

**Personnel Committee 4<sup>th</sup> March 2015**

**Grievance and Dignity at Work Procedure**

**1. Summary of report**

To request Personnel Committee approval for the new Grievance and Dignity at Work Procedure (appendix 1).

**2. Recommendations**

Personnel Committee is recommended to:-

- Agree the revised Grievance and Dignity at Work Procedure for implementation with effect from 1<sup>st</sup> April 2015.

**3. Background**

The current Grievance Procedure was last reviewed in October 2012. Feedback from managers was that the 2012 procedure had been slimmed down to a point that it is vague when working through the process, especially at the formal stage.

The new Grievance and Dignity at Work procedure includes the following updates:-

- Three month timescale in which grievances should be raised.
- Confirms how grievances from ex-employees will be dealt with.
- Clarifies when the procedure cannot be used as other appeal mechanisms are in place in other procedures.
- Deals with repeat grievances.
- Reduces ambiguity in relation to grievances related to the Chief Executive.
- Confirms the procedure does not apply to agency workers.
- Written with a view to be a supportive document that aids managers and employees understanding of how grievances should be raised and dealt with.
- Requires employees to confirm what outcome they require to resolve their grievance.
- Focuses on the informal stage, which cannot be by-passed straight to the formal stage.
- Clarifies the decision making options at the formal stage, including initiating an investigation and recommending mediation.
- Includes reference to the Appeals Procedure.
- Includes how collective grievances will be dealt with.

It is proposed that the new procedure is implemented with effect from 1<sup>st</sup> April 2015.

Any grievances that are in the formal stage of the current procedure at 31<sup>st</sup> March 2015 will continue to conclusion using that procedure.

#### **4. Resource and Legal Considerations**

No financial implications arising out of this report.

The Council should note the following legal implications of the failure to follow the Council's grievance procedures:

- Under the ACAS Code of Practice on Disciplinary and Grievance Procedures, Employment Tribunals have wide discretion to uplift compensation by up to 25% where it has unreasonably failed to follow the grievance procedures and the ACAS Code.
- In addition, the grievance procedures are included as a contractual term of an employee's contract of employment and any breach in the application of the grievance procedures could lead to a breach of contract claim as well as a constructive unfair dismissal claim.

#### **5. Citizen Impact**

Contained within the report.

#### **6. Performance and Risk Management issues**

No risk management implications arising out of this report.

#### **7. Equality Implications**

An Equality Impact Assessment (EqIA) has been completed on the procedure and is attached as Appendix 2.

#### **8. Consultation**

The new Grievance and Dignity at Work Procedure has been widely consulted upon with managers and Trades Unions.



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## Equality Impact Assessment (EqIA) for Policies, Procedures and Services

Proposal name	Grievance and Dignity at Work Procedure		
Directorate	Resources		
Service	HR Strategy and Planning		
Responsible Officer	Steve McGowan		
EqIA Author	Rebecca Lloyd		
Date proposal started	28/07/14	Proposal commencement date (due or actual)	01/04/15

<b>1</b>	<b>What is the purpose of the proposal?</b>	<b>Yes / No</b>	<b>New / revision</b>
	Policy	No	N/A
	Procedure	<b>Yes</b>	<b>Revision</b>
	Internal service	<b>Yes</b>	<b>Revision</b>
	External Service	No	N/A
	Other - give details		
<b>2</b>	<b>What are the intended outcomes, reasons for change? (The business case)</b>		
	<p>The purpose of the Grievance &amp; Dignity At Work Procedure is to allow employees to raise problems or concerns that they may have about work or their working environment including dignity at work issues such as bullying, harassment and discrimination.</p>		
	<p>The Grievance &amp; Dignity at Work Procedure is a key element of our employment practices and it is vital that it meets the needs of employees, managers and the general public. A key aim of Human Resources is to provide a Grievance Procedure which is free from any form of discrimination.</p>		
	<p>The Grievance Procedure was last changed in September 2012, however the feedback from Managers and operational Human Resources is that the procedure was slimmed down to a point that it was vague when working through the process.</p>		
	<p>The key updates in the new procedure are the timescales in which grievances should be raised, that the informal stage cannot be by passed and how the formal stage should be managed with additional information on managers instigating investigations and recommending mediation.</p>		
<b>3</b>	<b>Who is the proposal potential likely to affect?</b>		
	<b>People in Walsall</b>	<b>Yes / No</b>	<b>Detail</b>
	All	No	N/A

