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# Grievance Policy

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South Oxfordshire and Vale of White Horse District Council





## Change Record

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## 1 Introduction

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### 1.1 Purpose

This document outlines the grievance policy and procedure for the councils, regarding initiation, handling and resolution of employment-related grievance issues.

### 1.2 Scope

This policy applies to all permanent and temporary employees of the councils, excluding contractors / agency workers and casual workers. For any issues involving contractors / agency and casual workers, please liaise with HR, who will advise on how to proceed.

The councils reserve the right to revise, withdraw or replace policies at any time and to introduce new policies from time to time to reflect the changing needs of the organisations.

This policy document supersedes any previously existing or alternative policies, agreements or arrangements relating to the grievance policy at the councils.

### 1.3 Contractual Status

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. The council will consult all employees on any major changes to the policy.

### 1.4 Relevant legislation

Acas Code of Practice on Disciplinary and Grievance Procedures

Employment Act 2008

Employment Relations Act 1999

Employment Rights Act 1996

Equality Act 2010

### 1.5 Alternative formats

Please do not hesitate to contact a member of HR if you would like this policy in an alternative format, via: [hradminandpayroll@southandvale.gov.uk](mailto:hradminandpayroll@southandvale.gov.uk)



## 2 Policy

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### 2.1 Overview

South Oxfordshire and Vale of White Horse District Councils are committed to maintaining a good working atmosphere. In any work environment, however, there will be occasions when problems and complaints arise. It is important that these problems and complaints are discussed so that a solution can be reached. Most problems can be solved, but if they are not freely discussed they often become more serious. Therefore, it is recognised that there will be occasions when problems arise and it is important to have a consistent framework to consider, and hopefully resolve, any issues.

Grievances at work may encompass a wide range of issues e.g. allocation of work, working environment, opportunities for career development, employee actions, unresolved management issues etc. Grievances are considered to be concerns causing, or perceived to be causing, negative impact on employees.

We will make every effort to resolve all employee concerns informally. Where possible, therefore, employees who have a concern or complaint, should first initiate discussions with their line manager, who will make every attempt to resolve the situation. Employees who feel unable to approach their line manager directly should discuss the issue with HR, who will advise on ways to deal with the matter.

However, where attempts to resolve a matter informally have not been successful or where the allegations are of a more serious nature, this policy details the steps and principles to follow for a formal grievance procedure.

Throughout this process, HR will liaise with Unison if anyone named or involved is one of their members.

This policy complies with prevailing UK legislative requirements and incorporates best practice in order to restore positive working conditions in a swift and fair manner.

Throughout all grievance-related proceedings, the following **core principles** will be followed:

- All matters will be progressed in a timely manner
- All those involved in formal proceedings will be kept up to date and informed
- Those responsible for conducting proceedings will keep an open mind
- The facts will be established as far as practicably possible
- All parties to the proceedings will be given the opportunity to have their say
- Proceedings will be conducted in a professional and dignified manner
- Nobody associated with formal proceedings will be subject to disadvantageous behaviour or acts
- Confidentiality will be upheld
- Decisions will be factually based and justified
- Written records of proceedings will be made and shared with the parties involved in the relevant stage of the process



- Legal compliance will be adhered to at all times
- The Councils' policies & procedures will be consistently applied at all times



## 3 Procedure

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### 3.1 Informal Action

Depending on the nature of the grievance, employees should, in the first instance, raise concerns and issues directly with their line manager on an informal basis in order to resolve matters swiftly.

You 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.

Where employees consider it inappropriate to approach their line manager e.g. the grievance directly relates to them, initial discussions may be undertaken with their line manager's manager and/or HR who will advise on the most effective route to consider the concerns.

Any employee who is a UNISON member may also contact their branch, where representatives with the appropriate training will be able to support and advise.

If informal conversations do not resolve your concern, it may be appropriate for you to consider initiating formal grievance proceedings.

### 3.2 Initiating Formal Grievance Proceedings

Formal grievance proceedings will apply where:

- an issue is not resolved through informal efforts
- the concern is of a more serious nature
- the expectations following informal action have not been addressed or maintained

Formal proceedings may be initiated by employees submitting their concerns, in writing, to their line manager and HR, entitled 'Formal Grievance'. If the grievance relates to the line manager, the grievance may be submitted to HR alone.

The written submission will form the basis of any potential investigations and subsequent hearings. It is important that employees clearly explain the nature of their grievance, identify actions that they believe should be taken and indicate the outcome that is sought. If the grievance is unclear, employees will be asked to clarify the complaint, or any of its details, prior to any meeting or formal hearing taking place.

Issues not covered under the grievance procedure include:

- issues that are the subject of collective negotiation or consultation with the trade unions i.e. pay negotiations





- 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 agreed to resolve the original grievance has not been implemented
- a grievance about a matter over which the council has no control i.e. if a council decision affects you as a resident or a formal decision by members
- a complaint that is more suitably dealt with through another policy e.g. whistleblowing, anti-money laundering or the complaints procedure
- a complaint about any disciplinary action taken against an employee will normally be dealt with as an appeal under the disciplinary procedure

### 3.3 Investigations

Following receipt of a grievance, it may be necessary to carry out an initial review of the allegations. The initial review will be coordinated by HR and will be conducted by a senior officer within the councils, with the person nominated based on the nature of the grievance.

