



**PR.47 14/15**

**Policy and Resources  
Committee**

**Date 19 February 2015**

**Subject: Employee Policy – Grievance Procedure Review**

Report by:

Director of Resources

Contact Officer:

Emma Redwood  
People and Organisational Development Team  
Manager  
01427 676591  
Emma.redwood@west-lindsey.gov.uk

Purpose / Summary:

The current Grievance Procedure has been reviewed and updated and it is proposed that the new procedure is adopted.

**RECOMMENDATION(S):**

1. That Policy and Resources committee approve the changes to the Grievance Procedure and the reviewed procedure is adopted for all employees of the council.
2. That delegated authority be granted to the Director of resources to make minor housekeeping amendments to the procedure in the future in consultation with the chairmen of JSCC & Policy and Resources.

## IMPLICATIONS

**Legal:** The most important provisions governing grievances at work are to be found in:

- The Employment Act 2008 and
- The Employment Tribunals Regulations 2008

The Acas code of practice on grievance procedures is also of crucial importance and this procedure follows the principles of the Acas code of practice.

**Financial : FIN 90/15**

**Staffing :** None

**Equality and Diversity including Human Rights :**

This policy has been reviewed and will apply equally to all employees of the council regardless of employment status or hours worked and should not therefore disadvantage any individual employee or group of employees.

**Risk Assessment :**

**Climate Related Risks and Opportunities :**

**Title and Location of any Background Papers used in the preparation of this report:**

**Call in and Urgency:**

**Is the decision one which Rule 14.7 of the Scrutiny Procedure Rules apply?**

*i.e. is the report exempt from being called in due to urgency (in consultation with C&I chairman)*

**Yes**

**No**

**x**

**Key Decision:**

*A matter which affects two or more wards, or has significant financial implications*

**Yes**

**No**

**x**

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## **Introduction**

The current Grievance Procedure was implemented prior to 2009 and it was identified that it required updating to provide more clarity when using the procedure.

The revised Grievance Procedure meets the requirements of the ACAS code and current employment legislation.

The key changes are that the revised procedure now clearly outlines the steps to be followed and the roles and responsibilities of all parties involved. And the ability to deal with collective grievances has now been incorporated into the procedure.

## **Consultation**

Early consultation with the trade union and staff representatives has taken place and the revised procedure has been to JSCC on two occasions to allow for amendments and full to discussion to take place.

The revised procedure was unanimously supported by councillors, staff representatives and Unison at JSCC on 27<sup>th</sup> January 2015.

## **Recommendation**

1. That Policy and Resources committee approve the changes to the Grievance Procedure and the reviewed procedure is adopted for all employees of the council.
2. That delegated authority be granted to the Director of resources to make minor housekeeping amendments to the procedure in the future in consultation with the chairmen of JSCC & Policy and Resources.

DRAFT - Grievance Procedure

February 2015

DRAFT

## **INTRODUCTION**

### **Purpose**

The council recognises that from time to time employees may have problems or concerns about their work, working environment or relationships with colleagues that they wish to raise and successfully resolve.

This procedure is to help an individual employee raise a grievance with their line manager, who is normally responsible for dealing with the matter. It aims to provide a process for line managers to quickly and effectively resolve grievances, wherever possible.

Any employee considering raising a grievance under this procedure is advised to contact a member of Human Resources in the first instance, and/or their Trade Union Representative.

### **Scope**

This procedure applies to all employees of West Lindsey District Council.

It should only be used by an employee to raise a concern or complaint about their work, working environment, terms and conditions or workplace relations, including issues of equality and discrimination at work. Issues must be raised within three months of the incident or action giving rise to it. Any grievance raised outside of that time limit may not be considered.

A separate procedure exists for employees to raise complaints of bullying and harassment.

Any grievance must be raised only by an employee or ex-employee (subject to the time limits above). If an ex-employee wishes to raise a grievance they must indicate in writing that this is the case. Criticisms of individuals or of the council through e.g. an exit questionnaire or interview will not be considered as a formal grievance for the purpose of this policy. There is no automatic right to a meeting in respect of a grievance by a person who raised a grievance as an ex-employee and any response to that grievance may be in writing only.