	Specific group/s	No	N/A
	Council employees	Yes	Internal procedure
	Other	No	N/A
<b>4</b>	<b>Summarise your evidence, engagement and consultation.</b>		
	<p>The Grievance &amp; Dignity at Work Procedure was circulated to HR Managers and Directorate Support Team for early comments from 28 July to 11 August 2014.</p> <p>Consultation with Assistant Directors, Heads of Service, HR and Trade Unions ran from 16 September 2014 to 1 October 2014. A meeting was planned for 2 October 2014 with Trade Unions, however none attended. An extension given till 8 October 2014 to the Trade Unions for any written comments they wished to make. However, no comments were received from the Trade Unions. Legal and Audit were included as part of the wider council management consultation.</p> <p>Following consultation the draft procedures were amended and were approved by HRSMT on 22 October 2014.</p> <p>The procedure was due to be circulated to members of the ERF for information on 30 October 2014, however due to the Budget proposals this deferred. The next available ERF is the 27 January 2015.</p> <p>The procedure is due to go to CMT for approval on 8 January 2015 and is due to be reviewed by the Personnel Committee 21 January 2015. It is anticipated that the procedure will go live on 1 February 2015.</p> <p>The launch will be communicated in Core Brief and Weekly Bulletin, and the procedure will be uploaded onto the Intranet (on the HR pages) and Inside Walsall. A reminder of the launch will be included on the HR TV screen.</p> <p>As of 30 March 2014 the total number of Walsall Council employees was 8413, made up of 4052 (48.2%) from schools and 4459 from non-schools (53.0%). In total there were 266 (3.1%) employees who declared they had a disability, as defined by the Equality Act 2010. In schools there were only 37 (0.91%), whereas in non-schools there were 231 (5.2%). There were 33 disabled employees who declared on HR Direct they require reasonable adjustments for communication.</p> <p>From the Employment Monitoring report 2013/14, during the reporting period there were 34 formal grievances recorded compared to 9 the previous year. There were two grievances received based on one or more equality characteristics. One of them was investigated and not upheld, and the decision was not appealed.</p>		
<b>5</b>	<b>How may the proposal affect each protected characteristic or group? The affect may be positive, negative or neutral.</b>		
	<b>Characteristic</b>	<b>Affect</b>	<b>Action needed Y or N</b>
	Age	No impact foreseen	

	Disability		Potential impact on employees who require reasonable adjustments for communication and for those who do not understand the grievance & dignity at work procedure e.g. employees with learning disabilities.	
	Gender reassignment		No impact foreseen.	
	Marriage and civil partnership		No impact foreseen.	
	Pregnancy and maternity		Potential impact for people who are on maternity or paternity leave and are not updated about the grievance & dignity at work procedure.	
	Race		Potential impact on those employees whose first language is not English as they may not understand the grievance & dignity at work procedure.	
	Religion or belief		No impact foreseen.	
	Sex		No impact foreseen.	
	Sexual orientation		No impact foreseen.	
	Other (give detail)			
	Further information			
<b>6</b>	<b>Does your proposal link with other proposals to have a cumulative affect on particular equality groups? If yes, give details below.</b>			(Delete one) <b>No</b>
N/A				
<b>7</b>	<b>Which justifiable action does the evidence, engagement and consultation suggest you take? (Bold which one applies)</b>			
A	No major change required			
B	<b>Adjustments needed to remove barriers or to better promote equality</b>			
C	Continue despite possible adverse impact			
D	Stop and rethink your proposal			

**Now complete the action and monitoring plan on the next page**

Action and monitoring plan				
Action Date	Action	Responsibility	Outcome Date	Outcome
01/12/14 TBC	Alternative formats (including audio and Easy Read) for disabled employees are available on request.			
01/12/14 TBC	The policy/procedure will be made available in other languages on request for employees whose first language is not English.			
01/12/14 TBC	Information and update will be circulated to all employees on maternity/paternity leave and long term absence.			

Update to EqIA	
Date	Detail

# Grievance and Dignity at Work Procedure

<b>Document title</b>	Grievance and Dignity at Work Procedure		
<b>Owner</b>	Human Resources Strategic Services		
<b>Status</b>	Draft	<b>Version</b>	7
<b>Effective from</b>	To be confirmed	<b>Approved on</b>	To be confirmed
<b>Last updated</b>	10/12/14	<b>Last updated by</b>	HR Strategy and Planning
<b>Purpose</b>	To enable employees to raise workplace concerns including dignity at work issues and to enable managers to deal with grievances in a fair and efficient manner.		

