



Grievance Procedure

1. Introduction

Dover District Council recognises the right of employees to express any concerns they may have relating to their employment with the Council. This Grievance Procedure forms part of the performance management framework and is designed as the most effective way for employees to express their concerns.

1.1 What is a Grievance?

A Grievance is a problem, complaint or concern an employee may have about their work, working conditions, or relationships with colleagues.

1.2 Why Have a Grievance Procedure?

Grievance procedures allow employers to deal with employees' concerns fairly, consistently and speedily. All employers are required to have procedures in place so that employees can have their concerns properly considered.

Issues that may cause grievances include:

- terms & conditions of employment
- health & safety
- work relations
- new working practices
- organisational change, or
- equal opportunities.

The Council has a separate procedures for dealing with bullying & harassment and whistleblowing.

Most complaints and grievances are best resolved informally in discussion between the employee and their immediate line manager. Dealing with grievances in this way can often lead to the speedy resolution of problems, as the immediate line manager may well be able to resolve the matter directly.

Where the grievance cannot be resolved informally, it should be dealt with under the formal grievance procedure.

2. Application of the Procedure

This procedure is available to all Dover District Council employees, other than in those circumstances referred to below:

- (a) Failure by the employee to comply with relevant time limits in the procedure, except where the Human Resources Manager concurs to a particular time limit being waived;
- (b) An attempt within 12 months of the completion of action under a grievance procedure to restart the procedure in respect of the same grievance, unless any action decided upon by management to redress that grievance has not been implemented;
- (c) A grievance to contest the outcome of formal disciplinary action under the Council's disciplinary procedures or the investigation of such procedures. For this, the Council's Disciplinary Procedure will apply;
- (d) A grievance about a matter over which the Council has no control;
- (e) An alleged grievance which is the subject of, or appropriate to, a collective disputes procedure between the employer and a recognised Union;
- (f) Where the grievance relates to the grading of the employees post as covered by the Council's job evaluation process;

Members of the Council

Although this policy does not apply to Members of the Council, they are expected to adhere to the following principles:

- (a) In the course of their duties, Members of the Council must not:
 - a. do anything which may cause their authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006);
 - b. bully any person;
 - c. intimidate, or attempt to intimidate, any person who is likely to be
 - i. a complainant
 - ii. a witness, or
 - iii. involved in the administration of any investigation, or proceedings;

do anything which compromises, or is likely to compromise, the impartiality of those who work for, or on behalf of, the Council.

2.1 Principles

- (a) It is in all parties' interests to ensure that employees' concerns are dealt with quickly and fairly.
- (b) Whilst many grievances will be on an individual level, the principles of this procedure will also apply to group grievances.
- (c) This procedure follows a series of stages and no stage should be commenced until all possibilities of agreement at the previous stage have been exhausted.
- (d) It is important and in the interest of both employer and employee to keep written records during the grievance process. Records should include:
 - (i) The nature of the grievance raised;
 - (ii) A copy of the written grievance;

- (iii) The employer's response;
 - (iv) Action taken;
 - (v) Reasons for action;
 - (vi) Details of any appeal;
 - (vii) Subsequent developments.
- (e) Records should be kept confidential and in accordance with the Data Protection Act 1988.
- (f) Copies of meeting records should be given to the employee including any formal minutes that may have been taken. In certain circumstance (for example to protect a witness) the employer might withhold evidence.
- (g) It is important that confidentiality is maintained by all involved, including witnesses, at every stage of the grievance process. Details of individual cases must not be shared with others, either during or after completion of the process, unless they are directly involved in the case. Any breach of confidentiality will be addressed formally through the disciplinary procedure.

2.2 Stage 1 – Informal Grievance

Employees should aim to settle most grievances on an informal basis before invoking the formal procedures.

Any employee who has a grievance relating to their employment should raise the matter informally with their manager. Where the grievance is with a colleague, the employee should also make every effort to resolve it with them informally.

If the complaint is against the person with whom the grievance would normally be raised, the employee should approach that person's manager, or another manager within the Council.

Both the manager and the employee are encouraged to keep a record of any informal meeting. Only if the matter is not resolved between them should the formal grievance process be instigated.