A review may progress to a more in-depth investigation depending on the nature of the allegation and what initial facts are established. If the investigation is likely to take longer than five days, this will be confirmed to you.

If HR considers another course of action more appropriate, this will be explained and discussed with the employee at this stage.

Depending on the circumstances of the situation, employees may be invited to attend an investigatory interview. The objective of an investigatory interview is to establish facts, and, as such, forms part of the investigation process.

Employees raising grievances will be provided with a copy of the evidence gathered in the course of the investigations. This will be provided at least 3 working days ahead of any formal hearing.

Throughout all investigations, every effort will be made to respect confidentiality. In some circumstances, it may be necessary to maintain full confidentiality of the evidence provided i.e. if there was a perceived threat to the safety of anyone making a complaint. Where such confidentiality is necessary, this will be explained to the parties involved and an appropriate summary of the evidence provided i.e. redacted, de-personalised overview etc.

### 3.4 Right to be Accompanied

Employees have a statutory right to be accompanied by a council colleague or a trade union official at any formal grievance or appeal hearing.



Employees choosing to be accompanied must notify HR at least 24 hours in advance of the hearing. The councils reserve the right to challenge the choice of companion if there is any potential for conflicts of interest i.e. if the companion is a potential witness.

Employees who are approached by employees to act as their companion in grievance hearings or related meetings are under no obligation to fulfil such requests.

At any grievance or appeal hearing, the companion will be allowed to:

1. address the hearing to present and summarise the employee's case
2. respond on behalf of the employee to any views expressed at the meeting
3. confer with the employee during the hearing
4. take notes
5. call an adjournment with the employee's consent

The companion does not have the right to:

1. answer questions on the employee's behalf
2. address the hearing if the employee does not wish it
3. prevent the councils from explaining their case

### 3.5 Accessibility

Employees requiring support and / or a reasonable adjustment during grievance proceedings should raise this with HR and must notify the chair of any requests for reasonable adjustments at least 1 working day ahead of any formal hearing.

### 3.6 Formal Hearing Attendance

Employees must make every effort to attend a hearing at the specified time.

Where extenuating circumstances prevent attendance, employees must inform HR as soon as possible, providing the reason for their failure to attend. A hearing may then be re-scheduled where appropriate.

Where employees fail to attend without explanation, or unsuccessful attempts have been made to organise or reschedule a hearing on multiple occasions, a hearing may take place in the employee's absence. The employee's nominated companion may attend in such circumstances and will be allowed to present the employee's case. The employee would be allowed to make a written submission in such a situation.

Where a nominated companion is not available on the day scheduled for a grievance or appeal hearing, the hearing can be re-scheduled, provided that the employee can offer an alternative date within 5 working days of the originally scheduled date.



### 3.7 False or Malicious Complaints

If it is determined at any stage of the grievance procedure that an employee has raised a false complaint or one that is malicious or vexatious (in other words, designed to cause harm or annoyance to someone), this will be investigated under the disciplinary policy and is likely to be subject to a formal disciplinary hearing.



## 4 Procedure

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### 4.1 Grievance Hearing Procedure

A formal grievance hearing will be held as soon as reasonably practicable, usually within 10 working days of the receipt of an initial written complaint, and with minimum written notice of 3 working days. The length of time may be extended subject to prolonged investigations (see section 3.3). In such circumstances, this will be confirmed in writing, with an explanation for the delay.

Although face-to-face hearings are preferable, virtual meetings may be arranged where appropriate i.e. for wellbeing or geographical purposes.

The grievance hearing will be chaired by a designated manager or senior officer (the level of officer will depend on the alleged nature of the offence) and attended by a member of the HR team, who will provide advice to the Chair on the councils' policies and relevant employment law, where applicable. The HR representative will usually also take notes during the meeting, but may choose to invite a dedicated note-taker from within the HR team.

Coaching and support will be provided by HR to any manager or senior officer acting as Chair.

Employees submitting a formal grievance must forward any supporting evidence / documentation to the Chair and HR at least 2 working days before the hearing.

At a grievance hearing, employees, or their companion, will be asked to explain the nature of the complaint, the action they feel should be taken to resolve the matter and the outcome that is sought. The Chair will ask questions and seek evidence from the individual and any protagonists or witnesses they consider relevant to the allegations (either before or during the hearing) in order to deliberate and come to an informed and fair decision. This may include witnesses named by either party to support their case.

See Section 3.4 for the role of companions within formal grievance hearings and 4.4 for adjournments.

### 4.2 Conduct during Hearings

The councils expect all parties to be treated with respect during any procedural matters. Abusive or insulting behaviour will not be tolerated by anyone involved in or conducting grievance procedures. Such behaviour will be treated as misconduct in accordance with the Disciplinary Policy.

