



Grievance Policy and Procedure

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Human Resources Employment Policies





HUMAN RESOURCES AND ORGANISATIONAL DEVELOPMENT

Quick Reference - Associated Documents

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Grievance Policy

1. INTRODUCTION

- 1.1 West Dunbartonshire Council is committed to the equitable and consistent treatment of all employees in grievance situations to ensure a positive working environment is maintained.
- 1.2 Grievances are concerns, problems or complaints that an employee has regarding their employment and may wish to raise with their employer.
- 1.3 Where possible, every attempt should be made to resolve the matter locally, informally and quickly. However, where it is necessary to use the formal procedure, employees must set out their grievance clearly in writing, explaining the basis of the complaint and the resolution sought.
- 1.4 It is in both West Dunbartonshire Council's and the employee's interests to follow a procedure by which issues raised can be discussed and resolved quickly at the appropriate level and to the satisfaction of all concerned.
- 1.5 This policy and procedure is intended to assist the efficiency and smooth running of West Dunbartonshire Council and has been developed in line with the recommendations of ACAS Code of Practice 1 – Disciplinary and Grievance Procedures (April 2009) and in consultation with recognised trades unions.
- 1.6 There is a separate procedure to follow where an employee has a concern about malpractice or impropriety which they believe is a matter of public interest which should be investigated. The "Confidential Reporting" Policy would apply in such circumstances.

2. SCOPE

- 2.1 The Policy and procedure applies to local government employees and craft workers. Separate Grievance Policy and procedures exist for Teachers and Chief Officers.
- 2.2 The Council will ensure that good equal opportunities practice underpins the operation of this policy and will apply equally to all employees irrespective of age, disability, gender, gender re-assignment, race/ethnicity, religious faith/beliefs and sexual orientation. The Policy and procedure has been fully impact assessed.

3. KEY PRINCIPLES

- 3.1** This policy and procedure will be applied to West Dunbartonshire Council's employees fairly and consistently
- 3.2** Notwithstanding the right to raise a formal grievance employees are encouraged to discuss day-to-day issues with their line Manager so that concerns are heard and responded to as soon as possible.
- 3.3** Employees will be given the opportunity to fully state their grievance.
- 3.4** Written records shall be kept of the following: -
 - Notes of all meetings, including investigatory meetings.
 - Any formal witness statements.
 - Any action taken as a result of the grievance, together with reasons.
- 3.5** Managers will ensure that all employees are fully aware of their right to be accompanied at any stage of the formal grievance process by a companion. The chosen companion may be a fellow worker, a trade union representative, or an official employed by a trade union. A trade union representative who is not an employed official must have been certified by their union as being competent to accompany a worker.
- 3.6** Employees should raise issues promptly with their line Manager and should not unreasonably delay meetings. Managers also should deal with issues promptly and should not unreasonably delay meetings, decisions or confirmation of those decisions. Where the grievance is against the line Manager the employee may approach another Manager or raise the issue with their HR Advisor.
- 3.7** All meetings, unless in exceptional circumstances, should be held within the stated timescales. However, by mutual consent timescales may be modified.
- 3.8** Managers will be trained in the application of the policy and procedure to ensure they are familiar with the provisions of the grievance procedures and ensure fairness of treatment and consistency of approach.
- 3.9** Grievances will be treated with the highest degree of confidentiality by everyone involved in the process. All individuals participating in any investigatory meetings will be assured that what they say and the records of the meeting(s) will be kept confidential to the process and will be used only for the purpose of investigating the grievance and taking any action as a result of the investigation. Records will be treated as confidential and kept no longer than necessary in accordance with the Data Protection Act 1998.
- 3.10** Employees or their representatives may contact Human Resources at any time for advice on the Grievance policy and procedure.

3.11 This Policy applies only to individual and collective grievances.

4. APPLICATION OF POLICY AND PROCEDURE

4.1 This policy and procedure also excludes a number of matters where separate policies and procedures exist viz:-

- Discipline – dismissal or action short of dismissal based on conduct - (Disciplinary Policy and procedure)
- Issues of harassment, bullying – (Dignity at Work Policy and procedure)
- Attendance – dismissal or action short of dismissal based on attendance – (Maximising Attendance Policy)
- Malpractice or impropriety where it is believed that a matter of public interest should be investigated – (Confidential Reporting Policy)
- Pension Issues – (Internal Disputes Resolution Procedure)

5. LEGISLATIVE FRAMEWORK

5.1 The Policy and procedure complies with the Employment Right Act 2008 and the ACAS Code of Practice 1 – Disciplinary and Grievance Procedures (6 April 2009).

