

# Grievance Policy



**Walsall Council**

## Version Control

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Purpose	To provide a framework within which grievances can be resolved swiftly and at the lowest possible level ensuring issues are dealt with in a fair, consistent and effective manner.		

This policy links to:

- Our Council Plan
- Walsall Proud
- Appeals Policy
- Sickness Absence Policy
- Confidential Reporting (Whistleblowing) Policy
- Redundancy Policy
- Organisational Change Management Policy
- Collective Grievance Policy
- Dignity at Work Policy
- Workforce Strategy
- Behaviour & Standards Framework
- Equality and Diversity Protocol
- Job Evaluation and Grading Policy
- Mediation Guidance
- Performance & Ill Health Capability Policy
- Disciplinary Policy
- Code of Conduct for Employees
- Grievance Guidance

This list is not exhaustive.

For further advice or guidance on this policy, or if you would like this information in another language or format please contact:

HR Operational Services Team

Telephone: 01922 655656

Text phone: 01922 654000

Email: [hrdoperationalervices@walsall.gov.uk](mailto:hrdoperationalervices@walsall.gov.uk)

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## 1.0 Introduction

- 1.1 Walsall Council is PROUD. We are proud of our past, our present and for our future. The council is committed to reducing inequalities and ensuring all potential is maximised and its employment policies, procedures and guidelines are designed to support this vision and deliver the council's priorities.
- 1.2 The council is committed to creating an environment that provides opportunities for all individuals and communities to fulfil their potential and this policy provides a framework in which employees will be supported to deliver the council's priorities in line with the council's expected behaviours and values; professionalism; leadership; accountability; transparency and ethical.
- 1.3 The council's values and behaviours will be at the core of everything the council deliver and through a culture of continuous improvement the council will increase performance, efficiency and champion the design of services to meet the needs of customers. As a digital by design council, employees will be empowered to deliver new ways of thinking and new ways of working, encouraging innovation and creativity in a learning environment. The council is committed to technological investment to deliver transformation in order to improve the efficiency and effectiveness of its services, both internally and externally.
- 1.4 This policy framework promotes the council's strategic priority of internal focus ensuring all council services are effective and efficient and helps embed the behaviours and values expected of all employees as part of the Behaviour and Standards Framework.
- 1.5 The council believes that all employees should be treated fairly and with respect and recognises that from time to time employees may wish to raise issues regarding their employer or employment. Whilst line managers will be able to deal with most concerns during the course of their normal day to day management, when this is not possible or does not happen employees are able to raise a grievance under this policy.
- 1.6 The purpose of this policy is to provide a framework within which grievances can be resolved swiftly and at the lowest possible level ensuring issues are dealt with in a fair, consistent and effective manner. The aim is to help employees resolve issues in the workplace and resolution remains the focus of this policy.
- 1.7 Council operates a separate dignity at work policy to raise issues relating to working relationships and cover any situations of alleged bullying and harassment.

## 2.0 Scope

- 2.1 This policy applies to all council employees including Chief Officers;

- 2.2 With the exception of;
- 2.2.1 School-based employees/workers where the Governing Body has delegated authority and for whom separate arrangements apply.
- 2.3 This policy does not apply to contractors, consultants or any self-employed individuals working for the council.
- 2.4 This policy does apply to casual workers and agency workers, although agency workers should raise any concerns in the first instance directly with the agency.
- 2.5 There are separate arrangements for dealing with grievances raised by employees against the Chief Executive, as well as procedures for dealing with grievances raised by the Chief Executive. In these circumstances the Council will adopt the JNC Local Authority Chief Executive Handbook model procedure.
- 2.6 Some matters relating to employment do not fall within the scope of this Policy and are dealt with under separate arrangements. Out of scope of the Grievance Policy are the following;
- Use of or decisions made under the disciplinary policy, sickness absence policy, performance and ill health capability policy or the probation policy – issues raised in relation to any of these policies should be addressed through the hearing process of those policies or the council’s formal appeals policy;
  - Use of or decisions made under the redundancy policy or the organisational change management policy – issues raised in relation to any of these policies should be addressed through the formal change consultation process or the council’s formal appeals policy;
  - Use of or decisions made under the right to request flexible working policy – issues raised in relation to this policy should be addressed through the appeal process contained within the specific policy;
  - Use of or decisions made under the recruitment and selection policy – issues raised in relation to this policy should be addressed through the complaints process contained within the specific policy;
  - Any matters relating to pay and grading or job evaluation including levels of pay remuneration, applications for grading, re-evaluation requests and job evaluation outcomes/appeals – should be dealt with through the job evaluation and grading process (policy) and the separate appeals policy for job evaluation;
  - Any matters relating to actions or decisions that are of a statutory nature;
  - Any outcomes that are requested that are not achievable as an outcome of a grievance nor are they decisions made by the requester e.g. where the desired outcome is management to be dismissed, in these cases the grievance maybe valid but the desired outcome would need to be amended;
  - Allegations of serious health and safety issues, unethical conduct, conduct that is an offence, fraud, corruption or financial malpractice - such issues

