



Surrey Heath Borough Council Human Resources

Grievance Policy and Procedure for Statutory Officers and non-Statutory Officers



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Policy and Procedure for Grievance

1 Introduction

- 1.1 This document includes the process for how an employee can raise a grievance against a Statutory Officer and how a Statutory Officer can raise a grievance. For all non-Statutory Officers they can follow the Council's Grievance Policy and Procedure for employees when the grievance is not against a Statutory Officer.
- 1.2 Surrey Heath Borough Council (Council) believes that all Officers should be treated fairly and with respect including Statutory Officers. There is also an expectation that Officers will take responsibility for their own conduct and performance, and will abide by all Council policies and procedures.
- 1.3 In the first instance if a Statutory Officer has a problem or concern about their work; working conditions; or their relationships or treatment by colleagues they should discuss this with their line manager, who will endeavour to resolve the situation on an informal basis. Where appropriate they should also speak to the Monitoring Officer.
- 1.4 If a non-Statutory Officer has a problem or concern about their work; working conditions; or their relationship or treatment by colleagues and Statutory Officers they should discuss this with their manager in the first instance, who will endeavour to resolve the situation on an informal basis.
- 1.5 However, where attempts to resolve the matter informally do not work, it may be appropriate for a formal grievance to be raised. It is recognised that a formal grievance procedure can be a stressful and upsetting experience for all parties involved.
- 1.6 This policy and procedure is in line with the ACAS Code of Practice.

2 Scope

- 2.1 The policy applies to all Statutory Officers which are the Head of Paid Service; Section 151 Officer and the Monitoring Officer. This policy also applies to non-Statutory Officers who wish to raise a grievance against a Statutory Officer.

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2.2 This policy and procedure should be read in conjunction with other relevant Surrey Heath Borough Council Policies including but not limited to:

- Disciplinary Policy & Procedure for Statutory Officers and non-Statutory CMT Officers
- Dignity and Respect at Work Policy & Procedure
- Grievance Policy and Procedure (non-Statutory Officers)
- Capability Policy & Procedure
- Sickness Absence Policy & Procedure
- Speak Up Policy
- Member and Officer Protocol
- Code of Conduct

2.3 Complaints that amount to an allegation of misconduct on the part of a Statutory Officer will be investigated and dealt with under the Disciplinary Policy & Procedure for Statutory Officers and non-Statutory CMT Officers.

3 Policy Statement

The purpose of this policy and procedure is to provide guidance when dealing with grievance matters and aims to address and settle grievances. This document includes the process for how a non-Statutory Officer can raise a grievance against a Statutory Officer and how a Statutory Officer can raise a grievance. All complaints against Members should be raised with the Monitoring Officer.

Wherever possible, managers must seek to resolve issues informally in the first instance. Before invoking the Grievance Procedure managers must seek the advice from the Human Resources Team or the Monitoring Officer.

The Council will not tolerate abusive, intimidating or insulting behaviour from anyone taking part in, or conducting grievance procedures, and will treat any such behaviour as misconduct under the Council's Disciplinary Policy and Procedures and related procedures.

4 Equality Assessment Policy

An Equality Impact Assessment has been carried out on this Policy and Procedure.

5 Terms

- 5.1 Corporate Management Team (CMT) includes the Head of Paid Service (Chief Executive), Section 151 Officer, Monitoring Officer and Executive Heads and Heads of Service. Where reference is made in this policy and procedure to CMT Officers this refers to all.
- 5.2 The Head of Paid Service is also the Chief Executive and therefore a Statutory Officer. The Monitoring Officer will conduct an initial filtering to determine if the matter is clearly unfounded or trivial before referring the matter to the Employment Committee.
- 5.3 The Monitoring Officer is a Statutory Officer. The Head of Paid Service will consider allegations against the Monitoring officer and determine the process to follow.
- 5.4 The Section 151 Officer is a Statutory Officer. The Head of Paid Service will consider allegations against the Section 151 Officer and determine the process to follow.
- 5.5 The remaining members of CMT are non-Statutory Officers. The Head of Paid Service will consider allegations against these non-Statutory Officers and determine the process to follow.
- 5.6 The Investigating and Disciplinary Committee (IDC) at Surrey Heath Borough Council will be known as the **Employment Committee**. This is a politically balanced committee comprising of **nine** members, consisting of at least **two** members of the Executive. The Council will ensure that there are different members on each sub committee. Please refer to the Terms of Reference for further information regarding these committees. The Employment Committee will decide whether to progress a complaint and appoint an independent investigator, in consultation with the Executive Head of Transformation (where appropriate) and Human Resources.
- 5.7 An **Independent Consultant** can be appointed to act as the Independent Investigator. Information regarding Independent Consultants can be found with Human Resources.

