

Grievance Procedure

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1.0 Purpose

The Council recognises that from time to time employees may have problems or concerns about their work, working environment or relationships with colleagues that they wish to raise and successfully resolve. The purpose of this grievance procedure is to provide the Council with a robust mechanism to deal with these issues quickly, consistently and fairly. This procedure is produced in line with the ACAS Code of Practice 2009 as set out in the Employment Act 2008.

2.0 Scope

The Council expects that grievances will be raised as soon as practically possible after the occurrence that led to the grievance, and without unreasonable delay (i.e. normally within 20 working days and not more than 6 months after the event). It provides an agreed procedure to enable employees to seek redress for any grievance that might arise in relation to their employment, subject to the exceptions as below:

- Disciplinary and dismissal matters.
- Questions relating to statutory adjustments to pay and allowances (e.g. income tax, national insurance, occupational pension scheme and statutory sick pay).
- National agreements (other than local interpretation)
- Grading issues.
- Personal matters not directly related to employment or conditions of service.

Whilst the Council will aim to respect confidentiality of any employee's concerns or complaints there are occasions that, as part of its duty of care, or legal responsibilities the Council reserves the right to investigate and take forward matters without their consent e.g. discrimination, theft etc.

In addition, where employees' concerns relate to colleagues, the Investigating Officer may need to talk to those colleagues but will not do so without telling the employee first. If the employee is not prepared for their grievance to be dealt with in this way (for example because they wish to preserve their anonymity) then the Council may not be able to investigate the grievance or resolve the matter.

3.0 Policy Statement

The procedure covers all employees of the Council, other than those whose post forms part of the establishment of a school. There is a separate procedure for schools based staff and employees are referred to the schools Personnel Handbook.

This policy is designed to encourage free and open communication between employees and their line managers to ensure that concerns, questions and problems arising during the course of employment can be aired and, where possible resolved quickly and to the satisfaction of all concerned. The Council recognises that there will be a small number of issues which are not resolved through informal means and this policy aims to provide a clear formal route to enable employees to pursue matters further if necessary.

Shropshire Council will:

- At every stage in the procedure the employee will be given the opportunity to state their case before any decision is made.
- Ensure that grievances will be dealt with promptly and consistently
- At all formal stages the employee will have the right to be accompanied by a work colleague or trade union representative during the Grievance Hearing.
- Make sure that an employee will have the right to appeal against any outcome of a Grievance Hearing.
- At no time will an employee be penalised or victimised for having raised a Grievance against the council
- Provide support via Occupational Health and the external counselling service via NOSS.

This procedure has been agreed between the Council and the recognised trade unions.

3.1 Partnership/Joint Working

Shropshire Council employees seconded to work for, or who are employed by Shropshire Council to work in partnership organisations, or who work in joint or multidisciplinary teams remain entitled to raise grievances using the Council's grievance procedure. Wherever possible Grievances will be heard by Shropshire Council managers. Grievances may be investigated by managers employed by other organisations with whom the Council work in partnership. Somebody employed by another organisation e.g. A Town Council, but seconded or working within a Shropshire Council team would have access to their own employing organisation's grievance procedure.

4.0 Procedure

The Council will assume that all grievances are raised in good faith and will not penalise or victimise any employee for raising a genuine grievance or supporting another employee through the grievance process. In the unlikely event that a

complaint is judged to be frivolous, malicious or vexatious, the employee raising the grievance may be subject to disciplinary action, if this can be reasonably established. Under this policy an employee may not raise a grievance anonymously – this would hamper the investigation and consideration of the case and may prevent the subject of the complaint from responding effectively to the allegation. In very exceptional circumstances, where the employee has a genuine fear of the consequences of being identified as the complainant, they should contact HR for advice. However, a complaint can be raised anonymously under the Council's Confidential Reporting Framework/Whistle-blowing Policy.