should be addressed through the confidential reporting (whistleblowing) policy and/or disciplinary policy;

- Payroll matters affecting income tax, national insurance, pension, etc. - should be addressed directly to Payroll, except where the collective grievance relates to the standard or provision of the payroll service rather than the nature of the payroll issue;
- Grievances raised by employees against Elected Members will be dealt with as set out in the council's constitution;
- Any matters that are the subject of collective negotiation or consultation with trade union colleagues are out of the scope of this policy.
- Any collective grievance should be raised using the council's collective grievance policy.

### 3.0 Principles

- 3.1 This policy enables employees to raise concerns that they may have about a wide range of issues including the treatment they have received or any aspect of their work including allocation of work, career development opportunities or the working environment or conditions.
- 3.2 The grievance must be raised within three months of the incident or action giving rise to it in order for timely address and resolution. Any grievance raised outside of that time limit will not normally be considered. Issues raised under this policy will be dealt with promptly and with no unreasonable delay (by any involved parties) to grievance meetings, decisions or confirmations of those decisions.
- 3.3 Any grievance must be raised only by an employee or ex-employee (subject to the time limits above). Criticisms of individuals or of the council through for example, exit questionnaires or interviews will not automatically be considered as a formal grievance, however if the matter is formally considered in accordance with this policy, the employee will be informed of the outcome even if this is determined after they have left the council's employment.
- 3.4 Collective or group grievances will be considered in accordance with the collective grievance policy.
- 3.5 Repeat grievances will not be reconsidered if the same or similar matter has previously been raised and dealt with under this policy.
- 3.6 The council reserves the right not to pursue any grievance which it reasonably believes to be repetitive, frivolous, vexatious or malicious. Managers should consult HR in such cases.
- 3.7 Where it is believed that a grievance has been submitted in bad faith to make deliberately false accusations or as a form of bullying, harassment or intimidation (towards management or work colleagues), then the matter will be progressed further and will be managed under the council's disciplinary policy.

- 3.8 At any stage in the policy, investigations may result in it being appropriate to invoke other alternative policies such as the disciplinary policy or performance policy where for example, the grievance has raised bullying/harassment concerns, capability issues or alleged misconduct.
- 3.9 Where grievance matters are related to and/or overlap with other ongoing or commenced employment procedures (e.g. organisational change management, performance, disciplinary or sickness absence etc.), the progression of such cases will be made at managements discretion as it may be appropriate to deal with both issues concurrently or alternatively wait for a process to be exhausted before another continues / commences. This will be a decision for the manager.
- 3.10 Consideration will be given within this process to any reasonable adjustments required in accordance with the Equality Act to enable employees to fully participate.
- 3.11 The focus of this policy is to provide a mechanism where concerns can be raised and a satisfactory resolution achieved, bearing this in mind there are two stages to this procedure, an informal stage and a subsequent formal stage. All attempts should be made to resolve issues at the informal stage (at the lowest possible level) by all relevant parties in the first instance.
- 3.12 At the formal stage of the procedure employees shall be given at least 5 working days written notice of formal meetings and are entitled to be accompanied at these meetings by their recognised trade union representative or a Walsall Council work colleague.
- 3.13 There is no right to be accompanied at the informal stage of this procedure.
- 3.14 Concerns raised during this procedure will be shared at the earliest appropriate opportunity with other involved parties (e.g. the subject of the grievance) to ensure open and transparent communication and promote active resolution. In certain circumstances where appropriate the employer may withhold some information if for example the employer believes there to be a risk of intimidation or harassment.
- 3.15 At any point in the grievance process the manager may choose to recommend mediation where it is felt this would be beneficial to help resolve any matters raised under the grievance policy. Mediation could take place (if appropriate) during the informal or formal stages of the grievance procedure or subsequently as a management recommendation following a grievance outcome. Mediation can only be considered where all parties agree to partake in the process. (HR will make mediation arrangements on request however the cost of mediation will be funded by the respective service areas).
- 3.16 The council recognises that a formal grievance procedure can be a stressful and upsetting experience for all parties involved. Everyone involved in the process is entitled to be treated calmly and with respect. The council will not tolerate

