



GRIEVANCE PROCEDURE

*Originated: 1 November 2009
Equality Impact Assessed*

CONTENTS

	Page No
1. Introduction	1
2. Scope	1
3. Definition of a Grievance	1
4. Status Quo	1
5. Principles	2
6. Standard Procedures	2
7. Informal Stage	3
8. Reporting	3
9. Formal Procedure	3
9.1 Formal Stage 1	3
9.2 Formal Stage 2	4
9.3 Formal Stage 3 (Appeal Stage)	4
10. Procedure to be followed at Appeal Hearing	5
11. External Stage	6
12. Modified Procedure	6
Appendix A – Grievance Procedure Form	7

1. Introduction

- 1.1 Newcastle-under-Lyme Borough Council recognises that from time to time employees may wish to seek redress for grievances relating to their employment. In this respect, the Council's policy is to encourage free communication between employees and their managers to ensure that questions and problems arising during the course of employment can be aired and when possible, resolved quickly and to the satisfaction of all concerned.

2. Scope

- 2.1 This procedure applies to all Council employees on permanent, temporary, fixed term or casual contracts. It will not apply to those employed under JNC conditions for Chief Officers or Chief Executives for whom separate arrangements exist within their national conditions of service.

3. Definition of a Grievance

3.1 Individual Grievances

The individual grievance procedure will apply in cases where an employee is aggrieved about an act (or omission) taken by the Council or a representative of the Council where an employee claims that the action came about wholly or mainly for a reason unrelated to their conduct or capability.

Such actions can include:

- Oral warnings or investigatory suspensions where an employee believes the real reason for the warning or suspension is not a shortcoming in their conduct or capability;
- Actions taken by colleagues where the employer has failed to take action to address the issue. (In instances where an employee feels aggrieved about the conduct of a work colleague, and where this conduct has a direct affect on them, they should in the first instance consider raising the matter with the work colleague. If they do not feel that this would be appropriate then the matter should be raised with their supervisor/line manager).

3.2 Collective Grievances

A collective grievance is a grievance raised by an appropriate representative on behalf of at least two employees, including the complaining employee. The representative may be an official of a Trade Union or an employee elected or appointed to represent other employees. The procedures for dealing with a collective grievance do not have to follow those recommended in the ACAS Code of Practice 1 - Disciplinary and Grievances Procedures. However, for simplicity, within the Council, the same procedures will apply to a collective grievance as apply to an individual grievance except that a collective grievance may include an External Stage (see 11.1).

4. Status Quo

- 4.1 Any practices, agreements, terms and conditions of employment that existed prior to the collective grievance being raised will continue to operate pending

settlement or until the agreed procedure has been exhausted. However, in exceptional circumstances management may require that a change has to be effected, eg for health and safety reasons or where it would be unlawful to continue with the status quo.

- 4.2 Furthermore, the recognised Trade Union will refrain from completing balloting of their members about industrial action, or acting in furtherance of any local dispute, until the stages in this procedure have been exhausted.

5. Principles

- 5.1 The procedure aims to comply with the following principles that are contained in the ACAS Code of Practice 1 – Disciplinary and Grievances Procedures:

- All matters of grievance must be raised within 10 working days of the employee becoming aware of the matter giving rise to the grievance.
- Each step and action of the procedure must be taken without unreasonable delay.
- The timing and location of meetings must be reasonable.
- Meetings must allow both the employer and employee to explain their cases.
- The employee can choose to be accompanied at all stages by either a trade union representative or work colleague.

6. Standard Procedure

- 6.1 To this end, the following procedure should be adopted as far as is reasonably practical when an employee has a grievance arising from their employment, except where:

- (a) the matter constitutes an appeal against a disciplinary decision, in which case the matter should be taken up in accordance with the Council's disciplinary appeals procedure;
- (b) the employee is aggrieved about the grading of their post, in which case they should contact Human Resources for advice on how to proceed;
- (c) the employee feels that they are being bullied, harassed or experiencing unacceptable aggressive behaviour, in which case they should refer to the Council's Bullying and Harassment Policy and/or contact Human Resources for advice on how to proceed.

- 6.2 The standard procedure should be used as a general guide so that employees' grievances are dealt with fairly and consistently throughout the Council. However, due to the potentially diverse nature of employment-related grievances, on occasions it may be necessary to vary its application to suit the individual circumstances of particular cases. For example, a shorter (modified) procedure may have to be used in certain situations.