5.2 In certain circumstances an Employment Tribunal claim may arise from a grievance. The timescales for submission of a claim by an employee to an Employment Tribunal are set down within statute and depend on the nature of the particular claim. The Council will adhere to the principles of the ACAS Code of Practice 1 and all grievances will be dealt with efficiently and promptly.

6. RESPONSIBILITIES

6.1 In order to ensure fair and consistent application of the policy and procedure, all parties have responsibilities as follows:

The Council

- Will delegate responsibility to Executive Directors for ensuring maintenance of grievance standards within their department.

The Manager:

- Implement and communicate policy and procedure to employees.
- Responsible for management and leading on grievance issues and seeking advice from HR&OD.

- Ensure fair, effective and consistent treatment of employees and act reasonably when dealing with grievance complaints, applying the procedures of the policy.
- Deal with grievances promptly and without unreasonable delay
- Undertake training as appropriate, and keep skills and knowledge up-to-date.

Employee:

- Accept and understand the terms and conditions of the policy and procedure.
- Raise grievance complaints quickly and following the established process, sticking to the facts of the matter.
- Co-operate with management during investigations and throughout the grievance process.

HR&OD Services

- Will support Managers in the process and provide advice and guidance on grievance issues, and facilitate processes.
- Will provide corporate training courses on grievance procedures
- Will monitor action taken within departments on an equality and diversity basis.

Trades Unions:

- Provide support, guidance to their members.
- Represent members at grievance meetings if requested by member.
- Work within the processes provided by the policy and procedure.

7. SCHEME OF DELEGATION

- 7.1** Executive Directors have delegated responsibility for ensuring the maintenance of the grievance procedures within their department, through their Managers. Appendix 1 provides a Scheme of Delegation which identifies the level of Officer authorised to deal with grievances at each stage.

8. REVIEW AND MONITORING

- 8.1** The policy and procedure will be reviewed on an annual basis after 1 year of implementation, or earlier if legislative changes are required.
- 8.2** Complaints about the implementation of the policy or procedures should be referred to the Head of Human Resources and Organisational Development.

8.3 All grievances raised will be monitored by HR&OD Services. Managers therefore require to ensure that the appropriate HR Adviser is provided with copies of all correspondence and information relating to the grievance and this will include:

- Date grievance lodged
- Date of hearing
- Reason for any delay
- Date investigation undertaken if appropriate
- Date outcome notified and outcome
- Date any appeal lodged
- Outcome of appeal

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Grievance Procedure

1.0. INTRODUCTION

- 1.1 The Grievance Procedure has been developed to provide guidance and support to Managers and employees in the effective implementation of the policy.
- 1.2 The procedure provides a clear framework and outlines the steps to be taken at an early stage to tackle any problem identified in order to reach a speedy and satisfactory resolution. The procedure outlines the process to be undertaken when dealing with grievance issues.

2.0. MEDIATION

- 2.1 An independent third party of mediator can sometimes help resolve grievance issues. Mediation is a voluntary process where the mediator helps two or more people in dispute to attempt to reach an agreement. Any agreement comes from those in dispute and not the mediator.
- 2.2 Where mediation is deemed by both parties to be an appropriate method of resolving the dispute the grievance procedure can be held in abeyance. In-house trained mediators will be used.
- 2.3 Mediation may be considered in instances such as:-
 - Conflict involving colleagues of a similar job or grade, or between a line Manager and their staff.
 - To rebuild relationships after a formal dispute has been resolved.
 - To address a range of issues, including relationship breakdown, personality clashes, and communication problems.
- 2.4 Mediation may not be suitable if:-
 - Used as a first resort – as employees are encouraged to speak to each other and talk to their Manager before seeking a solution via mediation.
 - It is used by the Manager to avoid their managerial responsibilities.
 - A decision about right or wrong is needed, for example where there is possible criminal activity.
 - The parties do not have the power to settle the issue.
 - Both sides are not in agreement to using the process.

