

Leicester City Council
Managers Guidelines – Grievance Procedure

GRIEVANCE PROCEDURE

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1. INTRODUCTION – WHY WE HAVE A PROCEDURE

The City Council has a grievance procedure to ensure that employees have the right to air any problems they have with their employment. The procedure is set out in full at Appendix W of the Local Conditions of Service, which is on the Intranet.

The emphasis is on you as a manager dealing with issues quickly and fairly. Without this action problems may escalate, morale will fall which may result in a breakdown in future working relationships which may sometimes be irretrievable.

You should also be aware that within every contract of employment there is an essential term of mutual trust and confidence between the employer and employee. When an employee raises a grievance there is likely to be some doubt in their mind that the employer is fulfilling this condition at that time. Where the employee fails to have their grievance dealt with satisfactorily and leaves because of this they may claim constructive dismissal at a tribunal. Constructive dismissal is a form of unfair dismissal and successful employees can be awarded compensation by Industrial Tribunals in exactly the same way as unfair dismissal cases. The compensation limit has been increased to £50,000 which would be funded from your budget.

Also unresolved grievances can quickly escalate into a dispute situation involving others in the workplace. So it is essential that grievances are dealt with properly in accordance with the procedure and the principles of natural justice as described at para 17.

There is also a major emphasis on both the supervisor and the employee making every effort to achieve a satisfactory solution to the problem. They will be required to demonstrate this should the grievance remain unresolved and go on to the next stage.

2. WHO DOES THE PROCEDURE APPLY TO AND WHAT IS EXEMPT?

The procedure covers all employees including Directors. Areas excluded are disciplinary matters, grading appeals and harassment and discrimination appeals and, although not specified, complaints about “slotting-in” and recruitment issues are similarly excluded as different avenues exist for these to be dealt with.

3. TIME SCALES

Time scales are built into the procedure to ensure that grievances are dealt with as quickly as possible. Appendix 1 sets out the detail of the time scales for ease of reference.

4. REPRESENTATION

The procedure allows for representation by a person of their choice. Although the representative may present the case/ ask questions etc. on behalf of the employee, you may require the employee to answer questions directly if necessary.

Where the grievance relates to a group dispute it would not be practical for the

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manager to see everyone. In such cases you should arrange for the shop steward or employee representative to meet with you and one or two representatives of the group on their behalf.

5. VICTIMISATION

Many employees claim that it is not worthwhile pursuing grievances as their supervisors will find some way “to get back at them” at a later date. This may or may not be true but where comments of this kind are made it indicates that working relationships between supervisors and employees need some attention. The procedure states there will be no victimisation of employees raising grievances and it is important that:

- i. first line supervisors are made aware of this
- ii. managers hearing grievances at stage 2 are able to recognise if victimisation has occurred/ or is likely to occur and take appropriate steps to deal with it.
- iii. the hearing is conducted in a non-hostile environment

6. GRIEVANCE OR DISCIPLINE?

Where an employee raises a grievance during any stage of the disciplinary process, and this relates to a disciplinary matter in hand you should advise the employee:

- i. that it will not delay applying the disciplinary procedure in any way
- ii. he/ she must present their grievance as part of their case under the disciplinary, **not the grievance** procedure

7. INFORMAL APPROACH/ ROLE OF SUPERVISOR

First line supervisors play a vital role in the resolution of grievances. If dealt with properly in the first instance grievances can be quickly resolved and harmonious working relationships restored. What might escalate into an unfortunate industrial relations problem can then be “nipped in the bud”. All supervisors should, therefore, be equipped with the skills to deal with grievance issues as part of their overall supervisory training programme.

Employees can request that the supervisor’s response is in writing. Where the supervisor’s response is based on his/her manager’s decision then it would be sensible for this person to hear the grievance and respond at stage 1.

8. FORMAL ACTION – STAGE 2

The grievance will be heard by another Manager at a senior level who has been nominated by a Director to do this. They must not have been involved in the matter at any earlier stage. N.B. it is important that your Director does not get involved at this stage otherwise he/ she will not be able to advise the Appeals Committee should there be a further right of appeal.

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A model response letter is attached at Appendix 2.

The procedure to follow which should be referred to at the start of the hearing is attached at Appendix 3.

9. PREPARING FOR THIS HEARING

Make sure you prepare for the hearing well in advance. Refer to the checklist at Appendix 4.

10. WITNESSES

Should either the employee or supervisor wish to bring witnesses, they should provide you with their names and why they wish them to be called. This should be done at the time they present you with their written statements in advance of the hearing. Whilst it is the employees and supervisors responsibility to let their witnesses know that they will be required to attend the hearing it is your responsibility to confirm to them, in writing, the times they are to attend.