The Grievance Procedure comprises of the following stages:

- Informal Resolution
- Formal Stage 1 – The Grievance Statement
- Formal Stage 2 - Appeal
- Formal Stage 3 - Final Review

4.1 Informal Resolution

The formal Grievance process can be very difficult and can have an impact on the health and well-being of the parties involved, and it may be very difficult to restore good working relationships following an outcome. It is therefore strongly recommended that in the first instance the employee should try and resolve the concern or issue informally through their line manager. This may be through the mechanism of the personal development review, one to one meetings, regular supervision meetings, requesting a specific meeting with their manager or through day-to-day interactions between themselves and their manager. Dealing with grievances in this way can often lead to the quickest and most effective resolution.

In cases where the victim finds the situation particularly difficult and is not comfortable with having a meeting face to face, a colleague or trade union representative can speak on the victim's behalf as long as the victim is both present in the meeting and in full agreement.

Employees should be able to resolve the majority of workplace issues in this manner without recourse to invoking the formal procedure. If this is not possible because the grievance is about the line manager, then the employee should approach the line manager's manager or a member of HR Advice & Projects Team.

4.1.1 Mediation

If the problem concerns relationship difficulties and/or conflict, it is strongly recommended that the employee and their line managers consider mediation as a way of resolving conflict. The HR Advice and Projects Team is able to offer a trained mediator to assist with this.

Mediation is a confidential, informal and voluntary process which provides both parties, with the help of the mediator, the time and space to listen to each other in a 'safe environment' with the aim of achieving solutions that are acceptable to both parties.

The mediator acts as a neutral third party whose role is not to apportion blame but to enable the parties involved to come to an agreement.

Please contact the HR Advice and Projects Team on ask.hr@shropshire.gov.uk for further information or for a confidential discussion of what mediation involves.

N.B. Line managers have an important role to play in encouraging employees to consider mediation first before submitting a formal Grievance. Even if an employee has submitted a formal Grievance, the manager should ask them to consider mediation first before the formal process starts.

A Trade Union can also be called upon in these instances to help to resolve the matter at this stage.

4.2 Formal Procedure:

Where an employee has attempted to resolve their complaint or issue informally with their manager but remains dissatisfied they have the right to invoke the formal grievance procedure which is explained below.

4.2.1 Stage 1. The Grievance Statement

- The employee must put their complaint in writing, using the Grievance Register Form, (Appendix 1) within a reasonable period from when their issues arose (i.e. not more than 6 months), stating the substance of their grievance and detailing any other relevant information or evidence needed to support their complaint. The employee should also outline what outcome they are seeking as a resolution to the complaint. Should for any reason, the employee have any difficulty in expressing themselves in writing (for example by virtue of disability, difficulties with reading and writing, or because their first language is not English) they may ask their trade union representative or a workplace colleague for assistance in preparing the complaint, or speak to a member of the HR Advice and Projects Team for further advice.
- The Grievance Register Form and any accompanying paperwork/evidence should be forwarded to the employee's line manager with a copy to HR Advice and Projects Team (for information)
- In cases where the employee's complaint is against their immediate line manager, the employee should provide the written grievance to the manager of their line manager. Again a copy should be provided to HR Advice and Projects Team (for information)
- A member of HR Advice and Projects Team will be assigned to the grievance and will attend the meetings to provide any necessary advice or guidance.

It should be noted that an employee will not be permitted to demand disciplinary action, including dismissal, to be taken against another employee as the resolution to their grievance. The grievance process will conclude whether the disciplinary policy should be invoked and only the subsequent disciplinary investigation will conclude whether any disciplinary action should be taken.

4.2.2 The Grievance Meeting

- On receipt of the Grievance Register Form the manager (with support from a member of the HR Advice and Projects Team) will write to the employee inviting them to the meeting with their manager to formally discuss the grievance and informing them of their right to be accompanied by a trade union representative or work place colleague.

- This meeting should be arranged as soon as possible without unreasonable delay but ideally within 10 working days. The overriding purpose of the meeting is to enable the manager to fully understand the nature of the grievance and to explore with the employee how the grievance might be resolved amicably for all concerned. Ideally grievances should be resolved at that first meeting and the employee informed of the outcome and any proposed actions.

