

Grievance policy and procedure

This policy forms part of your contract of employment. The councils are entitled to introduce minor and non-fundamental changes to this policy by notifying you of these changes in writing and will consult all employees on any significant changes.

This policy applies to all council employees. It does not apply if you are not employed directly by Vale of White Horse or South Oxfordshire District Council, for example if you work for a partner organisation, are a casual worker, or working at the councils through a recruitment agency.

INTRODUCTION

1. As an employee you should be treated fairly and with respect during your time at work. This policy outlines what you should do if you have a problem or concern with your work or your employment with the councils.

RAISING CONCERNS INFORMALLY

2. Your first step should always be to try and resolve any concerns you have informally. Most problems can be raised and settled within the course of everyday working relationships and taking this approach also enables concerns you have to be addressed quickly.
3. If you are unhappy about any aspect of your work, you should discuss this with your line manager, who will attempt to resolve the situation on an informal basis. If you feel unable to approach your line manager directly, you could approach a different or more senior manager, a member of the HR team, or a UNISON representative if you are a member of UNISON, who will discuss how to address the matter with you.
4. If informal conversations do not resolve your concern, it may be appropriate for you to consider other approaches.

MEDIATION

5. In some cases a third party or mediator may be used as part of an informal resolution to help facilitate a conclusion that previous informal discussions have not been able to bring about. Mediation is a voluntary process where

the mediator helps two or more people in dispute to attempt to reach an agreement. Any agreement comes from those in dispute, not from the mediator. The mediator is not there to judge, to say one person is right and the other wrong, or to tell those involved in the mediation what they should do. The mediator is in charge of the process of seeking to resolve the problem, they are not there to provide the resolution itself. Mediators may be internal employees or external to the organisation.

6. Mediation will not always be appropriate and should not be used as a first resort – people should be encouraged to speak to each other and talk to their manager before they seek a solution via mediation. Alternatively, mediation may be introduced at some point during or after a formal procedure.

RAISING A FORMAL GRIEVANCE

7. Where attempts to resolve a matter informally do not work, it may be appropriate for you to raise a formal grievance under this policy.
8. Grievances may be concerned with a wide range of issues, including:
 - the allocation of work
 - your working environment or conditions
 - the opportunities that you have been given for career development
 - the way in which you have been managed
 - you feel you are being bullied, harassed or discriminated against
9. Issues not covered under the procedure include:
 - issues that are the subject of collective negotiation or consultation with the trade unions
 - an attempt within twelve months of the completion of action under the grievance policy to restart the procedure in respect of the same or similar grievance unless any action decided upon by management to redress that grievance has not been implemented
 - a grievance about a matter over which the council has no control
 - a complaint that is more suitably dealt with through another policy, for example the whistleblowing or anti-fraud and corruption policy, or the councils' complaints procedure. The manager receiving the grievance will normally make a decision on this, in conjunction with a member of the HR team.
 - if you have a complaint about any disciplinary action taken against you

this will normally be dealt with as an appeal under the disciplinary procedure.

- if your complaint is part of a group complaint or grievance this may be dealt with under the employee relations arrangement between the councils and Unison, our recognised trade union.

THE PRINCIPLES OF THIS POLICY

10. The basis of this policy is that you should:

- be given a fair hearing by your immediate manager (or another manager if appropriate) concerning any grievance you raise
- have the right to appeal to a more senior manager against the outcome of a grievance hearing
- have the right to be represented by a trade union representative or colleague of your choice if you raise a grievance or appeal against the outcome
- a grievance should be settled as quickly as possible for the benefit of everyone involved.

THE FORMAL GRIEVANCE PROCEDURE

11. A formal grievance procedure can be a stressful and upsetting experience for all parties involved. Everyone involved in the process is entitled to be treated calmly and with respect. The organisation will not tolerate abusive or insulting behaviour from anyone taking part in, or conducting, grievance procedures and may treat any such behaviour as misconduct under the disciplinary procedure.

MAKING A COMPLAINT

12. The first stage of the formal grievance procedure is for you to put your complaint in writing. This written statement will form the basis of the subsequent hearing and any investigations, so it is important that you set out clearly the nature of your grievance and indicate the outcome that you are seeking. If your grievance is unclear, you may be asked to clarify your complaint before any meeting takes place. If English is not your first language and you feel you need help writing this statement, please contact your HR representative who can arrange for you to receive help from a translator.
13. Your complaint should be headed "formal grievance" and sent to your line manager. If your complaint relates to your line manager, the complaint should be sent to your line manager's manager.

