

Grievance Policy & Procedure



Version Control

This document is intended for:

- Council staff only School-based staff only Council & School-based staff

Version	Key Changes	Approved By
Feb 2020	The Appeals Process has been amended and the collective grievance process added.	DMT
Feb 2024	There have been some changes to align the Council and Schools policies, including adding information regarding duty of care during investigations.	DMT

This document may be reviewed and amended at any time and without consultation in response to legal requirements or in response to an organisational requirement and where the changes do not reflect a fundamental change or affect the spirit or intent of the document.

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1. Policy Statement

- 1.1 This Policy and Procedure has been developed to ensure that employees, managers and companions are clear about their individual roles and responsibilities for raising and resolving individual and collective grievances in the workplace.
- 1.2 Anyone working for the Council may, at some time, have problems or concerns about their work, working conditions or relationships with colleagues that they wish to discuss. It is also clear that it is in the Council's interest to resolve problems before they can develop into major difficulties for all concerned.
- 1.3 This Policy and Procedure has been developed in line with ACAS Code of Practice 1 - Disciplinary and Grievance Procedures.
- 1.4 This Policy and Procedure may be reviewed and amended at any time and without consultation in response to legal requirements, changes to the ACAS Code of Practice 1 - Disciplinary and Grievance Procedures and where the changes do not affect the spirit or intent of the Policy.

2. Definition

- 2.1 A grievance is a problem or concern that an employee has about their work, working conditions or relationships with colleagues or managers.

Issues that may cause a grievance include:

- terms and conditions of employment
- health and safety
- work relations
- new working practices
- working environment
- organisational change
- discrimination

Any matters raised relating to bullying and harassment will be dealt with in line with the [Dignity at Work Policy](#).

- 2.2 This procedure can be used to raise individual or collective grievances relating to any employment matter, with the following exceptions:
 - Matters subject to collective bargaining arrangements;
 - Corporate Policy Decisions;
 - Results of [Job Evaluation/Grading appeals](#);
 - Matters covered by the [Disciplinary Code](#) and/or [Dignity at Work Policy](#);
 - Termination of employment for employees during their probationary period;
 - Issues of malpractice/misconduct amounting to whistleblowing dealt with under the [Whistleblowing Policy](#);

- Matters covered by other policies and procedures – this procedure cannot be used to challenge formal decisions and outcomes in other procedures which have an appeal process, namely:
 - Capability
 - Attendance Management
 - Disciplinary
 - Dismissal for any other reason (e.g. redundancy, or some other substantial reason)
- Complaints against Members by Employees – separate protocol in place
- Former employees (see section 8)
- Grievances that have previously been dealt with

3. Scope

- 3.1 This Policy applies to all employees of the Council with the exception of the Chief Executive and School based employees under the delegated powers of the Governing Body which are subject to separate procedures.

4. General Principles

- 4.1 Grievances should be raised at the earliest opportunity after the incident or issue arises and every effort made by the employee and their manager to work at resolving the concerns promptly and informally where possible and appropriate. The decision-maker may choose not to investigate a grievance that is raised a considerable length of time after the incident or issue arises. This will generally apply to grievances raised more than 6 months after the incident or issue occurred, although this will depend on the facts of each case. This approach has many advantages as it enables early and effective resolution and minimises disruption at work. The aim is to resolve concerns and improve working relationships at the earliest opportunity; however, employees must be aware that it may not be possible to take action to resolve the grievance until all steps of the procedure have been completed.
- 4.2 All parties are expected to take concerns seriously, recognise their own contribution to the situation and work towards a positive and constructive resolution. Concerns will be considered impartially and fairly, and resolved by implementing appropriate remedial action promptly.
- 4.3 Where an employee's grievance is against an immediate manager, the employee may approach that person's manager or raise the issue directly with Organisational Development.
- 4.4 Where a grievance cannot be resolved at the informal stage an employee can progress their concerns to the formal stage of the Grievance Procedure. At all formal

stages of the procedure the employee will have the right to be accompanied by a companion. A companion may be a trade union representative or a work colleague.

- 4.5 If it is a recommendation of the outcome of the grievance process that any of the Council's policies or procedures should be amended, the appropriate Officers/trade unions should be informed.
- 4.6 Raising a grievance that is deemed to be without foundation, or is otherwise in bad faith, may result in disciplinary action.
- 4.7 Whatever practice or agreement existed prior to the initiation of the grievance procedure, it will continue to operate pending resolution of the grievance or until the grievance procedure has been exhausted. In exceptional circumstances, management may take immediate action for legal, health and safety or urgent operational reasons. This will not apply in situations where changes are made to working arrangements and the change is in line with contracts of employment, for example a change of base.
- 4.8 If, in the course of any disciplinary process, an employee raises a grievance, consideration must be given as to whether it is appropriate to temporarily suspend the disciplinary process in order to deal with the grievance. Where the disciplinary and grievance cases are related it may be appropriate to deal with both concurrently. Any suspension of the process should not be unnecessarily protracted and should allow for the grievance to be dealt with as quickly as possible. Advice should be sought from Organisational Development.
- 4.9 In exceptional circumstances, the timescales referred to in the procedure can be extended by mutual agreement.
- 4.10 Consideration must be given at all stages of the Policy for reasonable adjustments as necessary. Examples of this could include ensuring that locations have appropriate access, written information is provided in a suitable format, etc.
- 4.11 Mediation is a flexible approach to conflict resolution and an opportunity to discuss issues with an 'impartial third party'. This is a voluntary, confidential and independent process which can be used at any stage of the Grievance process. Further guidance on mediation can be found in [Appendix 7](#).

