

GRIEVANCE PROCEDURE

1. Introduction

The Council recognises that from time to time employees may wish to seek redress for grievances relating to their employment. In this respect, the Council's policy is to encourage free communication between employees and their managers to ensure that questions and problems arising during the course of employment can be aired and, where possible, resolved quickly and to the satisfaction of all concerned. To this end, the following procedure should be adopted where an employee has a grievance arising from their employment.

1.1. Scope

These procedures will apply to all employees and to all matters within the normal employer/employee relationship, with the exception of those issues for which there are separate procedures or are the subject of collective bargaining. The following are typical exceptions:-

- matters relating to the grading of a post, pay, tax or National Insurance
- matters covered by the disciplinary process (separate procedures)
- matters subject to collective bargaining machinery
- results of job evaluation appeals
- recruitment and selection matters for new employees

This list is not intended to be exhaustive or exclusive.

1.2. General Principles

1.2.1 Employees raising a grievance have the right to be accompanied at any stage in the formal procedures by an accredited trade union representative or work colleague. It is the responsibility of the employee to contact their representative and to ensure that the representative is willing and available to represent/accompany them.

1.2.2 All stages of the grievance procedure will be effected as quickly as possible and within the laid down timescales.

1.2.3 Timescale may be varied by mutual agreement. Where management fail to deal with a grievance within a reasonable timescale, the next stage of the procedure can be invoked by either party communicating that fact to the other.

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- 1.2.4 The employee will be advised in writing of the date and venue of formal hearings giving sufficient time for him/her to prepare.
- 1.2.5 The employee must make reasonable effort to attend the hearing and if there is any difficulty, to notify the Council and agree a mutually acceptable date and venue to enable hearings to take place within an acceptable time of the issue being raised.
- 1.2.6 If the employee fails to attend within a reasonable time then the Council will notify the employee, in writing, of the final date at which the hearing will take place and, if there is no acceptable response, will consider the grievance or appeal in the absence of the employee.
- 1.2.7 At each stage a copy of any written evidence to be presented by either the employee or the Council will be provided to the other party in advance of the hearing.
- 1.2.8 No victimisation will take place where an employee takes out a formal grievance.
- 1.2.9 Where a grievance is registered by an employee the 'status quo' will normally apply, i.e. the conditions or practices in force prior to the grievance will continue or be restored. However, there will be occasions when this will not be appropriate given the circumstances of the complaint.

1.3. Mediation

Mediation is an optional step to take in the grievance procedure. There may be occasions where mediation may be beneficial but the following points should be borne in mind:

- Mediation is most likely to be applicable where there is a breakdown in relationships between two or more members of staff, including between an employee and his/her line manager, and possibly where there are accusations of bullying and harassment.
- The use of mediation is dependent on both or all parties being willing to participate.
- Mediation is not necessarily an alternative to taking informal or formal action under the grievance procedure and indeed may be taken after, or in addition to, grievance hearings and decisions to try to resolve disputes and avoid further problems.



- If mediation is used during the course of the grievance process then the Authorised Officer will suspend the process to allow for mediation. Such suspension should not unduly delay the grievance process.
- 1.4. A guide to mediation is included in Appendix 2 and this should be taken into account when deciding whether mediation is appropriate.

2. Informal Action

If you have a concern about your work or related issues it is often best to raise this informally at an early stage with your supervisor or line manager who will listen to your grievance and respond within a short time, normally within a maximum of 5 working days. This informal stage is normally between just you and your supervisor/line manager but on occasions it may be beneficial to involve a trade union representative or work colleague or a member of the Personnel team to assist in the mediation process and to advise on what action may be taken. The Council positively encourages complaints to be dealt with in this way to resolve issues before they become more serious.

3. Formal Procedure

If any informal discussions fail to resolve your concern, or you feel that it is more serious and you wish to put it on a more formal footing then you will need to follow the following procedure:

3.1. Stage One – Submitting the Grievance

You must write to your supervisor or line manager setting out your grievance and the basis for it and ask for a meeting. Your supervisor/line manager will arrange a meeting normally within 5 working days and you have the right to be accompanied to that meeting and any subsequent meetings by a fellow worker or trade union representative of your choice. If your chosen companion is not available then you have the right to request the meeting be postponed by up to 5 working days. The Council will ensure that the chosen companion is available for the meeting and for any reasonable preparation time with you prior to the meeting.

Should your grievance be a complex or serious issue requiring detailed investigation then the above timescales may be extended by mutual agreement and you will be kept informed of progress and revised meeting date.

3.2. Stage Two - Grievance Hearing

Your supervisor/line manager will chair the hearing and will be accompanied by a Personnel representative. You will be asked to explain your grievance and how you think it should be settled. The procedure as given in Appendix A will be followed with respect to any witnesses or Investigating Officer where appropriate. If it becomes



apparent during the hearing that further advice or investigation is needed then the hearing will be adjourned and reconvened after that advice has been received or further investigation has taken place.

