WYCOMBE
DISTRICT COUNCIL

GRIEVANCE POLICY AND PROCEDURE TOOLKIT FOR MANAGERS AND EMPLOYEES

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1.0 Introduction

1.1 Grievance procedures have been determined in law to be contractual. The expectation is that the provisions contained in Wycombe District Council's Grievance Policy and Procedure will be adhered to. It is important to remember that tribunals have upheld complaints of constructive dismissal for management failure to follow procedure.

1.2 This Toolkit for Managers and Employees has been designed to interpret the Grievance Policy and Procedure and be used to support the Policy. It should not replace the Policy. It aims to provide more detail on how the policy should be implemented and to guide managers and employees through what can be a difficult process. Please read through this before seeking further professional advice from the Human Resources Operations Team.

1.3 The guidance notes contained in the Toolkit are not mandatory but are intended to assist with promoting best practice in managing grievance matters.

1.4 The sections and, where appropriate, the main numbering in the Toolkit follows and makes reference to the sub-headings in the Grievance Policy and Procedure.

2.0 Scope

No further guidance. Please refer to 2.1 of the Grievance Policy

3.0 Principles

No further guidance. Please refer to 3.1 of the Grievance Policy

4.0 Roles and Responsibilities

4.1 The Corporate Director and Heads of Service:

- Delegate authority to implement the grievance process to specified levels of management, identifying those with the appropriate level of authority to make a decision on the outcome of the grievance and hear appeals.
- Chair Appeal meetings.
- Identify the appropriate Investigation Officer(s) to undertake grievance investigations.
- Monitor the use of grievance processes for effectiveness and fairness.
- Take necessary actions to reduce employee relations issues and where appropriate act on outcomes of formal processes such as training and development requirements

4.2 Managers will:

- Treat all grievances seriously, dealing with each one fairly, consistently and sensitively.
- Try to resolve any issues that arise in the workplace through the informal procedure, prior to the issue becoming a formal grievance.
- To seek advice from Shared Services / HR Operations where further clarification is needed.
- Investigate thoroughly establishing the source of the problem, the history and the circumstances surrounding the grievance.
- Ensure that the employee is given appropriate notice of any formal meeting and is informed:
  - of the grievance procedure
  - that they have the right to be represented at any meeting
- Ensure that the employee is given ample opportunity at the formal meeting to explain the grievance and any background surrounding the issue prior to any decision being made.
- Ensure that the subject of the grievance (the respondent) is given the opportunity to respond to the grievance that has been raised to make certain both parties are treated fairly. This is in keeping with the principles of natural justice.
- Ensure that notes are taken during any meeting and the employee is provided with copies.
- Confirm in writing the decision and the reasons for the decision.
- Notify the employee in writing of the right to appeal.

4.3 All Employees

- Have a contractual responsibility to be aware of, and to conform to, the Council's rules, policies and procedures,
- Co-operate with any investigation and attend any formal meetings convened in accordance with the grievance policy.
- Are required to provide a Statement of Grievance in writing to start the process.
- During the process, are expected to continue to work normally and with full co-operation while their grievance is being dealt with. In exceptional circumstances, where this is not possible or where the working arrangements are such that the grievance is likely to disrupt normal business operations, the manager may approach the employee to agree alternative working arrangements.

4.4 Representative

- Is defined as either a union representative or workplace colleague.
- A representative may 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. The Council will not meet any costs that may be incurred by the employee in arranging representation other than granting paid time off where the representative is an employee of the Council.

4.5 Investigating Officer

- Must be someone who has not previously been involved in the matter and can be another manager within the service or an independent investigator.
- Is responsible for investigating the grievance to ascertain the facts and produce a report for the Manager responsible for the process. Depending on the terms of reference for the investigation, the report may include recommendations to the Manager to assist in resolving the grievance.
- Will work with the Shared Support / HR Operations Team to compile the paperwork for the formal meeting also known as the 'bundle' (see Appendix 4 for a list of recommended bundle contents).
- May present the facts at a formal meeting and have an opportunity to ask questions of any witnesses that may be called.
- Will also attend any appeal meeting, where required.

4.6 Witnesses

- May be called to a formal meeting by the aggrieved employee or the respondent.
- May be interviewed as part of an investigation and may be called to give evidence at a grievance meeting, in accordance with the procedure.

4.7 Shared Services / HR Operations

- Will provide advice and support to managers and employees on the application of the policy
- Will be present at the formal meeting and appeal meeting to advise the Manager conducting the meeting.
- Assist the manager in compiling all the documentation, such as witness statements, meeting notes and details of the grievance in a “pack”, also known as ‘the bundle’ (see Appendix 4 for a list of recommended bundle contents).

5.0 What could constitute a Grievance?

A grievance is a concern, problem or complaint which an employee raises with their employer concerning work related matters.

The grievance procedure can be used to deal with issues including:-

- Terms and Conditions of Employment (ie: where an employee believes that a term or condition of employment has been incorrectly used against them).
- Working environment/conditions
- Health and safety
- Bullying and harassment
- Work relations
- New working practices
- Equal opportunities
- A breach of statutory employment rights

NB: This list is not exhaustive nor is it an attempt to give a definition of a grievance.

5.1 The grievance must be in writing, either in a letter, or by completing the Formal Grievance Form (see Appendix 1 of the Grievance Policy) to ensure that a full written account of the nature and extent of the problem is received, together with any details of what informal attempts have been made to resolve the issue.

5.2 The letter needs to include the following information:

- The nature of the grievance – what is alleged to have occurred, by whom and when.
- The reason for dissatisfaction with the informal solution (where appropriate).
- The remedy the employee is seeking.
- Any witnesses to be called at a formal meeting.

In the event that the statement is a generalisation, further grounds of the complaint/grievance should be sought

5.3 The following can be considered a valid Grievance letter:

- The minimum requirement is that the issue or problem is set out in writing.
- A grievance can be contained within a resignation letter.

- It is not necessary for the employee to make it clear that the letter is a grievance or that he or she is invoking the grievance procedure.
- A “Without Prejudice” letter before action from a solicitor may amount to raising a grievance.
- Letter with another purpose eg: an application for flexible working.
- Formal Grievance Form

If managers are in any doubt whether a letter or email received constitutes a grievance letter, he/she should ask the individual concerned if they are raising a grievance.

5.4 It is important to note that an employee may raise a grievance about a third party e.g. a supplier or a fellow colleague from another Council, in the event that the employee believes they have been harassed in the course of their employment.

In this case, an employee who is bullied by a third party (eg a customer) should not to enter into any confrontation with the third party that may put his or her personal safety at risk.

An employee may chose to try and resolve the matter informally with the individual concerned or immediately report it to their line manager who will arrange for the complaint to be investigated immediately, and in some cases, the bully may be asked to leave the employer's premises and not return.

If a manager receives a grievance regarding a third party, please contact HR to discuss.

5.5 What does not constitute a grievance letter?

- A discrimination questionnaire from an Employment Tribunal or a Solicitor does not constitute a grievance letter.
- An application to an Employment Tribunal (an ET1 application) is not considered a statement of grievance.

5.6 Whistleblowing

The Council’s Whistleblowing Policy & Procedure covers employees who disclose concerns relating to malpractice or wrongdoings within the organisation. Refer to Whistleblowing Policy.(hyperlink)

5.7 Malicious Complaints

The Council expects employees to raise complaints in good faith. Any complaint that is made without foundation or is not based on an honest belief could lead to disciplinary action being taken against the employee raising the complaint.

6.0 Exclusions

No further guidance. Please refer to 6.1 of the Grievance Policy

7.0 Informal Approaches to Raising and Resolving a Grievance

7.1 Positive Approach to Dignity and Respect

Everyone has a right to be treated with dignity and respect at work. The Council respects the dignity and individual contributions of employees and is committed to creating a culture and climate where positive working relationships grow.

Managers have a responsibility to set appropriate standards of behaviour in the workplace. They should lead by example and promote the Employees' Code of Conduct (insert link) and Values and Behaviours (insert link to Working Together: making a difference) within their teams to ensure all employees are working toward a common understanding of what is acceptable behaviour. Employees in turn should ensure they are familiar with the standards of behaviour the Council expects from them.

7.2 Setting Behavioural Standards with the Team

A team discussion can be used as a preventative tool in tackling detrimental behaviour and attitudes.

Teams should be encouraged to discuss the Council's values and define what these values mean in the working environment. At the same time there can be discussions on what teams can do at a time when there are breaches of the organisations values. An example of how this may be done follows:-

Framework for a team discussion

- Why does the Council believe it is important to create a culture of respect?
  - What does this mean to our team?
  - Why is it important to us?
- The style of the discussion should mirror the Council's values, so every contribution is recognised and view respected.
  - What can you expect from the Council?
  - What would be happening in our team if we felt…….

    Respected? Encouraged to develop? Had clarity of purpose? Listened to? Informed?
  - What difference would this make to the way we work?
  - What would the benefits be?
- How should we deal with situations where the values are breached? Eg:- raise and discuss at team meeting, in 1:1s as part of performance management, raise directly with the individual at the time etc……

Review

- Are we prepared to commit to this way of working?
- When should we start?

Informal Approaches

7.3 Managers are encouraged to be proactive with regards to identifying any potential issues within the team, addressing any issues at a very early stage with the employees involved, rather than waiting until an official grievance is lodged.

7.4 Managers and employees are encouraged to see if any issues can be resolved informally and without recourse to the formal grievance policy. As part of good management practice, regular meetings and conversations are encouraged between employees and managers so that issues are not left to deteriorate to a point where formal procedures are the only option to resolve the matter.

7.5 An employee should raise an informal grievance as soon as possible after the act or decision complained of, or after the last act or decision if the complaint relates to a series of linked events.

7.6 If an employee approaches you regarding an issue ensure that you:

- Arrange a meeting away from the immediate workplace in a private location that is free from interruptions.
- Assure the employee that if they wish to keep the matter confidential you will do what you can to comply, although make the employee aware that by keeping it confidential it may be difficult to address the issue.
- Ensure that you allow enough time to explore the matter fully.
- Allow the employee to express their emotions
- Empathise with the individual
- Are not judgmental
- Take notes during the meeting or make notes directly after the meeting to ensure that you have an accurate reflection of the meeting to refer back to when necessary.
- Try to establish what action or outcome the employee wants and allow them to suggest solutions.

7.7 The following points need to be explained to the employee who is aggrieved:

- That there are merits in dealing with the grievance informally and that the Council encourages resolution through the informal process.
- There are options, such as mediation, that may be appropriate in their situation.
- Discuss with the employee what additional support they may require to help them resolve the matter and as appropriate, inform them of the support that is available through Occupational Health, the Employee Assistance Programme etc

- If the employee wishes to lodge a formal grievance, make them aware that they would need to submit a Statement of Grievance Letter/ Formal Grievance Form (see Appendix 1 of Grievance Policy)

7.8 After the meeting, consider the information and any suggested resolutions, such as mediation, and write to the employee to confirm any agreement that was reached or to propose a possible solution. It may be that a follow up meeting to agree any proposal, needs to take place.