5. Expectations and Responsibilities

- 5.1 The following is provided as guidance only. There may be circumstances which require different roles and responsibilities.

Employees should raise their grievance promptly usually with their manager, clearly explaining the problem or concern and suggesting how it can be resolved at the informal stage, where appropriate. When explaining the grievance employees are reminded to stick to the facts and avoid subjective or inflammatory comments.

Employees are encouraged to work with their manager to try and resolve their grievance informally to maintain positive working relationships.

- **Managers** are usually responsible for dealing with the grievance raised by the employee. The manager is responsible for acting promptly, clarifying the grievance raised, establishing the facts and confirming decisions to the employee (with advice from Organisational Development). The manager should take care to listen to the grievance in a calm, fair and objective manner and explore all reasonable options for informal resolution, where appropriate. If it is considered inappropriate for the manager to examine the grievance, another manager may take the lead (please seek advice from Organisational Development). Any written records held by the manager should follow the principles of Data Protection legislation.
- **Organisational Development** – to ensure consistency, Organisational Development will provide advice at every stage of the procedure and will monitor and report on the application of the Policy. Organisational Development will also ensure that written records are retained on personal files for the appropriate period and following the principles of Data Protection legislation.
- **Companion** – an employee may be accompanied at all formal stages of this procedure by a companion, which may be a trade union representative, or a work colleague. Please see Role of the Companion in [Appendix 8](#).

6. Raising a Grievance - Informal Procedure

- 6.1 Grievances should be resolved informally, quickly and sensitively whenever this is possible. Every effort should be made by the employee and the manager to try to resolve the grievance informally. **The employee should therefore discuss the matter with their manager in the first instance.**
- 6.2 If an employee has difficulty explaining their grievance because of language or other difficulties then they are encouraged to seek support from a trade union representative, another employee or Organisational Development.
- 6.3 The employee would not normally be accompanied by a trade union representative or a colleague at informal discussions. However, with the agreement from both parties they may be asked to attend.

7. Raising a Grievance - Formal Procedure

- 7.1 The procedure consists of three stages:
 - Written Notification
 - The Grievance Meeting and Investigation
 - The Appeal

7.2 Stage 1 - Putting the Grievance in Writing

- 7.2.1 Every effort and intention will be made to resolve grievances and concerns at the informal stage as inevitably this produces better and more sustainable outcomes for all concerned. There may however be occasions where the incident or issue cannot be resolved informally then depending upon the circumstances the employee may raise the grievance formally.
- 7.2.2 The grievance must be submitted in writing, must state that it is a formal grievance and must include information setting out the nature of the complaint and an explanation regarding how you would like to see the matter resolved. The employee should also explain how they have tried to resolve the issue prior to making a formal grievance. Any supporting documentation should also be sent at this time. The employee may find the Grievance Report form ([Appendix 1](#)) useful to ensure that sufficient information is provided. Should the employee fail to submit the required information in their written submission, a Grievance Report form will be sent to the employee to complete.
- 7.2.3 The written grievance should usually be provided to your manager. Advice can be provided by your trade union representative and/or Organisational Development if you are unsure to who your written grievance should be provided.
- 7.2.4 The manager must acknowledge receipt of the formal grievance in writing within **5 working days**.
- 7.2.5 The manager must liaise with Organisational Development upon receipt to ensure that appropriate advice and support is given to enable stage 2 of the process to be conducted.

7.3 Stage 2 - Grievance Meeting and Investigation

- 7.3.1 The employee will be invited to a formal meeting with the Manager, in order to explain the grievance and to discuss how they believe the matter may be resolved. This will take place within a reasonable timeframe and normally within **20 working days** of the grievance being received. The employee will be informed in writing of the date, time and location of the meeting, together with confirmation that they have the right to be accompanied. If accompanied, the employee's representative will have the right to present the employee's case, sum it up and respond to any view expressed in the meeting, although the employee will be expected to answer questions directly.
- 7.3.2 A representative from Organisational Development will be available for advice throughout the formal stages and will be in attendance at all relevant meetings.
- 7.3.3 If the employee has a valid reason for being unable to attend the meeting, an alternative date may be arranged within **5 working days** of the original date; however, the employee must accept that this may delay the resolution of the grievance. Should the employee fail to attend the second meeting without a valid reason, consideration will be given to proceeding based on the written information received only. Advice should be sought from Organisational Development if this approach is being considered.