The supervisor/line manager will give your grievance and requested settlement careful consideration. He/she will give his/her decision at the conclusion of the hearing wherever possible. If it is necessary to give further consideration after the hearing then you will be informed once a decision is made. In either case you will receive confirmation in writing within 5 working days of the conclusion of the hearing.

3.3. Stage Three – Appeal

If your supervisor/line manager cannot resolve your grievance to your satisfaction you can appeal. To do so you must write within 5 working days of receiving the written confirmation from the grievance hearing to your **Director** (or the person named in the confirmation letter) stating that you wish to appeal.

The **Director** will arrange an appeal hearing and he/she will chair the meeting and will be accompanied by a Personnel representative. You will be notified in writing of the date and venue of the hearing. The same right to be accompanied and, if necessary, to request a postponement apply as for stage two.

At the hearing you will be asked to explain your reasons for the appeal and the supervisor/line manager who chaired the grievance hearing will explain the reasons for his/her decision. The hearing will generally follow the same format as the grievance hearing though witnesses will only be called if there is fresh evidence to examine or the chair wishes to re-examine some of the evidence.

The **Director** will give careful consideration to your appeal and will give his/her decision at the conclusion of the hearing wherever possible. If it is necessary to give further consideration after the hearing then you will be informed once a decision is made. In both cases you will receive confirmation in writing within 5 working days of the conclusion of the hearing. This decision will be final.

4. Points of Procedure

The following sections clarify certain points of the standard procedure or provide for variations due to the particular circumstances.

4.1. Levels of Authority

The standard levels of authority are given in the procedure in Section 3. However, if the grievance is raised by an employee at Section Head level or above the following minimum levels of authority will apply:



Employee raising grievance	Grievance Hearing	Appeal Hearing
Section Head	Head of Service	Director
Head of Service	Director	Chief Executive
Director	Chief Executive	Personnel Panel
Chief Executive	Personnel Panel	External Advisor

The Council reserves the right to refer a grievance or appeal to a higher level of authority than the minimum shown if it considers this warranted either by the nature or seriousness of the grievance and/or due to the availability of appropriate officers.

4.2. Complaint against an Employee's Line Manager

If you have a complaint about the conduct or behaviour of your immediate supervisor/line manager or other manager in line authority then you can raise the issue with the next higher manager in line authority. If you are unsure how to proceed in these circumstances then you can obtain advice from the Personnel section. You may also wish to talk to your trade union representative, if a union member, who may be able to advise you or raise the issue confidentially with the Personnel section on your behalf.

4.3. Investigating Officer

In complex or serious cases e.g. where there is a complaint about the conduct or behaviour of another member of staff, it may be necessary to hold a more extensive investigation and in these cases an Investigating Officer will be appointed who will be from a different service area to that of the employee(s) under investigation. On occasions the Investigating Officer may be from another organisation or an independent consultant where this is considered to be more appropriate or due to the availability of officers. **Where an investigation is carried out this should be done as quickly as is reasonably possible so as not to unduly delay the grievance procedure. Parties to the procedure will be kept informed of the progress and likely timescale.**

Where an Investigating Officer is appointed, their role shall be to:

- Lead the investigation
- Assemble evidence
- Write a report making a judgement as to whether the grievance is justified and, if it is a complaint about another member of staff, whether there is a case to answer
- If appropriate, recommend that disciplinary action is taken against the alleged perpetrator of the unacceptable conduct or behaviour. In this event a copy of the report will be made available to the individual under investigation and/or that individual's Trade Union.

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- Present the investigation report at the grievance hearing or appeal and, if appropriate, the management case at any subsequent disciplinary hearing.

When interviewing the employee(s) under investigation the Investigating Officer must be accompanied by a witness: this may be a representative from Personnel.

Note that when a complaint under the grievance procedure leads to disciplinary action against a member of staff then the investigation and report will be used in the disciplinary procedure.

4.4. Appropriate Procedure

If you have a complaint about the conduct or performance of another member of staff you may wish to consider whether the complaint should be made under the Grievance Procedure or whether it would be more appropriate to use the Anti Fraud and Corruption Policy or the Confidential Reporting Policy. If in doubt you can obtain confidential advice from the Personnel section. You may also wish to consult your trade union representative if a union member.

5. General Notes

- 5.1. Where references to 'Chief Executive' are made this will include any **Director** deputised to act at the appeal level. Where appropriate it may also include any person either from another organisation or an independent consultant acting on behalf of the Chief Executive.
- 5.2. References to Personnel representative shall mean a person of at least Personnel Officer level or equivalent.
- 5.3. Where examples, including lists, are given these are intended to illustrate typical circumstances and are not exhaustive or exclusive.
- 5.4. If you need advice on the interpretation or use of this policy please contact the Personnel section.

