

Grievance Policy

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1.0 Introduction

From time-to-time employees may have problems, complaints, or concerns about their work, working environment or relationships with colleagues that they wish to raise and successfully resolve. The focus is intended to be on resolution rather than on dispute.

The purpose of this policy is to provide employees the opportunity to raise a problem, concern or complaint and provide the Council with a robust mechanism to address issues quickly, consistently and to ensure fairness and transparency.

2.0 Scope

This policy applies to all Shropshire Council employees except for those employed directly by Schools. Employees employed by Schools should refer to their own policy.

This policy has been agreed between the Council and the recognised trade unions.

3.0 Aims and Objectives

To encourage free and open communication between employees, colleagues, and their managers and where possible to resolve any concerns, questions or problems as quickly as possible.

4.0 Management Responsibilities / Responsibilities of Shropshire Council

- Seek to resolve the employee's grievance by meeting the employee, listening to their concerns, identifying key issues, using mediation where appropriate and identifying appropriate actions.
- Seek advice from the HR and OD Advice team in a timely manner
- At every stage in the procedure the employee will be given the opportunity to state their case before any decision is made.
- Ensure that grievances are dealt with promptly and consistently
- Ensure that meetings are held, decisions made and communicated without unreasonable delay.
- To carry out any necessary investigations to establish the facts of the case.
- At all formal stages, ensure that the employee has the right to be accompanied by a trade union representative or work colleague.
- Make sure that the employee has the right to appeal against any formal decision.
- Maintain a fair employment setting by ensuring that at no time will an employee be penalised or victimised for having raised a grievance.
- Set an example through their own good conduct and behaviour.

- Provide support via Occupational Health and the external counselling service via NOSS.

5.0 Employee Responsibilities

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

All parties will be required to co-operate fully with any investigation that may be necessary, will have the right to be accompanied to any formal meetings. Failure to co-operate with an investigation may lead to disciplinary action. All parties should be open to the idea of mediation as a means of resolving the dispute.

6.0 Grievance Policy

This policy enables employees to seek to find a positive outcome for any grievance that they have experienced in relation to their employment. This may include one of the following areas:

- Terms and conditions of employment
- Health and safety
- Work relations
- Bullying and harassment
- New working practices
- Working environment
- Organisational change
- Discrimination

There are exceptions where the Grievance Policy is not to be used:

- Disciplinary and dismissal matters (including Appeals).
- Questions relating to statutory adjustments to pay and allowances (e.g. income tax, national insurance, statutory sick pay).
- National agreements (other than local interpretation).
- Pay and grading issues (these are dealt with under the Grade Evaluation Procedure).
- Personal matters not directly related to employment or conditions of service.
- Dismissals due to redundancy or the non-renewal of fixed term contracts on their expiry.
- Non-acceptance of an application for voluntary redundancy.
- Issues that are the subject of collective negotiation or consultation with recognised trade unions.

The above list is not exhaustive and where a problem cannot be raised through the grievance procedure the employee will be advised that the grievance will not be heard under this procedure and inform them of the correct procedure to follow.

Whilst the Council respects confidentiality of all employees 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, bullying, theft, safeguarding, criminal activity etc.

Where the employee's concerns relate to colleagues, the Investigating Officer may need to talk to those colleagues. If the employee is not prepared for their grievance to be dealt with in this way, then the Council may not be able to investigate the grievance fully or resolve the matter.

Under this policy an employee may not raise a grievance anonymously – this would hamper the investigation and consideration of the case and may prevent the subject of the complaint from responding effectively to the allegation. In very exceptional circumstances, where the employee has a genuine fear of the consequences of being identified as the complainant, they should contact HR for advice.

This policy is designed to encourage free and open communication between employees and their managers to ensure that concerns, questions and problems arising during the course of employment can be aired and, where possible resolved quickly and to the satisfaction of all concerned. The Council recognises that there will be a small number of issues which are not resolved through informal means and this policy aims to provide a clear formal route to enable employees to pursue matters further where this is necessary.

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 frivolous, malicious, or vexatious, the employee raising the grievance may be subject to disciplinary action, if this can be reasonably established.

If an employee's ability to represent themselves is hindered through either a disability or lack of fluency of the English language, then they should notify the HR and OD Advice Team immediately. The Council will then consider what steps it can take to ensure the employee is not unreasonably disadvantaged during the grievance process. If an employee has previously disclosed that they have a disability, then reasonable adjustments must be considered.