- 7.3.4 The manager may adjourn the meeting to enable them to investigate further, interview witnesses if appropriate and gather relevant documentation. The time taken to investigate will vary depending on the nature of the grievance.
- 7.3.5 Once the manager has completed the investigation, they will prepare a Grievance Investigation Report ([Appendix 2](#)) containing their findings as soon as possible.
- 7.3.6 If the outcome of the investigation highlights any recommendations concerning the conduct of another Officer, or in respect of policies or procedures, these should be addressed as soon as possible in line with the appropriate protocols and in accordance with relevant policies and procedures.
- 7.3.7 Following the conclusion of the investigation, the employee will be invited in writing to a grievance outcome meeting to discuss the content of the grievance investigation report. At the meeting, the manager will outline the investigation and their conclusions and discuss any recommendations that can be taken to resolve the grievance, considering any comments from the employee.
- 7.3.8 The decision will be conveyed in writing without undue delay and usually within **5 working days** of the grievance outcome meeting. If it is not possible to respond within **5 working days**, the employee will be told the reason why and when a response can be expected. The letter will also include the employee's right to appeal, along with a copy of the grievance investigation report if this has not already been provided.
- 7.3.9 It is the responsibility of the manager hearing the grievance to ensure that recommendations made are followed through; liaising with other managers as necessary should this fall outside of their area of managerial responsibility.

7.4 Stage 3 - Appeal

- 7.4.1 If an employee does not agree that the grievance has been satisfactorily resolved at stage 2, they may appeal against the decision.
- 7.4.2 The employee must appeal to Organisational Development within **5 working days** of receiving the written stage 2 decision.
- 7.4.3 The appeal should be submitted in writing, detailing the specific grounds of appeal. This could include:
- Providing new information or evidence which could not previously be presented that related to the original grievance;
 - Identifying procedural irregularities;
 - Challenging the findings reached on the balance of the evidence.
- 7.4.4 The employee may find the Grievance Appeal form ([Appendix 3](#)), useful to ensure that sufficient information is provided. Should the employee fail to submit the required information in their written submission, a Grievance Appeal form will be sent to the employee to complete.

- 7.4.5 Following receipt of the written appeal, the employee will be invited in writing to attend an appeal meeting. The appeal meeting will be heard by an appropriate manager with no prior involvement in the case or initial decision and will follow the same format as a Stage 2 grievance meeting. The employee will be asked to explain why they feel the matter has not been resolved satisfactorily. The employee will have the right to be accompanied at the meeting by a trade union representative or work colleague.
- 7.4.6 The appeal meeting will only be able to consider the original grievance and will not be able to consider any new or unrelated grievances.
- 7.4.7 The manager may adjourn the meeting to enable them to investigate further, interview witnesses if appropriate and gather relevant documentation.
- 7.4.8 Following the conclusion of the investigation, the employee will be invited, in writing, to a grievance appeal outcome meeting. At the meeting, the manager will outline the appeal investigation and their conclusions and discuss any recommendations that can be taken to resolve the grievance appeal, considering any comments from the employee.
- 7.4.9 The decision will be conveyed in writing without undue delay and usually within **5 working days** of the grievance appeal outcome meeting. If it is not possible to respond within **5 working days**, the employee will be told the reason why and when a response can be expected.
- 7.4.10 The decision of the appeal meeting is final and represents the end of the internal grievance procedure.

7.5 Duty of Care During Investigation

The Council/School has a Duty of Care towards all employees, therefore depending on the nature of the allegations, and to ensure that the integrity of the investigation is not compromised, it may be difficult for both parties to continue to work in the same environment. In specific circumstances, it may be appropriate to consider temporary redeployment (if available) or suspension, however, it would be advisable in situations like this to contact your OD Team to discuss alternative options in the first instance. In cases where suspension is being considered this must be done in line with the Council/School Disciplinary Procedure. All staff involved should be notified of the Council/School's Employee Assistance Programme and where additional support can be accessed.

8. Former Employees

- 8.1 Wherever possible a grievance should be raised and dealt with before an employee leaves employment. However, if an employee lodges a grievance after leaving the employment of the Council then the Council will not usually hear the grievance.

- 8.2 It may not be possible to investigate a grievance where employees leave the employment of the Council. In these circumstances, managers are advised to seek advice from Organisational Development.

