

Staff Grievance and Workplace Conflict Policy



Date: October 2017

Adopted and reviewed by The Oak Tree Federation – January 2019



Document summary

The aim of this policy is to identify what might give rise to a grievance, where to address things that are not grievances and establish a fair, effective and consistent way of dealing with grievances.

Enquiries

HR Advisory Team, 01273 481300

Contents

Key points	2
1. Definitions and principles	2
2. Support and the right to representation	3
3. Raising a grievance	3
4. Advice to managers in responding.....	4
5. Resolving a grievance	4
6. Appeals.....	5
7. The relationship between grievances and other procedures	5
Appendix 1 Overview of grievance process	6
Appendix 2 Model hearing procedure for grievances.....	7

Grievance and Workplace Conflict Policy

Key points

- The principle features of this policy have been defined in accordance with the ACAS (Advisory, Conciliation and Arbitration Service) Code of Practice.
- This policy applies to all County Council employees, including school-based employees where the Governing Body has adopted this policy (subject to changes which may have been adopted by the Governing Body of the school). Throughout this policy, reference to the 'County Council' therefore includes schools.
- Informal routes and mediation should always be pursued in the first instance.

1. Definitions and principles

- 1.1. The County Council recognises that most issues can and should be resolved informally wherever possible; a quiet word or an honest conversation is often the best solution. Where an employee feels they have genuine cause for complaint they can raise a grievance. This policy sets out the County Council's approach to handling such grievances.
- 1.2. The County Council has a commitment to using mediation to resolve disputes. Grievances will normally only be escalated to a formal hearing if mediation has been fully explored. Details about the County Council's Workplace Mediation Service can be found on the intranet and the Webshop.
- 1.3. Typical areas which may give rise to a grievance include (note that this list is not exhaustive):
 - concerns about Health and Safety or the working environment;
 - bullying or harassment;
 - discrimination on the grounds of a protected characteristic (as defined in the Equality Act 2010).
- 1.4. There are also some situations where raising a grievance is not normally the appropriate channel, typically where there is a separate policy or procedure such as the non-exhaustive list of examples in the table below:

Scenario	Appropriate channel
Appeals against job grading	See the Job Grading Policy
Responses to disciplinary procedures	See the Disciplinary Policy
Responses to performance management procedures	See the Performance Management Policy
Responses to proposals for restructuring	See the Managing Change Policy
Whistleblowing	See the Whistleblowing Policy
Statutory adjustments to pay (e.g. income tax, national insurance)	The Payroll Team or the tax office
Matters relating to strategic County Council policy	Corporate Complaints Procedure
Matters covered by national bodies over which the County Council has no discretion or authority	Matters related to nationally agreed terms and conditions of employment would be better raised with Trade Unions
Former County Council employees	Corporate Complaints Procedure

- 1.5. Complainants should not be discriminated against or victimised for having brought a complaint and confidentiality should be maintained at all times, including after any procedures have concluded.
- 1.6. Collective grievances This policy applies equally to collective grievances. Larger groups will normally be expected to nominate or identify representatives to speak for the group. These may or may not be official Trade Union representatives. None of the parties involved in the dispute will take action to implement decisions relating to the dispute until this procedure has been completed. In cases where staff are employed on teachers' terms and conditions, the Burgundy Book shall apply.
- 1.7. Recurrent grievances If a chairperson considers that an issue has already been addressed by an earlier grievance procedure, they are entitled to decide not to hear it again.

2. Support and the right to representation

- 2.1. Employees may wish to access the staff counselling service offered as part of the Employee Assistance Programme. Details are available on the intranet and the Webshop. Trade unions may also provide advice and support to their members.
- 2.2. Employees have a right to be accompanied at all hearings by a trade union representative or by a work place colleague not acting in a professional capacity. It is the responsibility of each employee to arrange their own companion.
- 2.3. The companion will be allowed to address a hearing to put forward and sum up the employee's response to the allegation(s) and confer with the employee during a hearing. They do not, however, have the right to answer questions on the employee's behalf, address a hearing if the employee does not wish it or prevent the employer from explaining their case.

3. Raising a grievance

- 3.1. Although every situation will be different, an overview of a model grievance process can be found at [Appendix 1](#).
- 3.2. Employees should discuss any concerns with their line manager informally in the first instance. If the employee's grievance is about their line manager then they should discuss their concerns with a more senior manager.
- 3.3. The manager should consider holding an informal discussion to explore and resolve the concerns raised.
- 3.4. Formal grievances should be raised in writing and must address all of the following:
 - a summary of the issues from the employee's perspective;
 - evidence supporting their view (if any is available);
 - details of the steps they have already taken to address the situation;
 - what they consider will rectify the situation and the role that both parties will play in that.

Any grievance submission that does not satisfy all of the above points cannot be taken forward.

Note that language which may be considered insulting or abusive should not be used unless it is a quotation.