The Chair is also permitted to adjourn a hearing or interview at any stage in the event of inappropriate behaviour from any participant.

### 4.3 Use of Recording Devices

Use of any recording devices e.g. mobile phones, Dictaphones etc., in any hearings or meetings is prohibited, unless agreed by all parties as a reasonable adjustment.



If any act of covert recording is discovered, or proven after the event, such behaviour will be treated as misconduct in accordance with the disciplinary policy.

### 4.4 Adjournments

Grievance or appeal hearings may be adjourned. Typical reasons for an adjournment may include gathering of further information or clarification of points raised in a hearing. There is no requirement to come to a final decision until the Chair is satisfied they have sufficient evidence to do so. In some instances, this may mean the hearing is conducted across multiple sessions with adjournments in-between.

When an adjournment is called by the Chair, participants in the proceedings will be informed of the reason and likely duration of the adjournment.

If further information is gathered during an adjournment, employees, together with any companion, will be given reasonable time to consider the new information prior to re-convening.

When an adjournment is called by the employee/companion, the reasons and likely duration of the adjournment will also be required and, in instances where new information is to be introduced or confirmed, reasonable time to consider the new information prior to re-convening will be applied on behalf of the councils.

Adjournments must be taken for reasonable cause and be of reasonable duration. Should there be any dispute on adjournments, the ultimate decision lies with the Chair.

### 4.5 Witnesses

Where witnesses are required to be questioned during a hearing, the Chair will adjourn the hearing to speak to and gather evidence from the witness and provide the employee with notes of the discussions when the hearing is reconvened. Sufficient time will be allowed for the employee (and companion, if applicable) to read and review these notes before proceeding.

If such witness notes provide new or significant evidence not previously submitted, reasonable time will be permitted for the employee (and companion, if applicable) to digest and consider their response before reconvening and completing the hearing (including providing counter-evidence or requesting further information). This could mean reconvening at a future date.

Should there be any dispute on adjournments, the ultimate decision lies with the Chair.

### 4.6 Grievance Hearing Notes

Written notes will be taken of formal grievance or appeal hearing proceedings and provided as an accompaniment to procedural documentation within 5 working days of the hearing.

The employee has the right to review and amend any of the notes, which must be returned to the Chair within 2 working days of receipt. However, if there is any dispute over the accuracy of any statements within the



notes, both records will be kept and used as separate pieces of evidence along with the submitted comments. The ultimate decision lies with the Chair.



## 5 Outcome

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### 5.1 Grievance Hearing Outcome

Following a grievance hearing, a decision will be reached as to whether or not the employee's grievance is upheld by the councils.

Employees will be informed, in writing, of the decision within 5 working days, with clear explanation of any actions that require implementation and notification of the right to appeal against the decision.



## 6 Appeals

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Employees have the statutory right to appeal against any grievance outcome.

Appeals should be submitted to HR, in writing, within 5 working days from receipt of the written notification of the outcome of the hearing. The written appeal must clearly state the grounds for the appeal i.e. the result of the grievance was wrong or unfair or that the action taken as a result was inappropriate.

An appeal hearing is not usually designed to re-hear the case. Unless new evidence is submitted, it will focus on the stated grounds for appeal only.

Appeal hearings will usually take place within 10 working days of receipt of the written appeal. Should there be any delay beyond 10 working days, for example if a critical attendee is on leave, HR will notify and update the employee in writing.

Employees will be invited to attend an appeal hearing, chaired by an officer at a more senior grade to the original chair and not previously involved in the grievance proceedings. A member of HR will also be present. The HR representative will usually also take notes during the meeting, but may choose to invite a dedicated note-taker from within the HR team.

At an appeal hearing, employees will, as in the case of a grievance hearing, be given the opportunity to state the case for their appeal. During such proceedings, all employee rights e.g. accompaniment by a council colleague or a trade union official, reasonable adjustments and procedures as set out within this policy e.g. conduct during proceedings, prohibition of recording devices, provision of written notes etc., will apply.

Following the appeal hearing, the employee will be informed in writing of the appeal decision within 5 working days. If it is not possible to confirm the decision within the stated timescale, an explanation will be given to the employee regarding the delay plus an indication of when the decision will be expected.

The outcome of an appeal hearing is final.





## 7 Mediation

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In some cases, a third-party or mediator may be used 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 somebody external to the organisation and will be selected in accordance with the needs of the case.

Mediation will not always be appropriate and should not be used as a first resort. Mediation may be introduced before, during or after the formal procedure has been completed. It may also be recommended as an outcome of the grievance or appeal hearings.

Whilst mediation is voluntary, the councils will remind anybody considering withholding consent of the core principles outlined within section 2.1 of this policy and that mediation is designed to help resolve conflict in the workplace.



## 8 Records of Grievance Proceedings

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Notes and written outcomes from grievance and appeal hearings will be retained on the individual's personnel file.

All written material will be stored in accordance with the General Data Protection Regulation (2016/679 EU).