This procedure links to:

- Appeals Procedure
- Attendance Procedure
- Confidential Reporting (Whistleblowing) Procedure
- Disciplinary Procedure
- Equality and Diversity Protocol
- Job Evaluation Procedure
- Mediation guidance
- Performance Procedure

This list is not exhaustive.

If you would like this information in another language or format contact the HR Absence & Customer Support Team.

Telephone 01922 655656

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**Walsall Council**

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## 1.0 Introduction

- 1.1 It is the approach of the Council that all grievances raised by employees are dealt with in a fair and effective manner and at the appropriate level bearing in mind the nature of the complaint.
- 1.2 This procedure enables employees to raise problems or concerns that they may have about work or their working environment, including dignity at work issues.
- 1.3 Unless there are exceptional circumstances the grievance 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.
- 1.4 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 automatically be considered as a formal grievance for the purposes of this procedure. 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. Reasonable adjustments will be made to enable disabled employees to fully participate in the procedure.
- 1.5 This procedure 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 their responsibilities for resolving issues as soon as possible and deal with concerns using a consistent approach.
- 1.6 Some matters relating to employment do not fall within the scope of this procedure and are dealt with under separate arrangements. These include:
  - Use of or decisions made under the Disciplinary Procedure, Attendance Procedure, Performance Procedure or the Probation Process.
  - Allegations of serious health and safety issues, unethical conduct, conduct that is an offence, fraud, corruption or financial malpractice (Confidential Reporting (Whistleblowing) Procedure)
  - Applications for grading, re-grading and appeals (Job Evaluation and Grading Procedure)



- Payroll matters affecting Income Tax, National Insurance, Pension, etc (via direct contact with HR) except where the grievance relates to service provision or standards rather than the nature of the payroll issue.
- Grievances raised by employees against Elected Members will be dealt with as set out in the Council's Constitution.

Where employees have concerns related to the above, they may not raise the matter under the grievance and dignity at work procedure. Complaints relating to the disciplinary, performance, or attendance procedures will normally be dealt through the hearing or appeals process of that procedure.

- 1.7 Repeat grievances will not normally be reconsidered if the same or similar matter has previously been raised and dealt with under this procedure. In these circumstances it is advisable for the manager to contact Human Resources for advice.

## **2.0 Scope of the procedure**

This procedure applies to all Council employees with the exception of:

- school based employees, where the Governing Body has delegated authority
- agency workers, contractors or external consultants

There are separate arrangements for dealing with grievances raised by employees against the Chief Executive, as well as procedures for dealing with grievances raised by the Chief Executive. In these circumstances the Council will adopt the JNC Local Authority Chief Executive Handbook model procedure.

## **3.0 Procedure**

- 3.1 Every effort should be made to resolve grievances through an informal process.
- 3.2 All parties should ensure that grievances are dealt with promptly without unreasonable delay.
- 3.3 The concerns will be shared at the earliest opportunity with the other parties involved (for example the subject of the grievance) for the purpose of ensuring open and transparent communication.
- 3.4 At any stage in the procedure, following further enquiries, the manager may feel it is appropriate to invoke an alternative procedure (for example, the disciplinary procedure if the matter is considered to be harassment or bullying, or where the grievance is vexatious or malicious).



## 4.0 Informal stage

- 4.1 Where an employee has a complaint or issue arising from their employment, they should initially raise the matter with their immediate manager. Employees may choose to use the Grievance and Dignity at Work Form (Appendix 1) at this stage if they wish, although they do not have to. If they do not use the form they need to make it clear to the manager that they consider this to be at the informal stage of the grievance procedure. They also need to confirm what outcome they require to resolve their grievance.
- 4.2 The immediate line manager and employee should discuss the matter and the manager should take notes. 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.
- 4.3 If the grievance relates to an employee's manager the employee should raise the matter with the manager's line 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.
- 4.4 As the matter is informal any meetings will normally involve the employee and manager only.
- 4.5 All attempts should be made to resolve issues at the informal stage in the first instance. If the matter remains unresolved the employee may then move to the formal stage.