3.0. INFORMAL ACTION

- 3.1 Where an employee has a concern, problem or complaint about their employment, they should try to resolve the problem by raising the matter directly with the appropriate person, if they feel able to do so and this is an appropriate approach. Alternatively they can discuss their concern, problem or complaint with their line Manager (or the line

Manager's Manager if the complaint is against the line Manager) to explore whether they can deal with the matter at an informal level. The employee should indicate to the line Manager how they think the concern or problem should be resolved, and the line Manager will seek to assist the employee achieve a resolution to the grievance. The employee must raise the grievance as soon as possible.

3.2 The Manager will keep a confidential file note of any relevant discussions which should include:

- The nature of the grievance
- What was decided and any action taken

3.3 As it is in all parties best interests to resolve the grievance promptly the line Manager should progress the grievance as quickly as possible ensuring ongoing communication with the employee and providing an outcome within **2** working days. Where a solution cannot be achieved (for whatever reason) this should be advised to the employee in writing, providing details of action undertaken and any other relevant information.

4.0. FORMAL PROCEDURE

4.1 Where an informal approach is not appropriate, or the employee remains aggrieved having tried to resolve the matter informally, the employee should move promptly to the formal grievance procedure. The employee should raise the formal grievance without undue delay, and if possible within 5 working days of the conclusion of any informal action taken to address the grievance.

4.2 Time-scales within which each stage of the formal grievance procedure should be dealt with are detailed at Appendix 1.

Stage 1

4.3 An employee wishing to raise a grievance formally must put his or her complaint in writing to the Head of Service stating that they are invoking the grievance procedure, setting down the nature of the grievance, explaining the basis of their complaint, and indicating how they would wish the grievance to be resolved. Where appropriate the aggrieved employee should set out the names of any witnesses.

4.4 On receipt of the written grievance, the Head of Service will delegate the matter to the appropriate Senior Officer (in line with the Scheme of Delegation) who will arrange for the grievance to be heard. The Senior Officer will consult with a member of HR who will attend meetings/hearings in an advisory capacity. The grievance will be fully discussed at a formal meeting which will normally take place as soon as possible and within **5** working days of receipt of the employee's written grievance. **Only in exceptional circumstances should the meeting take place outwith this time limit.**

- 4.5 The employee has the right to be accompanied at any grievance meeting (refer to section 6).
- 4.6 The Senior Officer referred to in paragraph 4.4 may, where necessary, take appropriate action prior to the first formal grievance meeting to establish information and gather relevant facts, however where a formal investigation as referred to in section 5 below is necessary, this should not take place until after the first formal grievance meeting has been convened.
- 4.7 The Manager may require to adjourn the meeting to undertake a fact finding exercise or a formal investigation. If this is necessary the fact finding/investigation should take place promptly and without unreasonable delay.
- 4.8 Following any fact finding/investigation the meeting will be reconvened as promptly as possible.
- 4.9 As soon as possible and within 5 working days of the meeting, the Manager will issue his or her decision in writing in respect of the grievance, providing reasons for the decision and advise the employee of their right to raise their grievance at Stage 2 of the procedure.
- 4.10 A written record of the grievance case will be kept. Records should include:-
- The nature of the grievance
 - What was decided and actions taken
 - The reasons for the actions

Copies of meeting records will be given to the employee, including copies of any formal minutes which may have been taken. In exceptional circumstances, for example, to protect a witness, certain information might be withheld.

Stage 2

- 4.11 If the employee is not satisfied with the Stage 1 decision, the procedure may be invoked at Stage 2.
- 4.12 Intimation that the employee wishes to move to Stage 2 must be sent to the Head of Service. The letter must set out the reasons why the employee is not satisfied with the outcome of Stage 1. The Head of Service must receive the letter within 10 working days of the date of receipt of the letter notifying the employee of the outcome of the previous stage.
- 4.13 An HR Adviser will arrange for copies of all appropriate paperwork to be sent to the relevant Manager as specified in the attached 'Scheme of Delegation' schedule in advance of the meeting.