Some matters relating to employment do not fall within the scope of this policy and are dealt with under separate arrangements. These include:

- Disciplinary outcomes (Disciplinary Policy)
- Allegations of serious health and safety issues, unethical conduct, conduct that is an offence, fraud, corruption or financial malpractice (Whistleblowing Policy)
- Applications for grading, re-grading and appeals (Job Evaluation Procedure)
- Payroll matters affecting Income Tax, National Insurance, Pensions etc. (via contact with the provider concerned)
- Grievances raised by employees against Members will be dealt with as set out in the Council's Constitution

This policy aims to ensure that:

- Lawful, non-discriminatory and effective arrangements exist for dealing with employee concerns and grievances
- All employees are aware of their responsibilities regarding raising problems and concerns and will not suffer detriment for doing so as long as the complaint is not malicious
- Managers are aware of and supported in carrying out responsibilities for the resolving of issues as soon as possible

Where an employee raises a grievance during a disciplinary process, not relating to the disciplinary matter, the disciplinary process may be temporarily suspended, at the manager's discretion, in order to deal with the grievance. Where the grievance and disciplinary cases are related, it may be appropriate to deal with both cases concurrently.

The council will assume that all grievances are raised in good faith and will not penalise or victimise any employee for raising a genuine grievance or supporting another employee through the grievance process. In the unlikely event that a complaint is judged to be malicious or vexatious, the employee raising the grievance may be subject to disciplinary action, if this can be reasonably established.

### **Accountabilities**

#### 1. Employees:

- Adhere to the guidelines and procedures of this policy
- Maintain confidentiality throughout the process
- Give full, honest and open information
- Raise concerns at the earliest opportunity
- Actively seek resolution
- Co-operate with any investigation
- To be open to mediation as a means of resolving their grievance
- To have realistic expectations of what can or cannot be achieved by raising a grievance

#### 2. The Council

- To give consistent, fair and reasonable treatment of grievance matters
- To act promptly when potential grievance matters arise
- To investigate the facts appropriately before taking action under the formal part of this procedure
- To allow the right to be accompanied by a workplace colleague or trade union representative to formal meetings at each stage of the procedure
- To give reasonable notice of any grievance meetings which will take place at a reasonable time and location
- To give the right of appeal against grievance action taken
- To advise an employee if an allegation has been made against them and keep them updated as/if the grievance process progresses

- Whilst the council will aim to respect confidentiality of an employee's concerns or complaints there are occasions that, as part of its duty of care, or legal responsibilities the council reserves the right to investigate and take forward matters without their consent e.g. discrimination, theft etc.
- In addition where an employees concerns relate to colleagues, the manager may need to talk to those colleagues but will not do so without telling the employee first. If the employee is not prepared for their grievance to be dealt with in this way (for example because they wish to preserve their anonymity) then the council may not be able to investigate the grievance or resolve the matter.

### 3. Managers

- Adhere to this policy and procedure
- Identify issues early and seek to resolve informally as soon as possible
- Seek professional advice from Human Resources in a timely manner
- Conduct a fair and objective process and investigation
- Set an example through their own good conduct and behaviour

### 4. Human Resources

- Advise and support both the Manager and individual on the grievance process
- Advise and support the employee(s) who are subject to the grievance
- Work with Managers to ensure a fair and objective process and investigation
- Be present in any formal grievance meeting to act as an impartial advisor

### 5. Trade Union

- Work with Managers and support employees during the process
- Be available to undertake the role of the companion when asked

## **Right to Be Accompanied**

At the formal stages of this procedure the employee has the right to be accompanied by a colleague or trade union representative. This does not include meetings where a manager may meet with an employee to resolve matters informally, however an employee may request the support of a work colleague at an informal meeting.

Please note that colleagues are not obliged to agree to accompany you. Anyone who agrees to accompanying an employee must be aware that anything they see or hear during the meeting(s) must remain confidential and must not be discussed with any third party.

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 hearing
- Confer with the employee during the meeting.

### **Collective Grievances**

The collective grievance procedure covers any group of staff employed by the council.

A collective grievance is a grievance brought by a group of staff (i.e. 2 or more) concerning the same matter.

The procedure framework for collective grievances will reflect those for individual grievances.

Staff raising an issue using the collective grievance procedure should be aware that they cannot then use the individual grievance procedure for raising the same issue.

Employees wishing to pursue a collective grievance should nominate individuals to represent their interests throughout the process. These individuals will be referred to as 'nominated representatives' and may or may not be Trade Union representatives. Nominated individuals will be responsible for representing the interests of all employees in the collective grievance, including presenting the case at any meetings.