Suggested Informal Interventions

7.9 Employee to talk to the person concerned

This response is most appropriate when the working relationship is still reasonably positive and when the unwanted behaviour is recent. A mutual willingness to discuss the issues and to work for a win-win solution is a good indicator of success.

However, there are dangers in direct contact if one or other party to the problem is aggressive or if there have been serious threats or threatening behaviour.

It can be difficult for an individual to approach the person who is causing them distress and it is important that the line manager supports the individual to prepare for this informal meeting.

Before speaking to the other person, it is important to identify the behaviours that are being experienced as unpleasant or bullying. It is helpful to make sure that the specific incidents are clearly defined in terms of time, content and frequency of behaviours. Remind the individual who has raised the complaint to keep a record of events.

During the meeting, the following aspects should be identified and discussed:-

- A clear description of the behaviour that is causing problems;
- The feeling that the behaviour evokes, for example, ‘I feel upset’ or ‘I feel hurt’;
- The needs of the individual: ‘I want to feel part of the team,’ ‘I want to be respected’;
- A request for a specific action that is reasonable and practical, for example, ‘When we’re in meetings, I would like you to include me,’ ‘When you talk to me, I would like you to use my name’;

The benefits of talking to the person directly are that:-

- The issue can often be resolved quickly;
- Relationships can be improved.

7.10 Employee to write a letter

This approach tends to be used when talking to the person has not brought about the expected results or where a meeting is not possible due to distance or timing or where the individual feels too uncomfortable to have a face to face conversation.

Although it may seem a good idea to use email to highlight difficulties, this rarely works and has been known to enflame a sensitive situation.

Preparation is important and, as with talking to the person concerned, it's important to clearly define the behaviours that are causing the problem and how these behaviours could be changed.

The letter should clearly describe the negative behaviours and explain why the behaviours are unwanted. The desired alternative behaviours should be described and a suggestion made as to how the situation could be resolved.

The letter should be short and to the point. Care should be taken to avoid any blaming statements or emotive language.

The benefits of writing a letter are that:-

- There is time for preparation;
- It enables the employee to say what they want
- It acts as a record

7.11 Line Manager meeting

If the individual does not feel able to meet with the employee causing distress, they may request that the line manager discuss the matter directly with the employee.

7.12 Counselling

The line manager may wish to offer to arrange for the employee to receive impartial advice, support and guidance. He/she may wish to put the employee(s) in contact with an external counsellor through the Council's Employee Assistance Programme (EAP). Details of which can be found on Wyspace. (insert link)

Counselling can also be valuable for individuals against whom an allegation of harassment is being made and will, therefore, be available in appropriate circumstances. They may be unaware of, or insensitive to, the impact of their actions and counselling can help to change behaviour and prevent the occurrence of further incidents.

7.13 Mediation

Mediation is a facilitated approach to achieving a win-win solution. The facilitation should be undertaken by a trained mediator who is independent of the parties involved. Shared Services / HR Operations will be able to assist with identifying a trained mediator.

The mediation approach is most appropriate in cases where there are strong emotions and a need for support in resolving the problem. Both sides of the disagreement need to recognise the problem and be prepared to work for a win-win solution. Mediation is not successful when one or both parties do not want to take part in the process or when there has been serious bullying, victimisation or physical violence.

The aim of mediation in this context is for an independent person to explore the issues with the two parties and seek to find a mutually acceptable way of resolving the matter. A desirable outcome may be an agreement and if necessary an action plan, which will set the standards of conduct required for a more harmonious working relationship in the future.

The mediator will help to:-

- Identify what has happened by speaking confidentially to all parties;
- Assess the best way to bring the parties together;
- Hold a joint meeting;
- Explore the issues;
- Build the agreement for future working relationships.

The benefits of mediation are that it:

- Increases the likelihood of a resolution;
- Can improve working relationships;
- Creates shared goals and responsibilities for solutions

7.14 Further guidance on dealing informally with specific complaints of harassment/ bullying

The Council accepts that differences of attitude and culture and the misinterpretation of social signals can mean that what is perceived as harassment and bullying by one person may not seem so to another. Therefore, every effort should be made to resolve the issue informally in the first instance if this is possible and appropriate.

During or as soon after the incident as possible the individual concerned should make it clear to the alleged harasser that their behaviour was not welcomed and should not be repeated.

Employee Guide to Approaching an Individual Regarding Harassing/ Bullying Behaviour

It can be difficult to speak to a person you believe has harassed or bullied you, but it can be very effective, especially if addressed at an early stage. It can also help you regain control of the situation and improve your self-esteem, which may have been affected by the incident/s.

To explain the effect the alleged harasser or bully is having on you, consider the following strategies for preparing for the discussion and expressing yourself assertively.

- Identify your personal rights, wants and needs.

- Identify how you feel about the incident/s. Do you feel angry, embarrassed, humiliated?
- When describing your feelings, use 'I' statements instead of blaming the other person (e.g. 'I feel hurt', rather than 'You hurt me'). This helps to avoid defensiveness on the part of the person you are speaking to.
- Relate your statement about your feelings to some specific behaviour in the other person (e.g. 'I felt hurt when you said I had not completed the project on time without giving me the opportunity to explain the reason it was behind schedule'. This is clearer to the person you are speaking to than 'I felt hurt because you humiliated me').
- Be direct: deliver your message to the person for whom it is intended. Express your request in one or two easy-to-understand sentences. Complicated explanations can mean that the person you are speaking to may not understand what you are trying to tell him/her.
- Try not to make assumptions about what the other person is thinking or feeling, about what their motives might be, or how they may react. Check things out with them first.
- Avoid sarcasm, character assassination or absolutes (absolutes often involve using words like 'You never…' or 'You always…').
- Avoid labelling.
- Ask for feedback: 'Am I being clear?'; 'How do you see this situation?' Asking for feedback helps correct any misinterpretation people may have as well as helping others realise that you are open to communication, and are expressing an opinion, feeling or desire, rather than a demand.
- Evaluate your expectations. Are they reasonable? Are you willing to compromise, if appropriate, in order to reach a resolution with the other person?

7.15 Tackling Cyber-bullying

Cyber-bullying is a relatively new form of bullying. Often attributed to juvenile or teenage behaviour, it is becoming more common in adult work settings and can be defined as the use of information and communication technologies to support deliberate, repeated and hostile behaviour by an individual or group that is intended to harm others.

Typically cyber-bullying involves the use of the Internet, e-mail or mobile phones to send or post text or images intended to hurt or embarrass another person. It can be as simple as a threatening e-mail or continuing to send e-mails to someone who has said they want no further contact with the sender. It could also include sexual remarks or material designed to spread gossip or to damage the

reputation of another person. In many cases, the spreading of offensive jokes or shocking or sexual material via phone or e-mail may also constitute cyber-harassment.

In the workplace, bullying by e-mail is probably most often recognised as cyber-bullying. This usually takes the form of curt, rude or unpleasant e-mails sent by a superior or by a colleague. In some cases, such an e-mail may be sent with no malicious intent but may be poorly written or insensitive. Other e-mails can include relatively inoffensive messages in terms of content, but the implied meaning behind the message can constitute a form of bullying.

An example of this might be where a superior is bombarding a member of staff with far more work than they can handle, while other members of staff are not being treated in the same way.

Workplace cyber-bullying is not always limited to working hours. Posting malicious or offensive blogs and comments about others on social networking sites, for example, would also fall under the umbrella of cyber-bullying, as would the taking of inappropriate pictures on mobile phones and spreading these on the Internet.

Cyber-bullying is no less unpleasant than conventional bullying, and staff are protected in the same way by the law. Managers should always be alert to this form of bullying and take any complaints seriously. They should investigate and take appropriate action, adapting policies as required and working with the IT manager, where necessary.

7.16 The Impact of Harassment and Bullying

Harassment and bullying can have a wide range of implications on the workplace and both managers and employees should be aware of these.

Harassment of an employee can amount to:

- unlawful discrimination on the grounds of race, sex, marital status, gender reassignment, disability, religion/belief, sexual orientation or age
- a breach of contract i.e. a breach of one of the implied terms of any employment contract, such as the duty to provide a safe working environment or to maintain trust and confidence in the employer
- a criminal offence

Reasonable steps to prevent bullying or harassment must be taken to prevent the Council being liable for the actions of employees. It should also be noted that action can also be taken against the Council even after an individual's employment has ended. The Council could also be responsible for the actions of third parties, e.g. clients or customers, where they are within the control of the Council.

If a third party, e.g. a customer is not prevented from repeatedly harassing an employee, the Council could be held liable for the actions of that third party. Note that the harasser does not have to be the same person on each occasion.

Bullying and harassment can also have a serious adverse effect leading to reduced productivity. This is because bullying and harassment can cause:

- low morale and poor employee relations
- loss of respect for managers
- reduced productivity and profits
- increased absenteeism and turnover of staff
- damage to the image of the Council
- employment tribunal or other civil court claims

In the event that an individual has suffered any form of harassment or bullying, Managers may wish to suggest the services of the EAP.

7.17 Supporting Staff with a Potential Grievance

Sometimes bullying or harassment is observed directly by a manager and reported. In the majority of cases, however, it goes on out of sight of managers and requires the victim or another member of staff to report it. It is important to recognise the fact that many people who are subjected to harassment do not complain about it for a number of reasons. They might feel:

- embarrassed
- unprofessional
- worried that no one will believe them
- worried that they will be victimised
- worried that they might get the perpetrator into trouble.

In some cases, the perceived perpetrator might also be the manager or supervisor of the member of staff.

Whilst the decision about whether or not to lodge a complaint lies with the individual, the Council is committed to supporting staff who do complain and ensuring they do not suffer reprisals or victimisation as a result.

All complaints of bullying or harassment will be investigated swiftly and in confidence while protecting the rights of all the individuals concerned.

Other considerations

7.18 Formal Disciplinary Measures

Where an informal resolution is not possible, the manager may decide that the matter is a disciplinary issue that needs to be dealt with formally under the Disciplinary Procedure.

7.19 Suspension

In cases which appear to involve serious misconduct, it may be necessary to suspend the alleged bully/harasser for a short period while the case is being investigated.

