

Annex 3

GRIEVANCE PROCEDURE

A Purpose

Tonbridge & Malling Borough Council recognises the need for a fair and consistent approach to handling a staff grievance at work. Whilst the majority of issues can be resolved through regular communication and supervision between managers and staff, there may be occasions when it may be appropriate to use a more structured procedure to seek a resolution.

B Definition

A grievance is a complaint by an employee (or group of employees) about an action taken or proposed by an employer. The employee(s) will have experienced a disadvantage, or anticipate doing so. Grievances may also include a failure to act and can relate to managerial action, organisational decisions or the actions of a third party over which the Council has some influence.

C Scope

This procedure does not apply to warnings in respect of indiscipline, performance, dismissals, and rights of appeal, which are dealt with under the provisions of the Disciplinary, Capability and Dismissal Procedures. Neither does this procedure apply to appeals against salary grading which can be made via the Grading Review and Appeals Procedure.

Complaints about bullying and harassment (including complaints about discrimination), should be made via the Harassment Procedure.

Any employee wishing to make a confidential protected disclosure about an aspect of the organisation, the activities of a group of people or an individual, can do so through the Council's Confidential Reporting Code ("Whistleblowing").

D Standards

Beyond step 1 in Section G below, all grievances should be submitted in writing (if the employee has an impairment which would make this impracticable a tape recorded submission could be made as a reasonable adjustment).

Any documents or relevant information or witnesses that either party wishes to submit to the grievance hearings or the final appeal should be shared at the earliest opportunity and at minimum 48 hours before the grievance.

Grievances are dealt with in confidence subject to reasonable investigation.

Agreement should be sought where there is a need to vary from the timescales described in Section G below.

Employees have the right to consult a trade union representative at any stage in both the informal and formal procedures set out in Sections F & G below. They also have the right to be accompanied at grievance meetings and hearings by a trade union representative employed by the Council, or, if that is not possible by a certified trade union official from elsewhere, or by a workplace colleague.

At hearings, collective grievances should be presented by a spokesperson and/or a representative. Other employees in the group will speak only as witnesses unless otherwise agreed.

In any grievance hearing or appeal hearing, both sides will be given the opportunity to question and cross question.

This application of formal action as outlined in Section G of this procedure is subject to equalities monitoring. This is to ensure that the Council's Equality & Diversity Policy is being implemented and is working effectively. All data gathered will be confidential, will not identify individual employees and will not form part of the procedure. Managers should seek the advice of either the Personnel & Development Manager or the Personnel & Customer Services Manager in advance of any action being taken during the formal stages of the procedure (set out in Section G below).

In cases where the manager upholds the grievance, they should specify the actions that they intend to take in resolving the issue in the letter that they write to the employee.

E Shared Service and Partnership Working

Employees seconded to work elsewhere either on a full or part time basis, or who are employed by the Council to work in a form of shared or partnership arrangement, are entitled to raise grievances using this procedure. Wherever possible, the Council will endeavour to work with partner organisations to resolve grievances involving staff working for the Council on a shared or partnership arrangement.

F Informal Resolution

Every effort should be made by both parties to reach an agreement or resolve the issue before using the formal stages of the procedure set out in Section G below. Where it has not been possible to reach an understanding the employee and their line manager are encouraged to seek advice from a union representative or workplace colleague, and either the Personnel & Development Manager or the Personnel & Customer Services Manager respectively, to consider whether Workplace Mediation may be an effective way of attempting to resolve the issue.

G Formal Resolution

The timescales below may be varied by agreement between the parties.

In situations where the grievance is against the line manager, the employee may approach another manager within their service.

Step 1 – Employees or groups of employees should raise the issue formally by setting out the grievance in writing and sending it to the manager with overall responsibility for the team/section. The grievance is acknowledged in writing by an invitation from the manager to a first hearing, ideally within 10 working days of receipt of the written grievance.

Step 2 – First grievance hearing - the employee or spokesman for a group of employees, (supported by a trade union official or workplace colleague), describes the issues in more detail to the manager (supported by a representative from Personnel Services).

The manager may make a response at the hearing, or may defer for a maximum of 5 working days to consider the issues. The manager will communicate their response in writing.

Within 5 working days of receipt of the manager's letter, the employee or group of employees must indicate, in writing, either acceptance of the response or their intention to pursue the grievance further.

Step 3 – Second grievance hearing – issues that have escalated to this stage will normally be heard by a relevant Chief Officer, ideally within 10 working days of the receipt of an appeal against the outcome of the first grievance hearing.

The Chief Officer will confirm their decision in writing within 5 working days and will advise the employee or group of employees of their right of appeal.

Within 5 working days of receipt of this letter, the employee or group of employees must indicate either acceptance of the response or their intention to pursue the grievance further in writing.

Step 4 – Appeal hearing – the appeal should be in writing to the Chief Executive within 5 working days of receipt of the Chief Officer's letter confirming the outcome of Step 3. The appeal will be considered at a further meeting at which the Chief Executive (or their nominated deputy) will be supported by a representative from Personnel Services. The employee or group of employees may be supported by a trade union representative or workplace colleague.

The outcome of the appeal will be confirmed in writing within 5 working days of the hearing and will be the final consideration of the grievance by the Council via the Grievance Procedure. However, should the grievance affect a number of staff it will remain open to their representatives to raise the issue at the Joint Employee Consultative Committee.

H Fast-track grievances

Usually grievances will be considered through the steps outlined above. However, if, for example, a grievance relates to a matter that the immediate line managers are not able to resolve, it may be appropriate to fast-track a grievance to the most appropriate level so that a meaningful response may be given.

I Post-Employment Grievances

Staff who have left the employment of the Council are entitled to raise a grievance up to 6 months after their employment with the Council has ended. The individual should set out their grievance in writing to the Central Services Director. They will be invited to attend a hearing to consider the issues raised in the grievance and offered a further hearing if the outcome of the first hearing is not accepted.

In some circumstances, and with the agreement of both parties, it may be possible to reduce the steps in a post-employment grievance to two:

Step One – the employee sets out the grievance in writing

Step Two – the appropriate manager makes a written response to the grievance.