The maximum number of nominated representatives allowed throughout the collective grievance procedure is as follows:

Number of employees with grievance:	Maximum number of nominated reps:
2 to 5	2
6 to 12	3
13 +	4

The above numbers are for guidance and there may be exceptions to this which would be considered on a case by case basis.

The grievance form must be signed by all employees to whom the grievance applies to confirm that they give their consent to be represented by the nominated representatives.

If one or more employees is not satisfied with the outcome of grievance, they can progress the matter to the next stage and follow the appeals process, either as an individual or a group.



## **PROCEDURE**

Every effort should be made to resolve grievances through an informal process.

### **Informal Stage**

Where an employee has a complaint or issue arising from their employment, they may use the Appendix 1 – Raising a Grievance Form. They should initially raise the matter with their immediate line manager. The immediate line manager and employee should discuss the matter and the line manager should take notes and agree these with the employee. The notes must include the date the issue was raised, the date of the meeting, the nature of the grievance, any advice given and the outcome.

If the grievance relates to an employee's line manager the employee should raise the matter with the line manager's manager, who will seek to resolve the matter informally. Before the meeting the manager may need to gather facts in order to resolve the matter.

As the matter is informal any meetings will involve the employee and manager only.

All issues should attempt to be first resolved at the informal stage, but if an employee goes to the formal stage, then consideration may be given by the manager hearing the matter for this to go back to the informal stage first.

A file note should be made by the manager and sent to Human Resources, to include;

- the nature of the grievance,
- interviews and documents relating to the grievance
- decision and action taken
- the reasons for the action

If the matter remains unresolved the employee may go to the formal stage.

### **Formal Stage**

Any complaint should be in writing using Appendix 1- Raising a Grievance Form. This should be given to the line manager who will forward it onto the next level of management, with a copy to Human Resources.

The manager, with support from Human Resources, will set up a meeting normally within 14 calendar days of receipt of the grievance. Any meeting arranged must give a minimum of 5 working days notice and the employee will have the right to be accompanied by a colleague or trade union representative. The manager hearing the grievance will be accompanied by a member of Human Resources.

The line manager or manager who met with the employee to resolve the matter at the informal stage may also attend, with their notes of the previous informal meeting.

As this is a formal meeting, the process to be followed at that meeting can be found at Appendix 2 - Guidance on Conducting a Formal Grievance Meeting. However the manager hearing the matter may determine a process that best meets the needs of the circumstances to resolve the matter.

The manager hearing the matter and employee will seek to resolve the grievance at this meeting. Possible outcomes may be:

**Manager moves the matter back to the informal stage** – the manager hearing the matter will notify the employee and manager of the outcome within 10 working days of the meeting. The manager will keep notes of the meeting and outcomes and a template letter is available from Human Resources.

If the employee raising the grievance is dissatisfied with the outcome they can appeal (see Appeal Stage).

**Manager upholds or rejects the grievance** – the manager hearing the matter will notify the employee and the manager of the outcome within 10 working days of the meeting. The manager will keep notes of the meeting and outcome and a template letter is available from Human Resources.

If the employee raising the grievance is dissatisfied with the outcome they can appeal (see Appeal Stage).

**Initiate an investigation** – after hearing the full nature of the grievance the manager hearing the matter may decide that it needs to be investigated or further consideration is necessary. The hearing should be adjourned to obtain advice or make further investigation. The manager will arrange for an officer not connected with the case to carry out the investigation. This officer will investigate the matter, produce a written report and deliver this to the manager hearing the grievance.

The report will look into the facts surrounding the grievance and the investigator will interview all relevant parties involved before writing the report. This is a fact gathering exercise so the investigator will not make conclusions or recommendations for action as this is for the manager hearing the matter to decide. The investigator will not normally need to be present at the subsequent meeting.

The manager will recall the meeting. The written report will be made available to the employee and manager who heard the matter at the informal stage, prior to the meeting. The manager hearing the grievance will then seek to resolve the matter at this meeting, notifying both parties using a template letter available from Human Resources.

After seeing the report and meeting both parties the manager hearing the matter may resolve to consider mediation (see below).

**Mediation** – it may be appropriate for the matter to be dealt with by way of mediation, depending on the nature of the grievance. This may be after a report has been prepared or may be a resolution in its own right.

Mediation is based on the principle of collaborative problem solving, with a focus on the future and rebuilding relationships, rather than apportioning blame. Mediation can only take place if all parties are in agreement. The Human Resources team will make arrangements for the mediation to take place and this outcome will be notified to all employees involved in the mediation. Mediation may be provided by an external or internal source.