7.20 Informal stage outcomes

1) Agree nothing to be done

2) Agree course of action, such as mediation to resolve the issue
3) Proceed to the formal stage (stage1) of the Grievance procedure

8.0 Formal Procedure

The formal Grievance procedure may be invoked where the informal procedure fails to result in a remedy or where the employee opts for the matter to be dealt with formally from the outset. The formal grievance procedure at the Council consists of 2 stages but not all grievances will need to use the whole procedure if the problem can be resolved at an earlier stage. See Appendix 2 of the grievance Policy for the flowchart.

Stage 1

8.1 Registering a Grievance

All grievances that are to proceed down the formal route MUST be in writing either in a letter or by completing the Formal Grievance Form (see Appendix 1 of Grievance Policy). This is known as a 'Statement of Grievance'. The employee should raise their grievance as soon as possible after an event or incident that gives rise to the complaint.

If an employee is unsure how to write a valid Statement of Grievance, they may seek advice from the HR Operations team or their Trade Union Representative.

The manager should speak to their Shared Services / HR Operations Team representative regarding acknowledging the formal Grievance.

8.2 Acknowledging a Grievance

On receipt of the formal complaint, the line manager should write to the employee within five working days to acknowledge their complaint and may decide to arrange a meeting to seek further clarification on the specifics of the complaint, gather any relevant documentation and the discuss the outcome the employee is seeking.

Model Letter 1: Acknowledging Receipt of Formal Written Grievance

The manager may, at this point, want to consider whether any temporary adjustments would be appropriate towards the working arrangements of the parties involved. Any adjustments should be discussed with the relevant parties.

The Manager should liaise with other relevant Managers if appropriate on the complaint received and any appropriate adjustments to be made.

8.3 Employees Involved in the Complaint

Notification on receipt of a formal complaint

If the complaint concerns the behaviour of another employee(s), the Manager dealing with it at the formal stage should write to the employee(s) complained

about, to notify them of the complaint against them giving sufficient details of the complaint and next steps.

Model Letter 2:- Informing Employee of a Grievance Against them

8.4 Undertaking a Grievance Investigation

Introduction

A grievance investigation normally takes place after the employee has explained his/her grievance/complaint at a meeting with their line manager or their line manager's manager if the grievance/complaint involves their line manager. The investigation is usually conducted by the manager considering the grievance, but the Council reserves the right to nominate any appropriate person.

Each investigation is different and the approach taken will be dependent on the nature of the allegations/complaints. The process outlined in this section is designed to be a guide for those officers required to carry out investigations and is ot prescriptive.

8.5 Agree the scope of the investigation

The Manager/Investigator to complete the Investigation Brief (see Appendix 2 for template Brief) :-

- Identify the precise issues to be investigated and the objectives of the investigation
- Identify who it is anticipated needs to be seen in connection with the matter
- How the report will be used (eg. for consideration by a disciplinary panel or formal grievance meeting)
- Agree this with an investigating officer if one has been commissioned.
- The investigation brief should be accompanied by all relevant documentation/evidence already obtained such as the grievance form, minutes of any meetings held etc.

8.6 Purpose of the Investigation

The purpose of the investigation is to determine all the facts associated with the allegations and establish whether there is evidence to support the grievance or not. Investigators will adopt a holistic approach examining the case from all angles, collecting evidence from management, employee and organisational perspectives. They will interview all relevant people and analyse any related documentation.

In all cases an investigation should take place as soon as possible, ensuring that the procedure is followed and in line with the timescales outlined within the toolkit.

8.7 In carrying out the investigation, the Manager / Investigating Officer should:-

- ensure the investigation is carried out as quickly as possible
- be thorough and fair
- remain impartial and objective, do not make assumptions
- consider whether there are any mitigating circumstances
- maintain confidentiality as appropriate
- seek supporting evidence, including both that which supports the grievance, and any that refutes the grievance
- talk to relevant witnesses appropriate to establish the full facts
- keep notes of investigation meetings
- compare statements and notes and attempt to resolve any discrepancies
- Where the findings of the investigation support the grievance, consider possible resolutions, including that suggested by the employee

8.8 Planning the Investigation

Managers/Investigators should:-

- Be familiar with the employee's grievance – fully consider the points that he/she has raised and any evidence he/she has put forward
- Be clear about the current situation – do all parties know.
- If the Investigating Officer is not the manager who is considering the grievance, he/she will need to meet with the employee to gain a full understanding of the employee's grievance.
- Before beginning the investigation consider what information needs to be gathered and how best to gather this. This will depend upon the nature of the grievance. For example where the grievance is about work location or equipment you may decide to make a site visit; where the grievance is about a decision that the employee's manager has taken, it may be relevant to talk to the manager in the first instance.
- Review evidence, documentation, correspondence, notes of meetings, e-mails,
- Consider background information: policies, procedures, contract, training records, protocols, service standards
- Review of any other relevant material gathered at the outset of the investigation i.e. personnel file, supervision notes / appraisal records / rotas etc, to establish employment history
- Look for evidence supporting and contradicting the allegations/complaints

- Before meeting with the employee and other witnesses, plan the questions to be asked

- Consider any risks/issues which may jeopardise the investigation or hamper progress (e.g. uncooperative staff / malicious or vexatious concerns / absence of potential witnesses / contamination of evidence etc
- the individual being complained about will have the right to be represented at any meeting, as until the investigation is complete it is not known whether disciplinary action may result. If it is concluded that misconduct may have occurred and the matter is to be dealt with at a disciplinary formal meeting the employee would have the right of representation afforded to them under the disciplinary procedure at the disciplinary formal meeting. If this should result in a change of representative for the individual, account should be taken of the time the employee will need to brief their new representative when setting the date for the disciplinary formal meeting
- it is crucial to treat the individual accused of harassment fairly and demonstrate that you are approaching the investigation with an open mind. This should equally be the case in respect of the employee raising the complaint

8.9 Interviews:

The purpose of the interview is to gain a full picture of the situation, establish facts and gain evidence which either supports or refutes the points in the case. The interview can provide an opportunity to gain the interviewee's reaction to documentation which conflicts with their account. It can also identify the complainants preferred solution.

- Plan the order of interviews:

For example:
- Complainant (then pause to consider appropriate order of interviews)
- Person who complaint is against 'respondent'
- Those implicated in initial allegations
- Those identified during the course of the investigation
- Those suggested by the complainant/respondent
- You may need to seek clarification with second interviews

- Plan where to hold investigation meetings - this needs to be in a private place that will be free from interruptions.
- Give the employee notice of the meeting and remind him/her of his/her right to be accompanied by a trade union representative or work colleague.

<u>Model Letter 3:- Stage 1 Interview</u>

- Notes of key points raised at the meetings should be taken. These do not need to be verbatim. A copy of the notes should be given to the employee/ witness following the meeting and ask them whether he/she would like to add

anything to them. Where the employee/witness provides alternative notes of the meeting both versions should be included in the evidence supporting your investigation report.

- Tape recording of interviews/meetings or appeal meetings is not normally permitted and must not take place without the prior agreement of all parties involved. Managers should seek advice from Shared Services / HR Operations.
- Prepare outline questions - Use open questions, avoid leading questions, ask for specific examples of behaviour. (It can be useful to share these with a note taker if one is being used prior to the meeting)

For example:

- Can you tell me in your own words what happened in relation to….
- When did the incident happen?
- Why was the decision made?
- What effect did it have on you?
- Were there any witnesses
- Has anything similar happened before
- Have you spoken to anyone about this
- Have you asked them to stop
- What other options were/are available?
- Are there any records that substantiate/refute the grievance

8.10 Structure of the interview

This will vary depending on the nature of the investigation:

- Opening – explain roles eg. I have been appointed to investigate …. my role is to gather facts relating to …. the note taker (where present) won't be asking questions but may ask for clarification.
- Explain the context – eg. a grievance interview which forms part of an investigation. One outcome of the investigation may be a recommendation that the matter is considered at grievance meeting with the Commissioning Manager. Witnesses may be required to attend the panel.
- Explain the meaning of confidentiality in the context of the interview. Inform interviewee not to discuss the matter with anyone and that the matter will not be discussed with anyone unless they need to know as part of the process.
- Clarify points and summarise to confirm your understanding
- Answer questions from interviewee
- Reiterate confidentiality
- Close – explain the next steps

8.11 Witnesses

- A witness does not need to know the full extent of the grievance/ complaint only the area which the investigator believes the individual may be able to assist with
- It is often useful to ask the witness to follow events in chronological order
- Ensure witnesses are aware that their statements will be included in your report and who it will be seen by. Note: Anonymity cannot be preserved except in extreme cases where there reasonable grounds to suggest there is a risk of harm to the witness.
- Witnesses also need to be made aware that they may be called to give evidence at a formal meeting.
- There is an expectation for all Council employees to cooperate with investigators, when required, and to provide honest answers to all questions put to them. Failure to cooperate with investigators could itself be considered a conduct matter, as could the provision of false evidence. The Council understands that it may be difficult and distressing for some employees to go through the interview process due to their own experiences and that some may be reluctant to cooperate for fear of reprisals. The investigator will do everything in their power to support individuals through the interview process and will provide access to the Employee Assistance Programme (if required). The Council will not tolerate victimisation of any individual for raising genuine concerns or cooperating with an investigation. Any unfair treatment or unacceptable behaviours should be reported in the normal way via line management or alternatively raised with the investigating officer.

8.12 Preparing Statements

- Following the interview write up the notes quickly (keep original handwritten notes)
- Interviewee to check and sign to confirm they agree contents
- If there is disagreement – note the discrepancy.

8.13 Weighing Conflicting Evidence

Evidence can be questionable where statements are inconsistent with documents produced at the time. Where statements are vague or contain contradictions, consider whether individuals perceptions of the same event may differ, does the complainant have any reason to bear a grudge, can a view be formed with incomplete evidence. The standard required is ‘reasonable belief’ / on the balance of probabilities based on a full and fair investigation.

8.14 Preparing an Investigation Report

Once you have completed the investigation you will need to write a report. Where you are the investigating officer and not the manager considering the grievance/

complaint you should send the report to the manager who commissioned the investigation.

A template investigation report can be found in Appendix 3

Note: an investigation report is disclosable in legal proceedings

The timescale of an investigation depends on the complexity of the matter under investigation and the availability of witnesses. In the majority of cases investigations should be concluded within 15 working days. It is important to keep the complainant/employee facing allegations informed of the progress of the investigation and the reasons for any delays.

8.15 Outcome of Investigation

1. No Further Action

It may be concluded that the issue / complaint does not justify further action. In this case, the effect on the employees involved should be considered by the manager (with advice from HR). Measures such as the voluntary transfer of employees and / or development plans / training need to be considered.

Model Letter 4 – Outcome of Stage 1 Investigation – No Action Under Procedure

2. Formal Meeting

Where the Manager who commissioned the investigation deems a formal meeting is appropriate, he/she will organise a panel to hear the case.