Reluctant Witnesses

It is not easy to deal with employees who are reluctant to give evidence. Certainly employees who are directly involved in the grievance should be required to give evidence. However, the situation is not so clear cut in respect of witnesses who are not involved having only observed something/ someone etc. In deciding whether or not such witnesses should be required to give evidence you should consider their position within the organisation and the pressure it would place on them. For example, whilst you would expect a senior manager to give evidence, you might well appreciate that an employee at a lower level would not wish to get involved for a variety of reasons. In such a case you can attempt to persuade them being careful, of course, that this does not turn into intimidation.

11. MAKING NOTES

Both you and the HR Adviser should make your own notes as you go along as these will be invaluable in helping you to come to a decision. Don't try to write word for word, it's not possible; concentrate on key words and phrases.

At the end of the hearing make sure your notes are legible, if not get them typed as quickly as possible. Use them to make your own summary of the situation reflecting the key points. The complainant has a right to see the HR Adviser's notes of the meeting subject to the following limitations:

1. The notes will not be released as a matter of course but only if required for any Appeal stage. This is because of the resources involved.
2. The employee/ representative must accept that the notes will not be an official record of the hearing. They will be a note of the main points of the hearing as seen by the HR Adviser and may be in hand-written note form. Therefore the employee and representative should make notes of any points they regard as important.

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3. Only the HR Adviser' notes, not any advice will be issued. The agreement does not apply to the manager and/ or any other panel/ committee member.
4. The notes are not subject to negotiation and/ or amendment by the employee/ representative.

12. MANAGING TIME

Manage time effectively by ensuring that whilst you give both parties the opportunity to present their case they also keep to the point. Make this clear, politely, at the start of the hearing and that you will ask if you do not understand the relevance of any information, question etc.

13. NEW EVIDENCE

New evidence may arise in two ways, either:

- a) in the statements of case submitted by those involved,
- b) during the hearing itself.

In the case of (a) the parties should be given the chance to reconsider their position in the light of the new information, outside of the hearing.

In the case of (b) you will have to decide whether or not to allow the new evidence. Where you decide to accept it you should allow the other party sufficient time to consider it.

14. CONSIDERING/ RESOLVING THE CASE

At the end of the hearing there will be an adjournment during which you will discuss the case with your Advisor.

You should consider:

- Are you considering a personal grievance or does it relate to a general rule/ policy/ procedure etc. or both?
- Have you got all the facts - do you need to see further documentation or anyone else?
- What are the key issues?
- What common ground is there between the parties?
- What are your concerns?
- What is your authority to make changes?
- Have both parties made efforts to resolve the matter?

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- Are there any cultural/ gender/ other equal opportunity aspects to take into account?

You can then start to address how you are going to resolve the matter. Because the nature of grievances can be so diverse there is often the chance to be flexible/ creative in your response. Think of possible solutions and then take into account the possible constraints on you and what the parties involved both want. Consider also, what precedents you might set and discuss these with the appropriate people. However, take care that you do not draw your Director into the matter unless absolutely necessary; otherwise he/ she may not be able to hear any subsequent appeal. Please note conditions of service cannot be changed without the approval of Elected Members. Any recommendations for change should therefore be discussed with Human Resources who will take it up with Pay & Workforce Strategy HR.

15. INFORMING THE PARTIES

Once you have decided on a way forward let both parties know at the same time. If you can do it shortly after the hearing then all well and good. But if not let them know you need more time and arrange a date for a final response. You should try to meet the time limit of ten working days but if you cannot do this again let the parties know the reasons why.

Once you have made a decision make sure it is implemented unless you feel it would be preferable to wait to see the outcome of the decision of any possible appeal, e.g. Trade Unions/ HRU. Does any documentation need to be changed? Consider whether you need to tell anyone about the decision.

Do you need to do anything to improve working relationships? How are you going to overcome any disappointment and persuade one or both parties to your point of view?

Confirm your decision with reasons in writing to both parties. Include the right of appeal.

16. GROUNDS FOR APPEAL

The procedure states that stage 2 will be the final stage except for:

- 1) interpretation/ application of conditions of service – to Appeals Panel
- 2) issue of principle relating to Joint Agreements – to divisional JCC and then on to the Disputes Panel of the Employees Consultative Forum (previously called Local Joint Committee).

