

Grievance Procedure: Chief Executive

Purpose

This procedure sets out the Council's Grievance Procedure in relation to any concern, problem, issue or complaint that an employee or a group of employees have in relation to work, working conditions or relationships against the Chief Executive or which the Chief Executive of the Council wishes to raise against others, which necessitates an informal or formal discussion.

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1. Introduction

1.1 This Procedure document covers the following circumstances:

- where an employee raises a grievance against the Chief Executive of the Council (as defined in the Joint Negotiating Committee for Local Authority Chief Executives National Salary Framework and Conditions of Service Handbook); and
- where the Chief Executive of the Council raises a grievance against an individual elected member(s) or the employing Council generally.

1.2 The Council promotes a positive working environment and has developed policies and procedures to support this. However, it is recognised that from time to time, employees will have concerns, problems, or complaints about an aspect of their employment. This Procedure document has been developed to support employees who feel that they have an issue against the Chief Executive which they need help to resolve.

1.3 This Procedure document provides employees with an opportunity to resolve their grievances in a timely, fair, and consistent manner, to help to maintain effective working relationships. Employees will not be treated any less favorably or suffer any detriment in their employment as a result of raising a grievance under this Procedure document.

1.4 Employees are very much encouraged to resolve their grievance informally, wherever possible. Line managers will support employees in doing this. However, in circumstances where this is not possible or where the informal route has failed, employees should follow the formal grievance procedure as outlined in this Procedure document.

1.5 The procedure detailed in Section 2 is set out in the flow chart at Appendix 1.

2. Procedure for dealing with a grievance raised by an employee against the Chief Executive

2.1 An employee raising a grievance against the Chief Executive should do so using this grievance procedure. However, while operating within the context of the employee's grievance procedure, it is only the mandatory stages of a grievance

procedure (i.e. the formal stages, as referred to in Section 3 of this document) that can resolve the grievance when the person complained of is the Chief Executive.

- 2.2 An internal procedure to be followed by an aggrieved employee will comprise at least two formal stages. After the initial filtering and any attempt at informal resolution (see paragraphs 2.3 to 2.8 below), if the matter remains unresolved, then a panel of elected members (the Grievance Panel) will be convened by the Assistant Director of Law and Governance from within the membership of the Human Resources Committee to hear the grievance on behalf of the employer (Formal Stage 1) (see paragraphs 3.1 to 3.6 below). It is here that the power exists to resolve a grievance against the Chief Executive. All members of HR Committee will be requested to provide information regarding their availability to ensure the panel can be convened as soon as practicable. When selecting members of the panel, consideration will be given to avoiding any conflict of interest arising, including having regard to any future panels which may be convened, and which may have a bearing on the particular grievance concerned. Priority may also be given to including members who have undertaken relevant training and / or have relevant experience. The Grievance Panel can either uphold or dismiss the grievance. If the outcome of the Stage 1 investigation is that the grievance is not upheld, then the aggrieved employee has the right to appeal (Formal Stage 2) to a panel of elected members who have had no prior involvement in the matter, (the Appeal Panel) (see paragraphs 3.7 to 3.11 below).
- 2.3 The Council as employer and employees should raise and deal with issues promptly and should not unreasonably delay meetings, decisions, or confirmation of those decisions.
- 2.4 An aggrieved employee may be accompanied by a fellow worker, a trade union representative, or an official employed by a trade union at any meeting that deals with the grievance.

Initial filtering of grievances

- 2.5 Where an employee raises a grievance against the Chief Executive, an initial filtering will take place to filter out and deal with 'allegations' against the Chief Executive which are clearly unfounded or trivial or can best be dealt with under some other procedure. For example, allegations and complaints that are directed at the Chief Executive, but are complaints about a particular service, should be dealt with through the Council's general complaints procedure. If the matter is a serious complaint against the Chief Executive's personal behaviour such as sexual or racial harassment, the matter would potentially be one that would be appropriate for an investigation under the disciplinary procedure.
- 2.6 To enable this process to happen, the Council's Monitoring Officer would be the recipient of any grievance raised against the Chief Executive (referred to below as the Receiving Officer). If the Monitoring Officer is the person bringing the

grievance against the Chief Executive or has a conflict of interest in respect of the grievance, then the matter should be raised with the Specialist Lead – People Management. The Specialist Lead – People Management will then decide whether it can be something they deal with themselves (in which case they would then be the Receiving Officer), whether the matter can be referred to the Deputy Monitoring Officer or whether a Monitoring Officer from a neighbouring authority should be commissioned to act as the Receiving Officer instead. This will be a decision for the Specialist Lead – People Management to take. In all circumstances the Receiving Officer will notify the Leader of the Council that a grievance against the Chief Executive has been received and the nature of the grievance. Care will be taken to minimise the risk of the information provided to the Leader being of such a nature and/or extent as to give rise to a conflict of interest for the Leader in connection with any future involvement in the process.

