a disability would be strengthened. She also undertook to report back on whether all Council buildings were DDA compliant. In respect of training for managers, she stated that this had already been offered, but in view of the low uptake, could be repeated.

The Panel recommended the revised policy as now submitted.

RECOMMENDED – that the revised Employing and Managing People with Disabilities Policy, as now submitted, be approved.

The meeting closed at 2.00 pm

Chairman
Date

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EAST HERTS COUNCIL

LOCAL JOINT PANEL 2013 – 3 SEPTEMBER 2013

HUMAN RESOURCES COMMITTEE - 2 OCTOBER 2013

REPORT BY SECRETARY TO THE EMPLOYER'S SIDE

GRIEVANCE POLICY

WARD(S) AFFECTED: NONE

Purpose/Summary of Report

To approve the revised Grievance Policy.

<u>RECOMMENDATION FOR LOCAL JOINT PANEL: That:</u>	
(A)	The revised Grievance Policy be supported;
<u>RECOMMENDATION FOR HUMAN RESOURCES COMMITTEE: That:</u>	
(A)	The revised Grievance Policy be approved.

1.0 Background

1.1 The Council's Grievance Policy was last reviewed in 2009. The Council's programme of policy review is after three years or sooner in line with legislation and best practice.

2.0 Report

2.1 **Key changes**

2.2 The policy has been updated to reflect various changes to legislation, including those regarding the Equality Act 2010,

ACAS Code of Practice on handling Disciplinary and Grievances at Work, and the Employment Relations Act 1999.

2.3 The policy complies with the provisions in the NJC Green Book, the Equality Act 2010, the Data Protection Act 1998, Section 199 of The Trade Union & Relations Act (Consolidation) 1992 and the Employment Act 2008.

2.4 The policy has been updated to highlight:

- Informal and Formal Grievance Procedures
- The use of Mediation in the Procedure
- Time limits within the Procedure
- Confidentiality Expectations

2.5 The revised Grievance Policy can be found at **Essential Reference Paper 'B'**.

3.0 Implications/Consultations

3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers - none

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Report Author: Giovanna Azzopardi – Human Resources Officer
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ESSENTIAL REFERENCE PAPER 'A'

IMPLICATIONS/CONSULTATIONS

Contribution to the Council's Corporate Priorities/ Objectives <i>(delete as appropriate):</i>	People This priority focuses on enhancing the quality of life, health and wellbeing of individuals, families and communities, particularly those who are vulnerable.
Consultation:	UNISON has been consulted with and their feedback has been incorporated.
Legal:	None.
Financial:	None.
Human Resource:	As detailed in the report
Risk Management:	None.

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East Herts Council

Grievance Policy

Policy Statement

Policy Statement No 4 (Issue No 3)

August 2013

GRIEVANCE POLICY

Policy Statement No 4 (Issue No 3) August 2013

1.0 Introduction

- 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 with 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

8.2.1 A 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.

8.3 Availability of representative

8.3.1 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.

8.3.2 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.

8.4 Step 2 – The Hearing

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

8.4.2 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.

8.5 The Hearing Process

8.5.1 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.

8.5.2 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.

8.5.3 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.

8.5.4 The Line Manager may then respond to the grievance.

8.5.5 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.

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

8.6 The Role of HR

8.6.1 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.

8.7 The Role of the Representative

8.7.1 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.

8.7.2 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

8.7.3 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.

8.7.4 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.

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

8.8 Step 3 – Written Notification of Outcome

8.8.1 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.

8.8.2 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.

8.8.3 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.

9.0 Overlapping Discipline and Grievance issues

9.1 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.

10.0 Employee Assistance Programme (EAP)

10.1 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.

11.0 Appeals Procedure – Third Stage

- 11.1 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.
- 11.2 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.
- 11.3 The decision following the Appeal with the relevant Director will be final and there will be no further internal right of appeal.

12.0 Policy Review and Amendment

- 12.1 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.

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

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 – Summary time scales

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.