14. Further attempts may be made to resolve the matter informally, depending on the nature of your complaint. However, if you are not satisfied with the outcome, you may insist on the matter proceeding to a full grievance hearing.
15. The usual process will be that the person who has received your formal complaint, or a more senior manager, will arrange a hearing and act as chair in this hearing. The hearing will be held without unreasonable delay and, subject to the availability of those involved, within ten working days of the receipt of your written complaint.
16. The chair of the hearing will normally respond to you in writing within five working days of the receipt of your letter. The letter will:
 - state the time and place of the hearing, giving at least five working days notice
 - inform you who will chair the hearing
 - outline that you have the right to be accompanied by a colleague or trade union representative at the hearing
 - ask you to submit any documents supporting your case to the HR representative at least two working days (48 hours if the period does not include a weekend or bank holiday) in advance of the hearing so that these documents can be referred to in the meeting.
17. Usually the chair will draw on your complaint as the basis of the hearing. However, depending on the complexity of your case, they have the option of delaying the hearing (or adjourning it once it is under way) to allow time for them to talk to other people involved and clarify who they should ask to attend the grievance hearing.
18. In exceptional circumstances, the evidence given by individuals to the chair in advance of the hearing may have to remain confidential. Where confidentiality is necessary, this will be explained to you and an appropriate summary of the evidence gathered will be given to you.

THE RIGHT TO BE ACCOMPANIED

19. You have the right to be accompanied by a fellow employee of either council or a trade union official at any grievance meeting or at a subsequent appeal. The trade union official need not be an employee of the organisation, but if he/she is not a fellow worker or an employee of his/her union, the chair of the hearing may insist on him/her being certified by the union as being experienced or trained in accompanying employees at grievance hearings.
20. The choice of companion is a matter for you, but the chair of the hearing reserves the right to refuse to accept a companion whose presence could prejudice or undermine the grievance process. Please note that individual

workers are not obliged to agree to accompany you. Companions will be given appropriate paid time off to allow them to accompany colleagues at a grievance hearing or appeal hearing. You should advise the chair in advance of the hearing whether you will be bringing a companion and in what capacity (a colleague or union representative, or anyone you wish to act as a witness or support your case).

21. At any hearing or appeal hearing, your chosen companion will be allowed to address the meeting, respond on your behalf to any view expressed in the hearing, and sum up the case on your behalf. However, both the hearing and appeal hearing are essentially meetings between the employer and you, so any questions put directly to you should be dealt with by you and not your companion.
22. Where the chosen companion is unavailable on the day scheduled for the meeting or appeal, the meeting will be rescheduled, provided that you can propose an alternative time within five working days of the scheduled date and subject to the agreement of all parties. If it is not possible to reschedule within five working days, you would be expected to find an alternative companion.
23. If required, you may also arrange for additional support to be present when you attend the hearing. For example if you need a signer due to a hearing impairment or an interpreter because English is not your first language. These arrangements may necessitate extending the usual timescales in the grievance process.

THE GRIEVANCE HEARING

24. You should ensure that you attend the meeting at the specified time. If you are unable to attend because of circumstances beyond your control, you should inform the chair of the hearing, as soon as possible. If you fail to attend without explanation, or if it appears that you have not made sufficient attempts to attend, the hearing may take place in your absence.
25. While you will be given every opportunity to explain your case fully, you should confine your explanation to matters that are directly relevant to your complaint. Focusing on irrelevant issues or incidents that took place long before the matter in hand is not helpful and can hinder the effective handling of your complaint. The chair of the hearing will intervene if he/she thinks that the discussion is straying too far from the key issue. The chair may also intervene to ensure that the meeting can be completed within a reasonable timeframe, depending on the nature and complexity of your complaint.
26. Following the hearing, the chair will inform you of their findings in writing, normally within five working days, and they will also inform you of any action the council proposes to take as a result of your complaint. You may choose to discuss this outcome informally with your companion, your manager or a member of the HR team.

27. If you are dissatisfied with the outcome, you may make a formal appeal. Any appeal should be lodged within five working days of receipt of the written outcome.

