



## Tenterden Town Council

### Grievance Procedure

Reviewed	Adopted
	April 2011
Revised	March 2014
Staffing & Employment sub-committee review	August 2021
Approving committee: Internal Committee	8 <sup>th</sup> November 2021
Policy version reference	Version 3
Next review	November 2023

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## 1 Introduction

This policy is based on and complies with the 2015 ACAS Code of Practice<sup>1</sup>. It also takes account of the ACAS guide on discipline and grievances at work<sup>2</sup>. It aims to encourage and maintain good relationships between the Council and its employees by treating grievances seriously and resolving them as quickly as possible. It sets out the arrangements for employees to raise their concerns, problems or complaints about their employment with the Council. The policy will be applied fairly, consistently and in accordance with the Equality Act 2010.

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 Council.

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

## 2 General Principles

- 2.1 The Council will give employees reasonable notice of the date of any grievance/appeal 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

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

<sup>2</sup> [https://www.acas.org.uk/media/1043/Discipline-and-grievances-at-work-The-Acas-guide/pdf/DG\\_Guide\\_Feb\\_2019.pdf](https://www.acas.org.uk/media/1043/Discipline-and-grievances-at-work-The-Acas-guide/pdf/DG_Guide_Feb_2019.pdf)

within five working days of the original meeting date, unless it is unreasonable not to propose a later date

- 2.2 Any changes to specified time limits must be agreed by the employee and the Council.
- 2.3 Employees have the right to be accompanied or represented at a grievance meeting or appeal 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.
- 2.4 An employee has the right to appeal against the decision about their grievance. The appeal decision is final.
- 2.5 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 committee. The employee's grievance records will be held by the Council in accordance with the General Data Protection Regulation (GDPR).
- 2.6 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.
- 2.7 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.
- 2.8 If a grievance is not upheld, no disciplinary action will be taken against an employee if he/she raised the grievance in good faith.
- 2.9 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.
- 2.10 Employees can use all stages of the grievance procedure if the complaint is not a code of conduct complaint about a councillor.

### **3 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 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.

#### **4 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 with their line manager at 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

#### **5 Informal grievance procedure**

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 it with their manager to see if an informal solution is possible. Both should try to resolve the matter at this stage. If the employee does not want to discuss the grievance with their manager (for example, because it concerns the manager), the employee should contact the Deputy Town Mayor or, if appropriate, another member of the Staffing and Employment sub-committee. In the case of the Town Clerk, any grievance should initially be raised with the Deputy Town Mayor who will arrange for the matter to be dealt with in accordance with this procedure.

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.

#### **6 Formal grievance procedure**

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 to their line manager. In writing you should set out as follows:-

- Explain the nature of your grievance,
- Provide any evidence or information that you already have, and,
- Include details of how you 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.

You will be invited to a formal meeting to discuss your concerns and any potential resolutions.

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

In the case of the Town Clerk, any grievance should initially be raised with the Deputy Town Mayor who will arrange for the matter to be dealt with in accordance with this procedure.

## **6.1 Investigation**

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

## **6.2 Notification**

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 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).

## **6.3 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 does 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 to where further investigation is required.

Once the Panel have reached their decision, they will confirm it to you in writing. They will inform you in writing of your right to appeal, including who the letter of appeal should be sent to.

## 7 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 your appeal, i.e. the basis on which you say that the result of the grievance was wrong or that the action taken as a result was inappropriate..

Appeals may be raised on a number of grounds, e.g.:

- a failure by the Council to follow its grievance policy
- the decision was not supported by the evidence
- the action proposed by the sub-committee 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 from the Staffing and Employment sub-committee. No councillor with direct involvement in the grievance matter shall participate in the appeal panel. The appeal panel will appoint a Chairman from one of its members.

The employee will be notified, in writing, of the time, date and place of the 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 you in writing.

The decision of the appeal panel is final.

### **Data protection**

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