Equality and Diversity Statement

South Hams District Council is committed to promoting equality and valuing diversity in everything we do including service delivery and employment. Further details can be obtained by referring to the Equality and Diversity in Employment Policy Statement in the Personnel and Payroll Manual.

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Appendix A – Order of Proceedings for Grievance and Appeal Hearings

The format of any formal grievance hearing conducted by the Council will be as follows:

- The purpose of a formal grievance hearing will normally be to establish the facts about the employee's grievance and determine what (if any) action can reasonably be taken to resolve it.
- The person leading the hearing (the chair) will introduce the hearing, and explain its purpose and how it will be conducted.
- The employee will be entitled to be accompanied at the hearing, if he/she wishes, by a fellow worker or trade union official of his/her choice.
- The parties present at the hearing will introduce themselves and confirm their respective roles in the hearing.
- The chair will state whether or not any witnesses have been asked to give evidence at the hearing, and if so, who they are. This will include the Investigating Officer where one has been involved.
- The chair will state that the hearing is being conducted as part of the organisation's formal grievance procedure and confirm that a written record of the hearing is being made.
- The chair will invite the employee to state his/her case, ie the circumstances that have led to the grievance, the nature of the grievance, why he/she feels aggrieved and what they are seeking as a settlement. The employee may do this personally, or the employee's representative (if he/she has elected to be represented) may do this on his/her behalf.
- Where an Investigating Officer has been involved he/she will be invited to present his/her report into the grievance. The Investigating Officer may be questioned by the chair and by the person raising the grievance to clarify any points.
- At an appeal hearing the chair from the grievance hearing will be asked to explain his/her decision at the conclusion of that meeting.
- Any witnesses whom the employee has decided to call will be called into the hearing and asked to state any 'evidence' that is relevant to the employee's grievance in front of the parties.
- The chair may ask the employee (and any witnesses) questions about the circumstances of the grievance in order to establish all the relevant facts, background and surrounding circumstances.



- The chair has the right to ask the employee personally to answer such questions, although the employee may on request confer with his/her representative at any time during the grievance hearing.
- Once all the evidence has been heard, the chair will sum up the key points of the hearing.
- The chair will inform the employee of when a decision will be made about what, if any, action will be taken to resolve or otherwise deal with the grievance.
- The chair will inform the employee that he/she will have the right to appeal against the outcome of the grievance hearing if he/she is not satisfied with it. At an appeal hearing the chair will inform the employee that this decision is final.
- The chair will thank the parties for attending and close the hearing.
- At any point during the hearing, the chair may adjourn the proceedings if it appears necessary or desirable to do so, including for the purpose of gathering further information or investigating any allegations made.

Notes:

- Where references to the chair asking questions are made this shall include questions from the Personnel representative put either directly or through the chair.
- An appeal hearing will generally rely mainly on the notes and witness statements from the grievance hearing. Therefore witnesses will normally only be recalled if there is fresh evidence to examine or the chair wishes to review part of the previous evidence. Where an Investigating Officer has been involved he/she will appear at the appeal hearing to summarise his/her report and answer any questions. The chair and Personnel representative from the grievance hearing will attend the appeal hearing.



Appendix 2 – A Guide to Mediation

The following guide is essentially as provided by ACAS. When considering whether and how to use mediation this guide will provide the general principles and points to consider but final arrangements will depend on the circumstances and any agreement reached between the manager hearing the grievance and the parties concerned.

The Guide

An independent third party or mediator can sometimes help resolve disciplinary or 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, not from the mediator. The mediator is not there to judge, to say one person is right and the other wrong, or to tell those involved in the mediation what they should do. The mediator is in charge of the process of seeking to resolve the problem but not the outcome.

Mediators may be employees trained and accredited by an external mediation service who act as internal mediators in addition to their day jobs. Or they may be from an external mediation provider. They can work individually or in pairs as co-mediators.

There are no hard-and-fast rules for when mediation is appropriate but it can be used:

- for conflict involving colleagues of a similar job or grade, or between a line manager and their staff
- at any stage in the conflict as long as any ongoing formal procedures are put in abeyance, or where mediation is included as a stage in the procedures themselves
- to rebuild relationships after a formal dispute has been resolved
- to address a range of issues, including relationship breakdown, personality clashes, communication problems, bullying and harassment.

Grievances most obviously lend themselves to the possibility of mediation. Managers may not always see it as appropriate to surrender their discretion in relation to disciplinary issues where they believe a point of principle is at stake, such as misconduct or poor performance. However, disciplinary and grievance issues can become blurred, and the employer may prefer to tackle the underlying relationship issues by means of mediation.

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Cases unsuitable for mediation

Mediation may not be suitable if:

- used as a first resort – because people should be encouraged to speak to each other and talk to their manager before they seek a solution via mediation
- it is used by a manager to avoid their managerial responsibilities
- a decision about right or wrong is needed, for example where there is possible criminal activity
- the individual bringing a discrimination or harassment case wants it investigated