- 2.7 A meeting will be held as soon as possible between the Receiving Officer and the aggrieved employee without unreasonable delay after a grievance is received. The employee will be given an opportunity to explain their grievance and how they would like it to be resolved. Consideration will be given by the Receiving Officer to adjourning the meeting for any investigation that may be necessary. Where the Receiving Officer is a Monitoring Officer or Deputy Monitoring Officer, they will be supported, if necessary, by a member of the Council's HR Advice Team.
- 2.8 The Receiving Officer is responsible for the filtering process, the outcome of which could include the following:
- i. the Receiving Officer decides that the grievance is about a council service, rather than a complaint against the Chief Executive personally. In this case the Receiving Officer will refer the matter back to the aggrieved employee and indicate that the matter is one that they could raise under the appropriate complaints process for the council rather than as a grievance against the Chief Executive.
 - ii. the Receiving Officer decides that there are other formal appeal procedures that apply rather than the grievance procedure eg, in cases of redundancy.
 - iii. the Receiving Officer decides that the grievance should not be directed at the Chief Executive as it does not relate to a specific action of the Chief Executive or a specific omission of the Chief Executive and so should be directed to an intermediate manager.
 - iv. the Receiving Officer decides that the grievance is patently frivolous or clearly unfounded and therefore the employee will be informed of this and the reason why the Receiving Officer holds that opinion.

Resolving grievances informally

- 2.9 Where the Receiving Officer is satisfied that the grievance is neither procedurally flawed nor patently frivolous or clearly unfounded then, if appropriate, an attempt will be made at that time to resolve the matter informally. This might be through internally facilitated informal joint discussions or informal joint discussions facilitated externally by an external mediator.
- 2.10 If the concerns cannot be resolved informally the matter will move to the first formal stage as outlined below.

3. Resolving grievances formally

Formal stage 1

The grievance investigation

- 3.1 Where informal attempts at resolution are considered inappropriate or have been tried and failed, then the Receiving Officer should manage the Stage 1 investigation. It is for the Receiving Officer to determine how the matter will be investigated. This will be communicated to the aggrieved employee at that time.
- 3.2 If the outcome of the investigation is in favour of the aggrieved employee, a solution should be proposed, considering the remedy requested by the aggrieved employee and the Receiving Officer's assessment of what would be appropriate in all the circumstances. If the Chief Executive is unwilling to accept these proposals, the matter will be referred to the Grievance Panel for it to resolve.

The Grievance Panel hearing

- 3.3 The Grievance Panel will be convened by the Monitoring Officer or an officer acting on their behalf from within the membership of the Human Resources Committee and will comprise three elected members as standard, with a quorum of three elected members. The Grievance Panel will hear the case and reach its conclusion.
- 3.4 The Grievance Panel will be responsible for considering the grievance with appropriate technical and procedural advice from the Receiving Officer and/or the Specialist Lead – People Management where they are not also the Receiving Officer. The Receiving Officer and Specialist Lead – People Management may authorise another officer to undertake this function.

(a) The Panel upholds the grievance

- 3.5 Where the Panel **upholds** the grievance, this may include a decision or recommendation on how the issue can best be resolved to the satisfaction of the aggrieved employee.
- 3.6 Where the Panel **upholds** the grievance and decides that it is a matter of a serious nature, it may decide to refer the matter to an Investigating and Disciplinary Panel of three members, convened by the Monitoring Officer or an officer acting on their behalf from within the membership of the Human Resources Committee, for consideration. That Panel would then have to consider under the Council's disciplinary procedure whether there was a case to answer, and, if so, would commission an independent investigation under the Council's Disciplinary Procedure.

(b) The Panel dismisses the grievance

- 3.7 If the Panel finds against the aggrieved employee, then that person has a right of appeal to a member Appeal Panel, and the Chief Executive should be immediately informed that this has happened.