2.3 Mediation

Wherever possible, it is in all parties' best interests if the grievance can be resolved swiftly and informally. If the grievance is against a manager or colleague, both parties will be given the opportunity to resolve the issue through mediation. Where this is required, it will be arranged by the Human Resources section, using an appropriately trained mediator. Mediation requires the agreement of both parties to proceed.

2.4 Stage 2 – Raising a Formal Grievance

If the grievance cannot be resolved informally, or through mediation, the following principles will apply:

- (a) the grievance must put in writing to the Human Resources Manager within 10 working days of when the issue occurred;
- (b) the grievance letter must:
 - a. be specific about the nature of the grievance
 - b. detail who, or what, the grievance is against
 - c. detail when the incident(s) occurred, where appropriate
 - d. include any relevant evidence, including witnesses to the incident

- e. be clear about the remedy sought;
- (c) the employee's line manager, or other such manager appointed by the Human Resources Manager, will carry out the appropriate investigations into the complaint, to establish the facts of the case;
- (d) the employee will be invited, with the right to be accompanied, to a meeting to discuss the grievance. The employee must take all reasonable steps to attend this meeting;
- (e) following the meeting, the employee will be written to within 5 working days, confirming the outcome of the meeting;
- (f) if the employee is not satisfied with the outcome of the meeting, they have the right of appeal and to be notified of the outcome of this appeal.

2.5 Stage 3 – Investigation

Upon receipt of the employee's grievance, the HR Manager will assess whether a formal investigation is necessary and send a letter (Appendix) to the employee acknowledging the grounds for the grievance and that, if appropriate, an investigation will take place.

The investigation will not be conducted by the person giving rise to the dispute. Where this is the employee's line manager, the Human Resources Manager will appoint another manager to conduct the investigation. The investigation must be conducted in accordance with the Investigation Meeting Guidance (Appendix)

2.6 Stage 3 – The Grievance Meeting

On conclusion of the investigation, the line manager, or other appropriate manager as appointed by the Human Resources Manager, will arrange to meet with the employee within 10 working days of receipt of the grievance letter, unless the investigation cannot reasonably be concluded in this time, in which case the employee will be advised of when they can expect to have their case heard.

The employee will be entitled to be accompanied at the meeting by a Trade Union Representative, or work colleague, and a member of the Human Resources section will also attend the meeting.

When hearing the grievance meeting, the following principles will apply:

- (a) the employee will be invited to restate their grievance and state how they think it might be resolved;
- (b) the manager will sum up the grievance and the findings of the investigation and if necessary, call for an adjournment to explore resolutions to the problem;
- (c) the manager will advise the employee of when they might reasonably expect a response, if one cannot be made at the time;
- (d) if the hearing needs to be adjourned to gather additional information or deliberate on the findings, it will be reconvened within 5 working days where reasonably practicable;
- (e) the employee will receive in writing the outcome of the grievance hearing within 5 working days and be given the right of appeal if the outcome is not to their satisfaction.

If the employee is unable to attend the meeting they must inform the manager in advance. If the employee fails to attend through circumstances beyond their control, which were unforeseeable at the time the meeting was arranged, the manager will rearrange the meeting. A decision may be taken in the employee's absence if they fail to attend the re-arranged meeting without good reason.

Notes will be taken at the meeting agreed by both parties and signed accordingly.

2.7 Stage 4 - Appeal

Should any employee feel that their grievance has not been satisfactorily resolved following the grievance hearing, he or she may appeal to a manager of the next tier management level within 10 working days of the receipt of the written decision.

The notification must be in writing and must confirm the nature of the appeal. The relevant manager will arrange to meet with the employee within 10 working days of receipt of the appeal letter. The employee has the right to be accompanied at the meeting by a Trade Union Representative or work colleague.

The manager who heard the original grievance will be required to attend the meeting to explain the reason for his or her decision. The manager hearing the appeal will make a decision and confirm this in writing to the employee within 5 working days.

This shall be the final stage of the procedure.