9. Collective Grievances

- 9.1 Where more than one employee wishes to raise the same complaint/express a common grievance it will be regarded as a Collective Grievance. The individual grievance procedure cannot then be used to raise the same issue.
- 9.2 Where a collective grievance is raised the employees can either be represented by their trade union representative or nominate one person to raise the collective grievance to act on their behalf throughout the proceedings, 'a nominated representative'. All communication and correspondence will be issued to the nominated representative only, except for the outcome confirmation.
- 9.3 A Collective Grievance may be submitted by a trade union representative or an individual employee from the group. In all cases, however, all the employees must be named, and their written approval provided, to enable the nominated representative to proceed on the group's behalf.
- 9.4 Collective Grievances follow a similar procedure to that of Individual Grievances. That is:
- Stage 1: Informal resolution sought
 - Stage 2: Formal grievance submitted, investigated and decided upon
 - Stage 3: Appeal made, considered and a final decision made
- 9.5 However, where the issue(s) involve employees from more than one Service, are of a corporate nature, or do not fall within the delegated authority of an individual Senior Officer to resolve, then the following procedure will apply.
- 9.6 Whatever practice or agreement prevailed prior to the initiation of this procedure will continue to operate pending settlement, or until the agreed procedure has been exhausted. Except in exceptional circumstances, following discussion between senior management and the 'appropriate representative', management may take immediate action for legal, health and safety or urgent operational reasons. This will not apply in situations where changes are made to working arrangements and the change is in line with contracts of employment such as a change of base for example.
- 9.7 An informal approach to the Head of Organisational Development is recommended in the first instance to establish whether a swift resolution or agreement on appropriate course of action is feasible.
- 9.8 Employees have a joint responsibility with management for seeking to resolve any issue. All parties will be expected to show what steps they have taken to achieve a reasonable solution prior to progression to the formal stage. All employees who pursue collective grievances under this procedure must agree that no action or any

form of industrial action will be taken until all steps of the procedure have been completed.

- 9.9 Where the above approach is not successful, full details of the grievance must be set out formally, in writing, signed by all participants and submitted to the Head of Organisational Development. Employees may find the Collective Grievance Report Form ([Appendix 4](#)) useful to ensure that sufficient information is provided.
- 9.10 Upon receipt of a formal collective grievance the Head of Organisational Development will acknowledge receipt of such and will designate an appropriate Senior Officer to hear it. The designated Officer as soon as reasonably possible, will take steps to arrange a meeting with the nominated representative (and, if appropriate, a number of the named group) and investigate as appropriate.
- 9.11 The outcome of the meeting will be notified to all named employees, in writing, usually within **5 working days** of the grievance outcome meeting. If it is not possible to respond within **5 working days**, the employees will be told the reason why and when a response can be expected. The letter will also include the employees' right to appeal.
- 9.12 If the named employees are dissatisfied with the outcome, there will be a right of appeal provided that the nominated representative notifies the Head of Organisational Development in writing, of the wish to do so within **5 working days** of the date notified. Employees may find the Collective Grievance Appeals Form useful to ensure that sufficient information is provided.
- 9.13 If, following the collective grievance outcome, some employees are satisfied with the outcome and do not wish to proceed to an appeal, the request for an appeal should clearly identify those withdrawing from the process and those wishing to pursue the appeal. If only one employee wishes to pursue the appeal, the individual and not collective grievance procedure will apply to the appeal.
- 9.14 Upon receipt of such written notice, the Head of Organisational Development will acknowledge receipt of the appeal, designate it to an appropriate Senior Officer with no prior involvement in the case or initial decision and provide a copy of the Grievance Appeal form together with copies of relevant correspondence. The designated Officer will make arrangements to hear the appeal promptly at a meeting with the nominated representative(s) of the group convened for that purpose.
- 9.15 The outcome of the appeal meeting will be notified to all the employees whose names appear on the Grievance Report form, in writing, without undue delay and usually within **5 working days** of the grievance appeal outcome meeting. If it is not possible to respond within **5 working days**, the employees will be told the reason why and when a response can be expected.
- 9.16 The decision of the appeal meeting is final and represents the end of the internal collective grievance procedure.

NOTE: This Collective Grievance Procedure does not supersede or detract from the regular consultation that takes place between the Council and its employees at the Joint

Consultative Committee, one of the objectives of which is to prevent differences arising. Nor does it replace the normal consultation between management and Trades Union representatives which forms part of the employment relations process in respect of, for example, the handling of redundancy situations, proposed TUPE transfers or review of working arrangements, etc. in respect of which there is an obligation to consult with a view to reaching agreement.

10. Withdrawing a Grievance

- 10.1 If an employee decides to withdraw a grievance at any stage during the procedure, the person raising the grievance should advise the manager of the reason for the decision.
- 10.2 Whilst in the majority of cases the manager will respect the rights of the employee to withdraw the grievance, there may be instances where the concern impacts on our duty of care towards others and in certain circumstances, the manager may, independently of the person raising the grievance, decide to investigate and take action.

