

Thanet District Council Grievance Policy & Procedure

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Key Points:

- It is expected that attempts will always be made to resolve grievances informally in the first instance. If this fails to resolve the problem or in the exceptional circumstance that an informal approach is inappropriate, the formal approach will be used.
- Employees have a statutory right to be accompanied by a trade union representative or workplace colleague at any formal meeting, including appeals.
- The HR team should be contacted prior to initiating any formal process and, if necessary, for advice around the informal process.
- When raising a grievance, you need to be aware that the details of the grievance will be shared with the person/people against whom you have raised it.
- This policy seeks to address employee grievances that affect you personally. If you are concerned about any potential wrongdoing by the council (including in any area which is not directly related to your role), it may be more appropriate to follow the Whistleblowing Policy.
- The allegations within a grievance cannot be expanded/added to without offering the party against who they are raised the right of reply before the grievance process is concluded.
- Employees who raise grievances will not suffer any detriment as a result of doing so, except for situations where the grievance(s) are deemed to be vexatious or malicious.
- Victimisation of employees who raise grievances or who act as witnesses in grievance cases will not be tolerated and may result in disciplinary action being taken.

- Confidentiality will be given the utmost importance at all stages of the procedure.
- Before raising a grievance either formally or informally, you should ensure that you are able to substantiate the claims that you are making and provide any supporting evidence, as appropriate.

1. Introduction

Thanet District Council recognises that, from time to time, employees may have problems or concerns about their work, working environment or relationships with colleagues that they wish to raise and successfully resolve. The council takes such issues seriously and actively encourages employees to have the confidence to raise such concerns at the earliest opportunity. The purpose of this policy and procedure is to provide the council with a robust mechanism to deal with these issues quickly, consistently and fairly to support this objective.

2. Scope

- 2.1. This policy and procedure applies to all employees other than the Chief Executive, Section 151 and Monitoring Officer for whom separate arrangements apply. The Grievance Policy for Statutory Officers can be found [here](#).
- 2.2. Cases which relate to a Non-Statutory Chief Officer can be considered in line with this policy by other Non-Statutory Chief Officers, the Section 151 Officer, the Monitoring Officer and/or the Chief Executive, as appropriate and in accordance with sections 9 and 10 of this policy. In the event that there are insufficient panel members to consider an appeal process, the Council will engage an appropriate external party to act as the decision maker on its behalf.
- 2.3. This policy and procedure applies to issues which may cause grievances including but not limited to:
 - 2.3.1. Terms and conditions of employment
 - 2.3.2. Health and safety
 - 2.3.3. Work relations
 - 2.3.4. New working practices
 - 2.3.5. Working environment
 - 2.3.6. Organisational change
 - 2.3.7. Discrimination
- 2.4. This policy and procedure does not cover the following issues;
 - 2.4.1. Disciplinary and dismissal matters (you should use the appeals process in the disciplinary policy and procedure)
 - 2.4.2. Questions relating to statutory adjustments to pay and allowances (e.g. income tax, national insurance, occupational pension scheme, statutory sick pay)
 - 2.4.3. National agreements (other than local interpretation)
 - 2.4.4. Grading issues
 - 2.4.5. Personal matters not directly related to employment or conditions of service

2.4.6. Any attempt by an individual who is no longer employed by the Council, seeking to raise a grievance

2.4.7. Issues that have been raised and addressed within the last 12 months unless the recommended outcomes have not been implemented.

2.5. In this policy and procedure, the term 'you' is used to refer to an employee or group of employees who are raising a grievance.

3. Roles & Responsibilities

Employees will:

- Ensure that their interactions with their colleagues are respectful and that their relationships remain professional at all times;
- Attempt to resolve grievances informally in the first instance, where appropriate;
- Cooperate fully in meetings to discuss grievance issues;
- Give careful consideration to any recommendations made to resolve the grievance, for example mediation or training;
- Seek clarification if they are unsure of the behaviour expected of them.