9.0 Conducting a Formal Grievance Meeting

The Formal Meeting

The formal meeting should normally take place within a few days of the grievance being raised, unless special circumstances mean that more time is needed. It may for example, be necessary to conduct detailed or complex investigations into the matter before the formal meeting takes place.

The purpose of a formal grievance meeting will normally be to establish the facts about the employee's grievance and determine whether the grievance is substantiated or not and what (if any) action can reasonably be taken to resolve it.

The Formal Meeting should be conducted by a manager at Service Manager level or who has been given delegated authority by the Head of Service/ Corporate Director to do so and will be advised by a representative from HR.

In cases where complaints relate to discrimination or harassment, the Manager may be assisted at the Formal Meeting by another Manager of the same social

identity group which relates to the basis of the complaint e.g. a female Manager in a sex discrimination complaint.

Where the Manager conducting the Formal Meeting commissions an Investigating Officer to investigate the complaint, the Investigating Officer will normally attend the formal meeting and may present the findings.

9.1 Prior to the Formal Meeting

Arrangements made for the Formal Meeting

It is the responsibility of the Manager conducting the Formal Meeting to make arrangements for the Formal Meeting to take place, notifying all parties and taking into account any special requirements requested e.g. access.

The following people will be required to attend the formal meeting:-

- The manager conducting the formal meeting – Service Manager or Head of Service
- HR representative
- Another manager (optional)
- The employee who has lodged the grievance
- The employee's representative (where appointed)
- The respondent (employee who is the subject of the grievance)
- The respondent's representative (where appointed)
- The Investigating Officer (as appropriate)
- Witnesses for the aggrieved employee \ witnesses will be called
- Witnesses for the respondent / as required
- Note taker

NB: the note take must be independent of the panel but will be sourced by the panel. No member of the panel may take on the role of notetaker at the same time

In harassment/bullying cases, the Manager should also consider the practicalities of the individual and the person accused of harassment being in the same room. How appropriate is this? This will vary depending on the nature of the harassment. The seating arrangements may need to be considered to keep individuals from coming into contact. Both parties have the right to hear the case.

A minimum of 5 working days in advance of the meeting, the Manager should notify the complainant, in writing, of the date, time and venue for the Formal Meeting, including any paperwork relevant to their complaint. The complainant should be sent 2 copies (unless agreed otherwise) so that they can give a copy to their trade union representative or work colleague if they wish.

<u>Model Letter 5 – Inviting employee to a formal meeting</u>

If the complainant is not currently at work e.g. as a result of sickness or annual leave, any letters/paperwork should be sent to the employee's home address by recorded delivery.

Once the employee is notified of the meeting details, they **must** provide details of their witnesses and their employee representative and attach all their documents (bundle) at least 3 working days before the date of the meeting, or by the date specified in the letter inviting them to the meeting whichever is the earliest. At this point they must confirm their attendance.

The employee should use the model letter 5 to remind them of the information they need to provide.

Model Letter 6 – Employee Response detailing Witnesses/ Representative/ Attaching Bundle

Any **witnesses** to be invited to the formal meeting should be written to using model letter 12

Model letter 12 – Invite for a witness to attend a formal meeting

9.2 Representation

The complainant must be informed, in writing, that they may be represented at the Formal Meeting by their Trade Union representative or a work colleague. The trade union representative/work colleague can present their case but cannot answer questions for them unless the employee is not present (see 9.4 below).

If the complainant chooses not to be accompanied by a work colleague or trade union representative, this needs to be recorded along with the Complainant's agreement for the Formal Meeting to go ahead.

It is the complainant's responsibility to inform their trade union representative/ work colleague on the details of the meeting.

An employee involved in this procedure must be given reasonable time to meet their trade union representative or work colleague.

9.3 Arrangements for attending the formal meeting as part of this process

- Where an alternative date and time is requested to allow a representative or work colleague to attend, the Council will make reasonable efforts to accommodate this.

- Where a representative is unable to attend a meeting, either as part of an investigation, the Formal Meeting or Appeal Meeting, every effort will be made to re-arrange the meeting to a mutually convenient date and time, within the set timescales.

- If management have made every reasonable effort to meet with the employee, but a mutually agreed date and time cannot be reached because of unavailability of the employee or representative, the formal meeting may take place in absence of either or both.

- The reasons and likely duration for the representative not being able to attend a formal meeting should be considered and a minimum of one alternative date and time must have been offered before this action is considered. Managers are strongly advised to seek advice from Shared Services / HR Operations before taking this action.

Model letter 11 – Employee Who has Failed to attend a formal grievance meeting

- An employee is expected to take all reasonable steps to attend the formal meeting. In the event that the employee, or their representative, cannot make it on the date arranged, they should notify the manager hearing the grievance as soon as possible. The employee may then suggest another date so long as it does not create unreasonable delay and it is a date that is acceptable to all parties.
- When an employee fails to attend through circumstances outside their control, and unforeseeable at the time the formal meeting was arranged (i.e. illness), the manager hearing the grievance should arrange another formal meeting. A decision may be taken in the employee's absence if they fail to attend the rearranged meeting. An employee's representative may attend on their behalf, if the employee is unable to attend. Each case needs to be considered in light of the reason given for non-attendance and reasonableness on the part of the employer.
- When the employee is on long-term sickness leave, their line Manager should refer them to Occupational Health Service (OHS) in accordance with the Sickness Absence Policy and Procedure. The referral to OHS should include seeking advice on whether the employee is fit to attend formal meetings and/or fit to submit written documentation to be considered in their absence.
- If any employee fails to attend a hearing with no good reason, the Council will rearrange once, but failure to attend a second time with no good reason, the Council is no longer legally obliged to consider the grievance and may end the process at this point. Managers should seek advice from the Shared Services / HR Operations Team in the case of a non-attendance at a grievance.

9.4 Format of the Formal Meeting/Appeal Meeting

Dos and don'ts of conducting formal grievance meetings
Do be clear on format/structure of the meeting

Do make sure that there will be no interruptions.

Do make the effort to put everyone at ease.

Do allow the employee to explain his or her complaint fully.

Do listen actively to what all parties have to say

Do distinguish between facts and opinions.

Do avoid emotional reactions such as anger or impatience.

Don't interrupt the employee unless this is necessary to keep the discussion on track.

Don't react negatively, for example by expressing criticism or disapproval.

Don't adopt a judgmental attitude.

Don't allow any personal like or dislike of the employee to influence your responses.

Don't forget to summarise towards the end of the formal meeting in order to check understanding.

Don’t be afraid to ‘pause’ proceedings if a short adjournment would be helpful. Or a longer adjournment (days) if further investigations are required.

Don't make any decision about what to do about the grievance until all the facts have been aired and, if necessary, investigated or checked.

Introductions
The Manager conducting the meeting will introduce him/herself and request that each person explains who he/she is and why he or she is present.

Procedure
The Manager conducting the meeting will then explain the procedure.

Employee (or Representative) Presents their Grievance
The employee (or their representative) will be given the opportunity to explain the grievance and present relevant evidence to the formal meeting.

Respondent Questions Employee
The respondent will be given the opportunity to question the employee regarding the details of the grievance.

The Manager Conducting the Meeting Questions Employee
The Manager conducting the meeting follows up on any points for clarification or seeks further detail on any aspects that are not clear.

The Investigating Officer (where one has been appointed) Questions Employee
The Investigating Officer follows up on any points for clarification or seeks further details on any aspects that are not clear.

Employee calls Witness(es)
The employee will then call any witnesses to support their case. The witnesses will be prepared on what questions they will be asked in advance.

Respondent Questions Witness(es)
The respondent is given the opportunity to question the employee's witnesses.

The Manager Conducting the Meeting Questions Witness(es)
The Manager Conducting the Meeting has the opportunity to ask questions of the witness(es)

The Investigating Officer Questions Witness(es)
The Investigating Officer has the opportunity to ask questions of the witness(es)

Witness(es) Leaves
The Manager conducting the meeting will ask the witness(es) to leave, unless either party wants to recall the witness at a later time.

The Respondent Responds to Grievance
The employee, who is the subject of the grievance, responds to the grievance.

The Employee Questions Respondent
The employee is given the opportunity to question the respondent.

The Manager Conducting the Meeting Questions the Respondent
The Manager conducting the meeting will follow up with any questions for the respondent, to clarify any points made prior to any decision being made.

The Investigating Officer Questions the Respondent
The Investigating Officer will follow up with any questions for the respondent, to clarify any points that have been made.

The Respondent calls any Witness(es)
The respondent has the opportunity to call any witness(es). The witness(es) will be prepared on what questions they will be asked in advance.

The Employee Questions the Witness(es)
The aggrieved employee has the opportunity to question any of the respondent's witnesses.

The Manager Conducting the Meeting Questions any witness(es)
The Manager conducting the meeting will question any witness(es) for the respondent.

The Investigating Officer Questions Witness(es)
The Investigating Officer will then follow with any questions for the witness(es).

Witness(es) Leaves
The Manager conducting the meeting will ask the witness(es) to leave unless either party want to recall any of the witness(es) at a later time.

Investigating Officer Presents Findings
The Investigating Officer will present any findings on the grievance.

Employee/Representative Sum up
This is an opportunity for the employee, or their representative, to make a final statement and sum up their main points.

Respondent Sums up
This is an opportunity for the respondent to make a final statement and sum up their main points.

Investigating Officer Completes Case
The Investigating Officer sums up the key points of the investigation and makes a final statement.

Adjournment
The Manager conducting the meeting will ask the Investigating Officer, the employee, their representative and the respondent to adjourn in order for a decision to be made.

Note:- The order of the formal meeting may vary slightly due to the nature, sensitivity and content of the grievance. In more straightforward grievances, it may not be necessary to call witnesses or appoint an Investigating Officer and therefore the format of the formal meeting may be slightly less formal and may differ from the above.

9.5 Issues for Consideration at Deliberation Stage

In deciding on what action, if any, to be taken, the Manager conducting the meeting should be satisfied that:

(i) the procedure was followed and there were no procedural irregularities which may have prejudiced the outcome;

(ii) only relevant evidence, facts or factors were taken into account and relied upon in determining the outcome;

(iii) no irrelevant evidence, facts or factors were taken into account or relied upon in determining the outcome

(iv) the complaint(s) raised was adequately investigated or sufficiently substantiated (you may wish to adjourn and request the Investigating Officer investigates further if there are grey areas

(v) all the evidence, facts, mitigating circumstances presented were taken into account;

(vi) the complainant's commitment to move forward has been heard.

(vii) The decision being considered is within the band of reasonable responses of a reasonable employer.