As soon as possible and, in any event, within ten working days of the meeting, the line manager will give the employee(s) a written response. This response may be a preliminary one if the grievance needs more detailed consideration but the employee will be told what is happening and how long it may be before a final response can be expected. The final response should be sent to the employee(s) no later than three months from the initial receipt of the written description by the manager. In the event that it is unlikely that a final response will be available in that time, then the appropriate Director and employee will need to be notified of the reason for the delay.

The final written response at this first stage should include:-

- a summary of the grievance;
 - appropriate details of the investigation;
 - the decision on the matters raised;
 - the reasons for the decision;
 - if the grievance has been upheld, wholly or in part, what necessary steps will be taken;
 - what further steps are available to the employee, within this procedure, if they remain aggrieved.
- At the end of any investigation the manager will meet with the employee again to inform the employee of the outcome and the proposed actions, if any.
 - Whether the grievance is resolved at the first meeting or after an investigation a letter will be issued to the employee; this should be done without unreasonable delay and will ideally be sent within 10 working days of the meeting. The letter will include a record of the meeting, the findings regarding the grievance and any proposed action arising from the grievance, or agreed outcome. The letter will also inform the employee of the next stage that they can take if they remain dissatisfied with the outcome and certain specific criteria are met as outlined in the section headed "Formal Procedure: Stage 2 – Appeal".
 - Any employee who is the subject of a grievance will also be issued with a letter outlining the findings.
 - Options for resolving a grievance may include, but are not limited to:
 - That no further action is to be taken: or
 - That Informal Action may be required: e.g. counselling, mediation, mentoring. keeping under review, management action, training, etc.:
 - Changes in working practice;
 - Issuing or clarifying guidance in relation to working practices, policies or procedures;

- Provision of training or other support for the complainant or other employees including mediation;
 - An apology from the identified person/s where responsibility for a particular situation can be clearly established;
 - Disciplinary proceedings against another employee where responsibility for a particular situation can be clearly established
- A record of the outcome of the grievance meeting(s) will be held on the employees personnel file

4.2.3 Formal Procedure: Stage 2 - Appeal

Following the outcome of Stage 1; where the employee feels that all information relating to the grievance has not been duly considered, did not receive a response within the timescales outlined above or that new information has come to light in support of their original grievance they can request for their grievance to be referred to a more senior manager for further consideration. Being discontent with the outcome of Stage 1 is not, in itself, a reason to move to Stage 2 of the Grievance process. The manager hearing this meeting will be a manager more senior to the one that heard the Stage 1 meeting and may be a Departmental/Service Manager or Head of Service.

- In the first instance, the employee should complete Grievance Form 2, (appendix 3) detailing the reasons why they wish their grievance to be re-considered and send to HR Advice and Projects Team with any new supporting evidence and a copy of the Grievance Form 1. Wherever practical this must be done within 10 working days of receipt of the letter detailing the outcome from Stage 1 of the process.
- When an appeal has been lodged outside of the 10 working days, it will be for the employee to detail why the appeal has been submitted outside of the recognised timeframes. Where the appeal is against a finding / set of findings that has been investigated, then the authority reserves the right not to hear such appeals based on the employees explanation. Appeals submitted regarding timeframes for the Council to respond to a grievance will be heard with the intention that a response is provided as soon as possible and not to hear the details of the grievance.
- Copies of all correspondence relating to the grievance so far will be collated by HR Advice and Projects Team and forwarded to the senior manager handling Stage 2 of the grievance. Again where the grievance relates to another employee that individual will be kept informed of the proceedings.
- HR Advice and Projects Team will arrange to meet with the employee and the appropriate manager. Wherever practical, the meeting will normally take place within 10 working days of receipt of the Grievance Form 2 and the accompanying paperwork, but otherwise without unreasonable delay.
- The Senior Officer will write to the appellant within 10 working days of receipt of the letter of appeal inviting them to a meeting. They will inform the appellant of their right to be represented by either a trade union representative or a

colleague. The meeting will be arranged as soon as practicable and no later than five weeks after the receipt of the appeal, giving each party at least 5 working days' notice of the date, time and venue.