- 3.5. Where an employee wishes to provide additional written evidence in support of their case prior to it being considered at a hearing, this should be provided at least 5 working days before the hearing. Any evidence from the employer will also be provided at least 5 working days in advance.

4. Advice to managers in responding

- 4.1. Managers should contact the Advisory Team in the first instance. It is important that records are kept of all grievances, including those dealt with informally.
- 4.2. Managers can also seek advice about holding difficult conversations, managing stress and confidential counselling (for them or their employees) from the County Council's Employee Assistance Programme, details of which can be found on the intranet and the Webshop.

5. Resolving a grievance

- 5.1. The County Council's default approach to resolving grievances is to use mediation. All formal grievance submissions will be reviewed by the Advisory Team to determine whether mediation should be explored. If so, the mediator will look to make the appropriate arrangements as soon as possible.
- 5.2. Mediation works by encouraging the parties to speak to each other and reach a mutually acceptable agreement. It gives them a chance to talk about the situation, express their concerns to each other and come up with some practical ideas about how things could change for the better. Further details about the mediation process can be found on the intranet and the Webshop.
- 5.3. If it is decided not to use mediation then a formal hearing will be convened. The exact format of the hearing will be determined by the chairperson but a [Model Hearing Procedure](#) can be found at [Appendix 2](#).
- 5.4. The table below shows who hearings are normally chaired by.

Stage	Corporate Departments	Schools
Stage One Hearing	Relevant senior manager.	Headteacher
Stage Two Hearing (Appeal)	A senior manager at Assistant Director level or Chief Officer level. The senior manager will be at a higher level than the manager who heard the stage one hearing. To ensure impartiality, they will have had no prior involvement in the case.	Panel of Governors

- 5.5. At a hearing, the onus will be on the employee to evidence their case that they have been treated unfairly.

- 5.6. The timescales for convening hearings (including appeal hearings, see [Section 6](#)) are not precise but all parties should make every effort not to unduly delay the process.
- 5.7. Where an employee or their companion is unable to attend a hearing, it will normally be rescheduled on one occasion within 5 working days of the original date. If they are still unable to attend, the chairperson may decide it is appropriate for the employee to provide a written submission instead or for the case to be heard in their absence.
- 5.8. The outcome of a formal hearing will be confirmed in writing to the employee, normally within 5 working days. Template letters are available on the intranet and the Webshop.