3. Timescales

Time limits are specified for each stage of this procedure. If a grievance is not dealt with by an appropriate manager within the specified timescales, where reasonably practicable, the employee has the right to proceed to the next stage of the procedure.

Where an employee fails to comply with the time limits set down in this procedure, the procedure will cease and the grievance will be considered settled or withdrawn, unless the failure was not the fault of the employee as determined by the Human Resources Manager.

The timescales specified in this procedure will not apply where the manager and the employee both agree, after consultation with the Human Resources Section, that in a particular instance the time limits should be extended.

4. The Right to be Accompanied

Employees have a statutory right to be accompanied at a grievance hearing by a trade union representative or work colleague. A union representative must have been certified by their union as being able to accompany their member. The request to be accompanied does not have to be in writing, but the employee should inform the manager of who will accompany them before the hearing.

If the companion cannot attend the hearing on the proposed date, the employee can propose an alternative date, so long as it is reasonable and is no more than 5 working days after the original date.

When choosing a companion, employees should bear in mind that it is not reasonable to insist on being accompanied by a colleague whose presence would prejudice the hearing, or who might have a conflict of interest. Where a suitably qualified person is available on the site where the employee is based, it may not be reasonable for the employee to ask to be accompanied by a colleague from a geographically remote location.

An employee who has agreed to accompany a colleague employed by the Council is entitled to take a reasonable amount of paid time off to fulfil that responsibility.

5. Special Circumstances

5.1 Employees Who Are the Subject of Grievances

Dover District Council recognises it's responsibility to not only support employees who wish to enter a grievance, but also those employees who have grievances raised against them.

In order to help support employees who have grievances raised against them, Human Resources will notify the employee in writing, advising them that a grievance has been received and stating the nature of the grievance, including copies of the grievance letter and any relevant documentation. HR reserve the right to withhold information if it pertains to a third party.

As part of the original investigation into the grievance, the manager will meet with the employee and they will be given the opportunity of responding to the complaint. In these cases, where a third party is involved, the line manager, or other trained mediator, may act in a mediation role to try and resolve the problem.

5.2 Grievances About Fellow Employees

There are occasions when an employee may be the cause of grievances among his or her colleagues – perhaps on the grounds of personal hygiene, attitude, or capability for the job. Where this is the case, the manager should talk privately to the individual about the concerns of fellow employees. This counselling may resolve the grievance to the satisfaction of the co-employees, who will need to be advised that some action has been taken.

It is vital that any such discussions are conducted tactfully. If the line manager does not feel confident in dealing with the situation, it should be referred to the Human Resources section.

Care also needs to be taken that any discussion with someone being complained about does not turn into a meeting at which they would be entitled to be accompanied.

5.3 Grievances Raised by Ex-Employees

If a member of staff leaves employment and then raises a grievance about a work related issue, the grievance should be addressed via this procedure. If the complainant is unable to attend an arranged meeting they must inform the Human Resources section in advance. If the complainant fails to attend through circumstances beyond their control, which were unforeseeable at the time the meeting was arranged, the meeting should be rearranged. The Council reserves the right to use the modified statutory grievance procedure if the complainant fails to attend the rearranged meeting without good reason. In all such cases, the Human Resources Manager should be advised at the earliest opportunity.

8. Unfounded Allegations

It is imperative that the principles of natural justice are observed at all times. Therefore, in the interests of all parties involved, disciplinary action may be taken against employees who knowingly make false, malicious or vexatious allegations.

9. Legislation

These procedures are in accordance with the Employment Act 2008 and the ACAS Statutory Code of Practice on Discipline and Grievance.

In event that any conflict should arise between the statutory procedures and the Council's own approved disciplinary and grievance procedures, the statutory procedures will prevail.

10. Policy Review

This policy and procedure will be reviewed as determined by the needs of the Council, changes in legislation and good practice.

Any amendment to this policy will be advised to the employees covered by the procedure who will also be informed of the date when the amendment will come into effect.

See Also

Performance Management

- Disciplinary Policy
- Bullying & Harassment Policy
- Whistleblowing Policy
- Fairness at Work policies
- Code of Conduct
- Investigation Policy
- Management Guidance – Conducting a Grievance Hearing