



Tenterden Town Council

Grievance Procedure

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1 Introduction

This policy sets out the arrangements for employees to raise their concerns, problems or complaints about their employment with the town council. This policy is based on and complies with the 2015 ACAS Code of Practice¹ and takes account of the ACAS guide on discipline and grievances at work². It aims to encourage and maintain good relationships between Tenterden Town Council and its employees by treating grievances seriously and resolving them as quickly as possible. The policy will be applied fairly, consistently and in accordance with the Equality Act 2010.

2 What constitutes a grievance

Grievances are concerns, problems or complaints which employees may have in relation to their employment with the Council and may include:

- terms and conditions of employment;
- health and safety;
- breaches of rules;
- working relationships;
- discrimination;
- bullying or harassment;
- new working practices;
- working environment;
- organisational change.

This procedure does not apply to appeals against disciplinary action, including dismissal/summary dismissal or appeals against termination of employment on the grounds of capability or redundancy, for which separate procedures apply.

The procedure applies to all employees of the town council.

This policy outlines the stages which a grievance raised by an employee may follow – informal and formal. Many problems can be raised and settled during the course of everyday working relationships and employees should aim to settle most grievances informally in the first instance.

3 Stages of the grievance process

Stages of the grievance process are set out below. Appendix 1, sets out further detail and timescales

Informal resolution

- Town Clerk and the employee discuss the matter raised and work jointly, to find a solution

Formal grievance process

- If the issue is not successfully resolved, the employee may submit a formal letter of grievance

Appeal

- If the employee does not believe their grievance has been resolved, a letter of appeal may be submitted

The decision of the appeal panel is final

4 Timeframe for submission of a grievance

Employees wishing to raise a grievance should do so as soon as possible, and in any case no later than six months after the matter arose.

¹ <http://www.acas.org.uk/index.aspx?articleid=2174>

² https://www.acas.org.uk/media/1043/Discipline-and-grievances-at-work-The-Acas-guide/pdf/DG_Guide_Feb_2019.pdf

5 General Principles

- 4.1 Employees have the right to be accompanied or represented at a grievance meeting by a companion who can be a workplace colleague, a trade union representative or a trade union official. This includes any meeting held with them to hear about, gather facts about, discuss, consider, or resolve their grievance. The companion will be permitted to address the grievance/appeal meetings, to present the employee's case for his /her grievance/appeal and to confer with the employee. The companion cannot answer questions put to the employee, address the meeting against the employee's wishes or prevent the employee from explaining their case.
- 4.2 The Council will give employees reasonable notice of the date of any grievance meetings. Employees and their companions must make all reasonable efforts to attend. If the companion is not available for the proposed date of the meeting, the employee can request a postponement and can propose an alternative date that is within five working days of the original meeting date, unless it is unreasonable not to propose a later date.
- 4.3 Any changes to specified time limits must be agreed by the employee and the Council.
- 4.4 Audio or video recordings of the proceedings at any stage of the grievance procedure are prohibited, unless agreed by all affected parties as a reasonable adjustment that takes account of an employee's medical condition.
- 4.5 If an employee who is already subject to a disciplinary process raises a grievance, the grievance will normally be heard after completion of the disciplinary procedure.
- 4.6 If a grievance is not upheld, no disciplinary action will be taken against an employee if he/she raised the grievance in good faith.
- 4.7 The Council may consider mediation at any stage of the grievance procedure where appropriate, (for example where there have been communication breakdowns or allegations of bullying or harassment). Mediation is a dispute resolution process which requires the consent of affected parties.
- 4.8 Employees can use all stages of the grievance procedure if the complaint is not a code of conduct complaint about a councillor.

6 Confidentiality

During the investigation stages, information about an employee's grievance will be restricted to those involved in the grievance process. A summary of the nature of the grievance, outcomes and where appropriate, any recommendations for future action will be reported to the Staffing and Employment sub-committee, who in turn will present a summary and any recommendations to a meeting of the Town Council or Internal Committee. The employee's grievance records will be held by the town council in accordance with the General Data Protection Regulations.