11. Keeping Records

- 11.1 Written records must be kept throughout the grievance process, including:
- The nature of the grievance
 - What was decided and actions taken
 - The reasons for the actions
 - Whether an appeal was lodged
 - The outcome of the appeal
 - Any subsequent developments
- 11.2 Records should be retained on the employee's personal file, should be treated as confidential and kept in accordance with Data Protection legislation.
- 11.3 If an employee is represented by a trade union representative or work colleague, copies of grievance meeting notices, meeting notes, response letter, etc. may be sent to that person, unless the employee advises otherwise in writing.

Appendix 1

Stage 1: Written Notification Grievance Report Form



To be completed by employee.

To:

From:

Job title:

Service/Directorate:

Contact telephone number:

Manager:

Have you raised this grievance informally? Yes No

If 'Yes', please state with whom and when:

Name: Date:

Have you raised this with your representative? Yes No

If 'Yes', please state with whom:

Do you wish to be accompanied by this representative at meetings? Yes No

I wish to make a formal Grievance in line with the Council's Grievance Procedure. Please provide full details of the grievance including dates/witnesses wherever possible (if necessary continue on additional sheets of paper) Copies of any relevant documents that relate to the grievance should also be attached

What outcome are you seeking to resolve your grievance? (Please specify):

Signature:

Date:

In signing this form, I confirm that the above statements are true to the best of my knowledge, information and belief. I understand that making any false, malicious or untrue allegations may result in disciplinary action being taken against me by the organisation. I also agree for the sharing of information with my named representative.

Please forward the completed form to the appropriate manager.

Appendix 2

Grievance Investigation Report



Grievance received from:

Investigating Officer:

OD Representative:

Date grievance was registered:

1. **DETAILS OF THE GRIEVANCE**

Summary of main points:

2. **ABBREVIATIONS OR TERMS USED WITHIN THIS REPORT**

3. **BACKGROUND TO GRIEVANCE AND CHRONOLOGY OF MAIN EVENTS**

4. **OUTLINE OF THE INVESTIGATION**

The following investigatory interviews took place:

Other written material inspected:

Interim action taken (If applicable):

5. **INVESTIGATION FINDINGS AND CONCLUSIONS**

Grievance

Findings

Conclusion

6. **OVERALL SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS**

Appendix 3

Stage 3: Grievance Appeal Form



To be completed by employee.

To:

Name:

Job title:

Service/Directorate:

I am not satisfied with the decision reached at Stage 2 of the Formal Grievance Procedure and wish to appeal against the decision.

I am appealing on the following grounds (please continue on a separate sheet):

The outcome I am seeking to achieve is:

Signature: Date:

Please enclose a copy of the original Stage 2 – Grievance Report Form and forward this completed form to HRpayroll@blaenau-gwent.gov.uk

Appendix 4

Stage 1: Written Notification Collective Grievance



To be completed by staff group/trade union representative/nominated representative.

To:

From:

Name	Job Title	Service/Directorate

Has this collective grievance been raised informally? Yes No

If 'Yes', please state with whom and when:

Name: Date:

Have you raised this with your trade union representative? Yes No

If 'Yes', please indicate the representative that will act on behalf of the group:

Or alternatively please nominate one member of the staff (worker) to act on behalf of the group, please state name and contact number below:

We wish to register a formal Collective Grievance in line with the Council's Grievance Policy and Procedure. Please provide full details of the collective grievance including dates/witnesses wherever possible and including details of the desired outcome. (if necessary continue on additional sheets of paper)

Copies of any relevant documents that relate to the collective grievance should also be attached

(If required please use a continuation sheet)

In signing this form, I confirm that the above statements are true to the best of my knowledge, information and belief. I understand that making any false, malicious or untrue allegations may result in disciplinary action being taken against me by the organisation. I also agree for the sharing of information with my named representative.

Signatures of all staff:

Date:

Please forward the completed form to the appropriate manager.

Appendix 5

Collective Grievance Investigation Report



Collective grievance received from:

Investigating Officer:

OD Representative:

Date collective grievance registered:

1. **DETAILS OF THE COLLECTIVE GRIEVANCE**

Summary of main points:

2. **ABBREVIATIONS OR TERMS USED WITHIN THIS REPORT**

3. **BACKGROUND TO THE COLLECTIVE GRIEVANCE/CHRONOLOGY OF MAIN EVENTS**

4. **OUTLINE OF THE INVESTIGATION**

The following investigatory interviews took place:

Other written material inspected:

Interim action taken (If applicable):

5. **INVESTIGATION FINDINGS AND CONCLUSIONS**

Findings

Conclusion

6. **OVERALL SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS**

Appendix 6

Stage 3 – Appeal Collective Grievance Appeal Form



To be completed by staff group/trade union representative/nominated representative.