- 5.8 Human Resources will advise all the committees and legal advice will be available too. Human Resources will also act as note takers in meetings.

6 Principle and Aims

- 6.1 For both Statutory Officers and non-Statutory Officers if the informal process has not been resolved satisfactorily or the outcome is not satisfactory then they can invoke the formal procedure which is included in this policy and procedure.
- 6.2 It is recognised that, in some cases, a grievance could be made against an individual, rather than the Council as a whole. In such cases, the Council will ensure that the rights of, and support to, all individuals involved will be equitable at all times.
- 6.3 The Council will undertake to protect its staff against allegations concerning a third party. Hence, grievances resulting from matters that are not entirely within the Council's control such as contractor/client relationships, will be treated in the same way as those from within the organisation and this approach will apply to all contracts entered into by the Council.
- 6.4 Whilst a grievance is being considered, at whatever stage, the Statutory Officer and the non-Statutory Officer will be expected to continue to work normally with the appropriate safeguards and supports in place.
- 6.5 The Council can reasonably expect to be given full opportunity to address a grievance brought by a Statutory Officer and a non-Statutory Officer before recourse to an Employment Tribunal.

7 Mediation

In some cases a mediator can help to resolve grievance issues. Mediators can be involved at any stage to seek and facilitate resolution. Mediation will be used only where all parties in the grievance agree. Officers who feel that mediation may help to resolve their grievance should contact the Human Resources Team for more information.

8 The right to be accompanied

- 8.1 Both a Statutory Officer and a non-Statutory Officer will have the right to be accompanied by a Staff or Trade Union Representative or appropriate colleague at any formal grievance meeting or hearing who is not implicated or connected with the case. The Council reserves the right to refuse accompaniment by a person who is reasonably deemed to be unsuitable by Human Resources. Examples of unsuitability would include someone who has a vested interest in the outcome of the grievance. Legal representation is not permitted.
- 8.2 A trade union representative who is not an employed official must have been certified by their union as being competent to accompany a worker. Workers may also alter their choice of companion if they wish. As a matter of good practice, in making their choice workers should bear in mind the practicalities of the arrangements. For instance, a worker may choose to be accompanied by a companion who is suitable, willing and available on site rather than someone from a geographically remote location.
- 8.3 At the meeting the companion is allowed to address the meeting in order to:
- put the Statutory Officer's or the non-Statutory Officer's case;
 - sum up the Statutory Officer's case or the non-Statutory Officer's case;
 - respond on the Statutory Officer's case or the non-Statutory Officer's case behalf to any view expressed at the meeting;
 - the companion can also confer with the Statutory Officer or the non-Statutory Officer during the meeting.

The companion does not have the right to answer questions on the Statutory Officer's behalf or the non-Statutory Officer's behalf or to address the meeting if the Statutory Officer or the non-Statutory Officer does not wish it, or to prevent the Council from presenting the case.

9 Rearranging/Postponement of Meetings

- 9.1 In the event that either a Statutory Officer and non-Statutory Officer or their chosen companions are not available on the date or at the time proposed for the Meeting, the Statutory Officer or non-Statutory Officer can propose an alternative date and/or time, provided that the proposal is reasonable and is within **five** working days of the original date. Only

very exceptionally will the Council permit a postponement of greater than five days.

