



GRIEVANCE POLICY AND PROCEDURE

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GRIEVANCE POLICY & PROCEDURE

1. Introduction and Scope of the Policy

- 1.1 Newcastle-under-Lyme Borough Council recognises 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.
- 1.2 In line with ACAS guidance and the Code of Practice on Disciplinary and Grievance Procedures this Policy aims to provide the Council with a robust mechanism to deal with such issues promptly, fairly, and as closely as possible to the point of origin. It is designed to promote and maintain positive working relations.
- 1.3 This Policy applies to all Council employees including Chief Officers except for the Chief Executive falling within the scope of the JNC's for Chief Executives, for whom separate arrangements apply.
- 1.4 All employees have the right to express a grievance relating to their employment. A grievance may be raised by an individual or collectively where a group or groups of employees are affected by the same work related issue.
- 1.5 If two or more employees have an identical grievance they can use this Policy to raise a Collective Grievance. Where a Collective Grievance is raised the employees can either use their Trade Union Representative to raise the grievance or nominate one person to act on their behalf. Employees using this procedure collectively cannot raise an individual grievance on the same issue.
- 1.6 This Policy does not apply to those matters where other established appeal arrangements are in place. These include but are not limited to:
 - Disciplinary Outcomes;
 - Action taken under the Attendance Management and Capability Procedures;
 - Consultation, Restructuring and Redundancy;
 - Recruitment, Selection and Probation Procedures;
 - Pay and Grading Issues;
 - Taxation, National Insurance and Pension; or
 - Whereby, the Complaint is considered to be trivial, frivolous, vexatious or repetitive.
- 1.7 Grievances should be raised as soon as possible after the event about which the complaint is being made. The Council may decline to deal with grievances which relate to matters which occurred more than three months before the grievance was raised.
- 1.8 All grievances should be dealt with informally in the first instance through the Council's Managing Conflict Policy. This will depend on the individual circumstances.
- 1.9 If an employee's complaint relates to Bullying, Harassment and Victimisation of or by employees, elected members, customers, service users, contractors, casual and agency workers and anyone else who works for the Council in any capacity, whether

by direct contract with the Council or otherwise, then the matter should be dealt with under the Councils Dignity at Work Policy.

Former employees are also subject to the time limit as stated in Section 1.7 of this Policy. If a former employee wishes to raise a grievance they must indicate in writing that this is the case. ~~Criticisms of individuals or the Council through an Exit Questionnaire will not be considered as a formal grievance for the purposes of this Policy.~~

-1.11 Employees will not be victimised as a result of having invoked the Managing Conflict Policy although any employee found to have made a deliberately false, exaggerated or misleading complaint may be subject to the Council's disciplinary procedure.

1.12 The employee can choose to be accompanied at all stages by either a trade union representative or work colleague.

2. **Informal Stage**

2.1 If an employee has a grievance about their employment, they should discuss it informally with their line manager. The majority of concerns, problems and complaints should be resolved in this way. If an employee has a grievance concerning their line manager, the matter can be referred to a more senior manager.

2.2 ~~Should a~~An employee ~~request may choose~~ to be accompanied by their Trade Union Representative or work colleague ~~at this initial stage, this will not unreasonably be refused~~. It may not always be necessary for employees to be represented at the informal stage of the procedure, but it is important to note that Trade Union Representatives have an important role to play in resolving matters throughout the various stages of the process.

2.3 Grievances should be dealt with as quickly and efficiently as possible. In some circumstances given the nature of the grievance it may be necessary to undertake an appropriate level of fact finding in order to assist in seeking a resolution.

2.4 Mediation should be considered at all stages but particularly before progressing from the informal to formal stage of the process. Mediation is likely to be most appropriate in cases involving workplace conflict. However, there may be circumstances in which alternative non-adversarial discussions may be undertaken with the aim of promoting a speedy resolution. The role of the mediator is to discuss the issues raised in the grievance with all parties involved and seek to facilitate a resolution.

2.5 Mediation is a voluntary process and will only be used if all parties involved in the grievance agree. However, it is recommended that employees will recognise the benefits of seeking to resolve issues via mediation and will be amenable to and cooperate with this approach.

2.6 All parties will be expected to demonstrate what steps they have taken to achieve a reasonable solution to the problem prior to progression to the formal stage. Where after every effort has been made, the grievance cannot be resolved informally it can be raised under the formal stages of the grievance procedure.

2.7 In order to process the grievance as quickly as possible, where the employees wishes to pursue the matter formally, they must do so within 5 working days of the Informal Stage coming to an end.

2.8 In cases of Collective Grievances, the process can start at the Formal Stage subject to the agreement of management, the employee and the Trade Union.

3. **Formal Stage**

3.1 If the employee considers that their grievance has not been resolved to their satisfaction by informal discussion, they have a right to submit the grounds of their grievance in writing to their Head of Service and Head of Human Resources (Appendix A), within 5 working days of the outcome of the Informal Stage.

3.2 This written statement will form the basis of any fact finding or investigation and any subsequent meeting, so it is important that the employee sets out clearly the nature of their grievance and indicates the outcome that they are seeking. If the grievance is unclear, the employee may be asked to clarify their complaint before any meeting takes place (Appendix A).