If the facts are disputed, decide on the balance of probability what version of the facts is true. The Manager does not have to be sure of what happened – he/she is entitled to prefer one version of events rather than another provided that he/she thinks it is more likely to have happened than not. Furthermore, the Manager conducting the meeting should consider whether the outcome being considered is appropriate bearing in mind the complaint raised, the impact of the proposed solution on employees, possible implications across the Council and impact on relevant Managers (i.e. Managers of other employees involved in the case).

In determining the outcome of any complaint, Managers should be aware that their decisions should be transparent and that, if challenged, they should be able to provide a sound rationale/explanation for their decision.

For complaints relating to **harassment** in particular, consideration should be given to:

- trying to understand what events took place and the meaning of these events to those involved. Often the issue is not whether an incident happened but whether it was offensive or was encouraged by the person subjected to it

- ***Potential conduct issue***

  If the information gathered in seeking a resolution to the complaint is sufficient to reach a balanced judgement that harassment has taken place, then the matter may be progressed under the Council's Disciplinary Procedure in order for it to be formally dealt with under that Procedure. The Manager should seek advice from their Manager/Shared Services / HR Operations prior to initiating. If an investigation has taken place, the investigation report can be used as part of the Disciplinary Procedure. Link to Disciplinary Procedure

- ***Views of the parties to the complaint***

  It may be appropriate to consider measures such as mediation / guidance to resolve the complaint particularly where either party has indicated their intention to willingness to resolve the complaint by mediation.

- ***Refusal to cooperate in trying to resolve the complaint.***

  Where it is considered an employee is not willing to cooperate in helping to rebuild the working relationship, the employee should be reminded of their responsibilities under the Code of Conduct whereby they should maintain good relationships with colleagues.

- ***Harassment not found***

  the manager is expected to explain his/her reasons to the employee if they have found that harassment has not occurred or does not merit formal disciplinary action (for example explain why they considered that the alleged behaviour did not constitute harassment or that it did not take place)

  Also the manager is expected to discuss with the employee any aspects of their behaviour that may have contributed to the situation

If the Manager does not find that harassment has taken place, a recommendation should be made to the relevant line Managers to review the situation between the relevant employees over a period of time to check that effective working relationships are being met consider and take any reasonable action aimed at ensuring a productive future working relationship. Consider ways to cope with any hostility or strained work relationships after the case as soon as possible. Action may need to be taken to:

- protect employees from victimisation
- restore the reputation of anyone falsely accused
- relocate either the employee or the harasser, whichever is more appropriate
- offer training, counselling and support for all the employees involved.

Note:
It is important for managers, when coming to a decision, take account of the council-wide standards and values. To ensure that the decision is consistent with corporate practice, Managers should take advice (where necessary) from the Human Resources Operations Team.

9.6 Further Investigation Required

If further information is required, the Manager conducting the meeting should write to the complainant to advise them of the time-scale for the meeting to be reconvened. The Manager should keep the employee informed of progress prior to the reconvened meeting.

The employee should be given a minimum of 5 days notice of the reconvened Formal Meeting where the Manager will discuss with the complainant the outcome of the Formal Meeting in relation to their complaint.

9.7 Outcome of a Grievance

Once the Manager has decided which version of events he/she believes, the decision is whether the grievance is:

- Substantiated and what outcomes/ action(s) are required or whether the Disciplinary procedure is to be invoked

  OR

- Unsubstantiated

If the grievance is substantiated, further advice should be sought from Human Resources regarding the way forward. If a grievance is substantiated, depending on the nature of the grievance and the gravity, this may lead to a disciplinary action for the respondent. In this case, please seek further advice from the Human Resources Operations Team.

9.8 Giving the decision

The Manager conducting the meeting should reconvene the grievance meeting to:

- Inform the individual and the respondent of the decision
- Explain what the proposed action plan is to resolve the matter going forward
- Explain the right of appeal, if appropriate and how it operates
- Confirm the outcome of the meeting in writing normally within 5 working days of the date of the meeting, unless both parties are notified of any delay.

Any appeal must be lodged within 7 working days of the date of the decision letter.

Model Letter 7 – Confirmation of Decision taken at Stage 1 Formal Meeting

There may be certain situations where it is more appropriate to inform both parties of the outcome separately. If this is the case, ensure that there is no delay between telling one party and the other.

It is important that both the aggrieved and the respondent are supported, with regards to the outcome of the grievance, and that the decision is clearly explained, giving reasons. In order to ensure that working relations are adequate for the team/service to function effectively, a level of mutual agreement on any action points or changes for the future needs to be reached.

The Human Resources Operations Team must be informed of the decision and sent a copy of the letter informing both parties of the outcome.

9.13 Notifying other parties

The Manager who is conducting the Formal Meeting should notify any relevant Managers of the outcome of the complaint and any recommendations.

10.0 Stage 2 - Appeal

The purpose of the Appeal is to provide the employee with a further opportunity to have their complaint addressed. The Appeal will allow new information and the calling of witnesses.

10.1 Grounds for Appealing the Outcome

The employee must submit a written statement of appeal within 7 working days of the date of the decision letter to their Head of Service/Corporate Director.

Typically, the grounds for appeal may be as follows:

- The evidence did not support the conclusions of the Manager conducting the meeting – appeal against the outcome
- There was a procedural defect in the original meeting such that the meeting was unfair

- The time taken to progress the matter
- New evidence has come to light which needs to be heard in full

Model Letter 8 – Notification of Stage 2 Appeal Meeting

Once the employee is notified of the meeting details, they **must** provide details of their witnesses and their employee representative and attach all their documents (bundle) at least 3 working days before the date of the meeting, or by the date specified in the letter inviting them to the meeting whichever is the earliest. At this point they must confirm their attendance.

The employee should use the model letter 5 to remind them of the information they need to provide.

Model Letter 9 – Employee Response detailing Witnesses/ Representative/ Attaching Bundle

Any **witnesses** to be invited to the formal meeting should be written to using model letter 11

Model letter 12 – Invite for a witness to attend a formal meeting

- The format for the Appeal Meeting should be in line with the guidance set out in the Conducting a Formal Meeting Section.
- The Corporate Director/Head of Service conducting the Appeal Meeting should ensure that notes are taken of the appeal meeting.
- The Corporate Director/head of Service will hear any unresolved grievance and notify the employee and the respondent of the final outcome normally within 5 working days of the date of the appeal meeting or as soon as possible thereafter.

Model letter 10 – Confirmation of decision taken at Stage 2 Appeal Meeting.

At this stage the aggrieved employee and the respondent will be notified that the outcome is **final** and that this is the end of the grievance appeal process.

11.0 Post employment grievances

No further guidance. Please refer to 11.1-11.2 of the policy.

12.0 Grievances Raised During a Disciplinary Case

It may be that, at some stage during a disciplinary process, the individual raises a grievance. Careful consideration needs to be given as to whether the grievance

can be dealt with as part of the disciplinary process or should be dealt with separately under the Council's grievance procedure.

A grievance that is complaining about the fact the employee has been suspended, the fact that disciplinary action is being taken against them, the procedure being applied, or any of the individuals involved in the disciplinary process can normally be dealt with as part of the disciplinary process, i.e. the individual can make these complaints during the disciplinary formal meeting and they can be answered at the same time as the disciplinary allegations are being ruled upon.

For other types of grievances it may be necessary to suspend the disciplinary proceedings whilst the grievance is dealt with separately under the Council's grievance procedure. The main instance a grievance will need to be dealt with separately is when the individual is complaining about unlawful discrimination unrelated to the disciplinary proceedings they are facing.

If you have any doubts about the correct approach to dealing with grievances raised during the disciplinary process consult the Shared Services / HR Operations Team for your service area.

13.0 Collective grievances

No further guidance. Please refer to 13.1 – 13.3 of the Grievance Policy

14.0 Records

- It is important that Managers keep written records of the formal process of dealing with a complaint including any investigation reports and evidence, appeal papers, the outcome of the appeal and any subsequent developments.

- On completion of the case, Managers should ensure they forward any relevant paperwork in connection with the complaint/appeal to Shared Services / HR Operations to be filed in the Employee's personal file and/or the HR case management filing system.

- Records should be treated as confidential and kept in accordance with the Data Protection Act 1998, which gives individuals the right to request and have access to certain personal data. Managers will be advised by Shared Services / HR Operations according to each individual case.

- Under the Data Protection Act 1998, workers have the right to gain access to information that is kept about them including grievance records. Unless there is a legal obligation to do so, the Council need only disclose information about a worker where it concludes that in all the circumstances, it is fair to do so. This duty of fairness is owed primarily to the worker.

- In the case of confidential information provided by witnesses to any investigating officer, the Council will only disclose confidential information if

the individual has clearly agreed or despite the duty of confidence, the worker's interest or the wider public interest justifies disclosure.

- Notes should be taken at interviews held as part of an investigation/Formal Meeting and Appeal Meetings (this is not the role of Shared Services / HR Operations).

15.0 Confidentiality

No further guidance. Please refer to 14.1 of the Grievance Policy

16.0 Disability

If a disabled person raises a grievance, it is important to allow for any reasonable adjustments to be made throughout the grievance process. This may include ensuring that the employee has assistance in drafting the grievance statement, an additional support in the form of a sign language interpreter or to hold the formal meeting in a location that can accommodate a physical disability. Please contact Shared Services / HR Operations for advice on reasonable adjustments.

See Appendix 5 - Questions and Answers for employees for further information on the Grievance Policy and Procedure.

Appendix 1
STRICTLY CONFIDENTIAL

INVESTIGATION WRITTEN BRIEF

Type of Investigation	**GRIEVANCE**
Employee Name:	

1. **Specific Details of the Grievance/Complaints):**

2. **Objectives of the Investigation:**

3. **Relevant addresses and contact numbers:**

Name	Job Title	Address and Contact Details

5. Additional Information/Documentation:

Signed:	Date:	Manager (agree)
Signed:	Date:	Investigator (date received)

Notes:The investigation should commence within 1 week of receiving this brief. Investigators to inform the Commissioning Officer of progress on a regular basis. Investigations should wherever practicable be completed within 15 working days.

Appendix 2

CONFIDENTIAL

INVESTIGATION REPORT

GRIEVANCE INVESTIGATION

NAME, JOB TITLE, SERVICE;

DATE

Date	
Investigator(s)	

TABLE OF CONTENTS

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1. **Introduction**
2. **Grievance/Complaints**
3. **Disclaimer**
4. **Methodology**
5. **Summary of Recommendations**
6. **Background and Events Leading to the Allegations/Complaints**
7. **Chronology (or in Appendix)**
8. **Analysis and Findings**
9. **Conclusions**
10. **Recommendations**

Appendices

1
2
3
4
Etc

1. INTRODUCTION

1.1 Provide brief details of the author of the report, who has commissioned the report, when and under which procedure the investigation has been commissioned.