- 6.3 Employees should note that if any time they have a work-related personal problem which they feel unable to discuss with their supervisor/line manager, they can contact staff in Human Resources or their trade union representative for advice and assistance.

7. **Informal Stage**

- 7.1 The employee and their line manager must attempt to resolve difficulties through informal discussion.
- 7.2 If the grievance is against the line manager, the matter should be raised with the Head of Service.
- 7.3 At this informal stage, both parties should seek to agree the means by which the grievance can be resolved.
- 7.4 If the grievance is not resolved informally and the employee wishes to pursue the matter further, the formal procedure below must be followed. However, if the grievance is against either a Head of Service, Executive Director or the Chief Executive, the procedure will be varied in accordance with 6.2 (above).
- 7.5 In order to process the grievance as quickly as possible, where the employee wishes to pursue the matter formally, they must do so within 10 working days of the informal process coming to an end.

8. **Reporting**

- 8.1 If after the informal process the grievance remains unresolved, the employee or employees may raise the grievance formally as outlined as follows:

- **Grievance Forms**

At each formal stage of the process the employee must complete a grievance form (see Appendix 'A'). The form must clearly and specifically state the exact nature of the grievance, the remedy sought and in the case of a collective grievance, the names and signatures of all those individuals party to the grievance.

- 8.2 At Stage 3 (Appeal) if appropriate the form should also state the reasons why the employee is not happy with the recommendations made at Stage 1 or Stage 2.
- 8.3 If the exact nature of the grievance and remedy sought stated on the form are not sufficiently clear, the manager to whom the form was submitted may refer it back to the employee or their representative for clarification.

9. **Formal Procedure**

9.1 **Formal Stage 1**

- 9.1.1 The employee(s) should set out in writing using the official Grievance Form (Appendix 'A') the substance of the grievance, indicating clearly their reasons for taking the grievance to the next stage along with any relevant documentation and submit it within 10 working days of the outcome of the

informal stage, to their Head of Service and send a copy to the Head of Human Resources.

9.1.2 The Head of Service will acknowledge receipt of the grievance within 3 working days by signing the form and returning it to the employee or in the case of a collective agreement to their representative.

9.1.3 A meeting will be convened no later than 10 working days following receipt of the grievance in writing. The purpose of the meeting and any further investigation will be to consider the grievance including any new information and/or evidence that was not submitted at the previous stage.

9.1.4 The Head of Service will respond in writing to the employee, their representative and any person(s) against whom the grievance has been made no later than 5 working days after the meeting about any decision that has been made and the reasons for reaching that decision.

9.2 Formal Stage 2

9.2.1 If the employee(s) consider that the grievance has not been satisfactorily resolved, they should set out in writing using the official Grievance Form (Appendix 'A') the substance of the grievance, indicating clearly their reasons for taking the grievance to the next stage along with any relevant documentation and submit it within 5 working days of the receipt of the formal notification of the decision of the previous stage, to their Executive Director* (or other nominated senior officer). The Head of Service will be informed that the grievance has been taken further.

9.2.2 The Executive Director* (or other nominated senior officer) will acknowledge receipt of the grievance within 3 working days by signing the form and returning it to the employee or in the case of a collective grievance to their representative.

9.2.3 A meeting will be convened no later than 10 working days following receipt of the grievance in writing. The purpose of the meeting and any further investigation will be to consider the grievance including any new information and/or evidence that was not submitted at the previous stage.

9.2.4 The Executive Director* (or other nominated senior officer) will respond in writing to the employee, their representative and any person(s) against whom the grievance has been made no later than 5 working days after the meeting about any decision that has been made and the reasons for reaching that decision.

9.3 Formal Stage 3 (Appeal Stage)

9.3.1 If the employee considers that the grievance has not been satisfactorily resolved, they must inform the Head of Human Resources that they wish to appeal against the decision made, indicating the reasons why along with any new information or evidence. They must do so in writing, on an official Grievance Form, Appendix 'A', within 5 working days of the receipt of the formal notification of the decision of the previous stage. The Executive Director* will be informed that the grievance has been taken further.