It should be noted that an employee is unable to demand disciplinary action, including dismissal, to be taken against another employee as the resolution to their grievance. The grievance process will conclude whether the disciplinary policy should be invoked and only the subsequent disciplinary investigation will conclude whether any disciplinary action should be taken.

6.1 Representation

- An employee who raises a formal grievance has a right to be accompanied at a grievance meeting.
- Anyone who agrees to accompany an employee, either a Trade Union representative or work colleague, 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 will be allowed to address the grievance meeting to put forward and sum up the employee's case, respond on behalf of the employee to any views expressed during the meeting and confer with the employee during the meeting. The companion does not, however, have the right to answer questions on behalf of the employee, address the meeting if the employee does not wish it or prevent the investigation officer explaining the case.
- The Council can reject an employee's choice of companion (including Trade Union Representatives) in exceptional circumstances if it is an unreasonable request to be accompanied by that person. This may be the case, for example, if the companion is involved in the proceedings, or because the companion will not be available for a meeting for a substantial length of time.

6.2 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.

6.3 Grievance concerns more than one employee

If the grievance concerns more than one employee, then the same procedure will apply to all parties.

6.4 Areas dealt with under the whistleblowing policy

The whistleblowing policy is intended to cover concerns outside the scope of the Grievance Policy for example concerns relating to potential:

- unlawful activity.
- activity in breach of the Council's Standing Orders, Financial Rules, or other policies.
- activity that does not meet established standards or working practices.
- improper conduct.
- abuse of vulnerable adults.
- abuse of children.
- activity that could be damaging the environment.

Theft, fraud, bribery, corruption, discrimination, environmental misuses are all types of things which would fall into these categories.

6.5 Partnership/Joint Working

- Shropshire Council employees, seconded to work for, or who are employed by Shropshire Council to work in partner organisations, or who work in joint or multidisciplinary teams remain entitled to raise grievances using the Council's grievance procedure. Wherever possible grievances will be heard by Shropshire Council managers.
- Grievances which are raised by employees of other organisations with whom the Council works in partnership will be investigated by their own organisation (not Shropshire Council).
- Somebody employed by another organisation e.g. A Town Council but seconded or working within a Shropshire Council team would have access to their own employing organisation's grievance procedure.

6.6 Post-Employment Concerns

There are specific and separate appeal procedures relating to dismissal and redundancy. The grievance procedure should not be used in these instances except where the issue relates to a dispute regarding the payment or non-payment of redundancy pay.

There is no formal procedure to raise a grievance for employees who have left Shropshire Council. Where an employee has left the Council and has concerns, they should write to their former manager setting out the reasons for them. The Manager should then contact the HR and OD Advice Team who will review the concerns with them and advise how to take things forward. The same principle will apply for employees who have left the Council and re-join at a later date in the same or a different role but wish to raise a grievance regarding a previous period of employment.

If an employee submits a grievance before they leave their employment, and it has not been concluded then they may be entitled to appeal. Please seek advice from the HR and OD Advice team.

6.7 Records

It is important to keep written records during each part of the grievance process. Records will be maintained by HR. The records retained will include:

- The nature of the grievance
- What was decided and actions taken
- The reason for the actions
- Whether an appeal was lodged
- The outcome of the appeal
- Any subsequent developments

7.0 Informal Resolution

The formal grievance process can be very difficult and can have an impact on the health and well-being of all parties involved, and it may be very difficult to restore good working relationships following an outcome. It is therefore strongly recommended that in the first instance the employee should try to resolve the concern or issue informally through their manager. This may be through the mechanism of the personal development review, one to one meetings, regular supervision meetings, requesting a specific meeting with their manager or through day-to-day interactions between themselves and their manager. Dealing with grievances in this way can often lead to the quickest and most effective resolution.

Employees should be able to resolve most workplace issues in this manner without recourse to invoking the formal procedure. If this is not possible because the grievance is about the manager, then the employee should approach the manager's manager.

In cases where the employee finds the situation particularly difficult and is not comfortable with having a meeting face to face, a colleague or trade union representative can speak on the employee's behalf if the employee is both present in the meeting and in full agreement.