Examples

- 1) Grievances about personal relationships – no right of appeal
- 2) Grievance about the way a manager has interpreted a condition of employment, e.g. application of annual leave (normally an individual matter) – Appeals Panel

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- 3) Grievances about a joint agreement which normally will affect employees in general, e.g. a change to a condition of service – Disputes Panel – Employer Consultative Forum.

Where the employee challenges your decision about right of appeal you should refer the matter to the Joint Secretary of the Forum for consideration (Pay & Workforce Strategy HR).

Suggested wording for the letter advising on the outcome and rights of appeal is attached at Appendix 5.

17. PRINCIPLES OF NATURAL JUSTICE

- 1) You should allow the employee to present the case fully, call witnesses and cross-examine
- 2) You must not do anything which could reasonably create the feeling in the mind of the employee that you are biased in any way
- 3) You should not have been involved in the case at any previous stage

18. DIFFERENCES/ DISPUTES

A “difference” occurs over the interpretation of the wording of an element of the national conditions of service and may be referred by the Employee’s Side to the Provincial Council. A dispute occurs when either the local authority or the employee’s side takes exception to the actions of the other and there is a breakdown between them. Either side may refer the issue to the Provincial Council for settlement by the Joint Secretaries or, if necessary, by the Disputes Committee.

In such situations Unions will often press for the “status quo” to be maintained. Generally speaking it is wise to do this while the matter is under consideration as to do otherwise would be provocative and could result in an escalation of the problem. However, there are no hard and fast rules and a decision will have to be made taking into account the needs of the service, the effects on the employees, what is stated in the contract of employment and/or conditions of service etc. Advice should be sought from Human Resources who may involve Pay & Workforce Strategy HR.

19. QUERIES/ COMMENTS

If you have any queries, comments or ideas for additions to these guidelines you should contact Human Resources who will pass them on to Pay & Workforce Strategy HR for consideration.

20. AUTHORSHIP

These guidelines have been produced by Pay & Workforce Strategy HR.

If you feel there are any other issues/points which should be included please let us know.

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APPENDIX 1

SUMMARY OF TIME LIMITS

■ INFORMAL - STAGE 1	WITHIN
EMPLOYEE - STAGE 1	10 WORKING DAYS
SUPERVISOR'S RESPONSE	10 WORKING DAYS
■ FORMAL - STAGE 2	
EMPLOYEE – REGISTER APPEAL	7 WORKING DAYS
PROVIDE FULL REASONS	10 WORKING DAYS
SUPERVISOR'S RESPONSE	5 WORKING DAYS
■ APPEAL - STAGE 3	
EMPLOYEE APPEAL	10 WORKING DAYS

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APPENDIX 2

Please ask for:

Direct Line:

Our Ref:

Your Ref:

Date:

Dear

REGISTRATION OF GRIEVANCE – STAGE 2

I am writing to acknowledge receipt of Part A of your form registering your grievance at Stage 2.

I will be referring your grievance to for investigation and he/she will be contacting you shortly to arrange a meeting to discuss the matter.

You are required to submit the details of your grievance within a further 10 working days. Please use Part B of the form to do this and then forward it to the nominated investigating officer. A Trade Union representative or colleague can assist you in completing the form if you so wish.

Yours sincerely

Director of
cc Investigating Officer

APPENDIX 3

PROCEDURE FOR GRIEVANCE HEARINGS

The purpose of this procedure is to ensure that the appeal hearing is conducted in a fair and equitable way.

Employee's Case

1. Employee (or representative) to explain their case and may call witnesses
2. The supervisor to ask questions
3. Director (or nominated officer) and Adviser to ask questions

Supervisor's Response

4. Supervisor to explain response and may call witnesses
5. Employee (or representative) to ask questions
6. Director (or nominated officer) and Adviser to ask questions

Summaries

7. Opportunity for both parties to summarise case
8. Adjournment for decision
9. Parties to be notified within ten working days of the date of hearing

APPENDIX 4

PREPARING FOR THE HEARING

1. Meet your HR Adviser in advance of the hearing to discuss the issues in general and agree on the structure of the interview. Be careful, however not to form a view until after the hearing.
2. Read all documentation carefully and identify the issues involved.
3. Allow enough time to see all parties/ witnesses – over estimate rather than have to reconvene.
4. Make sure relevant parties/ witnesses are invited.
5. Anticipate whether you may need to see additional witnesses.
6. Make sure the room is big enough and free from interruption. Do you need separate rooms for anyone?
7. Aim for fixed breaks if possible but do not interrupt the “flow”.
8. Prepare a structure for the hearing – see Appendix 3.