2. GRIEVANCE/COMPLAINT(S)

2.1 Record the specific grievance/complaints at this point referring to any letters that have gone out to the employee/from the employee and when[1]

3. DISCLAIMER

3.1 Include a disclaimer along the lines of "the conclusions reached in this report have been based on the material presented within the report. No additional material has been used. Additional information or evidence, of which I am currently not aware, may have affected the conclusions reached, for which I am not responsible for failing to take account of at the time of writing the report.

4. METHODOLOGY

4.1 Investigation objectives should be recorded as defined within the investigation brief eg:-

Investigation objectives:

To establish whether:

-
-

4.2 All interviewees should be recorded (including telephone interviews) – the initials should be inserted after each name and these will be the initials used throughout the report.

Eg:- Interviews took place with the following people:-

Name (Initials), Position, date interviewed, and a brief description of why interviewed, (include Appendix Number of where the record of the interview can be found)

4.3 If the investigator has not interviewed all individuals suggested by the 'subject' of the investigation the decision should be recorded in this section (including reasons e.g. character reference only)

4.4 List of files and documents inspected

The following records were examined (may include):

[1] Insert footnote references to detail the documents you are relying on as evidence, such as here you might include the grievance letter from the employee, letter to employee setting out the allegations, whether suspended etc.

- Letter of complaint
- Personal file
- Policies and Procedures/guidance notes etc referred to
- Other correspondence, emails, letters,
- Job descriptions, appraisal records

5 SUMMARY OF RECOMMENDATIONS

5.1 Based on the evidence provided as set out in section 4 above, I find that on the balance of probability uphold…partially uphold or not uphold the grievance/complaint.

6 DETAIL OF INVESTIGATION INTO THE SPECIFIC GRIEVANCE / COMPLAINTS(S)

6.1 BACKGROUND AND EVENTS LEADING UP TO THE GRIEVANCE/ COMPLAINTS

6.1.1 Include brief details of the "subject" of the investigation, their employment history, including current role, how long held, service area / location / work environment etc

Key responsibilities of the 'subject' of the investigation, (include job description as an appendix)

6.1.2 Include anything else to 'set the scene' for the reader - there is every chance that the reader will not have any knowledge of the service

6.1.3 If the service area uses many acronyms, consider the use of a small glossary at this point or including it as an appendix

Aim to keep this section approximately half a page in length or a full page for more complex cases

7 CHRONOLOGY

7.1 Chronological sequence of events (could go into the appendices if quite lengthy)

8. ANALYSIS/ FINDINGS

8.1 Organise the findings under each main allegation

- Avoid pages and pages of continuous text - break up with headings e.g. 'Working Relationships', 'Service Complaints', 'Performance Management', 'Shouting Incident - 31 May', 'Previous Management Action', etc… This makes the report easier to read.

Grievance/Complaint 1:

Sub heading

8.1

8.2

8.3

8.4

Sub heading

8.5

Grievance / Complaint 2:

Sub heading

8.6

8.7

8.8 etc……

- Avoid using vast extracts from statements - only quote directly from the statements where it is necessary, for example, to illustrate the use of language or if the response to a question shows a particular disregard for policy or respect for others. It is the investigator's responsibility to analyse all the statements and draw out all corroborative evidence.
- Investigators are not just fact finders - it is the investigator's responsibility to explain what the evidence means. Avoid 'he said, she said' reports - the reader should not be left trying to establish what all the facts mean.
- If the evidence is inconclusive or there is no evidence to substantiate an allegation - say so. The lead manager wants to know whether there is any evidence to support the allegations - it is also the investigator's responsibility to explain how significant the evidence is - this should come across throughout the report.
- It is important to note any mitigating factors e.g. lack of procedural guidance, management action or expected documentation and any other actions / behaviours which may have compounded or aggravated the situation.
- Using full names throughout the report can be very repetitive - always quote full name and job title the first time they are mentioned within the report - initials thereafter.
- In addition to the specific allegations the report should include any patterns of behaviour that may have some relevance.
- If specific actions demonstrate a breach of Council policy or service procedures - these should be noted throughout the report, where appropriate.

- If there are a number of allegations/complaints that are being investigated you may find it helpful to provide a summary conclusion after each allegation/complaint and then provide an overall conclusion in Section 9.

9. CONCLUSIONS

- This is where the investigator provides an overall fact based opinion on a) whether there is any evidence to support the allegations and b) the strength of the evidence.

- Support the conclusions with the strongest evidence without repeating the text in the main body of the report (where possible) - the conclusions should be clear and concise.

- The standard of proof for investigations and any disciplinary formal meeting/grievance meeting is 'on the balance of probabilities', not 'beyond reasonable doubt'.

- Identify to the reader the strengths and weaknesses in the evidence - emphasising the importance of any issues and where evidence can be open to different interpretation / scenarios.

- Draw out key facts which demonstrate particular breaches of policy e.g. Code of Conduct, Financial Regulations, service policies & procedures etc

- If there are any mitigating factors ensure that they are clear within the conclusions and it is important to explain their significance.

10. RECOMMENDATIONS

10.1 Possible outcomes include:

• No further action

• Counselling / Management Action or

• A formal meeting/ is required (If the investigator believes there is sufficient evidence to warrant consideration by a formal meeting, this should be indicated here).

End of report

11 Organisational Learning

Any recommendations relating to system, policy, procedural or management weaknesses should be reported separately. It is the manager's responsibility to ensure that these recommendations are discussed, agreed (with the investigating officer, if necessary) and where appropriate an action plan completed.

Appendix 3

FORMAL MEETING ARRANGEMENTS CHECKLIST

This checklist is to act as a reminder for the Service when arranging a formal meeting.

Action	**Who**	**Completed**
Collate contact list for all attendees		
Arrange dates (Allow 2 days for complex cases - HR to advise)		
Confirm cost centre for costs of Meeting		
Arrange location		
Location arrangements - Main room - 2 additional rooms - Investigating Officer & Witnesses - Employee & representative - Witness waiting room - Refreshments - Lunch - Parking/disabled parking Payment arrangements (invoices to be sent to etc)		
Arrange note taker		
Send arrangements confirmation to all		
Bundle arrangements - Obtain prepared bundle - Example contents attached - Send to all attendees (Special Delivery if required) - To arrive 5 days before Formal Meeting	HR	
Witness support - Investigating Officer/Manager to prepare/support their witnesses before, during and after formal meeting - Be aware of possible witness anxiety & reluctance - Take into account when arranging room for witnesses to wait in prior to Meeting - IO or manager to prepare/support their witnesses before, during and after Meeting		

Post meeting Actions - Support with decision letter (HR to assist) - Send decision letter normally within 5 working days of Meeting - Send to individual & copy representative (Special Delivery if required) - Bring forward receipt of minutes of formal meeting (Formal meeting Officer/HR) - Bring forward Appeal deadline receipt (HR)		
HR debrief – at next team meeting		
Management debrief (if necessary)		

Appendix 4

RECOMMENDED BUNDLE CONTENTS FOR FORMAL MEETINGS/ APPEAL MEETINGS

NOTE: The bundle is produced by Shared Services / HR Operations but only with the support of the manager who must instruct on document content over and above agreed content below.

1 Introduction

Title page
Index of contents
Index of participants at the formal meeting

- and their role e.g. A Smith – Investigating Officer
- see page XX of this toolkit for a list of responsibilities for each participant

2 Main body of report

Investigation Report and statements
Documents (e.g.: letters, e-mails) relating to Grievance

- Include formal written grievance, Invitation to formal meeting letter and any e-mail dialogue with the individual regarding the case
- If process & procedure being challenged can include Investigating Officer information

Relevant documents from personal file including:

- Contract of employment
- Job description/person specification
- Occupational Health reports

3 Policy

Include relevant policies e.g.: Grievance, Code of Conduct etc

---

4 Recommended format

Number pages for ease of reference
Separate sections (e.g.: with divider, coloured paper etc)

5 Copies to

Panel members
Investigating Officer
Individual concerned
Individual's representative
HR Support to Panel
HR Support to Investigating Officer (as applicable)
Note taker

6 Post - meeting – retrieval of bundle

Responsibility for this rests with the Note taker. Collect bundles after Meeting when no longer required and dispose of in confidential waste ONCE APPEAL PERIOD HAS ELAPSED.

HR to retain their copies for Appeal/ ET/archiving.

Appendix 5

Frequently Asked Questions and Answers

What is a Grievance?
A member of staff may at some time have problems or concerns about their work, working conditions or relationships with colleagues that they wish to raise with management. Such issues should be addressed by the line manager, and if possible, resolved. It is clearly in the Council's and employee's interests to resolve problems early before they escalate into major difficulties.

How should a grievance be managed?
Grievances are best dealt with at an early stage, informally, with the immediate line manager. If the line manager is the subject of the grievance, then the next line manager should be involved. It is expected that most issues can be dealt with and resolved as part of the normal day to day management processes and through discussion with relevant parties.

However, there are some instances where third party intervention is beneficial. Mediation, for example, is especially effective when used at the initial phases of any disagreement between individuals including relationship issues, communication difficulties as well as harassment, discrimination, victimisation and bullying complaints. It can offer an early resolution before the conflict escalates.

Please contact Shared Services / HR Operations for further details.

When should matters be taken down the formal route?
Where the informal route has been unsuccessful, or circumstances make this route inappropriate, matters should then be raised formally through the Grievance Procedure. The procedure meets the requirements of the ACAS Code of Practice and adheres to the laws of natural justice.

Is an investigation necessary?
Sometimes it may be necessary to investigate a grievance. Please contact your HR Adviser on a case by case basis to explore the appropriate action in any given case.

Who should be appointed as Investigating Officer?
The investigating officer will normally be an independent person who has not been implicated or involved in the case.

In some situations it may be appropriate to ask someone from outside the Service or the organisation to undertake the investigation. The Stage 1 Manager will decide on an appropriate investigating officer in conjunction with Shared Services / HR Operations, if necessary.

Carrying out an investigation can be time consuming and consideration should be given to whether the investigating officer has the ability and time to commit to such a process.

If an individual does not wish to attend a grievance meeting how would this be managed?
It is expected that the complainant should raise and discuss their grievance themselves supported by their representative/work colleague. It is considered that

there may be exceptional situations whereby an employee may submit a written grievance complaint for consideration, i.e. s/he does not attend the Grievance meeting in person. However, this would only happen in exceptional circumstances e.g. in cases of harassment where, for example, the complainant feels under the threat of violence. Employees are required to make reasonable efforts to attend formal grievance meetings.

How long is given for an employee to pursue a grievance?
Grievances raised under the procedure should normally relate to a particular event or series of events that have occurred within one month of the action or decision complained of or the last act or decision if the complaint relates to a series of liked events (unless there are exceptional circumstances). The Council aims to resolve grievance complaints without undue delay. However, on occasion Grievance Meetings need to be delayed/adjourned where an investigation is necessary. In such circumstances the complainant will be informed of the anticipated timescale for the investigation.

