

Dispute Resolution and Grievance Procedure Including Harassment at Work NEDDC

March 2024

CONTROL SHEET FOR DISPUTE RESOLUTION AND GRIEVANCE PROCEDURE

Policy Details	Comments / Confirmation (To be updated as the document progresses)
Policy title	Dispute Resolution and Grievance Procedure including Harassment at Work
Current status – i.e. first draft, version 2 or final version	Final
Policy author (post title only)	HR & OD Manager
Location of policy (whilst in development) – i.e. L-drive, shared drive	S Drive HR folder
Relevant Cabinet Member (if applicable)	
Equality Impact Assessment approval date	
Partnership involvement (if applicable)	
Final policy approval route	
Date policy approved	2024
Date policy due for review (maximum three years)	
Date policy forwarded to Improvement (to include on Intranet and Internet if applicable to the public)	

DISPUTE RESOLUTION AND GRIEVANCE PROCEDURE INCLUDING HARASSMENT AT WORK

The Council is committed to fostering mutual respect and understanding between all employees. It is recognised that a beneficial working environment and working relationships have a positive impact on wellbeing, engagement and customer experience. The Council believes all employees should be treated fairly and with respect. This creates a positive, engaging and friendly workplace culture.

Some disagreement in the workplace from time to time is normal as everyone has different perspectives. In many cases, when this is handled well it leads to healthy, resilient and positive relationships with better outcomes from sharing ideas and different approaches with others.

This procedure outlines the steps to be followed if an employee is unhappy about the treatment they have received, working relationships, any aspect of their job or their work environment. This procedure applies to all employees and if an employee/s wishes to raise a grievance they should do so within three months of the event/s occurring.

If an employee's complaint relates to:

- Bullying or harassment, this will be dealt with under this Policy, if this is considered misconduct, this will be dealt with under the Disciplinary Policy
- Misconduct will be dealt with under the Council's Disciplinary Policy
- Job evaluation, this will be dealt with under the Council's Job Evaluation Scheme
- Whistle blowing, this will be dealt with under the Council's Whistle blowing Policy.

The Council is concerned for the welfare of its employees and seeks to ensure that any issues that are perceived to arise are handled in a fair and positive way. Evidence shows that addressing and resolving issues at the earliest opportunity and informally is beneficial to all parties involved. The Council expects all employees to explore informal resolution as outlined in Stage One prior to raising a formal written grievance.

Throughout the formal stages of the policy, employees have the right to be accompanied by their Trade Union representative or work colleague who has not been involved in the issues raised. It is expected employees will act with integrity, professionalism and adhere to confidentiality throughout this process. Support and advice is available to employees from their line manager, HR, Trade Union and Occupational Health as appropriate.

The purpose of the procedure is to:

- To bring conflicts or disputes to a constructive resolution speedily and effectively.
- To provide a forum for all employees to raise concerns and challenge poor behaviour
- To support employees and managers to work together to resolve any disputes and conflicts constructively and speedily.
- To promote a culture where listening and dialogue is recognised as the best route to resolution.

- To recognise the complexity of workplace relationships and promote a range of resolution methods that enable these to be put right quickly, rather than allowing a situation to escalate.
- To resolve alleged and perceived cases of unacceptable behaviour, bullying and harassment (if potential misconduct is involved, the Disciplinary Policy will be followed).
- To provide a framework for organisational intervention including formal action where this is appropriate.

Key Values

- All employees are responsible for maintaining positive working relationships, this includes responsibility for the resolution of conflicts and disputes.
- A resolution achieved and owned by the parties themselves is more likely to be mutually acceptable and endure over the longer term than one that is imposed
- To avoid categorising individuals in a way that creates further conflict whilst at the same time trying to find a positive resolution.
- Focusing on creating an environment where the parties can work together to resolve conflict.
- Focusing on moving forward rather than dwelling on the past

Responsibilities

Employer

- To promote a culture of mutual respect and a positive working environment where employees and managers to work together and constructively to resolve any disputes and conflicts
- To communicate expected behaviour and conduct
- To create an inclusive, safe and healthy working environment, where unacceptable behaviour is not tolerated
- To provide a framework for managing and addressing unacceptable behaviour, disputes and conflict.

Managers

- Must promote a workplace where individuals are treated with dignity and respect. They should be aware of behaviour which may cause offence, if necessary reminding employees of expected standards
- Have a duty to assist in the creation of a safe working environment, where unacceptable behaviour is not tolerated.
- Have an obligation to prevent unacceptable behaviour, harassment or bullying and to take immediate action once it has been identified, whether or not a complaint has been received.

Employees

- Have a duty to assist in the creation of a safe working environment, where unacceptable behaviour is not tolerated.
- Have a personal responsibility not to harass or bully other employees or to condone harassment or bullying by others.
- Should challenge unacceptable behaviour, ensuring their own behaviour does not contribute to or collude with unacceptable behaviour

- Should bring to the attention of their manager any unacceptable behaviour
- Must co-operate fully in any investigation undertaken by the Council.
- Could also be personally liable in law if they harass anyone at work.