Managers will:

- Ensure they and their employees act in accordance with this policy;
- Remain impartial and keep an open mind when considering the points raised by all parties;
- Make effective use of the council's informal mechanisms to maintain effective working relationships with and between employees;
- Keep comprehensive records of the above activities and their success / failure to improve situations accordingly;
- Seek guidance from the HR team as soon as they become aware of an issue which may result in the raising of a grievance;
- Make arrangements for their employees to be released from normal duties as appropriate, if involved in the grievance process;
- Make any necessary arrangements for formal grievance hearings, such as arranging note takers, booking a venue, sending meeting requests and so forth;
- Attend training on the application of this policy.

HR will:

- Monitor employment legislation relating to grievances at work and support the council to review and amend this policy as appropriate;
- Provide support, guidance and training to the council and its employees in the interpretation and application of this policy;
- Ensure a consistent and fair approach to the application of this policy;
- Support managers to investigate claims where individuals believe that they are being treated unfairly or unreasonably under this policy.

Service Directors & the Corporate Management Team will:

- Make suitable arrangements to ensure the appropriate application of this policy;
- Encourage all employees to promote and maintain the standards of behaviour expected by the council;
- Encourage managers and employees to attempt to resolve issues informally in the first instance;
- Support managers to act fairly and consistently in relation to grievance matters;
- Participate, and/or encourage managers to participate in the formal Grievance Procedure when required, ensuring release from normal duties where appropriate;
- Attend training on the application of this policy;

4. Policy & Procedure Principles

- 4.1. The council expects that grievances will be raised as soon as practically possible after the incident(s) that led to the grievance and without unreasonable delay.
- 4.2. Where an employee raises a grievance during a disciplinary process the disciplinary process may be temporarily suspended in order to deal with the grievance or it may be appropriate to deal with both issues concurrently. In this situation, the manager in receipt of the grievance will make the investigating officer/chair of the disciplinary panel aware that it has been received and will agree with HR the most appropriate course of action. The decision as to whether to suspend the disciplinary process or deal with the two issues concurrently is likely to depend upon the nature of the grievance and is therefore likely to be determined on a case by case basis. The affected employee does not have the right to contribute to or influence this decision.
- 4.3. Where an employee has concerns about a potential conflict of interest on the part of the manager considering the grievance, they should raise these with HR, clearly setting out (and evidencing where possible) what they believe the conflict to be. Careful consideration will be given by HR to the points raised after discussion with the but alternative arrangements will only be made where a conflict of interest is demonstrable i.e. the raising of a concern will not automatically preclude an individual from continuing with a case.
- 4.4. Whilst the council will aim to respect confidentiality of any employee's concerns or complaints there are occasions where, as part of its duty of care, or legal responsibilities, the council reserves the right to investigate and take forward matters without their consent e.g. discrimination, theft etc.
- 4.5. When a group of employees have a concern about treatment they have received or any aspect of their work the matter should be raised collectively with their line manager or a more senior manager in their service.
- 4.6. If your complaint relates to bullying or harassment on the part of a colleague, the matter should be dealt with under the Bullying and Harassment Policy and Procedure. Complaints that amount to an allegation of misconduct on the part of a colleague will be investigated and dealt with under the disciplinary procedure and you will be informed once the matter has been dealt with.
- 4.7. This procedure sets timescales to ensure that any grievance is dealt with quickly and efficiently. However, these may be extended in consultation with the HR team to ensure a fair process.

- 4.8. Audio/visual recordings of meetings will not be allowed at any stage of the grievance procedure and are not admissible within this process, unless agreed by HR as a reasonable adjustment for an employee with a disability.

5. Informal Resolution

- 5.1. The formal grievance process can be very difficult and can have an impact on the health and wellbeing of the parties involved. It may also be very difficult to restore good working relationships following an outcome. It is therefore expected that, in the first instance, attempts should be made to resolve the issue or concern informally through your line manager. This may be through one to one meetings, requesting a specific meeting with your manager or through day to day interactions between yourself and your manager. Dealing with grievances in this way can often lead to the quickest and most effective resolution
- 5.2. Employees should be able to resolve the majority of workplace issues in this way without needing to invoke the formal procedure. If the grievance is about your line manager then you should approach your line manager's manager or a member of the HR team.
- 5.3. If attempts to resolve the issues informally are unsuccessful then you can raise a formal grievance in accordance with this procedure.