If a Grievance goes to a formal meeting what does the meeting involve?
The meeting will be heard by the relevant manager in relation to the stage of the grievance meeting. The primary function of the meeting will be to discuss the grievance and the desired outcomes with an ultimate aim of reaching a resolution. If the grievance remains unresolved it may then escalate to the next stage where the appeal will be heard.

Can an electronic recording of interviews, meetings and be taken?
No, neither the manager nor an employee can insist on making an electronic recording of any interview, formal meeting or appeal meeting.

In exceptional circumstances it may be appropriate to agree to a recording where the employee is disabled and requests such a recording as a reasonable adjustment to the usual procedure to enable them to cope with the process or where English is not the first language.

The usual course of action for producing a record of meetings is for another employee with note-taking skills to attend and take notes on a confidential basis. The employee and their companion are also free to take their own notes.

If the outcome of the meeting with the manager at stage 1 of the grievance procedure is unsatisfactory for the complainant can they appeal?
There is an appeal process (stage 2). Please refer to the relevant policy for timescales for appeal and who the appeal should be made to. Please note that if an appeal is submitted and heard the appeal decision is final.

I am being bullied – should I raise a grievance?
The Council recognises that it can be difficult to raise a complaint of harassment, bullying or victimisation whether on a formal or informal basis. The Council seeks to ensure that employees are able to raise any concerns, and to have them addressed appropriately.

Complaints made by Council staff may be addressed informally. Where this has not worked, or in cases where this is not appropriate, the formal grievance procedures can be followed.

Before any formal procedure is invoked alternative resolutions such as mediation should be considered and offered if appropriate. Shared Services / HR Operations Team can provide further guidance and support on this.

What other support is available?

There is support available for employees who feel they are being bullied or harassed via their line manager, HR, Occupational Health and /or Employee Assistance Programme.

We are going through a disciplinary procedure for an employee for poor performance, but in the middle of the disciplinary formal meeting, she has submitted a statement to the effect that she feels bullied by her line manager. We adjourned the meeting to consider whether this would be a grievance, and we think it is. Where does this leave us with the disciplinary procedure?

Where an employee has raised a grievance during disciplinary proceedings, you would need to consider whether the grievance may have an impact on the disciplinary before deciding on the next steps to be taken.

If the grievance is related to the disciplinary issue, for example, or if the evidence you are using for the disciplinary has largely been provided by the line manager this employee is complaining about, it is best practice to adjourn the disciplinary as you have done, and deal with the grievance through the normal procedure first. If you then uphold the grievance you may decide that no disciplinary action would be required, or a further investigation by a different manager would be required, or you could lower the level of warning that would be given as this may provide the employee with some mitigation to explain her behaviour.

If you do not find in the employee's favour on the grievance issue, you can then restart the disciplinary procedure knowing that you have not to consider this issue as mitigation, and that the matter has been addressed and resolved. If you decide that the grievance and disciplinary are completely separate issues, and the outcome of one will not impact on the other, you can deal with the issues side by side concurrently, although there would still need to be separate meetings. There is however, a possibility that to deal with the grievance procedure in this way could be quite confusing to manage so it may be practically more beneficial to wait until after the grievance procedure has been concluded before continuing with the disciplinary.

Does an employee have the right to see the meeting records?

Copies of meeting records should be given to the employee including copies of any formal minutes that may have been taken. In certain circumstances (for example to protect a witness) the employer might withhold some information.

Model Letter 1 – Acknowledgement of Formal Written Grievance

[Recipient's name]
[Recipient's address]
[Recipient's town]
[Recipient's postcode]

Dear

Grievance Procedure – Stage 1

I refer to your letter dated [date] and to our subsequent meeting on **[date]** where you raised a formal grievance regarding **[state issues in full].**

In accordance with the Stage 1 of the Council's grievance procedure, a copy of which is enclosed, I am arranging for your grievance to be investigated.

Where manager is to investigate

My intention is to meet with you first to explore the reasons for your grievance more fully and to gather relevant documentation you have in respect of your areas of concern. I should be pleased if you would arrange to meet me on [date, time venue]. Should you wish to have the date or time of the meeting changed for any reason, please let me know immediately. You have the right to be accompanied at the meeting by a work colleague or trade union representative. I will then interview other relevant parties.

Following completion of the investigation, I will determine whether it is necessary for a Formal Grievance Meeting to be convened. You will be notified whether or not this is the case.

Or

Where another manager, Council representative is to investigation

[name/designation] will arrange to meet with you to explore the reasons for your grievance more fully and to gather relevant documentation you have in respect of your areas of concern. . You have the right to be accompanied at the meeting by a work colleague or trade union representative. I will then interview other relevant parties.

Through out the course of the grievance procedure it is expected that all parties will maintain strict confidentiality and only discuss the case with those directly involved or their work colleague or trade union representative

I would like to reassure you that this matter is being taken seriously and will be dealt with in a fair and expedient manner. Should you have any queries or concerns, please do not hesitate to contact me.

Finally, the Company wishes to point out that no decision will be taken regarding your grievance until the investigation has been completed and you have had an opportunity to discuss your complaints formally at a grievance meeting.

Yours sincerely

Manager
Name and Designation

Encl Grievance Procedure

Copy to: Shared Services / HR Operations
Trade Union/Professional Association Representative

Model Letter 2 - Informing employee of grievance against them

Recipient's name]
[Recipient's address]
[Recipient's town]
[Recipient's postcode]

Dear [ ]

It is my duty to inform you that a grievance has been raised by another employee that [involves you/makes allegations against you].

The nature of the allegation(s) is: [give full details of the allegation(s)].

[In the meantime, the employee who has lodged the grievance is to be formally interviewed under the organisation's grievance procedure.]

I would like to assure you that management has not at this stage made any judgement on the validity of the grievance, and that the matter will be fully and impartially investigated before any decision is made as to what, if any, action needs to be taken. You will be given a full opportunity to provide your version of events at a properly convened investigatory meeting in the near future.

If the outcome of the grievance is that the complaint is dismissed, the employee who lodged the grievance has the right of appeal under the procedure.

If the employee's grievance is upheld (either following the formal meeting or after an appeal), and if there is evidence to support such a course of action, management will may instigate the organisation's disciplinary procedure against you. If this occurs, you will be fully informed of your rights under the disciplinary procedure at that time.

May I stress once again, however, that the above is a description of the organisation's procedures and processes for your information only, as no judgment or decision has yet been made on the merits of the grievance. You will understand that the organisation is under a duty to take all complaints seriously and to investigate them fully and fairly.

If you have any queries, or if you would like to speak to me about the matter, please call me on [number].

In the meantime, I enclose for your information copies of the organisation's grievance and disciplinary procedures.

Yours sincerely

Model Letter 3 – Stage 1 Interview Letter from Officer other than manager
(manager use Model letter 1)

[Recipient's name]
[Recipient's address]
[Recipient's town]
[Recipient's postcode]

Dear

Grievance Procedure – Stage 1 Interview

I refer to the grievance you have submitted and would like to arrange to meet with you on [date, time venue].

The purpose of the meeting is to explore the reasons for your grievance more fully and to gather any relevant documentation you have in respect of your areas of concern. You have the right to be accompanied at the meeting by a work colleague or trade union representative. I will then interview other relevant parties.

You will be given the opportunity to fully explain your grievance at this meeting. You will be questioned and your answers will be formally recorded in writing, which you will be required to verify as a true record of the interview. Following completion of the investigation, I will determine whether it is necessary for a Formal Grievance Meeting to be convened. You will be notified whether or not this is the case.

Through out the course of the grievance procedure it is expected that all parties will maintain strict confidentiality and only discuss the case with those directly involved or their work colleague or trade union representative

I would like to emphasise that, in accordance with the Council's Grievance Procedure, this matter will be dealt with in a fair and expedient manner. Should you have any queries or concerns, please do not hesitate to contact me.

Yours sincerely

Name and Designation

Encl

Copy to: Manager
Shared Services / HR Operations
Trade Union/Professional Association Representative

Model Letter 4 Outcome of Stage 1 Investigation- No Action Under Procedure

Recipient's name]
[Recipient's address]
[Recipient's town]
[Recipient's postcode]

Dear

Grievance Procedure – Stage 1

I am writing to confirm the outcome of the recent investigation into the following grievance submitted by you:

- **State Grievance**

Having completed the investigation, I have concluded that the facts of the case do not warrant a formal meeting. **Give details**

If appropriate
However a number of recommendations will be made which will be followed up and you will be given the opportunity to discuss these in depth with your manager.

I understand that this has been a difficult time for you but I would like to take this opportunity to thank you for your co-operation and your professionalism during this investigation.

Right of Appeal
You have the right to take this matter to Stage 2 of the Grievance Procedure should you not be satisfied with this outcome. If you wish to exercise this right, you should write to **[Head of Service or nominated senior officer]** within seven working days of the date of this letter. You should state the grounds for proceeding to Stage 2 (eg:- whether you are appealing against the decision that your grievance was unsubstantiated and the reasons for this).

Yours sincerely

Manager/Investigating Officer

Copy to: Manager
Head of Service/Corporate Director
HR
Trade Union/Professional Association Representative

Model Letter 5 – Stage 1 Outcome of Investigation – Invitation to Formal Meeting

Recipient's name]
[Recipient's address]
[Recipient's town]
[Recipient's postcode]

Dear

Grievance Procedure – Stage 1 Formal Meeting

Following the investigation into the grievance you raised, I am writing to confirm that a formal meeting will be held as follows:

Date:

Time:

Venue:

When the following will be considered:

- ***Detail grievance(s)***

The grievance will be presented by you or your representative. The management response will be presented by name of person (if anyone) who assisted with the investigation.

[name of person/designation who investigated the grievance if not the manager], will present the findings of his/her investigation.

The following witness(es) will be called to give evidence: (if any)

- ***Insert Names***

I will consider the matter and determine whether the grievance is substantiated and what action should be taken. I will be assisted by .[another manager and supported by [HR representative] in formal meeting the case.

The formal grievance meeting is designed to give you the opportunity to:

- Be represented by someone of your choice
- Put your side of events
- Call witnesses
- Question the evidence of witnesses

You will need to prepare for your grievance and arrange:

- For your representative to attend the formal meeting if you choose to be represented. Please ensure that you have checked with their manager that they have been given permission to attend.

- For any witnesses on your side to attend, and for the name(s) of your witness(es) and any documents to be in my office by **[date – at least three working days before the formal meeting]**.

Please confirm your attendance at this formal meeting, details of your representative and the names of your witnesses, using the attached model letter by **[date].**

If you should wish to have the date and time of the formal meeting changed for any reason, please let me know immediately.