To: Head of Organisational Development

From:

Name	Job Title	Service/Directorate

We are not satisfied with the decision reached at Stage 2 of the Formal Collective Grievance Procedure and wish to appeal against the decision on the following grounds:

(If required please use a continuation sheet)

The outcome we are seeking to achieve is:

Signatures of all staff:

Date:

*Please enclose a copy of the original Stage 2 – Collective Grievance Report Form
and forward the completed form to HRpayroll@blaenau-gwent.gov.uk
or Head of OD, General Offices, Steelworks Road, Ebbw Vale, NP23 6AA*

Date received by Head of Organisational Development:

Appendix 7

Guidance for Mediation



Background Information

The ACAS Code of Practice 1 on Disciplinary and Grievance Procedures recognises that mediation can be a suitable tool for resolving a range of workplace conflicts. Mediation focuses on the interests of the parties to a dispute, helping them to bring their positions closer together. Where appropriate, mediation can offer an alternative to other formal procedures or can form part of recommendations from the formal grievance process.

Mediation is a voluntary process and all relevant parties must agree to mediation. If any party does not agree to mediation, it cannot be used to resolve the issues.

What is Mediation?

Mediation is defined as “negotiation to resolve differences, conducted by an impartial party and can be used for employees who feel unable to resolve their dispute without assistance. Mediation will involve a meeting(s) between relevant employees, at which an attempt to resolve conflict will be made. This meeting will normally involve 2 employees (parties) and the presence of a neutral mediator who will oversee the mediation process. The mediation session(s) will follow a clear, structured process. The mediator will be independent and will not have been involved in events leading to the need for mediation or formal complaint procedures.

Mediation focuses on agreeing what will happen in the future and the emphasis is on making a forward-looking agreement, outlining mutually acceptable future behaviour between the parties.

The mediator will not make a decision about the issue/disagreement but will ensure the process is followed and encourage a dialogue and agreement between the parties, making suggestions where necessary.

Mediation should be considered as an alternative process in conflict resolution. The use of mediation, however, does not preclude the use of other procedures.

How to access mediation

Organisational Development will be able to source an independent impartial mediator (who in some instances may be external to the Council), so please discuss this with a member of Organisational Development, as consideration will need to be given to the suitability of each case for mediation.

Mediation Process

Please note this is a guidance only and the approach taken will depend on each mediator.

The appointed mediator will explain the mediation process to be followed. Both parties may be accompanied by a work colleague or trade union representative at any initial individual meeting with the mediator. During any joint mediation session, only the employees and the mediator will be present.

It is anticipated that the majority of mediation cases will involve a meeting between the two parties which will be encouraged by the mediator as an open and frank discussion of the issues, controlled by the mediator to ensure fairness and appropriate behaviour. If it is not possible for both parties to participate in a face-to-face mediation session, then the mediator could act as a 'go-between' for the parties. This would involve both parties being invited to a mediation session, waiting in meeting rooms in the same building and having separate discussions with the mediator about the issue. The mediator would then help each party to hear the views of the other and would identify, where possible, areas of common ground so that an agreement could be reached.

The mediator may end any session or the mediation process:

- If they feel it is either not safe to continue for either themselves or one or both employees;
- If they feel the disagreement between the employees is so entrenched that it is beyond mediation;
- If they feel that one or both employees does not wish to resolve the dispute and reach agreement;
- If the mediator becomes aware of alleged acts of gross misconduct or criminal activity by one of the parties.

The employees may end mediation at any time during the process if they feel it is appropriate to do so. However, if mediation continues, is successful and an agreement reached it will usually be written up and signed by the employees and the mediator at the end of the session. If the agreement is not adhered to, this may be taken into account if a formal complaint arises relating to this issue i.e. it will be noted merely that mediation has failed whilst maintaining the confidentiality of the content of the agreement.

The mediator will usually inform Organisational Development as to the outcome of the case and will only give them a copy of the signed agreement with the express consent of the two parties. The only document to be retained from the session(s) will be the written agreement, if one is reached.

The content of the mediation sessions remains confidential and only general feedback will be given, with the following exception:

- If either party discloses information to the mediator that concerns an employee's gross misconduct, criminal activity or a serious threat to a person's well-being or safety, then that disclosure falls outside the boundaries of confidentiality and action may be taken accordingly under the Council's disciplinary procedure.

Any deliberate breaches of confidentiality by any party involved in mediation may be subject to disciplinary action.

Appendix 8

The role of the Companion in the Grievance Process



Introduction

1. Employees who raise a grievance are entitled to be accompanied at appropriate stages of the procedure (see procedure for details).
2. Employees must be advised of this right and given the appropriate time to locate and brief a companion.
3. The companion will receive copies of all correspondence, reports etc., relating to the grievance process, providing consent is received from the employee.

When does the right apply?

4. Employees have a statutory right to be accompanied by a companion at a formal grievance meeting which deals with a complaint about a duty owed by the employer to the employee, for example, if there is a breach of legislation or a contract term.
5. Informal discussions, counselling sessions or investigatory meetings do not attract the statutory right to be accompanied.