7 Safety Concerns

If an employee considers that the grievance concerns their safety within the working environment, whether or not it also concerns a complaint against a councillor, the employee should raise these safety concerns during the informal stage of the grievance procedure. The council will consider whether it should take further action in this matter in accordance with any of its employment policies and in accordance with the code of conduct regime.

8 Grievances which involve a councillor

Employees can use the informal stage of the council's grievance procedure to deal with all grievance issues, including a complaint about a councillor. Employees cannot use the formal stages of the council's grievance procedure for a Code of Conduct complaint about a councillor. If the complaint about the councillor is not resolved at the informal stage, the employee can contact the monitoring officer of Ashford Borough Council who will inform the employee whether or not the complaint can be dealt with under the Code of Conduct. If it does not concern the Code of Conduct, the employee can make a formal complaint under the town council's grievance procedure.

If the grievance is a Code of Conduct complaint against a councillor, the employee cannot proceed with it beyond the informal stage of the council's grievance procedure. However, whatever the complaint, the town council has a duty of care to its employees. It must take all reasonable steps to ensure employees have a safe working environment, for

example by undertaking risk assessments, by ensuring staff and councillors are properly trained and by protecting staff from bullying, harassment, and all forms of discrimination.

9 Grievance Procedure

The following procedure will be adopted for dealing with grievances.

9.1 Informal Grievance

Informal grievances will normally be handled by the Town Clerk. The Council and its employees benefit if grievances are resolved informally and as quickly as possible. As soon as a problem arises, the employee should raise the matter with the Town Clerk, to see if an informal solution is possible. Both should try to resolve the matter at this stage. An informal grievance can be raised by the employee, either verbally or in writing, the Town Clerk will meet with the employee to better understand the nature of the grievance and to work with the employee to find a solution. Advice from the HR Consultant may be sought at this stage.

If the employee's complaint is about a councillor, it may be appropriate to involve that councillor at the informal stage. This will require both the employee's and the councillor's consent.

If the employee does not want to discuss the grievance with the Town Clerk (for example, because it concerns the Town Clerk), the employee should contact the Chairman of the staffing committee or, if appropriate, another member of the staffing committee.

9.2 Formal Grievance

If it is not possible to resolve the grievance informally, and/or where the matter is more serious, and where the employee's complaint is not one that should be dealt with as a Code of Conduct complaint (see above), the employee may submit a formal grievance in writing to the Deputy Mayor.

The employee should:

- explain the nature of the grievance;
- provide any evidence or information, and,
- include details of how they think the matter could be resolved.
- Where the matter has previously been considered under the informal stage of this procedure, the employee should explain why they are not satisfied with the outcome from this.

The employee will be invited to a formal meeting to discuss their concerns and any potential resolutions.

No councillor with direct involvement in the grievance matter, shall participate in this process.

9.3 Acknowledgement of the grievance

On receipt of a grievance letter, the Deputy Mayor will inform the Town Clerk, who will contact the employee to acknowledge receipt of the grievance and inform Staff and Employment sub-committee that a grievance has been submitted. Full details will not be disclosed to the sub-committee, beyond stating who has lodged the grievance and a summary of the nature of that grievance. At this stage, advice can be sought from the town council's HR Consultant.

9.4 Formal Grievance Procedure

9.4.1 The Grievance Panel

The Grievance Panel will consist of the Deputy Town Mayor (who will chair the proceedings) and one other councillor selected by the Staff and Employment sub-committee. No councillor with direct involvement in the grievance matter shall participate in the process. Support of the town council's HR Consultant will be made available and a secure location for storage of electronic documentation will be provided.

9.4.2 Investigation

Before proceeding to a full grievance hearing, it may be necessary to carry out investigations of any allegations made, although the confidentiality of the grievance process will be respected, wherever possible. The investigator may be appointed from outside the town council. If any evidence is gathered in the course of these investigations, the employee will be given a copy in advance of the hearing in order to consider their response. In exceptional circumstances, the evidence given by individuals may have to remain confidential. Where confidentiality is necessary, this will be explained to the employee and an appropriate summary of the evidence gathered will be provided.