MAKING AN APPEAL

28. If you wish to appeal, this should be made in writing to the chair of the hearing clearly stating the grounds of your appeal, i.e. the basis on which you say that the result of the grievance was wrong or unfair or that the action taken as a result was inappropriate. This should be done within five working days of you receiving the written notification of the outcome of the grievance. You will normally receive written confirmation of the appeal hearing within five working days of your appeal being received, which will include the information listed below. The appeal will be chaired by someone not previously involved in the case and usually someone who is more senior to the original chair.
29. The chair of the original hearing will respond to you in writing within five working days of the receipt of your appeal letter. The letter will:
- state the time and place of the hearing, giving at least five working days notice
 - inform you who will chair the appeal hearing
 - outline that you have the right to be accompanied by a colleague or trade union representative at the appeal hearing
 - ask you to submit any documents supporting your appeal to the HR representative at least two working days in advance of the hearing so that these documents can be referred to in the hearing. You may introduce new evidence only if it has become available since the date of the latest grievance hearing and you could not have reasonably known of its existence at that time.
30. As with the original hearing, you should ensure that you attend the meeting at the specified time. If you are unable to attend because of circumstances beyond your control, you should inform the chair of the appeal hearing as soon as possible. If you fail to attend without explanation, or if it appears that you have not made sufficient attempts to attend, the hearing may take place in your absence.
31. The chair of the appeal hearing will consider the grounds that you have put forward and assess whether or not the conclusion reached in the original grievance hearing was appropriate. The appeal is not a rehearing of the original grievance, but rather a consideration of the specific areas with which you are dissatisfied in relation to the original grievance. The chair of the appeal hearing may therefore confine discussion to those specific areas rather than reconsider the whole matter afresh.

32. As with the original hearing, the chair will be joined by a HR representative and potentially a note taker. The chair of the original grievance hearing will probably also attend the appeal hearing along with relevant witnesses.
33. Following the appeal meeting, you will normally be informed verbally and in writing and you will normally receive the written outcome within five working days. The outcome of this meeting will be final.

OVERLAPPING DISCIPLINARY AND GRIEVANCE CASES

34. If you raise a grievance while you are subject to a disciplinary (or capability) process the chair of the disciplinary hearing will decide what action to take. It may be that the disciplinary process is temporarily suspended to deal with the grievance, or if the disciplinary and grievance cases are related it may be appropriate to deal with both issues concurrently.

FALSE OR MALICIOUS COMPLAINTS

35. Anyone who raises a complaint purely to be malicious or vexatious (in other words, to cause harm or annoyance to someone) will be investigated under the disciplinary policy and is likely to be subject to a formal disciplinary hearing.

PUTTING IN A COMPLAINT AFTER YOU HAVE RESIGNED

36. If you have resigned from your job with the council(s) but are within your notice period (i.e. you are still an employee) you may raise a grievance. If your employment has ended but you had previously put in a grievance while you were still employed, your concern may be treated under this policy providing the content of the complaint has not altered. If you are no longer an employee at the time you put in a written complaint this policy does not apply. Instead, we will normally reply to your concerns in writing without invoking the grievance procedure.

ALTERNATIVE FORMATS

37. Alternative formats of this publication can be made available on request. These include large print, Braille, audio, email, easy read and other languages. Please contact the HR team on 01491 823424.

Version 1: February 2010

Version 2: August 2010

Version 3: July 2014

Version 4: September 2014

APPENDIX ONE - GUIDANCE FOR MANAGERS WHO RECEIVE A FORMAL GRIEVANCE

As a first step, please ensure that you have thoroughly read this policy and understood it. You should advise your HR Business Partner of the grievance and ask for their assistance. Acknowledge receipt of the grievance and consider discussing with the employee who has raised it whether it is worth trying one more attempt to resolve the issue informally. Mediation (as detailed in this policy) may be another approach you could try as an alternative to a formal grievance hearing. If you do attempt an informal resolution you should make it clear to the person who has raised the grievance that you are taking this approach and that they do have the option of going straight to a formal hearing.

If you are a head of service or a tier four manager (a manager who reports directly to a head of service), you will generally be expected to chair the hearing providing this will not prejudice the outcome. However, if the grievance is about someone in the organisation more senior than you, you will normally liaise with your head of service or strategic director to arrange for someone of the seniority of the person who the complaint is about, or someone more senior, to act as chair. If you are a team leader who has received a formal grievance you may chair the hearing although you should liaise with your manager regarding who is the most appropriate person to act as chair.

Initially, whoever receives the grievance takes responsibility for acting on it. Once the chair is appointed (usually the manager who has received the grievance but potentially someone else) they assume the responsibility for hearing and attempting to resolve the grievance. If you are involved at any stage of the grievance process you must ensure that you keep the contents of the grievance, and your involvement with it, confidential.

You should advise your strategic director that you have received a grievance – if you conclude that you need an investigation to be carried out your strategic director will be responsible for finding someone to conduct this, and it will be helpful for them to be aware of it in advance.

It is critical that you prioritise the hearing of the grievance as a delay will only further antagonise the employee who has put in the grievance and will mean that you have not adhered to this policy.