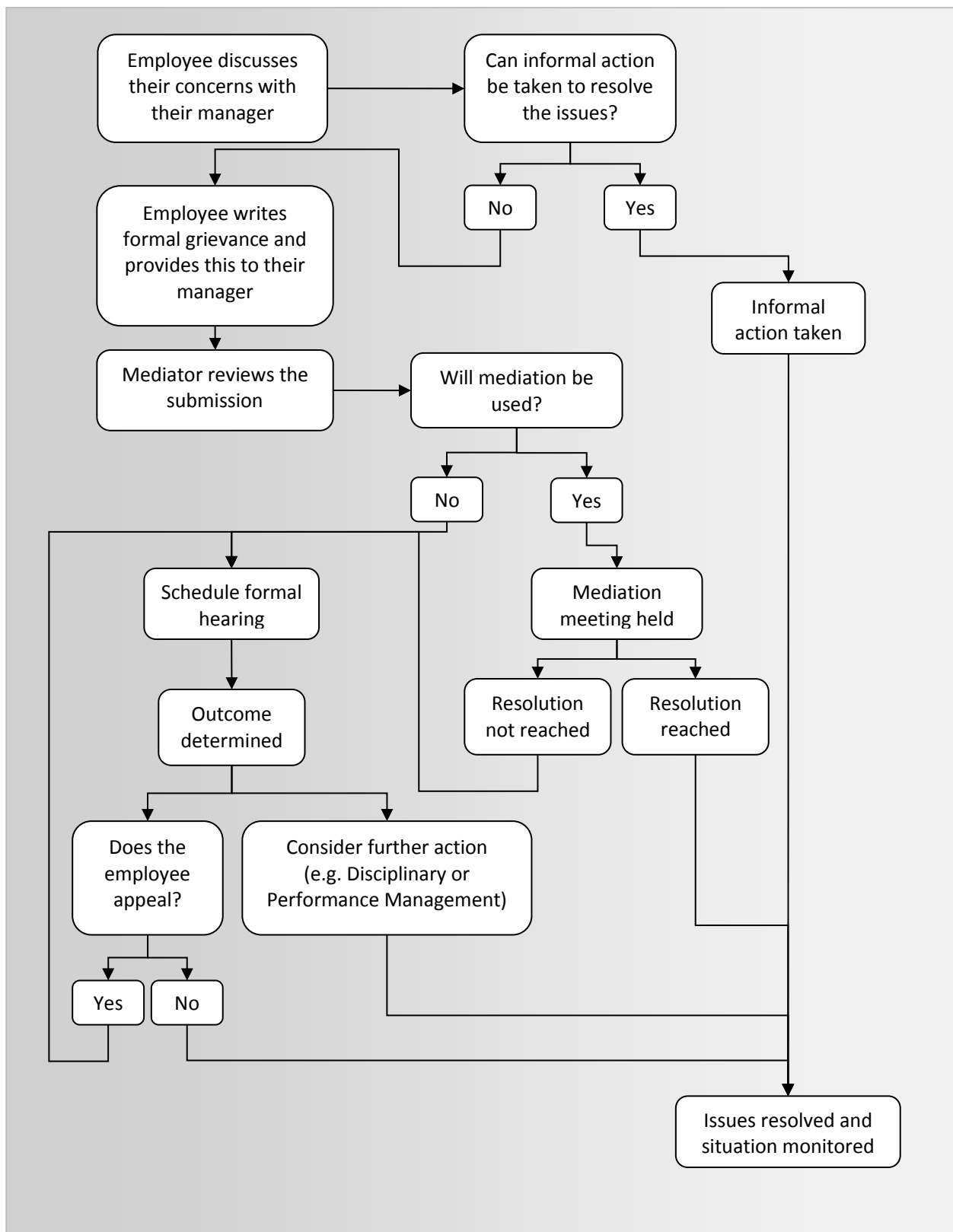
6. Appeals

- 6.1. If an employee is not satisfied that their grievance has been resolved after a hearing at Stage One they have a right of appeal. There is no further right of appeal after Stage Two.
- 6.2. Appeals must be submitted in writing within 5 working days of the original hearing. Details of how to appeal will be provided to the employee as part of the written outcome of the original hearing.
- 6.3. The written appeal must:
 - include the original submission;
 - describe in what way the issues have not been resolved;
 - what the employee considers will resolve the situation;
 - what role they will play in that resolution.
- 6.4. The exact format of the appeal hearing will be determined by the chairperson but a [Model Hearing Procedure](#) can be found at [Appendix 2](#).
- 6.5. Where an employee or their companion is unable to attend an appeal hearing, it will normally be rescheduled on one occasion within 5 working days of the original date. If they are still unable to attend, the chairperson may decide it is appropriate for the employee to provide a written submission instead or for the case to be heard in their absence.
- 6.6. Employees have the same right to be accompanied at an appeal hearing as described in [Section 2](#).
- 6.7. The outcome of an appeal hearing will be confirmed in writing to the employee, normally within 5 working days. Template letters are available on the intranet and the Webshop.

7. The relationship between grievances and other procedures

- 7.1. Where an employee raises a grievance during the course of a procedure under another policy (such as the [Disciplinary Policy](#), the [Managing Change Policy](#) or the [Performance Management Policy](#)), that other process may or may not be temporarily suspended to deal with the grievance. Where the two are related, it may be more appropriate to deal with them together. Each case will be considered on its merits to ensure that the County Council is acting reasonably.

Appendix 1 Overview of grievance process



Appendix 2 Model hearing procedure for grievances

1. Introduction

- 1.1. The chairperson will make introductions and outline the process to be followed to ensure that everyone present understands what is going to happen.
- 1.2. The chairperson will normally be advised by an advisor from HR who may take notes of the meeting which will then be available to all parties present. Sometimes, a dedicated note-taker may be present.

2. Presentation of the employee's case

- 2.1. The employee or their companion presents their case, referring to any relevant documents and calling any witnesses as appropriate.
- 2.2. The manager and their advisor may question the employee or any of the witnesses on their evidence.
- 2.3. The chairperson and their advisor may also question any person present.
- 2.4. Each witness will join the hearing to give evidence and leave after doing so, although they may be recalled at any time if necessary.

3. Presentation of the employer's case

- 3.1. The manager will present their case highlighting key points, referring to any relevant documents and calling any witnesses as appropriate.
- 3.2. The employee and/or their companion may question the manager or any witnesses on their evidence.
- 3.3. The chairperson and their advisor may also question any person present.
- 3.4. Each witness will join the hearing to give evidence and leave after doing so, although they may be recalled at any time if necessary.

4. Summing up

- 4.1. The employee or their companion summarises the main points of their case.
- 4.2. The manager summarises the main points of their case.
- 4.3. At this stage no new evidence may be introduced.
- 4.4. The hearing is then adjourned and both parties leave the meeting.

5. The decision

- 5.1. The chairperson will consider whether, on the balance of probability, the employee's case was proven in full, in part or not at all.
- 5.2. The chairperson should take into account any mitigating circumstances and if further clarification or information is required in order to reach a decision, all parties will be recalled and/or the hearing adjourned until the information is provided.
- 5.3. Once the chairperson has reached a decision, all parties will be recalled to the meeting and the chairperson will read out their decision, including the reasons for it. In complex cases, deliberation may take some time. If this occurs a decision should be made within 2 working days of the conclusion of the hearing, and, in all situations the outcome of the hearing should be confirmed in writing within 5 working days.