7.1 Mediation

If the problem concerns relationship difficulties and/or conflict, it is strongly recommended that the parties concerned consider mediation as a way of resolution. The HR and OD Advice Team can provide contact details to support with this.

Mediation is a confidential, informal, and voluntary process which provides both parties, with the help of the mediator, the time and space to listen to each other in a 'safe environment' with the aim of achieving solutions that are acceptable to both parties.

The mediator acts as a neutral third party whose role is not to apportion blame but to enable the parties involved to come to an agreement. Please contact the HR and OD Advice Team on ask.hr@shropshire.gov.uk for further information or for a confidential discussion of what mediation involves.

N.B. Line managers have an important role to play in encouraging employees to consider mediation first before submitting a formal grievance. Even if an employee has submitted a formal grievance, the manager should ask them to consider mediation first before the formal process starts. Trade Union representatives can also be called upon in these instances to help to resolve the matter at this stage.

8.0 Grievance Register Form

Employees submitting a Grievance Register Form are required to:

- Put the complaint in writing together with any accompanying paperwork/evidence, within a reasonable period from when their issues arose (i.e. not more than 6 months), using the Grievance Register Form

(Appendix A) to their manager with a copy to the HR and OD Advice Team Ask.hr@shropshire.gov.uk

- Must keep to the facts and avoid language which may be considered insulting or abusive.
- Outline what outcome, they are seeking as a resolution to the complaint.
- In cases where the complaint is against their immediate line manager, the employee should provide the written grievance to the manager of their line manager. If an employee needs support with this due to disability or lack of fluency of the English Language then they should notify the HR & OD Advice Team for advice. As further support copies of the Grievance Register Form are available from HR & OD Advice Team.

Following receipt of the Grievance Register Form further attempts may be made to resolve the matter informally with their manager, depending on the nature of the complaint. However, if the grievance is serious or an employee has attempted to raise a problem informally without success, the employee should raise it formally with management in writing.

In exceptional circumstances, it may be appropriate for the grievance to be handled formally, without the requirement to have completed the informal stage. This will be decided on a case-by-case basis.

On receipt of the Grievance Register Form the manager will:

- Seek support from the HR and OD Advice Team.
- Notify the senior manager of the grievance.
- The senior manager will acknowledge the employee's grievance within 7 working days.
- The senior manager will appoint an investigation officer to hear the grievance. The investigation officer could be the employee's manager unless they are implicated in the grievance.

9.0 Formal Grievance

- The investigation officer to write to the employee informing them of their right to be accompanied by a Trade Union representative or work colleague. The meeting should be arranged as soon as possible without unreasonable delay but ideally within 20 working days of receipt of the Grievance Register Form.
- Where the employee's chosen companion is not able to attend the date agreed for the grievance meeting, an alternative date should be proposed by the employee, this would normally be within 5 days from the date the grievance meeting was initially arranged for. As far as reasonably possible, the location and timing of any meeting will be convenient to the employee, the companion, and the manager.
- The investigation officer will meet with the employee to fully understand the nature of the grievance and to explore how the grievance might be resolved amicably for all concerned.
- The meeting to be held in private with no interruptions.

- A member of the HR and OD Advice Team will attend formal meetings to provide advice and guidance.
- Consider whether similar grievances have been raised previously, how they have been resolved, and any follow-up action that has been necessary.
- Consider whether any reasonable adjustments are necessary for anyone attending the meeting.

9.1 Investigation

The Investigating Officer will:

- Remain impartial and objective.
- Interview the employee first and invite them to re-state their grievance and how they would like to see it resolved.
- Sum up the main points of the Grievance to confirm understanding.
- Inform the employee when they might reasonably expect a response
- Interview any witnesses relevant to the investigation, being mindful of maintaining confidentiality as far as possible.
- Investigate statements made to ensure that a full picture of the events/situation is clearly identified
- Following a thorough investigation prepare a written response to the employee's grievance detailing the findings of the investigation.

9.2 Outcome

Following completion of the investigation the investigation officer will write to the employee without undue delay. This response may be a preliminary one if the grievance needs more detailed consideration, but the employee will be told what is happening and how long it may be before a final response can be expected.

If there are any actions following the Investigation the investigation officer will update the senior manager.