- 4.14 The Manager nominated to hear Stage 2 of the Grievance Procedure might allow or require the attendance of relevant parties to the Stage 2 hearing. In situations where the employee intends to call a witness (or witnesses) to the hearing the Manager should be notified by the employee of the witnesses who will be called in advance of the meeting.
- 4.15 The hearing will take place as soon as possible and normally within 5 working days of the receipt of the employee's written request to move to Stage 2 of the Procedure. **Only in exceptional circumstances should the meeting take place outwith this time limit.**
- 4.16 The employee has the right to be accompanied at any grievance meeting (refer to section 6).
- 4.17 The Manager may require to adjourn the meeting to undertake a fact finding exercise or a formal investigation. If this is necessary the fact finding/investigation should take place promptly and without unreasonable delay
- 4.18 Following any fact finding/investigation the meeting will be reconvened as promptly as possible.
- 4.19 A written record of the grievance, the Stage 2 meeting and the outcome will be kept. Records will include:
- The nature of the grievance
 - What was decided and actions taken
 - The reasons for the actions

Copies of meeting records will be given to the employee, including copies of any formal minutes which may have been taken. In exceptional circumstances, for example, to protect a witness, certain information might be withheld.

- 4.20 The Manager nominated to hear Stage 2 of the procedure will notify the employee who raised the grievance of the outcome of the hearing and set out any action intended to be taken to resolve the grievance. The outcome of the hearing will be issued in writing within 5 working days of the hearing and will advise of the right of appeal (see section 8).

Stage 3

- 4.21 If the grievance has not been upheld at Stage 2 of the procedure, the aggrieved party may raise an appeal at Stage 3 of the Procedure (see section 8). The appeal will be heard by the Council's Appeals Committee as indicated under the 'Scheme of Delegation' Appendix 2.
- 4.22 The appeal must be submitted in writing to the employee's Executive Director. It must:

- Be received by the Executive Director within **10** working days of the date of the letter notifying the employee of the outcome of Stage 2.
- Set out reasons why the employee is not satisfied with the outcome of Stage 2
- Not contain any additional complaints not initially notified
- Provide an indication of the employee's preferred resolution

5.0 INVESTIGATION

- 5.1** Consideration will be given to adjourning a grievance meeting where it is deemed by the Hearing Officer that it is necessary for a full investigation of the matter to be undertaken. In such circumstances the employee will be notified that the hearing will be reconvened when the investigation has been completed. All investigations will be undertaken promptly and completed as quickly as possible.
- 5.2** When investigating a grievance matter care must be taken to deal with employees in a fair and reasonable manner. All investigations will be undertaken thoroughly, objectively and expediently and should be confined to establishing the facts of the case.
- 5.3** The investigatory stage will be the collation of evidence by the employer for use at the grievance hearing. In some cases this may require the appointment of an Investigation Officer to undertake a full investigation. In such cases the Investigation Officer will be trained to undertake this role.
- 5.4** The employee(s) concerned will be informed as soon as is practicable that an investigation is being carried out and the reasons for it.
- 5.5** The Investigating Officer will be concerned only with obtaining facts and information relevant to the grievance. This may include, for example, relevant reports by Internal Audit, or other relevant documentation. The aggrieved employee and/or any witnesses may be asked to provide a written statement and to sign and date their statements. The employee and/or witnesses should not be refused the right to be accompanied at the meeting, but this should not unreasonably inhibit the progress of the investigation.
- 5.6** The Investigating Officer shall forward to the Hearing Officer a copy of the report and any accompanying statements that are taken.

6.0 RIGHT TO BE REPRESENTED/ACCOMPANIED AT THE GRIEVANCE MEETING

- 6.1** Employees have a statutory right to be accompanied at the grievance meeting by a companion, who may be:

- a fellow worker
- 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 disciplinary or grievance hearings. Certification may take the form of a card or letter.

6.2 It will not be acceptable to request a specific companion who would not be available to attend the hearing, where this would prevent the hearing taking place within a reasonable timescale, if an alternative companion is more readily available.

6.3 If the companion cannot attend on a proposed date, the employee can suggest an alternative date and time so long as it is reasonable and it is not more than **5** working days after the original date.

6.4 The companion will be allowed to address the meeting, to put and sum up the employee's case, respond on behalf of the employee to any views expressed at the meeting and to confer with the employee during the meeting. The companion, however, cannot answer questions on behalf of the employee or address the meeting if the employee does not wish it.