- 9.2 The parties should ensure that they attend the meeting at the specified time. If they are unable to attend because of circumstances beyond their control, they must advise the Human Resources Team. If either party fails to attend without explanation, or if it appears that the Statutory Officer or non-Statutory Officer has made insufficient attempts to attend, the meeting may take place in their absence, using the evidence available

10 Support during the grievance process

For many employees being involved in a grievance hearing or an investigation is an unpleasant and distressing experience and every effort should be made to put them at ease and treat them with empathy and understanding throughout the process. All those employees involved in the process requiring additional support should contact the Human Resources team or their line manager to discuss what support can be provided.

11 Confidentiality

- 11.1 During the grievance process (and after it is completed) the need to maintain confidentiality is of paramount importance. All Statutory Officers and non-Statutory Officers have a personal responsibility for ensuring that information they receive remains confidential whether it is written or verbal, or received directly or indirectly.
- 11.2 Officers involved will only have access to confidential information which is pertinent to them. For example, witnesses who are interviewed as part of an investigation need only be informed of the aspects of the grievance that are relevant to them. This is to enable them to provide an accurate statement and ensure they have a fair opportunity to respond to any allegations made against them.

12 Accessibility

If applicable reasonable adjustments will be made for the Statutory Officer and non-Statutory Officers or their companions.

13 Records and Notes

Records will be kept to ensure accuracy and transparency of process. All records will be treated as confidential and will be kept in accordance with the Data Protection Act 2018, Retention & Disposal Policy and General Data Protection Regulation.

The records will include:

- The nature of the grievance
- What was decided and what actions taken
- The reason for the actions
- Whether an appeal was lodged
- The outcome of the appeal
- Any subsequent developments

14 Grievance procedure

14.1 Where a grievance is against either the Head of Paid Service or Section 151 Officer this should be received by the Monitoring Officer in the first instance. Where the grievance is against the Monitoring Officer this should be received by the Executive Head of Transformation. This will constitute the initial filtering to determine if the grievance is clearly unfounded or trivial or can best be dealt with under another procedure. The Monitoring Officer will keep a record of all complaints which will be audited by the Employment Committee on an annual basis.

14.2 If the matter is deemed a serious complaint then the Monitoring Officer will forward the grievance to the Employment Committee for consideration.

14.3 Human Resources will be informed of all grievances raised.

14.4 Although not exhaustive, issues that may cause grievances include:

- Terms and conditions of employment
- Bullying and Harassment
- Discrimination
- Health and safety
- Work relations
- New working practices
- Working environment

15 Informal Grievances

- 15.1 If Statutory Officers and non-Statutory Officers would like an initial, confidential and anonymous conversation they can speak with either a member of the Human Resources Team or a Staff Representative.
- 15.2 If the Statutory Officer has concerns regarding their work, working conditions or relationships with colleagues, they should first talk the matter over informally with their line manager. For clarity this would be the Leader of the Council for the Head of Paid Service and the Head of Paid Service for the remaining Statutory Officers.
- 15.3 For non-Statutory Officers they should raise their concerns initially with their manager or Monitoring Officer if it is regarding a Statutory Officer. If it concerns the Monitoring Officer then this should be referred to the Executive Head of Transformation.
- 15.4 The concerns will be discussed in confidence, discreet investigations made, and attempt to resolve the matter speedily and fairly. Informal discussion with the parties involved will be encouraged as appropriate, with the aim of resolving the issue (s) as swiftly and effectively as possible.
- 15.5 Discreet investigations will be conducted by the Monitoring Officer in the first instance to ascertain the nature of the complaint to determine if the complaint should be forwarded to the Employment Committee.
- 15.6 It may be appropriate for the matter to be dealt with by way of mediation, depending on the nature of the grievance. This involves the appointment of a mediator (**See Section 6 above**).
- 15.7 Where an informal approach has been unsuccessful, or circumstances make this route inappropriate, then matters can be raised formally.