- The employee will receive a letter inviting them to the meeting and, as with stage 1, the employee has the right to be accompanied by a work place colleague or Trade Union representative.
- Following the meeting the senior manager will write to the employee detailing the outcome of the meeting and proposed resolution. (Note the potential options for resolution detailed in the section on stage 1). The letter will usually be sent within 5 working days of the meeting, without unreasonable delay. A copy of the letter will be held on the employees personnel file. Again any person who is the subject of a grievance will also be informed of the outcome.

4.2.4 Formal Procedure Stage 3: Appeal Hearing

In the majority of cases, the Stage 2 appeal meeting would satisfactorily resolve the grievance. However there is a final stage and this Final Review would only be invoked on the grounds that there is substantial new evidence in support of the employee's original grievance or that the employee can objectively demonstrate that the earlier stages have resulted in a decision that is inconsistent with the evidence submitted so far. The Senior Officer will be supported by a Human Resources Officer, not connected with the earlier stage. If the Senior Officer has been involved in an earlier stage of the grievance then another Senior Officer of an equal or higher level will hear the appeal.

- If the employee wishes to seek a final review they should write to the Head of HR Services clearly setting out the grounds of the appeal and enclosing a copy of the original complaint and Grievance Register Form.
- Wherever practical, this should be within 5 working days, without unreasonable delay of receiving the outcome of the Stage 2 appeal meeting.
- This review will be conducted by a member of the Leadership Team and will involve a review of all relevant documentation.
- The purpose of the Appeal Hearing will be to:
 - establish the facts
 - provide the appellant with the opportunity to make representations regarding the reasons for their appeal
 - enable the respondent to the case to provide a response either in person or from any written statements submitted
 - make a final decision on the case after considering the evidence given
 - ensure all parties are notified in writing of the findings of the appeal within 10 working days of the meeting
 - decide whether any further action is necessary as a result
- The member of the Leadership Team undertaking the review may, on occasions, wish to meet with the employee or any other persons concerned with the grievance. If this is the case HR Services will write to the employee/any other persons to arrange the meeting.

- As with any formal stage, the employee/any other persons have the right to be accompanied by a work place colleague or Trade Union representative.
- Following the review the employee will be issued with a letter detailing the outcome. The letter will usually be sent without unreasonable delay, usually within 5 working days of completion of the review. A copy of the letter will be held on the employees personnel file.

This is the final stage of the formal grievance procedure and the decision of the member of The Leadership Team is final.

4.3 Grievances about Other Employees

If the complaint concerns a colleague, that individual will be informed in writing of any complaint made against them. The individual will be told in writing about the nature of the grievance, that it is being investigated under the formal procedure, that they will have the chance to give their version of events and provide any appropriate documentary evidence. They will also be entitled to have information about the outcome in writing.

All parties will be required to co-operate with any investigation that may be necessary, will have the right to be accompanied to any formal meetings and will be notified of the outcome. Failure to co-operate with an investigation may lead to disciplinary action. All parties should be open to the idea of mediation as a means of resolving the dispute.

4.4 Right to be accompanied: The role of the companion

The employee has a right to be accompanied to formal meetings under this procedure either by a Trade Union representative or a work place colleague.

- When choosing a companion the employee should avoid nominating someone whose presence may prejudice the hearing or who might otherwise have a conflict of interest.
- It would be unreasonable for an employee to ask to be accompanied by a companion from a geographically remote location if someone suitable and willing was available on site.
- A person requested by an employee to accompany them does not have to do so. However, where a person does agree to accompany an employee to their grievance meeting the companion will be permitted time off work to do so.
- Anyone who agrees to accompanying an employee must be aware that anything they see or hear during the meeting (s) must remain confidential and must not be discussed with any third party.
- Where the employees chosen companion is not able to attend the date agreed for the grievance meeting, an alternative date should be proposed by the employee, this would normally be within 5 days from the date the grievance meeting was arranged.

As far as reasonably possible, the location and timing of any meeting will be convenient to the employee, the companion and the manager.