abusive or insulting behaviour from anyone taking part in or conducting grievance procedures and will treat any such behaviour as misconduct under the disciplinary policy.

- 3.17 Employees are reminded of the council's confidential (counselling) Employee Assistance Programme that is available to provide support and advice to any employee involved in a grievance matter. Details of which can be found on the HR intranet pages.
- 3.18 The council processes personal data collected during informal complaints and the formal grievance procedure in accordance with its information governance policies. 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. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the organisation's data protection arrangements immediately. It may also constitute a disciplinary offence, which will be dealt with under the disciplinary policy. Managers will retain their own notes relating to any informal procedure and HR will retain records on any formal grievance procedure or appeal.
- 3.19 Any matters discussed as part of a grievance process including minutes and witness statements should be kept confidential and only those directly involved in the process will be advised of any details relating to the case.
- 3.20 This policy and accompanying procedure is underpinned by and should be read in conjunction with the grievance guidance which offers further advice and support to employees and managers in the implementation of this policy.
- 3.21 A summary of the level of suitable appropriate managers to consider grievances dependent upon the level of employee raising the grievance is detailed at Appendix 1.
- 3.22 A copy of the grievance procedure flowchart is available at Appendix 2.

#### 4.0 Accountabilities

- 4.1 Managers are accountable for the following;
  - Applying this policy and procedure consistently, fairly and objectively in accordance with the council's vision and purpose and clearly demonstrate the council's management behaviours and values, seeking further advice and guidance from HR where necessary;
  - Act on any complaints or grievances brought to their attention in a timely manner;
  - Commit to engaging with the policy to actively encourage resolution at the earliest possible opportunity;
  - Ensuring that employees are aware of their responsibilities in accordance with this policy.



4.2 Employees are accountable for the following;

- All employees should support the delivery of the council's vision and purpose, clearly demonstrating the council's behaviours and values;
- Actively engage in employment practices and processes in which they are involved and ensure they understand this procedure, seeking further advice and guidance from managers where necessary;
- Raise any concerns as soon as possible with their line manager in the first instance and take responsibility for actively being part of the resolution or seeking to find a resolution;
- Comply with the requirements of this policy and procedure.

## 5.0 Procedure

### 5.1 Informal stage

5.1.1 Where an employee has a concern or issue regarding their employment they should initially raise the matter with their immediate line manager. Employees should use the grievance form, to detail the basis of the grievance/issue indicating that they would like the matter considering as an (informal) grievance, they should provide as much relevant information as possible, and must indicate the required outcome/resolution they are seeking. In the first instance all grievances (subject to 5.1.3 below) will be reviewed informally by the line manager to assess the matter and seek to reach a resolution/provide a response.

5.1.2 The immediate line manager and employee should meet within 5 working days or as soon as is reasonable practical to discuss the matter and the manager should take notes. The notes must include the date the issue was raised, the date of the meeting, the nature of the grievance, any advice given and the outcome (which may follow an adjournment of the meeting for the manager to conduct a preliminary investigation/fact find or hold other relevant meetings).

5.1.3 Where employees feel unable to raise the matter with their immediate line manager (because they are the subject of it) then the employee should raise the matter with their manager's line manager, who will seek to resolve the matter informally as above.