## 5.0 Formal stage

- 5.1 Any grievance should be in writing and the Grievance and Dignity at Work Form (Appendix 1) can be used for this purpose. However, it is not necessary for the employee to only use this form to raise a grievance. The form, letter or email setting out the grievance, must include the actions taken so far, the outcome from the informal stage, and what outcome is required to satisfactorily resolve the issue. The written grievance should be given to the manager who dealt with the informal stage, who will forward it onto the next level of management.
- 5.2 That level of management will arrange a meeting to consider the matter with the complainant. Reasonable notice must be given for any meeting and the employee will have the right to be accompanied by a recognised trade union representative or Council work colleague. The manager who has met with the employee at the informal stage may also be asked to attend, with their notes of the previous informal meeting.
- 5.3 The manager considering the matter and employee will seek to resolve the grievance at this meeting. Possible outcomes may be:



### **5.3.1 Manager moves the matter back to the informal stage**

This option will only be considered where the informal stage has not been exhausted.

### **5.3.2 Manager upholds or rejects the grievance**

The outcome will be confirmed in writing to the employee. If the employee raising the grievance is dissatisfied with the outcome they may appeal.

### **5.3.3 Manager initiates an investigation**

Once the full nature of the grievance has been established the manager considering the matter may decide that it needs to be investigated. They will inform the employee of this and arrange for an officer not connected with the case to carry out the investigation. In exceptional circumstances the investigation may be undertaken by a person external to the Council. The investigator will investigate the matter and report findings in writing to the manager considering 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 considering the matter to decide. The investigator will not normally need to be present at the subsequent meeting.

The manager will reconvene the meeting once the report has been received. The employee and manager who considered the matter at the informal stage will receive a copy of the report at the same time, prior to the meeting. The manager considering the grievance at the formal stage will then seek to resolve the matter at this meeting, notifying both parties of the outcome at the same time. The outcome will be confirmed in writing to the employee. If dissatisfied with this decision the employee raising the grievance can appeal.

The manager considering the matter may decide to consider mediation following the investigation, if relevant, and if not previously attempted at the informal stage.

### **5.3.4 Manager recommends mediation**

The manager considering the matter may decide to recommend mediation, if relevant, and if not previously attempted at the informal stage. This may be after a report has been prepared or may be a resolution in its own right. Mediation can only take place if all parties are in agreement. An HR Advisor will make arrangements for the mediation to take place, although the cost of mediation will be funded by the respective service area.

The outcome of any mediation is confidential between the parties directly concerned and the manager considering the grievance will only be notified of whether or not agreement has been reached. 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 considering the matter at the formal stage who will take this into account when coming to a decision. If dissatisfied with this decision the employee raising the grievance can appeal.

## **6.0 Appeal stage**

- 6.1 If an employee is dissatisfied with the response from the manager they may appeal in accordance with the Council's Appeals Procedure. The appeal must be made to the Head of Human Resources within 10 working days of the written outcome of the formal grievance, and must clearly state the grounds of appeal.

## **7.0 Record keeping**

- 7.1 Managers will retain their own notes of the outcome and discussions of any informal procedure. HR will retain records on any formal grievance or appeal.

## **8.0 Collective Grievances**

- 8.1 A collective grievance is a grievance which is common to more than one employee. They will be dealt with in line with the procedure above.
- 8.2 Employees wishing to pursue a collective grievance should all be named in the Grievance and Dignity at Work Form (Appendix 1) and sign the form. Where there are more than two employees with a collective grievance the employees should nominate representatives to represent their interests at meetings throughout the process. The maximum number of nominated representatives shall be:

Number of employees with the collective grievance:	Maximum number of nominated representatives
2 to 5	1
6 to 15	2
16 and above	3

**Revised January 2015**



**APPENDIX 1 - GRIEVANCE AND DIGNITY AT WORK FORM**

Please tick at which stage this form is being used;

☐ Informal Stage☐ Formal Stage

<b>Name:</b>	<b>Directorate:</b>
<b>Employee No:</b>	<b>Section:</b>
<b>Job Title:</b>	<b>Line Manager:</b>
What is your grievance? (Please give dates/times/location of incidents and names of any witnesses, where appropriate)	
What action have <u>you</u> taken to resolve this issue?	
What action has been taken so far, who has considered it and what was the result?	
What is the outcome that you require to resolve your grievance?	

Signed

Date

Please forward this onto your line manager retaining a copy for yourself.