Formal Stage 2

The right to appeal the Grievance Panel's decision

- 3.8 The Appeal Panel will be convened by the Monitoring Officer or an officer acting on their behalf from within the membership of the Appeals Committee and will comprise three elected members as standard, with a quorum of three elected members. The members of the Appeal Panel must not have had any prior involvement in the case. The Appeal Panel will hear the case and reach its conclusion.
- 3.9 The Appeal Panel will be responsible for considering the appeal with appropriate technical and procedural advice from the Receiving Officer and/or the Specialist Lead – People Management where they are not also the Receiving Officer. The Receiving Officer and Specialist Lead – People Management may authorise another officer to undertake this function.
- 3.10 Where the Appeal Panel **upholds** the appeal, this may include a decision or recommendation on how the issue can best be resolved to the satisfaction of the aggrieved employee.
- 3.11 Where the Appeal Panel upholds the appeal and decides that it is a matter of a serious nature, then it may decide to refer the matter to an Investigatory and Disciplinary Panel of the Human Resources Committee, convened as described earlier in this procedure. That Panel would then have to consider whether there was a case to answer, and, if so, would commission an independent investigation under the disciplinary procedure.
- 3.12 Where the Appeal Panel **dismisses** the appeal, then the matter is regarded as having been concluded.

4 Procedure for dealing with grievances raised by the Chief Executive

- 4.1 Where the Chief Executive raises a grievance, then similar principles need to apply, namely:
- Informal attempts at resolution should be regarded as preferable to immediate recourse to formal procedures

There will be two stages available to the aggrieved employee, in this case the Chief Executive.

- 4.2 A Chief Executive cannot take out a grievance against another member of staff, as any cause for such concern would constitute grounds for disciplinary action and as head of the paid service the Chief Executive could initiate such action against any other employee. A Chief Executive grievance must be against one or more elected member(s) and the Council's Monitoring Officer will act as Receiving Officer.
- 4.3 Where the Chief Executive raises a grievance, this should be referred to the Receiving Officer in the first instance who should establish, through discussions with the appropriate parties, whether there is any prospect of resolving the matter informally. This might be through internally facilitated informal joint discussions or informal joint discussions facilitated externally by an external mediator.
- 4.4 In the event that informal resolution is neither appropriate nor successful, the Receiving Officer should refer the matter to a Grievance Panel, convened as described earlier in this procedure from within the membership of the Human Resources Committee. If the Grievance Panel considers it appropriate, having come to its conclusions, it might refer a matter about the conduct or behaviour of an elected member to the council's Standards Committee or other appropriate arrangements. The outcomes of the Grievance Panel are as contained in paragraphs 3.4 to 3.7 above.
- 4.5 Where the Grievance Panel does not uphold the grievance brought by the Chief Executive, the Chief Executive has a right of appeal. An appeal by the Chief Executive against the outcome of the Grievance Panel's deliberations should be to the full Council.

5 Grievances raised by the Chief Executive during disciplinary proceedings

- 5.1 Where the Chief Executive is the subject of a disciplinary / capability investigation and raises a grievance relating to the case, the Investigating and Disciplinary Advisory Committee will decide how to deal with the grievance. This will depend on the facts of the case, the stage of the disciplinary procedure reached, and the nature of the grievance raised. In some cases, it may be appropriate to hear the grievance before continuing with the disciplinary / capability investigation. In other cases, it will be appropriate to deal with the issues raised in the grievance as part of the wider disciplinary / capability investigation.

6. **Alternative Procedures**

There are a number of alternative procedures which are all available on the hub or from line managers which an aggrieved employee may wish to follow:

- Whistleblowing
- Anti-fraud and Corruption
- Disciplinary

The Council may determine which procedure is most appropriate in respect of any issue raised.

Employee raises a grievance against the Chief Executive

Initial filtering of the concern is carried out by the Monitoring Officer (Receiving Officer)

The Receiving Officer deems the matter inappropriate for consideration. The employee is informed that the matter is either:

- About a Council Service
- Concerns another procedure – e.g., Redundancy
- Relates to an Officer other than the Chief Executive or
- is frivolous or unfounded and will therefore not be considered under the Grievance Procedure (Chief Executive)

The Receiving Officer deems the matter appropriate for consideration under the grievance procedure and attempts to resolve the matter informally.

Unresolved

Resolved

First Formal Stage

An investigation is carried out by the Receiving Officer (RO) or if deemed appropriate by the RO, an independent investigator. If the outcome of the investigation is in favour of the aggrieved employee, and resolution is not achieved, the grievance will be considered by the Grievance Panel.

Upheld

Resolved

Chief Executive accepts the remedy

Unresolved

Chief Executive does not accept the remedy

Dismissed

Resolved

Unresolved

Aggrieved employee pursues an appeal against the decision.

Second Formal Stage

An appeal panel will consider the facts of the case and make the final decision on behalf of Sunderland City Council.

If UPHHELD: Remedy imposed on Chief Executive.

If DISMISSED: The matter is considered resolved and no further internal avenues are available.