If the investigation is lengthy and complex the employee will be kept informed and, in any event, the final response should be sent to the employee(s) no later than three months from the initial receipt of the grievance register form. In the event that it is unlikely that a final response will be available in that time, then the appropriate senior manager and employee will need to be notified of the reason for the delay.

The investigation officer should arrange to meet with the employee to explain the final written response.

The final written response should include:

- A summary of the grievance.
- Appropriate details of the investigation.
- The decision on the matters raised.
- The reasons for the decision.
- Proposed actions or agreed outcome.

- If the grievance has been upheld, wholly or in part, what necessary steps will be taken.
- Right of appeal

Options for resolving a grievance may include, but are not limited to:

- That no further action is to be taken.
- Changes in working practice.
- Issuing or clarifying guidance in relation to working practices, policies or procedures.
- Provision of training or other support for the complainant or other employees including mediation.
- An apology from the identified person/s where responsibility for a particular situation can be clearly established.

Any employee who is the subject of a grievance will also be written to outlining the findings.

If potential breaches of Council policy are identified through the grievance process, it may be necessary to instigate a disciplinary investigation to explore these. This will form part of a separate process.

10.0 Appeal

- Being discontent with the outcome of the Grievance is not a reason to appeal. However, if the employee is not satisfied that all information relating to the grievance has been duly considered, or new information has come to light in support of their original grievance, then they may submit an appeal.
- The appeal is not intended for the purpose of re-hearing the entire grievance or raising any new issues. If the employee seeks to raise new matters and it is agreed for them to be considered as part of the appeal process, this may result in a delay in concluding the appeal process as these new matters will need to be investigated fully.
- The employee must submit their appeal, as outlined in outcome letter, detailing their grounds for their appeal, within 10 working days of receipt of their outcome letter and attach the Grievance Register Form to their appeal.
- When an appeal has been lodged outside of the 10 working days, it will be for the employee to detail why the appeal has been submitted outside of the recognised timeframes. Where the appeal is against a finding / set of findings that has been investigated, then the Council reserves the right not to hear such appeals based on the employee's explanation. Appeals submitted regarding timeframes for the Council to respond to a grievance will be heard with the intention that a response is provided as soon as possible and not to hear the details of the grievance.

10.1 On receipt of an Appeal

- The appeal should be dealt with impartially, by a manager who has not previously been involved in the case and they would normally be senior to the investigation officer who heard the original grievance.
- The Appeal Officer will seek support from the HR and OD Advice Team
- The Appeal Officer will acknowledge the appeal.
- Where the grievance relates to another employee that individual must be kept informed of the proceedings.
- The employee will be invited to a meeting with the Appeals Officer which will be arranged as soon as practicable and no later than 25 working days after receipt of the appeal. The employee may be accompanied by a trade union representative or work colleague and will be given at least 3 working days' notice of the date of the meeting.
- A member of the HR and OD Advice Team will also be in attendance to support the Appeals Officer.

10.2 Outcomes of an appeal

Following the meeting the Appeals Officer will write to the employee detailing the outcome of the meeting. The outcome letter will usually be sent within 10 working days of the meeting or without unreasonable delay if additional investigation/information is required. Again, any person who is the subject of a grievance will also be informed of the outcome.

This is the final stage of the formal grievance procedure, and the decision of the Appeals Officer is final.

11.0 Equality Statement

This policy ensures that the Grievance Policy is implemented in a fair and consistent manner and in line with Shropshire Council's values and priorities and that it does not discriminate against any employee on the grounds of one or more protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation).

12.0 Data Protection

Any personal data collected will be processed in accordance with our Data Handling Policy.

13.0 Related Policies and Procedures

- Disciplinary Policy
- Harassment and Bullying Policy
- Speaking up about wrongdoing

14.0 Key Stakeholders

Key stakeholder are employees, Line Managers, HR and OD Advice Team, and Trade Union Representatives.

15.0 Key Legislation

This policy is guided by the ACAS Code of Practice on disciplinary and grievance procedures.

16.0 Review

The policy will be reviewed at regular intervals in conjunction with changes to legislation that may impact upon it. The policy will be reviewed no later than 2 years after its implementation by the Assistant Director of Workforce & Improvement in consultation with the trade unions.

Appendices

Appendix A – Grievance Register Form

Appendix B – Grievance flowchart