The outcome of any mediation is confidential between the parties concerned and the manager hearing the grievance will only be notified of whether agreement has been reached or not. Mediation seeks agreement by both parties to act in a manner that is acceptable so there is no appeal against this outcome so long as the mediator confirms that agreement has been reached.

If there is no agreement between the two parties at mediation, the mediator will confirm this to the manager hearing the matter who will take this into account when coming to a decision.

If the employee raising the grievance is dissatisfied with the outcome they can appeal (see Appeal Stage).

### **Grievances about Other Employees**

If the complaint concerns a colleague, that individual will be informed in writing of any complaint made against them. The individual will be told in writing about the nature of the grievance, that it is being investigated under the formal procedure, that they will have the chance to give their version of events and provide any appropriate documentary evidence. They will also be entitled to have information about the outcome in writing.

All parties will be required to co-operate with any investigation that may be necessary, will have the right to be accompanied to any formal meetings and will be notified of the outcome.

### **Appeal Stage**

If an employee is dissatisfied with the response from the hearing manager or the mediation has not secured agreement, they may appeal. The appeal must be in writing and state the grounds for appeal i.e. the basis on which the grievance was wrong or that the action taken as a result was inappropriate and the outcome the employee is seeking, and be sent to the Human Resources team within 10 working days of receipt of the outcome of the meeting or confirmation from the mediator that mediation has not secured agreement.

A grievance appeal must be heard by a Director not previously involved in the matter.

In attendance at the appeal hearing will be the Director hearing the appeal, the employee, their representative, the manager who heard the matter at the formal stage and a member of Human Resources. All of the manager's notes of the

previous meeting, reports and outcome letters will be provided to the Director hearing the appeal prior to the meeting.

The appeal is not a re-hearing of the original grievance, but rather a consideration of the specific areas with which the employee is dissatisfied in relation to the original grievance. The Director conducting the appeal may therefore confine the discussion to those specific areas and not reconsider the whole matter afresh.

The decision of the Director hearing the appeal is final and the outcome will be notified to the employee and manager within 10 working days of the meeting.

### **Status Quo**

The working arrangements at the time the grievance is raised will be maintained during the process or until the matter is resolved. Management reserves the right to vary this provision where it is considered that the maintenance of the "status quo" might be detrimental to the health, safety and welfare of the employee, other employees or members of the public.

### **RECORD KEEPING**

Managers will retain their own notes on the outcome and discussions of any informal grievances. These must be kept securely and a file note should be made by the manager and sent to Human Resources, to include;

- the nature of the grievance,
- interviews and documents relating to the grievance
- decision and action taken
- the reasons for the action

Human Resources will retain records on any formal grievance or appeal for a period of 12 months.

### **MONITORING**

The Human Resources department will log all grievances including outcomes / appeals and ensure that any cases are dealt with as per the policy.



**RAISING A GRIEVANCE FORM**

**Please complete all questions on this form. Make a copy at the same time as you fill it in and keep one copy, give the other copy to your line manager, as appropriate.**

**Name of Employee:**.....

**Job Title:** .....

**Service Area:** .....

**Line Manager:** .....

**What is your grievance?**

**What action has already been taken?**

**Who has considered it?**

**What was the result?**

**What outcome are you seeking?**

**Signed:**..... **Dated:**.....

## **Appendix 2**

### **GUIDANCE ON CONDUCTING A FORMAL GRIEVANCE MEETING**

The manager hearing the matter arranges for the parties to enter, be seated and make introductions if necessary.

If the employee is unaccompanied, the manager checks that he/she is happy to proceed without representation and makes a note to that effect.

If the matter has been the subject of an investigation, the manager hearing the matter will ensure that all parties have read the report prior to the meeting.

When asked by the manager hearing the matter:

- The employee states the nature of the grievance and what has been done to resolve the matter.
- The manager hearing the matter may ask questions to clarify details.
- The HR member present may ask questions to clarify details.
- The manager who has dealt with the matter up to now is asked to respond.
- Further questions may be asked to clarify details.
- The manager will ask both parties to withdraw and notify the employee and manager of his/her decision, in writing within 10 working days of the meeting.

The decision is that of the manager hearing the matter, and Human Resources act in an advisory capacity only.

The process at the Appeal Hearing is the same except that the manager who dealt with the complaint at the first formal meeting will attend instead of the manager who dealt with it at the informal stage.