16 Formal Grievances

- 16.1 Where a grievance is serious or both a Statutory Officer and a non-Statutory Officer have attempted to raise a problem informally without success, both should raise the matter formally and without unreasonable delay to the Monitoring Officer or Executive Head of Transformation if appropriate. This should be done in writing, stating clearly that this is a grievance and setting out the nature. An

acknowledgement of receipt of this grievance will be received within 3 working days including information regarding the process.

- 16.2 The Monitoring Officer will determine if the complaint should be forwarded to the Employment Committee.
- 16.3 The Employment Committee will appoint an Independent Investigator who will then arrange a grievance meeting with the complainant who raised the grievance. The complainant has the right to be accompanied as detailed in Section 7.
- 16.4 A formal grievance meeting is not the same as a grievance hearing. This meeting allows the opportunity for the complainant to re-state their grievance, for discussion and dialogue, how they would like to see it resolved and lead to an amicable arrangement for either moving forward or a solution.
- 16.5 Before proceeding to a grievance hearing, it may be necessary to carry out investigations of any allegations made by the complainant, although the confidentiality of the grievance process will be respected.
- 16.6 The grievance will be heard by the Hearing Sub Committee. Please refer to the Terms of Reference for further information regarding these committees. The complainant will receive written notice of the Grievance Hearing at least **five** working days before the meeting and will include the following:
 - the date, time and location of the meeting;
 - the right to be accompanied by either a Staff or Trade Union Representative or colleague of their choice (**See Section 7 above**);
 - a request to be advised of the identity of the individual accompanying the complainant;
 - whether reasonable adjustments may be needed for the complainant or their companion;
 - all documentary evidence and supporting information must be exchanged by both parties at least **two** working days before the hearing;
 - in the event further investigatory meetings are required with any relevant parties the Grievance Hearing will be resumed as soon as possible.
- 16.7 Following the hearing, the Statutory Officer or the non-Statutory Officer who the grievance is against will be informed in writing of the outcome and told of any action as a result of the grievance. This letter will also confirm the Statutory Officer or non-Statutory Officer's right to an

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appeal against the decision and the timescales for doing so. Where possible, Surrey Heath Borough Council will provide an outcome letter within **ten** working days.

17 Appeals

- 17.1 If a complainant feels that their grievance has not been satisfactorily resolved they should write to the Appeals Sub Committee. The appeal letter must be made within **ten** working days of receipt of the grievance outcome and include the grounds for their appeal.
- 17.2 The appeal will be dealt with impartially by the Appeals Sub Committee.
- 17.3 Appeal meetings will normally take place within **10** working days of receipt of the complainant's written notice of appeal. In exceptional circumstances the Appeal meeting may take place within thirty working days'.
- 17.4 The complainant will receive written notice of the appeal meeting in writing at least **five** working days before the meeting and will include the following:
- the date, time and location of the appeal meeting
 - the right to be accompanied by either a Staff or Trade Union Representative or colleague of their choice
 - a request to be advised of the identity of the individual accompanying the complaint;
 - whether reasonable adjustments may be needed for the complaint or their companion;
- 17.5 Upon conclusion of the appeal meeting, the Appeals Sub Committee will provide the Statutory Officer and the non-Statutory Officer with written notification of the decision of the appeals panel, within **10** working days.

18 Grievances raised in relation to a disciplinary case

Where a complainant raises a grievance during a disciplinary process, the disciplinary process may be temporarily suspended in order to deal with the grievance. Where the disciplinary and grievance cases are related it may be appropriate to deal with both issues concurrently.

19 Vexatious claims

The Council regards the lodging of a grievance as a serious matter. If a complainant makes a frivolous or vexatious grievance claim the matter may be regarded as misconduct or gross misconduct if proven.

20 Collective Grievances

If a grievance is presented by a group (two or more staff) then timescales for the grievance process will be discussed at the first meeting to ensure sufficient time is given to the complaint but recognising the need for it to be conducted in a timely manner. It would be helpful if the group could agree on one or two representatives to attend the Grievance Hearing on behalf of them all. This will depend on the nature of the grievance.