The procedure to be followed will be that contained in the Council's Grievance Procedure, a copy of which has already been given to you.

Throughout the course of the grievance procedure, it is expected that all parties will maintain strict confidentiality and only discuss the case with those directly involved or their work colleague or trade union representative.

Please find enclosed the documents to be submitted to the formal meeting for the management response.

OR
The documents to be submitted for the formal meeting for the management response will be forwarded to you by **[date].**

Yours sincerely

Manager
Name/designation

Copy to: Manager
HR
Investigating Officer

Enc. Management response documents (if avail.)

Model Letter 6 – Stage 1 Formal Meeting / Employee response detailing witnesses/representative/attaching bundle

Recipient's name]
[Recipient's address]
[Recipient's town]
[Recipient's postcode]

Dear

Grievance Procedure – Stage 1 Formal Meeting

I refer to your letter of ***insert date*** stating the details of the Stage 1 grievance formal meeting and requesting details of my witnesses. I would like to confirm my attendance at this formal meeting on the ***insert date and time***.

I wish for ***insert name of representative*** to attend the formal meeting as my ***Trade Union Representative/work colleague*** (delete as appropriate). My representative works in **insert service area** as **insert your representative's job title** and I have contacted their line manager, **insert name and job title of manager**, to check that they have permission to attend the formal meeting.

I will be calling the following witness(es):

7 List witnesses and their service area and job title

Along with this letter, I have attached my documents (the bundle) and confirm that it will reach by ***(insert date stated in invite to formal meeting letter).***

Yours sincerely

Employee's Name

Copy to: Manager
Human Resources
Investigating Officer
Trade Union/Professional Association Representative

Model Letter 7 – Confirmation of decision taken at Stage 1 Formal Meeting

Recipient's name]
[Recipient's address]
[Recipient's town]
[Recipient's postcode]

Dear

Grievance Procedure – Stage 1 Formal Meeting

Following the formal meeting which you attended on [insert date] to discuss your grievance, I am writing to confirm the decision given to you verbally.

The formal meeting was held under the Council's Grievance Procedure when the following **was/were** considered:

- *Insert full details of grievance*

I carefully considered the facts presented to me including supporting documentation, copies of which are in your possession, before reaching the following **conclusion(s):**

That your grievance was substantiated/partially substantiated

That your grievance was unsubstantiated

[Explain findings in relation to each complaint made by the employee - be clear, brief and concise.]

As a result of these findings, I propose to take no further action.

[OR

As a result of these findings, I propose to take the following action:

[Summarise action to be taken.]]

You have the right to take this matter to Stage 2 of the Grievance Procedure should you not be satisfied with this outcome. If you wish to exercise this right, you should write to **[Head of Service or nominated senior officer]** within seven working days of the date of this letter. You should state the grounds for proceeding to Stage 2 (eg:- whether you are appealing against the decision that your grievance was unsubstantiated and the reasons for this).

Yours sincerely

Service Manager

Copy to: Manager
HR
Investigating Officer
Trade Union/Professional Association Representative

Model Letter 8 – Notification of Stage 2 Appeal Meeting

Recipient's name]
[Recipient's address]
[Recipient's town]
[Recipient's postcode]

Dear

Grievance Procedure – Stage 2 Appeal Meeting

Following your letter wishing to take your grievance to Stage 2 of the Council's Grievance Procedure, I have arranged for an appeal meeting to take place. The details are as follows:

Date:

Time:

Venue:

When the following will be considered:

- ***Detail grievance(s)***

Your grievance will be considered by me and I will be assisted on the panel by [another manager] and supported by [name of HR representative].

The management response will be presented by [name of person] supported by insert name of HR support (optional)

The following witness(es) will be called to give evidence: (if any)

- ***Insert Names***

I will consider the matter and determine whether the grievance is substantiated and what action should be taken.

The formal grievance meeting is designed to give you the opportunity to:

- Be represented by someone of your choice
- Put your side of events
- Call witnesses
- Question the evidence of witnesses

You will need to prepare for your grievance and arrange:

- For your representative to attend the formal meeting if you choose to be represented. Please ensure that you have checked with their manager that they have been given permission to attend.

- For any witnesses on your side to attend, and for the name(s) of your witness(es) and any documents to be in my office by **[date – at least three working days before the formal meeting]**.

Please confirm your attendance at this formal meeting, details of your representative and the names of your witnesses, using the attached model letter by **[date].**

If you should wish to have the date and time of the formal meeting changed for any reason, please let me know immediately.

The procedure to be followed will be that contained in the Council's Grievance Procedure, a copy of which has already been given to you.

Throughout the course of the grievance procedure, it is expected that all parties will maintain strict confidentiality and only discuss the case with those directly involved or their work colleague or trade union representative.

Please find enclosed the documents to be submitted to the formal meeting for the management response.

OR
The documents to be submitted for the formal meeting for the management response will be forwarded to you by **[date].**

Yours sincerely

Head of Service/Corporate Director
Name/designation

Copy to: Manager
HR
Investigating Officer
Trade Union/Professional Association Representative

Enc. Management response documents (if avail.)

Model Letter 9 – Stage 2 Appeal Meeting / Employee response detailing witnesses/representative/attaching bundle

Recipient's name]
[Recipient's address]
[Recipient's town]
[Recipient's postcode]

Dear

Grievance Procedure – Stage 2 Appeal Meeting

I refer to your letter of ***insert date*** stating the details of the Stage 2 appeal meeting and requesting details of my witnesses. I would like to confirm my attendance at this formal meeting on the ***insert date and time***.

I wish for ***insert name of representative*** to attend the formal meeting as my ***Trade Union Representative/work colleague*** (delete as appropriate). My representative works in **insert service area** as **insert your representative's job title** and I have contacted their line manager, **insert name and job title of manager**, to check that they have permission to attend the formal meeting.

I will be calling the following witness(es):

- **List witnesses and their service area and job title**

Along with this letter, I have attached my documents (the bundle) and confirm that it will reach by ***(insert date stated in invite to formal meeting letter).***

Yours sincerely

Employee's Name

Copy to: Manager
Human Resources
Investigating Officer
Trade Union/Professional Association Representative

Model Letter 10 – Confirmation of decision taken at Stage 2 Appeal Meeting

Recipient's name]
[Recipient's address]
[Recipient's town]
[Recipient's postcode]

Dear

Grievance Procedure – Stage 2 Appeal Meeting

Following the formal meeting which you attended on [insert date] to discuss your grievance, I am writing to confirm the decision given to you verbally.

The formal meeting was held under the Council's Grievance Procedure when the following **was/were** considered:

- *Insert full details of grievance*

I carefully considered the facts presented to me including supporting documentation, copies of which are in your possession, before reaching the following **conclusion(s):**

That your grievance (insert detail) was not upheld

That your grievance (insert detail) was upheld

[Explain findings in relation to each complaint made by the employee - be clear, brief and concise, and say how they have been taken into account in the decision.]

The Appeal Panel's decision is final and concludes the grievance process

Yours sincerely

Head of Service/Corporate Director

Copy to: Manager
Head of HR
Investigating Officer
Trade Union/Professional Association Representative

Model Letter 11 - Employee who has failed to attend grievance meeting

[Recipient's name]
[Recipient's address]
[Recipient's town]
[Recipient's postcode]

Dear [ ]

Option 1 - first failure to attend grievance meeting

I refer to our letter dated [date] inviting you to attend a grievance meeting at [date, time and location]. The grievance meeting [was to take place/took place] at [location] on [date] at [time], but you did not attend.

It is very important that we discuss your grievance with you. [We understand that there are extenuating circumstances that explain your absence.] You are therefore now invited to attend a rearranged grievance meeting at [location] on [date] at [time]. The purpose of the meeting remains the same. It is to allow you to explain your grievance and discuss with us how it can be resolved. You retain the right to be accompanied at the meeting by a fellow worker or trade union official of your choice.

Should you have any queries about this process, please let me know and I will be happy to discuss the arrangements in detail with you.

Option 2 - subsequent failures to attend grievance meeting

I refer to our letter dated [date] inviting you to attend a grievance meeting at [date, time and location]. On [date] [you/the Company] requested to reschedule this meeting due to [reason]. The rearranged grievance meeting [was to take place/took place] at [location] on [date] at [time], but you did not attend.

It is very important that we discuss your grievance with you. [We understand that there are extenuating circumstances that explain your absence.] You are therefore now invited to attend a further rearranged grievance meeting at [location] on [date] at [time]. The purpose of the meeting remains the same. It is to allow you to explain your grievance and discuss with us how it can be resolved. You retain the right to be accompanied at the meeting by a fellow worker or trade union official of your choice.

[OR

As this is the [second] time that you have failed to attend the rearranged grievance meeting without good reason, we are now treating your grievance as withdrawn.

OR

As this is the [second] time that you have failed to attend the rearranged grievance meeting, we had no option but to go ahead with the meeting in your absence. The decision has been made on the basis of what you said in your written grievance and the evidence gathered about your grievance.

After considering carefully all the evidence, I have concluded that [explain findings in relation to the grievance]. As a result of these findings, I propose to take [no further action/explain what action will be taken if all or part of the grievance is upheld]. Full details and minutes of the formal meeting will be provided to you in due course.

I hope that this resolves the matter that you have raised. However, if you wish to appeal, you may do so by setting out your grounds of appeal to me in writing by [deadline for appeal]. Should you wish to appeal, a further meeting will be held with [insert name and title of manager who will hear any appeal].]

Should you have any queries about this process, please let me know and I will be happy to discuss the arrangements in detail with you.

Yours sincerely

Copy to:- Manager
HR
Investigating Officer
Trade Union/Professional Association Representative

Model Letter 12 – Invite for a Witness to attend a Formal Meeting/Appeal Meeting

Address
Date

Dear

Grievance Procedure
Invite to a Grievance meeting as a Witness

Further to our conversation on ***insert date***, thank you for agreeing to attend as a witness at the following grievance meeting:

Date:

Time:

Venue:

Please ask for ***insert name*** on arrival. We will ask you to wait in a separate room until you are called into the meeting. The Investigating Officer will support you during this process. You should expect to be with us for ***insert time frame***. Unfortunately we are unable to give you a definite time slot for when you will be needed due to the nature of the meeting.

Throughout the course of the grievance procedure, it is expected that all parties will maintain strict confidentiality and only discuss the case with those directly involved or their work colleague or trade union representative.

A copy of your witness statement is attached to this letter.

We understand that this may be a stressful time for you and we are grateful for your co-operation in this process.

If you have any queries, please contact ***insert name, designation*** on ***insert telephone number.***

Yours sincerely

Investigating Officer
Name and Designation

Copy to: Manager
Human Resources
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