5.1.4 All attempts should be made (by all parties) to resolve the matter at the informal stage in the first instance, if the matter remains unresolved the employee may then choose to raise a formal grievance under this policy.

### 5.2 Formal stage

5.2.1 Where informal discussion(s) or response has not resolved the grievance and the employee remains dissatisfied they may raise their grievance formally and should do this by fully completing the grievance form.

- 5.2.2 The grievance form must include sufficient explanation of the basis for the grievance, what actions the employee has taken so far to resolve the matter, who has considered the matter informally and what was the response provided at the informal stage and what outcome is sought to satisfactorily resolve the issue at the formal stage.
- 5.2.3 The immediate line manager (or next tier line manager, in cases where the immediate line manager is the subject of the grievance) will acknowledge receipt of the grievance and convene a formal grievance meeting without undue delay and normally within 10 working days. Where this is not possible due to the nature of the grievance, level of further investigation required or due to organisational reasons, the employee will be made aware of the delay and provided with a date by which they can expect an update which should not unreasonably delay the process.
- 5.2.4 The purpose of this meeting is for the employee to explain the circumstances of the grievance, presenting any relevant information/evidence and to state how they would like the issue to be resolved.
- 5.2.5 The manager considering the matter and employee will seek to resolve the grievance at this meeting where ever possible. It may be necessary to adjourn the meeting for further investigation and/or conducting other necessary meetings before either reconvening and/or providing a response to the employee.
- 5.2.6 Possible outcomes of the formal grievance meeting may include;
- The manager **upholding** the grievance.
  - The manager **not upholding** the grievance.
  - The manager **part upholding** the grievance (depending on the nature and complexity)
  - The manager may adjourn the meeting and **initiate an investigation** (see 5.2.7 below) before reconvening and/or providing the grievance outcome.

Any confirmed outcome may be accompanied by specified management recommendations which may include mediation (if not already attempted at an earlier stage).

- 5.2.7 The manager should confirm the outcome of the grievance in writing usually with 5 working days of the decision being made and should detail the employees right of appeal. The manager should also inform the subject of the grievance of the outcome (if applicable). If the manager recommends any action against the subject of the grievance, this will be communicated in confidence to the subject's line manager who will progress the action accordingly. The employee who submitted the grievance will be informed of whether the manager has requested consideration of further actions against the subject of the grievance, but will not be informed of any detail or subsequent outcomes that relate directly to another employee (e.g. such as any disciplinary sanction that may ensue) as this is confidential.

## Investigation stage

- 5.2.8 The manager may adjourn the meeting and initiate an investigation, dependent on the complexity of the grievance the manager may conduct the investigation themselves, decide to gather more facts, evidence, witness statements etc. or alternatively they may arrange for a separate officer (not connected with the issue) to carry out the investigation for them (in exceptional cases the investigator maybe external to the council). The investigator will report their independent findings in writing to the manager considering the grievance.
- 5.2.9 In the event of an investigation being required, the confidentiality of the grievance process will be respected, wherever possible. The employee will be provided with a copy of any evidence gathered in the course of these investigations prior to the meeting being reconvened. In exceptional circumstances certain evidence provided by individuals may have to remain confidential, in such circumstances, this will be explained to the employee and a summary of the evidence provided.

## 6.0 Appeal process

- 6.1 Employees have the right to appeal against the grievance outcome and if they wish to exercise this right, they should submit their appeal in writing to the Director of Human Resources within 10 working days of the date of the grievance outcome letter.
- 6.2 All appeals will be held in accordance with the council's appeals policy. Employees have the right to be accompanied at appeal hearings.

## 7.0 Recording of meetings

- 7.1 The employee, or any person acting on their behalf, is not permitted to record electronically any meeting held by the council as part of the grievance procedure. This is to encourage openness and full participation by all parties during meetings. Any breach of this provision may lead to disciplinary action against the employee, up to and including dismissal.
- 7.2 In very limited circumstances, where the employee is disabled, the council may permit the meeting to be recorded electronically as a reasonable adjustment under the Equality Act 2010. Where the council does permit the meeting to be recorded electronically, it will take responsibility for making the recording.