- The companion will be allowed to address the grievance meeting to put forward and sum up the employees case, respond on behalf of the employee to any views expressed during the meeting and confer with the employee during the meeting. The companion does not, however, have the right to answer questions on behalf of the employee, address the meeting if the employee does not wish it or prevent the hearing manager explaining the case. An exception will be made in special circumstances such as situations where a person has difficulty in conducting their own case because of their disability or because their first language is not English.

The Council can reject an employee's choice of companion (including Trade Union Representatives) in exceptional circumstances if it is unreasonable for him or her to request to be accompanied by that person. This may be the case, for example, if the companion is involved in the proceedings, or because he or she will not be available for a meeting for a substantial length of time.

5.0 Post-Employment Concerns

There are specific and separate appeal procedures relating to dismissal and redundancy. The grievance procedure should not be used in these instances except where the issue relates to a dispute regarding the payment or non-payment of redundancy pay.

There is no formal procedure to raise a grievance for employees who have left Shropshire Council. Where an employee has left the Council and has concerns, they should write to their former line manager setting out the reasons for them. The Manager should then contact the HR Advice & Projects Team who will review the concerns with them and decide how to take things forward. The same principal will apply for employees who have left the Council, and rejoin at a later date in the same or a different role, but wish to raise a grievance regarding their first period of employment.

6.0 Records

It is important to keep written records during each part of the grievance process. The records retained will include:

- the nature of the grievance raised
- a copy of the written grievance
- the Councils response
- action taken
- reasons for action taken
- details of the final review and the outcome reached

All records will be kept confidential and retained on the employees personnel file, both electronic and hardcopy, in accordance with the Data Protection Act. These will be kept in line with the council retention policy (available on the intranet).

7.0 Responsibilities

7.1 Employees

- Adhere to the guidelines and procedures of this policy

- Maintain confidentiality throughout the process
- Give full, honest and open information
- Raise concerns at the earliest opportunity
- Actively seek resolution
- Co-operate with any investigation
- To be open to mediation as a means of resolving their grievance
- To have realistic expectations of what can or cannot be achieved by raising a grievance

7.2 The Council

- To give consistent, fair and reasonable treatment of grievance matters
- To act promptly when potential grievance matters arise
- To investigate the facts appropriately before taking action under the formal part of this procedure
- To allow the right to be accompanied by a workplace colleague or trade union representative to formal meetings at each stage of the procedure
- To give reasonable notice of any grievance meetings which will take place at a reasonable time and location
- To give the right of appeal against grievance action taken
- To advise an employee if an allegation has been made against them and keep them updated as/if the grievance process progresses

7.3 Managers

- Adhere to this policy and procedure
- Identify issues early and seek to resolve informally as soon as possible
- Seek professional advice from HR Advice and Projects team in a timely manner
- Conduct a fair and objective process and investigation
- Set an example through their own good conduct and behaviour

7.4 HR Advice and Projects Team

- Advise and support both the Manager and individual on the grievance process
- Advise and support the employee(s) who are subject to the grievance
- Work with Managers to ensure a fair and objective process and investigation
- Be present in any formal grievance meeting to act as an impartial advisor.

7.5 Trade Union

- Work with managers and support employees during the process
- Be available to undertake the role of 'The Companion' when asked

7.6 Investigating Officer

- An investigating officer will be responsible for seeking to resolve the employee's grievance by meeting the employee, listening to their concerns identifying the key issues, using mediation where appropriate and identifying appropriate actions. Where necessary to address the issues raised in the grievance the investigating officer may, at their own discretion, implement a full investigation and may, at their own discretion, undertake to prepare a full written report of their findings – subject to the seriousness and/or complexity of the case and in consultation with HR Advice and Projects Team.

8.0 Other Sources of Information

- Capability policy
- Disciplinary policy
- Attendance Management policy
- Harassment policy
- Confidential Reporting Framework
- Whistleblowing
- Redundancy policy
- Pay and grading policy

9.0 Review Statement

Save as required by law, the Council reserves the right to periodically review this policy. Any amendment to the policy will be subject to consultation with the appropriate unions.

	Approval date
Policy Forum	14 July 2016
EJCC	29 July 2016