Definitions for the purpose of this Policy

Dispute

An argument or disagreement between employees

Conflict

Conflict is a state of discord caused by the actual or perceived opposition of needs, values and interests between people working together. Conflict at work takes many forms. It may be that two workers simply do not get on; or an employee has a grievance against another employee. Conflict may take the form of rivalry between teams; or it may be apparent by the lack of trust and co-operation between groups of employees.

Bullying

Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine or humiliate the recipient. Behaviour that is considered bullying by one person may be considered firm management by another.

Harassment

Unwanted conduct, related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive working environment for that individual.

Harassment and bullying can often be confused. Bullying behaviour can be defined as harassment if the behaviour meets the definition of harassment.

Examples of bullying or harassing behaviour include:

- spreading malicious rumours
- unfair treatment
- picking on or regularly undermining someone
- denying someone's training or promotion opportunities
- a serious one-off incident
- repeated behaviour
- spoken or written words, pranks, gestures, physical behaviour
- Behaviour that causes alarm or distress such as stalking

Bullying and harassment can happen:

- face-to-face
- by letter
- by email
- by phone

Bullying itself is not against the law, but harassment is. Under the Equality Act 2010, there are three types of harassment

1. This is when the unwanted behaviour is related to one of the following:

- age
- sex
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sexual orientation

2. Sexual harassment

3. Less favourable treatment as a result of harassment

Whether someone's behaviour counts as harassment depends on:

- The circumstances of the situation
- How the person receiving the unwanted behaviour views it
- If the person receiving the behaviour is reasonable to view it as they do

If someone makes a harassment or bullying claim, the Council will consider whether a "typical" person would see the behaviour as harassment or bullying.

The Council will take any claims of bullying and/or harassment seriously.

A claim that is vexatious or malicious, may in itself be a form of bullying and harassment against another individual.

In the implementation of this policy, due regard will be given to the Equality Act 2010 covering age, gender, disability, pregnancy, race, religion, belief and sexual orientation.

1. Stage One: Early/Informal Resolution

Employees should wherever possible look to resolve most workplace disagreements, disputes and conflicts themselves at the lowest level possible.

Managers who observe conflict or unacceptable behaviour in the workplace should take action to address the issue at an early stage.

Employees must consider any or all of the following options prior to raising a formal written grievance or complaint to try to reach a solution to any issues/concerns.

Employees are advised to seek advice from their line manager, HR or Trade Union representative to discuss which option is most appropriate given the circumstances.

a. Direct approach to the person concerned

If appropriate, an employee should speak to the individual concerned (this could be their manager) to explain how they feel. The employee must be open to listening to the other individual's perspective and considering solutions that work for both parties involved. This is usually the quickest way to resolve an issue, clears the air and successfully helps to rebuild working relationships.

b. Manager Support

Employees should speak to their line manager who can assist in identifying possible solutions and offer timely support in resolving any concerns. For example, this may involve a joint discussion with both parties involved and the manager. Where the issue is with the manager, an employee may choose to speak to another manager at the same level or the HR Team.

c. Seek advice from HR Team or Trade Union Representative

Employees should speak to a member of the HR Team or their Trade Union Representative who can assist in identifying possible solutions to their concerns. Asking someone for help can ensure important conversations take place quickly, informally and constructively.

d. Early Resolution Meeting

The purpose of meeting is to identify and resolve the disagreement, conflict or dispute as quickly as possible. This confidential meeting will include a manager or a member of the HR Team being present. It provides an opportunity to discuss situations in a supportive, constructive and empathetic environment. For an early resolution meeting to be an option both parties have to agree to engage with this process. The outcome of the early resolution meeting will be summarised during the meeting. This is not a formal meeting.

e. Mediation

Mediation is an impartial method to resolve conflicts and disputes. Through the services of a trained mediator (internal or external), clarification of issues and options for resolution can be achieved when other informal approaches have not been successful. For mediation to be an option both parties have to agree to engage with this process, respect confidentiality and be open to actively listening to the other parties' perspective. This is not a formal meeting.

NB: The manager, HR or Trade Union Representative are entitled to present other reasonable informal approaches to the employee, appropriate to the circumstances.

Should one or more of the parties or the manager involved feel:

- despite taking initial action, the matter has not been resolved or
- they are not able to deal with the matter directly and need assistance or
- the matter is more serious

The next stage of the policy should be followed or the matter maybe referred to the Council's Disciplinary Policy, if appropriate.

2. Stage Two: Formal Resolution – Written Grievance

If the early resolution/informal options outlined in Stage One have been explored and failed to resolve the issue or due to the seriousness of the matter, then an employee/s can submit a formal grievance/complaint in writing.