7.0 AUTHORITY TO TAKE ACTION

7.1 Please refer to Appendix 2 for "Scheme of Delegation" for Authority to take Action for Grievance Hearings.

8.0 APPEALS

Appeals at Stage 1 Level

8.1 Employees, who are unsatisfied with the decision made at Stage 1 have the right to move the grievance to Stage 2 and should submit their appeal in writing to the Head of Service setting out the reasons why the employee is not satisfied. Appeals must be lodged within 10 working days of receipt of notification of the Stage 1 outcome, or the right to appeal will expire. The Head of Service will acknowledge receipt of the Stage 2 grievance and copy to Head of Human Resources & Organisational Development.

Appeals at Stage 2 level

8.2 Employees who are unsatisfied with the decision made at Stage 2 have the right to appeal to the Councils Appeals Committee. The Council Appeals Committee will comprise a minimum of 3 Elected Members.

8.3 The employee must lodge their appeal in writing with the Executive Director within **10** working days of receiving notification of the outcome of Stage 2. The employee must complete and submit the standard Appeals Form setting out the grounds of their appeal.

- 8.4** The Executive Director will acknowledge receipt of the appeal in writing, and will copy the acknowledgement letter and the appeals pro-forma to the Head of Human Resources & Organisational Development who will progress the appeal to the Council's Appeals Committee. If the employee does not exercise the right to appeal within the **10** working days specified then the right to appeal will expire.
- 8.5** The Departmental Manager (Stage 2) must prepare the management case in line with the Council's standard template. Trades Unions are also encouraged to submit background paperwork to support the appeal.
- 8.6** The Departmental Manager must submit the management case and supporting paperwork to the Head of Human Resources & Organisational Development as soon as possible and at least 15 working days prior to the date of the Appeal Hearing.
- 8.7** The employee will be advised in writing of the arrangements for the Appeals Committee and this will be at least **10** days in advance of the Appeals Committee Hearing. This will include all supporting paperwork submitted by both sides.
- 8.8** The employee will have the right to be accompanied at the Appeals Hearing by a companion in line with section 6. The companion will be allowed to address the Hearing, to put and sum up the employee's case, respond on behalf of the employee to any views expressed at the Hearing and to confer with the employee during the Hearing. The companion, however, cannot answer questions on the employee's behalf or address the Hearing if the employee does not wish it.
- 8.9** The decision of the Appeals Committee will be notified to the employee and confirmed in writing within **5** working days of the Hearing. The decision of the Appeals Committee is final.

9.0 OVERLAPPING GRIEVANCE AND DISCIPLINARY CASES

- 9.1** Where an employee raises a grievance during a disciplinary process the disciplinary process may be temporarily suspended in order to deal with the grievance. Where the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently.

Appendix 1

TIMESCALES FOR GRIEVANCE PROCESS

It is important that, insofar as is possible, all parties should adhere to the required time-scales set out in this Grievance Policy and Procedure, and in particular that no party(ies) should cause there to be undue delay in a grievance being heard at any stage(s) of the procedure.

Person	Action	Timescale (working days) within:
	INFORMAL PROCESS	
Employee	Raise grievance informally	As soon as possible
Manager	Respond to informal grievance	2 days
	FORMAL PROCESS	
Employee	Raise grievance formally	5 days
Manager	Grievance hearing	5 days
Manager	Notification of outcome in writing	5 days
Employee	If progressing to Stage 2 - notification of Stage 2	10 days
Manager	Stage 2 grievance hearing	5 days
Manager	Notification of outcome of Stage 2	5 days
Employee	If progressing to Stage 3 (Appeal) - notification	10 days
Appeal Panel	Stage 3 Appeal- normally heard	6 weeks
Legal	Notification of appeal outcome	5 days

SCHEME OF DELEGATION

AUTHORITY TO TAKE ACTION FOR GRIEVANCE HEARINGS

Level of Action	Employees Grade 1-8	Section Head Grades 9-10	Service Managers Grades 11-12
Informal	Line Manager	Line Manager	Line Manager
Stage 1	Line Manager's Manager or equivalent level Manager	Line Manager's Manager or equivalent level Manager	Service Manager
Stage 2	Service Manager or equivalent level Manager or Head of Service	Service Manager or equivalent level Manager or Head of Service	Service Manager or equivalent level Manager or Head of Service
Stage 3 Appeal	Council Appeals Committee	Council Appeal Committee	Council Appeal Committee

This list is for illustrative purposes and levels may be changed to reflect structure arrangements.