9.4.3 Notification to attend a Formal Grievance Meeting

The written invitation to the Grievance Meeting will include the following:

- the names of its chairman and other members;
- the date, time and place for the meeting;
- the employee's right to be accompanied by a workplace colleague, a trade union representative or a trade union official;
- a copy of the town council's grievance policy;
- confirmation that the employee will provide the Council with any supporting evidence in advance of the meeting, usually with at least two days' notice;
- findings of the investigation if there has been an investigation;
- an invitation for the employee to request any adjustments to be made for the hearing (for example where a person has a health condition).

9.4.4 The Grievance Meeting

At the grievance meeting:

- the Chairman will introduce the members of the sub-committee to the employee;
- the employee (or companion) will set out the grievance and present the evidence;
- the Chairman and Panel members will ask the employee questions about the information presented and will want to understand what action they want the Council to take;
- the employee (or companion) will have the opportunity to sum up the case;
- a grievance meeting may be adjourned where further investigation is required and, in any case, to consider the matter and reach a conclusion.

9.4.5 The Grievance Panel's decision

Once the Panel have reached their decision, it will be confirmed to the employee in writing. The decision of the formal grievance panel is final. The Grievance Panel will submit a report from the investigation to the Staff and Employment sub-committee along with any recommendations for future action. The sub-committee will in turn present their recommendations to the next available town council/committee meeting for consideration and approval³. Where the recommendations are time-sensitive, an additional meeting of the Town Council or Internal Committee may be called to allow the matter to be considered.

10 The appeal

If an employee decides that their grievance has not been satisfactorily resolved, they may submit a written appeal to the Town Mayor. In the event that the Appeal concerns the Town Mayor, it should be sent to the Chair of the Grievance Panel. An appeal must be received by the Council within five working days of the employee receiving the formal outcome letter and should clearly state the grounds of the appeal, i.e. the basis on which they believe the result of the grievance was wrong or that the action taken as a result was inappropriate.

Appeals may be raised on the following grounds:

³ Staff and Employment sub-committee has no delegated powers, and instead makes recommendations to Town Council or Internal Committee (as appropriate) for consideration and approval.

- a failure by the Council to follow its grievance policy;
- the decision was not supported by the evidence;
- the action proposed by the grievance panel was inadequate/inappropriate ;
- new evidence has come to light since the grievance meeting.

The appeal will be heard by a panel comprised of persons not previously involved in the case. Usually this will be the Town Mayor and another councillor who has not previously been involved in the case (if feasible, a councillor appointed from the Staffing and Employment sub-committee). No councillor with direct involvement in the grievance matter shall participate in the appeal panel. The Town Mayor will act as Chairman to the appeal panel.

The employee will be notified, in writing, of the time, date and place of an appeal meeting. The employee will be advised that they may be accompanied by a workplace colleague, a trade union representative or a trade union official.

At the appeal meeting, the Chairman will:

- introduce the panel members to the employee
- explain the purpose of the meeting, which is to hear the employee's reasons for appealing against the decision of the Grievance
- confirm the outcome that the employee would like from their appeal.

The employee (or companion) will be asked to explain the grounds of appeal.

The Chairman will inform the employee that the Panel adjourn the meeting to consider the points and reach their decision. Once the Panel have reached their decision, they will confirm it to the employee in writing.

The decision of the appeal panel is final.

11 Data protection

Tenterden Town Council processes personal data collected during the informal and the formal grievance procedure in accordance with its data protection policy. In particular, data collected as part of the informal and the formal grievance procedure are held securely and accessed by, and disclosed to, individuals only for the purposes of responding to the complaints or conducting the grievance procedure.

This policy is non-contractual and may be amended from time to time.

Appendix One Grievance Procedure Process

On receipt of a complaint, the town council will strive to follow the process and timings in the following flow chart.

On receipt of a formal grievance, the town council will strive to follow the process and timings that follow

KEY: wd = working days