APPENDIX TWO - GUIDANCE FOR THE CHAIR OF A FORMAL GRIEVANCE HEARING

As the chair you should follow the guidance below:

Prior to the hearing

- Be clear in advance who should attend the hearing. You will need the person who has raised the grievance, the person who the grievance has been raised against, any relevant witnesses and a HR representative who will provide procedural advice and take notes. Ideally, you will have everyone in the room for the duration of the hearing but you may decide to have someone only present for part of the discussion, or have people on 'standby', to be called in if needed. You may also decide to have a HR representative and a separate note taker. Please discuss the structure of the hearing with your HR representative. The attendees at a grievance hearing will vary according to the nature of the complaint and you have discretion on this – the key point is that the hearing is heard fairly and all relevant information is provided.
- You should ensure that a letter is emailed to the person raising the grievance to acknowledge receipt of their complaint and to confirm details of a formal grievance hearing, outlining who will be in attendance and their right to be accompanied by a colleague or union representative. Your HR representative will help you with this.
- As the chair, you also need to be aware of the impact that the grievance may have on the person (or people) that the complaint is about. This may prove a difficult time for them, particularly if they feel the complaint is unjustified. You need to take responsibility for keeping them informed of proceedings and for assuring them of your neutrality in the hearing. Although they do not have a right to have a representative at a grievance hearing, you may also decide to arrange for someone to act as support to them prior to the hearing. This person would discuss the complaint with them and help them clarify their response. You would appoint someone not involved in the complaint or the hearing to act in this capacity, potentially a member of the HR team or a neutral manager.
- Consider whether you should book an additional room that can be used in the event of any adjournments.

Introducing the hearing

- you must explain the purpose of the hearing and confirm that all attendees have copies of the information being referred to in the hearing

- outline that notes will be taken throughout the hearing and will be distributed to all relevant parties afterwards. These notes will not necessarily be verbatim, but will be an accurate record of the discussion.
- explain that the employee raising the grievance will be able to present their case and ask questions of supporting witnesses if necessary
- outline that the person the grievance is against will also have the opportunity to relate their version of events (normally after the employee raising the grievance has been heard).
- explain that either party can at any time request an adjournment for a comfort/distress break
- clarify with the employee the role they wish their colleague / trade union representative to take. Their colleague / trade union representative should be allowed to address the hearing, to put and sum up the employee's case and confer with them during the hearing. They must not answer questions on the employee's behalf, address the hearing if the employee does not wish them to, or prevent other attendees from explaining their case.

The main body of the hearing

You should:

- invite the employee raising the grievance and/or their colleague/trade union representative to present their case and call any witnesses they wish to speak on their behalf. (You should have been notified of any witnesses in advance).
- allow the person who the grievance is against to relay their version of events and call any witnesses who they want to support them.
- give the opportunity for each party to ask any further questions, add any additional points or sum up their case if they wish.
- decide whether there is a need to adjourn the hearing until later in the day, or to another day, in order to clarify any points raised or to arrange for someone else involved in the complaint to attend. You have the option of adjourning the hearing to investigate the claims raised at any point if you think you are missing information required to provide an outcome (although as this will delay the process you should avoid this course of action if possible). If you do have further discussions outside of the grievance hearing you should make notes of these conversations and provide these notes to the person who has raised the grievance, or at least ensure that the answers to any questions you asked are recorded as part of the grievance meeting. In exceptional circumstances, you may decide to keep the evidence given by individuals confidential but you would need to explain the reason for this and provide a summary of what was discussed.

Concluding the hearing

- you should adjourn the hearing to allow consideration of the points raised (only the chair and HR representative will remain)
- recall both parties in the event that they need clarification from either party on any evidence presented
- decide whether or not the grievance should be upheld and what actions, if any, should follow from the hearing
- reconvene the hearing and inform all parties of your decision and the reasons for it
- inform the employee that they will receive written confirmation of the decision and of their right of appeal, and a copy of the notes taken at the hearing, within five working days.

APPENDIX THREE - GUIDANCE FOR THE CHAIR OF A FORMAL GRIEVANCE APPEAL HEARING

If you chair a formal grievance appeal hearing you should follow the principles and the broad structure of the formal grievance hearing as outlined above. As with the initial grievance hearing, the attendees and the exact format of the discussion will vary from case to case and you have discretion on this. The key points are that the meeting is fair and prompt, and that actions from it are implemented.

The main difference between your role and that of the chair of the original hearing is that as part of the introduction you will explain that the purpose of the appeal hearing is not to rehear the detail of the grievance hearing, but to focus on specific factors that the employee feels have received insufficient consideration, such as:

- an unfair finding
- new information subsequently coming to light
- that the grievance procedure was not followed correctly.

The chair of the original hearing should attend the grievance appeal hearing and you must ensure that they have the opportunity to explain their overall decision(s) and the thought process behind the decision that is relevant to the appeal hearing.