Who can be a companion?

6. The companion may be:
 - a work colleague;
 - an official employed by a trade union;
 - a workplace trade union representative, as long as they have been reasonably certified in writing by their union as having experience of, or having received training in, acting as a worker's companion at grievance meetings. Certification may take the form of a card or letter.
7. Unless there are exceptional circumstances, only one companion will be allowed at a meeting.

8. Employees may ask a trade union representative to accompany them at a grievance meeting, regardless of whether the union is recognised or not. However, where a union is recognised in a workplace, it is good practice for employees to ask a representative from that union to accompany them.
9. Work colleagues or trade union representatives do not have to accept a request to accompany an employee, and they should not be pressurised to do so.

What is a reasonable request?

10. When choosing a companion an employee should bear in mind that it would not be reasonable to insist on being accompanied by a colleague whose presence would prejudice the meeting or who might have a conflict of interest. Nor would it be reasonable to ask to be accompanied by a colleague from a geographically remote location when someone suitably qualified is available on site. The request to be accompanied does not have to be in writing.

Training and time off for acting as a companion

11. Trade unions should ensure that their representatives are trained in the role of acting as an employee's companion. Even when a trade union representative has experience of acting in the role, there may still be a need for periodic refresher training.
12. An employee who has agreed to accompany a colleague employed by the same employer is entitled to take a reasonable amount of paid time off to fulfil that responsibility. This should cover the meeting and it is also good practice to allow time for the companion to familiarise themselves with the case and confer with the worker before and after the meeting.

Applying the Right

13. The Council should allow a companion to have a say about the date and time of a meeting. If the companion cannot attend on a proposed date, the employee can suggest an alternative time and date so long as it is reasonable and it is not more than **5 working days** after the original date.
14. Before the meeting takes place, the employee should tell the Council who they have chosen as a companion. In certain circumstances (for instance when the companion is a representative of a non-recognised trade union) it can be helpful for the companion and a representative from the Council to make contact before the meeting.

15. The companion should be allowed to address the meeting in order to:
 - put the employee's case;
 - sum up the employee's case;
 - respond on the employee's behalf to any view expressed at the meeting.
16. The companion can also confer with the employee during the meeting. It is good practice to allow the companion to participate as fully as possible in the meeting, including asking witnesses questions. The Council is, however, not legally required to permit the companion to answer questions on the employee's behalf, or to address the meeting if the employee does not wish it, or to prevent the Council from explaining their case.
17. Employees should not be disadvantaged for using their right to be accompanied or for being companions.

Appendix 9

Preparing for a Formal Grievance Meeting – Guidance for Managers



(Extract from ACAS Guide – Discipline and Grievances at Work)

What is a grievance meeting?

In general terms a grievance meeting deals with any grievance raised by an employee.

Preparing for the meeting

Managers should:

- arrange a meeting promptly, in private where there will not be interruptions e.g. telephones should be diverted and mobile phones switched off;
- consider arranging for someone who is not involved in the case to be a note taker at the meeting;
- whether similar grievances have been raised before, how they have been resolved, and any follow-up action that has been necessary. This allows consistency of treatment;
- consider whether any reasonable adjustments are necessary for a person who is disabled and/or their companion;
- consider whether to offer independent mediation ([Appendix 7](#)).

Conduct of the meeting

Managers should:

- remember that a grievance meeting is not the same as a disciplinary hearing, and is an occasion when discussion and dialogue may lead to an amicable solution;
- make introductions as necessary;
- invite the employee to re-state their grievance and how they would like to see it resolved;
- put care and thought into resolving grievances. They are not normally issues calling for snap decisions, and the employee may have been holding the grievance for a long time. Make allowances for any reasonable 'letting off steam' if the employee is under stress;
- consider adjourning the meeting if it is necessary to investigate any new facts which arise;
- sum up the main points;
- tell the employee when they might reasonably expect a response if one cannot be made at the time, bearing in mind the time limits set out in the grievance procedure.

Be calm, fair and follow the procedure

Grievances can sometimes be taken as personal criticism – managers should be careful to hear any grievance in a calm and objective manner, being as fair to the employee as possible in the resolution of the problem. Following the grievance procedure can make this easier.

Grievances about fellow employees

An employee may be the cause of grievances among their co-workers – perhaps on grounds of personal hygiene, attitude, or capability for the job. Employers must deal with these cases carefully and should generally start by talking privately to the individual about the concerns of fellow employees. This may resolve the grievance.

Appendix 10

Guidance for Conducting Investigations



Confidentiality

- Due regard must be given at all stages to the need for confidentiality in respect of the investigation. The process may raise many anxieties for employees, and you are likely to become aware of matters of a sensitive and confidential nature.
- Information should only be shared with those who have a genuine need to know. You should remind interviewees of this when sensitive information is being discussed.