The written grievance must include the following:

- Name
- Job Title
- Contact details i.e. phone number and email address
- Details of the grievance and the issues that wished to be resolved
- The solution/outcome the employee is seeking
- Name of trade union representative, if applicable

The grievance should be submitted to an employee's Service Manager with a copy to the HR & OD Manager. If the grievance concerns the Service Manager, the employee should submit the grievance to their Assistant Director with a copy to the HR & OD Manager. If the grievance is raised by an Assistant Director it must be submitted to their Director with a copy to the HR & OD Manager.

Formal grievances at Stage Two will normally be considered and investigated by a Service Manager. If the grievance involves the Service Manager or is raised by a member of the Senior Management Team, advice should be sought from HR as to the most appropriate Officer to investigate and consider the grievance. Confidentiality should be respected by all parties throughout the process.

The manager considering the grievance will meet with the employee/s raising the grievance to:

- understand the issues being raised
- listen to the employee's perspective
- identify what solution/outcome is being sought

Employees have the right to be accompanied by a work colleague who is not involved in the process or a trade union representative at the meeting and it is the employee's responsibility to make arrangements for their work colleague or trade union representative to attend any meeting. The companion cannot answer any questions directed to the employee, they are welcome to take notes of the meeting to assist the employee.

The manager will investigate and consider the grievance. This will involve:

- meeting with other employee's to seek their perspectives

- gathering and reviewing information/evidence from a range of sources
- reviewing relevant Council policy and procedures
- reaching a view based on the balance of probabilities and the facts of the matter

Meetings during this process will take place as soon as reasonably practicable. A HR representative may be present at any meeting. It is expected employees will make themselves available to attend any meeting and co-operate with this procedure. If an employee fails to attend a meeting or co-operate with this process, the manager will have to consider the matter and reach a decision based on the information available and may consider further formal action, for example under the Disciplinary Policy.

Managers are expected to consider the grievance and reach a decision in a timely manner, ideally within four weeks of the grievance being submitted. Employee's are expected to co-operate with this timescale. Advice and guidance should be sought from the HR Team throughout this process.

Managers must inform the employee of their decision in writing following consideration of the grievance. A copy of the written notification must be provided to the HR Team.

If a grievance is found to be vexatious, malicious, frivolous or trivial, the manager may dismiss it and will advise the employee as to whether disciplinary action will be taken in respect of a vexatious or malicious complaint.

3. Stage Three: Appeal against a Formal Grievance Decision

An employee can appeal against a formal grievance decision taken at Stage Two of the Procedure. The employee must submit this in writing to the HR & OD Manager within 10 working days of the date of the Stage Two of the written decision.

The written appeal must include the following:

- Name
- Job Title
- Contact details i.e. phone number and/or email address
- Details of the grievance appeal and the issues that wished to be resolved
- The solution/outcome the employee is seeking
- Name of representative, if applicable
- Whether the employee remains aggrieved based on the facts of the decision, or due to a procedural matter.

A grievance appeal will normally be considered and investigated by an Assistant Director who will wherever possible have had no prior involvement in the case. Appeals by Assistant Directors will be heard by a Director. The Assistant Director/Director undertaking the Appeal review must seek advice and guidance from HR throughout this process.

Employees have the right to be accompanied by a work colleague who is not involved in the process or a trade union representative at the meeting and it is the employee's responsibility to make arrangements for their work colleague or trade union representative to attend any meeting. The companion cannot answer any questions directed to the employee, they are welcome to take notes of the meeting to assist the employee.

The manager will investigate and consider the grievance. This will involve:

- meeting with other employee's to seek their perspectives
- gathering and reviewing information/evidence from a range of sources
- reviewing relevant Council policy and procedures
- reaching a view based on the balance of probabilities and the facts of the matter

Meetings during this process will take place as soon as reasonably practicable. A HR representative may be present at any meeting. It is expected employees will make themselves available to attend any meeting and co-operate with this procedure. If an employee fails to attend a meeting or co-operate with this process, the manager will have to consider the matter and reach a decision based on the information available and may consider further formal action, for example under the Disciplinary Policy.

Managers are expected to consider the grievance and reach a decision in a timely manner, ideally within four weeks of the grievance being submitted. Employee's are expected to co-operate with this timescale. Advice and guidance should be sought from the HR Team throughout this process.

Managers must inform the employee of their decision in writing following consideration of the grievance. A copy of the written decision must be provided to the HR Team.

If a grievance is found to be vexatious, malicious, frivolous or trivial, the manager may dismiss it and will advise the employee as to whether disciplinary action will be taken in respect of a vexatious or malicious complaint.

Assistant Directors/Directors are expected to consider the grievance and reach a decision in a timely manner. Advice and guidance should be sought from the HR Team throughout this process and any written notes should be returned to HR for the records.

Assistant Directors/Directors must inform the employee of their decision in writing following consideration of the grievance. A copy of the written decision must be provided to the HR Team.

There is no further right of appeal within the Council, beyond Stage Three of the Dispute Resolution and Grievance Procedure and the matter will be deemed closed.