3.3 The Head of Service (or other nominated senior officer)/Chair will write normally within 5 working days to invite the employee to a grievance meeting to discuss the matter formally. The Head of Service (or other nominated senior officer)/Chair, will notify the employee in writing of the employee's right to be represented at the meeting.

3.4 In all cases every effort should be made for the grievance meeting to be held within 10 working days of receipt of the individual's written grievance.

3.5 All information that is to be presented at the grievance meeting should be provided to the Head of Service (or other nominated senior officer)/Chair and their representative from Human Resources, at least 3 working days before the meeting is due to take place. This is to help ensure that the Head of Service (or other nominated senior officer)/Chair has a full understanding of the issues being discussed.

3.5 In exceptional circumstances information can be submitted on the day of the meeting; however this is at the discretion of the Head of Service (or other nominated senior officer)/Chair. In these circumstances, depending on the amount of information submitted, it may be necessary to reschedule the meeting.

3.6 The employee is entitled to be represented at the meeting, if they wish, by either a colleague or Trade Union Representative. The Trade Union Representative or work colleague should be allowed to address the meeting, to present and sum up the employee's case, respond on behalf of the worker to any views expressed at the meeting and confer with the employee during the meeting.

3.7 The Trade Union Representative or work colleague does not have the right to answer questions on the employee's behalf, address the meeting if the employee does not wish it or prevent management from explaining their case.

3.8 The employee or Trade Union Representative or work colleague will have the opportunity at the meeting to explain the grievance in detail and say how they would like it to be resolved. Every effort will be made by the Head of Service (or other nominated senior officer)/Chair to resolve the matter at this stage.

- 3.9 In some circumstances, it may be necessary to gather information about the matter or to adjourn the meeting so that certain details can be looked into, before discussing it further.
- 3.10 After the meeting the Head of Service (or other nominated senior officer)/Chair will respond to the grievance in writing, where possible within 5 working days, explaining the outcome and any action to be taken to resolve the grievance and the right to take the matter to the next stage. Where it is not possible to respond within 5 days, the individual should be contacted in writing and advised of the estimated timescale within which a substantive response will be provided.

4. **Appeal**

- 4.1 If the employee remains dissatisfied, they can appeal to the Head of Human Resources, within 5 working days of receipt of the written response at the Formal Stage. The appeal must be made in writing and addressed to the Head of Human Resources confirming the grounds of their appeal.
- 4.2 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.
- 4.3 The Head of Human Resources (or other nominated senior officer) will acknowledge receipt of the grievance within 3 working days.
- 4.4 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.
- 4.5 **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 and the representative from Legal Services to the panel, will 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.

- 4.6 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.
- 4.7 This is the final stage and there are no further stages within the procedure (except in the case of a collective grievance).

5. **Status Quo**

- 5.1 When a grievance is raised by an employee in respect of proposed changes to their terms and conditions of employment and, when practical, where a grievance has been lodged in response to changes to working practices, no change shall be made to the relevant terms and conditions of employment until the agreed grievance procedures have been exhausted.
- 5.2 The Status Quo will apply from when the grievance is formally lodged by the employee or their representative until the grievance procedure is completed. This also applies to a Collective Grievance.
- 5.3 However, the Status Quo Arrangements will not be applicable where this would pose a risk to health and safety of employees or the public or would put the Council in to disrepute or possible litigation.
- 5.4 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 the procedure have been exhausted.

6. **Collective Grievances**

- 6.1 Where more than one individual raises the same grievance, this will normally be dealt with as a single collective grievance rather than as a number of individual complaints. In such cases either the Trade Union or other workplace representative can raise the matter on behalf of all those employees involved and can represent them through the stages of this procedure. (Appendix B)
- 6.2 Where a grievance is brought on behalf of more than one person, the representative must ensure that they have the express consent to bring the grievance on behalf of

the persons concerned and have a responsibility to inform the Head of Human Resources which employees have made the Collective Grievance.

- 6.3 In exceptional circumstances, where there is a failure to formally resolve a Collective Grievance, conciliation may be sought from ACAS with the agreement of both parties. Trade Union Representatives are advised to inform their Regional Officers where conciliation is sought.

7. **Managing the Process During Sickness Absence**

- 7.1 In the interests of progress for all parties, the grievance may continue to be heard during absence following consultation with Occupational Health and the employee concerned or their representative.
- 7.2 If an employee is not fit to attend meetings concerning their grievance consideration will be given to the employee being allowed to send a representative or make written representations instead.

8. **Monitoring and Review**

- 8.1 This Policy and Procedure will be reviewed in line with organisational and legal requirements.

Model Letter for an Employee who wishes to raise a Formal Grievance

CONFIDENTIAL

Name and Address

Date

Dear

I am writing to inform you that I wish to raise a formal grievance in line with the Council's Grievance Policy.

The details of my grievance and the basis for that grievance are given below:

-
-
-
-

This took place on (date) or between (relevant dates).

The solution I am seeking is:

I confirm that I have made attempts to resolve this matter informally on (date) with (name). I did not accept the outcome of the because (reason)

I would like you to arrange a meeting with me to discuss this matter. I intend to exercise my right to be accompanied to that meeting by a fellow employee or Trade Union Representative.

Name

Provide details of Collective Grievance

<p>Details of Grievance:</p>
<p>Remedy Sought:</p>

Once completed, please forward this form to the Head of Human Resources