## Appendix 1 – Appropriate Considering Manager

The below table sets out which level of manager would normally be appropriate to consider grievances and under which relevant circumstances (where ever possible this will be adhered to unless there are extenuating circumstances);

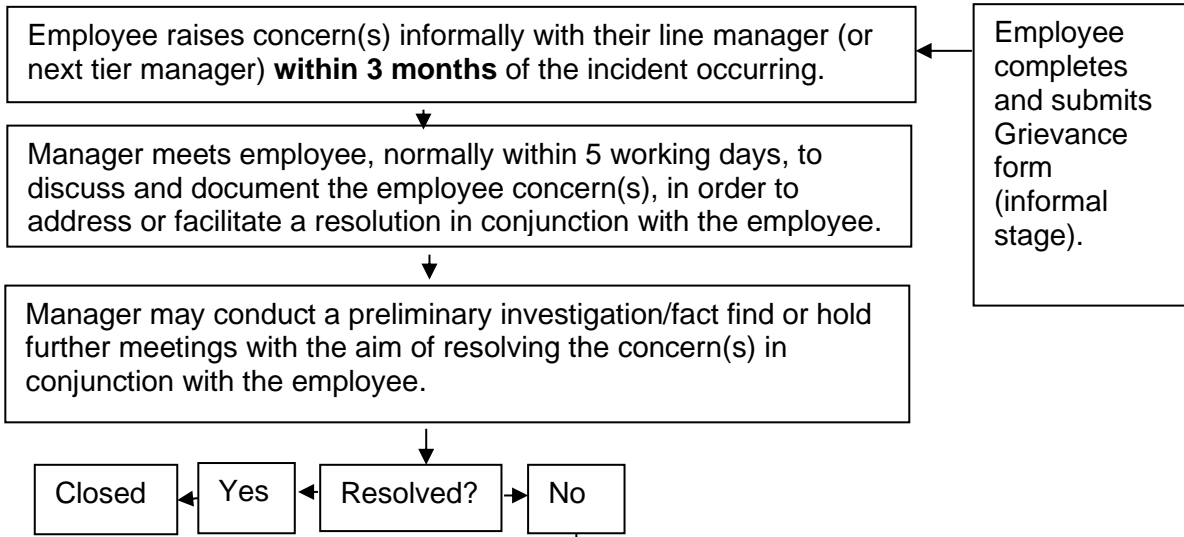
<b>Who is submitting the grievance? (assumes the grievance is not against the Chief Executive)</b>	<b>Who normally considers the grievance (at the informal and formal stage)?</b>	<b>Who would consider the grievance (at the informal and formal stage) if the immediate line manager is the subject of it?</b>	<b>Appeal (in accordance with the council's appeals policy)</b>
Employee	Immediate line manager	Next tier line manager (i.e. the line managers' manager)	Executive Director (any area) or their nominated officer who has had no previous involvement in the case
Head of Service	Immediate line manager (usually at Director level)	Next tier line manager (usually at Executive Director level) or their nominated officer (usually at Director level)	Where the grievance outcome was a decision of an Executive Director the appeal will be heard by another Executive Director (any area unless that Executive Director is the subject of the grievance). Otherwise the appeal may be heard by an Executive Director (as above) or their nominated officer (not below Director level any area) who has had no previous involvement in the case
Director	Immediate line manager (usually at Executive Director level)	Next tier line manager (usually Chief Executive) or their nominated officer (usually at Executive Director level)	Where the grievance outcome was a decision of the Chief Executive the appeal will be heard by Elected Members. Otherwise the appeal will be heard by

			Executive Director (any area unless that Executive Director is the subject of the grievance) who has had no previous involvement in the case
Executive Director	Immediate line manager (Chief Executive)	N/A - Any grievances against the Chief Executive will follow the JNC Local Authority Chief Executive Handbook model procedure	Elected Members