Prepare questions but do not be tied by them at the hearing. You may have to “probe”. Aim to ask questions which fill in the gaps in your knowledge, giving you a full picture of what has happened.

APPENDIX 5

MODEL LETTER

PERSONAL

Dear Mr/Ms/Mrs/Miss

Grievance Hearing

I am writing to confirm the outcome of the grievance hearing held on _____ to consider your grievance as described in your letter*/ statement* dated _____.

Having considered the matter very carefully I have decided that [insert full details of your decision].

*EITHER (if there is a right of appeal).

Should you be dissatisfied with the outcome you have a further right of appeal to [insert appropriate Committee].

*OR (Where you feel there is no right of appeal).

The grievance procedure allows a further right of appeal only in the following circumstances:

- 1) where the grievance relates to the interpretation for application of a condition of service or
- 2) where an important issue of principle arises relating to joint agreements.

As your grievance does not appear to fall into either category my view is that you have no further right of appeal. Should you not agree with my view, however, you should let me know the reasons why within 5 days of receiving this letter.

Yours sincerely

*Delete as appropriate

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Appendix 6

CONFIDENTIAL

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GRIEVANCE REGISTRATION FORM – STAGE 2

This form should be sent to your Director within seven working days of receiving your supervisor's response at Stage 1. Your Director will then arrange for a manager to meet with you to discuss your grievance.

To register your grievance at Stage 2 you are required to complete Part A of this form.

You will then have a further 10 working days to submit the details of your grievance on Part B of the form. Someone will help you to complete this form if you so wish e.g. an HR Adviser, Equalities Officer, Trade Union Representative or a colleague.

Part C of the form will be completed by the supervisor/manager who investigated your grievance at Stage 1.

Please keep the form whole, do not cut/separate the Parts. However you can take a photocopy of Part A of the form and send it to your Director to register your grievance at Stage 2. You will then still have your form in its entirety so you can complete Part B before sending on to the nominated Investigating Officer.

PART A – to be completed by employee registering grievance at Stage 2.

1. PERSONAL DETAILS	
Name
Division
Job Title
Telephone/Ext. No.
Workplace/Section

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2. EQUALITY MONITORING Please complete this section to allow us to monitor who the grievance procedure is being used by.

Are you?	Do you have any caring responsibilities outside of work?	Are you a disabled person?
<input type="checkbox"/> Male <input type="checkbox"/> Female	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

Ethnic Origin: Please tick the **one box** that describes your ethnic origin most closely.

White	Mixed	Asian or Asian British	Black or Black British	Chinese or other Ethnic Origin
<input type="checkbox"/> British	<input type="checkbox"/> White & Black Caribbean	<input type="checkbox"/> Indian	<input type="checkbox"/> Caribbean	<input type="checkbox"/> Chinese
<input type="checkbox"/> Irish	<input type="checkbox"/> White & Black African	<input type="checkbox"/> Pakistani	<input type="checkbox"/> African	<input type="checkbox"/> Other,
<input type="checkbox"/> Any other white background, please specify:	<input type="checkbox"/> White & Asian <input type="checkbox"/> Any other Mixed background, please specify:	<input type="checkbox"/> Bangladeshi <input type="checkbox"/> Any other Asian background, please specify:	<input type="checkbox"/> Any other Black background, please specify:	please specify:

PART B – to be completed by employee registering grievance at Stage 2.
These details should be submitted within a further 10 working days of
registering your appeal under Part A.

3. THE GRIEVANCE

Please supply written information below, clearly stating the context of your grievance.

Remember to attach any supporting papers. If you were given a written response to Stage 1 of your grievance, include that.

The following may help you in completing this section;

- Try to remember the date(s) of the incident(s)?
 - Was anyone present at the time?
 - Did you raise concerns at the time?
 - How were your concerns responded to?

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Date **Part B** of form was completed:

Signature:

Name of Investigating Officer:

Please forward this form the Officer who has been nominated by our Director to investigate and respond to your grievance at Stage 2.

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PART C – to be completed by supervisor/manager who investigated the grievance at Stage 1. You have 5 working days to provide a response.

4. PERSONAL DETAILS

Name
Division
Job Title
Telephone/Ext. No.
Workplace/Section

5. GRIEVANCE RESPONSE

Please provide a response to the grievance outlined in Part B of this form and refer to any efforts made by yourself to resolve the matter. Attach a copy of your written reply, if one was produced.

Date Part C of form was completed:

Signature:

Please forward the completed form to the Officer who has been nominated by the Director of your division to undertake the grievance investigation.