- 9.3.2 The Head of Human Resources (or other nominated senior officer) will acknowledge receipt of the grievance within 3 working days by signing the form and returning it to the employee or in the case of a collective agreement to their representative.
- 9.3.3 An appeal meeting will then be convened following receipt of the notification in writing. The appeal will be heard by a Sub-Committee established by the Council's Staffing Committee for this purpose, supported by a representative to give legal advice. The purpose of the meeting and any further investigation will be to consider the grievance including any new information that was not submitted at the previous stages.

10. Procedure to be followed at Appeals Hearing

- (a) The employee (or representative) to put their case in the presence of the Council's representative and to call such witnesses as the employee (or representative) wishes.
- (b) The Council's representative(s) to have the opportunity to ask questions of the employee and the employee's witnesses.
- (c) The Appeal Panel may ask questions of the employee and the employee's witnesses.
- (d) The Council's representative(s) shall put the case in the presence of the employee and the employee's representative and may call witnesses.
- (e) The employee (or representative) to have the opportunity to ask questions of the Council's witnesses.
- (f) The Appeal Panel may ask questions of the Council's witnesses.
- (g) The employee (or the employee's representative) and the Council's representative(s) to have an opportunity to sum up their case if they so wish.
- (h) The Council's representative(s) and the employee and their representative and witnesses to withdraw.
- (i) The Appeal Panel, with the officer appointed as Secretary/Solicitor to the panel, to deliberate in private only recalling the Council's representative(s) and the employee to clear points of uncertainty on evidence already given. If recall is necessary both parties are to return notwithstanding only one is concerned with the point giving rise to doubt.
- (j) When a decision has been reached, the Council's representative(s) and the employee and the employee's representative shall be recalled and the decision of the Appeal Panel announced.

NOTE: If the Appeal Panel consider that an important issue of principle has arisen that may affect other employees, the views of the Employees Consultative Committee must be obtained before a final decision is made.

- 10.1 The Appeal Panel will formally respond in writing to the employee, their representative and any person(s) against whom the grievance has been

made in writing no later than 5 working days after the completion of the hearing.

10.2 This is the final stage and there are no further stages within the procedure (except in the case of a collective grievance).

11. **External Stage (Collective Grievances only)**

11.1 Where management and the employees or trade union representatives mutually agree that a collective grievance dispute might benefit from being referred for conciliation, mediation or arbitration to an external body, then the services of the Advisory, Conciliation and Arbitration Service (ACAS) and/or the West Midlands Provincial Council may be sought.

12. **Modified Procedure**

12.1 The modified procedure may be applied only in circumstances where:

(a) the employment has ended;

(b) where it has been agreed between both parties to use the modified procedure;

(c) if either party is unable to complete a step in the procedure (eg, the employee has moved away and cannot reasonably attend a meeting).

12.2 The modified procedure consists of a two step process and should be followed once the informal stage has been exhausted.

12.3 **Formal Stage 1**

The employee should set out in writing the substance of the grievance, indicating clearly their reasons for taking the grievance to the next stage along with any relevant documentation to their Executive Director* (or other nominated senior officer) and send a copy to the Head of Human Resources.

12.4 **Formal Stage 2**

The Executive Director* (or other nominated senior officer) will respond in writing to the employee, their representative and any person(s) against whom the grievance has been made no later than 5 working days after the written grievance has been received about any decision that has been made. This is the final stage and there are no further stages within the procedure.

*Chief Executive in their role as Executive Director for grievances raised in the Chief Executive's Department.

*Revised - 14 March 2013
Section 9.3.4 – Appeal Panel to be a Sub-Committee
of Staffing Committee instead of two officers taken from
EMT/WMT (Staffing Committee – 13 March 2013)*

Review date: September 2014

GRIEVANCE REPORT FORM (continued)

Remedy Sought:

Submitted by:

Name:

Signature: Date:

I am: (*delete as applicable)

***the aggrieved employee**

***the aggrieved employee's representative**

If the above named is not the aggrieved employee please state:

Aggrieved employee's name:

Signature of aggrieved employee: Date:

Submit to: Stage 1: Head of Service

Stage 2: Executive Director *

Stage 3: (Appeal) Head of Human Resources

Receipt Acknowledged by:

Manager's Name:

Job Title:

Manager's Signature: Date:

Receiving Manager to acknowledge receipt by signing and:

- **returning original form to Employee/Employee's representative within 3 working days of receipt and,**
- **forwarding a copy to the Head of Human Resources**

* Chief Executive for grievances raised by employees in the Chief Executive's Department