Preparation

- Be prepared to seek advice when necessary from Organisational Development. Ensure that confidentiality issues are recognised and ensure that the person providing the advice has not been involved in the issue you are investigating.
- Be aware of the timescale and importance of acting promptly.
- Obtain, and if necessary secure, any relevant documents and insist on seeing the originals, not copies, and copy the main documents, which you feel, will be needed during the investigation.
- Having a plan will help you organise your time and approach the investigation in a disciplined and structured way.

Interviewing employees

- Check whether any support of any kind can be provided and check their preference regarding venue for meeting you.
- The main aims of the interview are to:
 - Introduce yourself
 - Explain the process and the timescale
 - Take account of an employee's views and feelings
 - From the employee who has raised the concerns, clarify exactly the nature of the grievance
 - Set the boundaries of the investigation
 - Gather any relevant evidence

- Ensure that you clarify the nature of the grievance; analyse the elements of the grievance; check back with the information received and recorded. Advise that further interviews or discussion may be necessary.

Preparation

- Understand the nature of the grievance and work out who you need to see, know the boundaries of what you are being asked to do.
- Once you have worked out who you need to see, do so as soon as is practical.
- Have your questions prepared in advance and typed up as this saves time and ensures you don't forget to cover key points. It is likely that you may have additional questions to ask once the witness has responded to your initial questions. These will need to be recorded during the interview.
- Employees have the right to be accompanied at their investigation interviews by a trade union representative or work colleague – therefore you need to advise them of this when you invite them to a meeting with you. If a witness wishes to be accompanied they may do so but it must be clear that the witness statement they are providing is their own and not a joint statement.
- When arranging interviews consider whether you require a person to assist in notetaking as this is not the role of Organisational Development. It is imperative that this person understands the confidentiality of the role they will be undertaking. You will need to ensure that an employee being interviewed is aware of the intention to have a person present at the interview, explaining the person's role is as a note-taker and confirming with the employee that they are happy for the named person to be present. If an employee objects to a named person, an alternative note-taker should be sought.
- Interviews should be conducted in an informal and a relaxed manner as possible.
- Open the interview with introductions and clarify your role. Start off by explaining your role e.g. you are there to establish facts, to listen & not to make any judgements on what is being said for the statement and outline the context of why you are seeing this person.
- Confirm the purpose of the interview, being aware of confidentiality. Only share what is absolutely necessary.
- Refer to confidentiality and your recording of an account of the discussion.
- When taking a witness statement always inform them that there may be a possibility that **if** at the end of the investigation, it is concluded that there are issues which may need to be taken forward under another policy for example, the content of the witness statement might need to be disclosed in a further meeting or hearing and the witness may be called upon to discuss the content of this statement.

- Do not use interrogation techniques, try to find out what happened, and why.
- Take areas of inquiry in turn – paraphrasing what you have learned and checking the accuracy of your understanding at the end of each section.
- Agree what is not in dispute and what is.
- Ask questions conducive to finding an answer.
- Persist with questions if necessary; do not be afraid to ask the same question twice.
- Use open, not leading questions.
- Ask single not multiple questions.
- Do not express opinions in words or attitude or make judgements.
- Make notes of each answer given.
- Try to separate hearsay evidence from fact by asking interviewees how they know about a particular issue.
- Deal with conflicts of evidence by seeking corroborative details. If this is not available, consider other ways of clarifying the matter. It will sometimes be necessary to conclude and record that there are different versions or understandings of events.
- Evaluate answers against records, policy, practice, standards and legislation.
- Confirm the evidence.
- At the end of each interview, summarise the main points covered by the interviewee and ask if there is anything to add. Inform the interviewee that you may need to discuss issues further at a later date if it is necessary to clarify any other matters.
- Arrange for statements to be finalised as soon as possible after the interview while the memory is fresh and arrange for them to be agreed and signed by the witness(es). You may wish to send the witness a copy of their typed statement requesting that they check and sign their statement and return it to you without delay.
- After seeing the initial group of witnesses, check to see if the investigation is on track and identify any further witnesses that should be seen.

Writing the Report

- After interviewing all relevant persons and checking documentation, procedures etc. you will need to write a report to record and communicate your findings.
- You will note that you are required to provide a chronology of main events that took place in relation to the allegation/complaint – this does not relate to a summary of your time spent on the investigation.
- You should carefully consider what is included as appendices to your report. Include anything which is pertinent to your conclusions, but care should be taken not to include anything confidential. If in doubt, ask a member of Organisational Development for advice. You should also consider whether anonymity of evidence is appropriate in exceptional circumstances.
- Your report will be provided in full to the individual who raised the grievance; you should therefore consider your style, tone and content, ensuring it is appropriate at all times.
- If your investigation and findings indicate potential misconduct by any party, this should be referred to and considered by the appropriate manager under the Disciplinary Code.