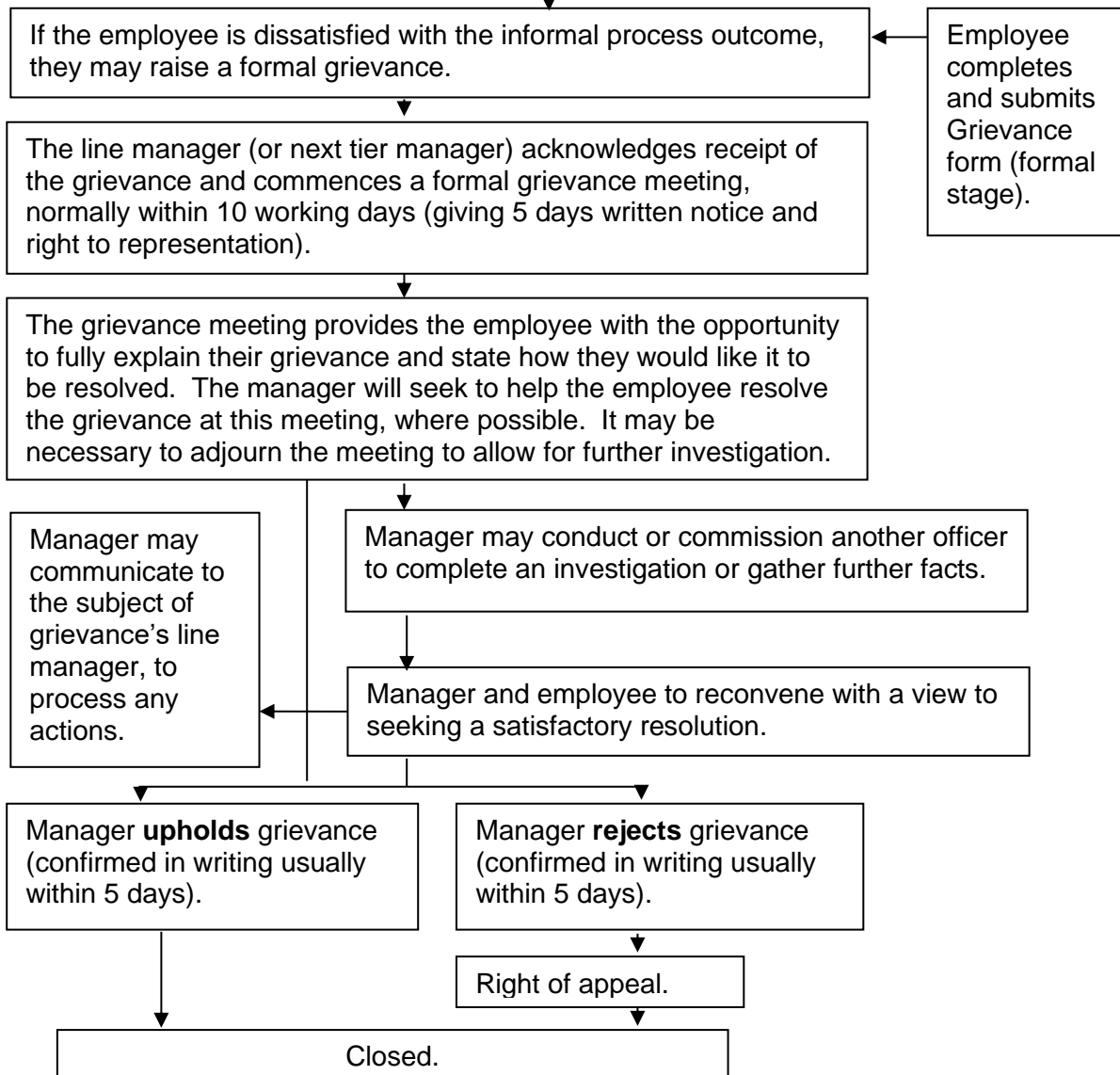
Please note: There are separate arrangements for dealing with grievances raised by employees against the Chief Executive, as well as procedures for dealing with grievances raised by the Chief Executive. In these circumstances the Council will adopt the JNC Local Authority Chief Executive Handbook model procedure.

**Appendix 2 – Grievance Procedure Flowchart**

Informal Stage



Formal Stage



Managers can offer mediation at any given point in the process