6. Mediation

- 6.1. If the problem concerns relationship difficulties and/or conflict, it may be more appropriate to consider mediation as a way to resolve the issue. In this situation a third party mediator will be appointed who will discuss the issues raised in your grievance with all those involved and will seek to facilitate a resolution.
- 6.2. Mediation can be introduced at any stage in this procedure and will be used only where all parties involved in the grievance agree.
- 6.3. The third party mediator could be either an employee of the council who has relevant training and is not directly involved in the case or someone from an external organisation.

7. Vexatious Grievances

- 7.1. The council recognises the right of employees to raise grievances relating to their employment. However, the council also recognises that, occasionally, this process is open to misuse or abuse through the raising of grievances that are petty, repetitive and/or vexatious.
- 7.2. In this situation, the manager in receipt of the grievance should seek advice from the HR team and determine whether the grievance is petty or clearly unfounded. It may be that it is immediately obvious from the content of the grievance or it may be that an initial conversation with the employee and/or other parties is required before this can be determined with any certainty.
- 7.3. A grievance could be considered to be petty or vexatious if it appears to have been raised in bad faith. This might be for a number of reasons, including that it has no reasonable prospect of success, it is a repeat of issues which have been raised and dealt with previously, and/or it is not an issue that is reasonable to complain about.

To some extent this judgement may be informed by whether the individual employee has a history of submitting petty or unfounded grievances but ultimately it will be based upon the content of the grievance itself and the outcome of any initial discussions.

- 7.4. Individual grievances can be deeply held and serious consideration will be given to the merits of each individual case. A decision to classify a grievance as petty or unfounded will result in it not being taken any further so will not be taken lightly.
- 7.5. If it is believed that an employee is deliberately wasting council time and resources in this way, the decision on how to proceed will be taken by a manager at an appropriate level¹ who has no conflict of interest in the matter and in consultation with the HR Manager. If it is deemed that it constitutes a vexatious grievance, it may result in no further action taken on the grievance or, in the worst case, disciplinary action being taken against the employee who raised the grievance.
- 7.6. The decision will be confirmed to the employee in writing and it will be clearly explained to the employee why this decision has been taken. The Council will then deem the matter to be closed.
- 7.7. Likewise, if an investigation as part of the formal process shows that a grievance is unfounded and has been raised vexatiously, this may lead to disciplinary action against the person who raised the grievance.

8. Malicious Grievances

- 8.1. A malicious grievance is one which is raised with the intention of causing harm, for example to defame a colleague or manager and is based upon rumour, gossip or fabrication. Grievances which are found to have been raised with the sole intention of delaying or disrupting a disciplinary process will also be considered to be malicious.
- 8.2. If, during the process of considering a grievance, the manager has concerns that it may be malicious, they should seek advice from the HR team as to whether there is sufficient evidence to substantiate these concerns.
- 8.3. Individual grievances can be deeply held and serious consideration will be given to the merits of each individual case and the evidence available.
- 8.4. If it is believed that there is sufficient evidence that the grievance is malicious, it may result in no further action being taken on the grievance and/or, in the worst case, disciplinary action being taken against the employee who raised the grievance.

9. Formal Procedure

- 9.1. If attempts to resolve a grievance informally have failed then a formal grievance can be raised. The details of the grievance should be put in writing to your line manager (where appropriate) or to a more senior manager within the same service, clearly setting out the nature of the grievance and the outcome or remedy that is being sought.

¹ This may be the manager in receipt of the grievance or it may be passed to another manager, depending on the circumstances of the case.

- 9.2. Where an outcome or remedy has not been made clear from the outset, you will be asked to provide this detail in order for the manager to deal with your grievance in a way that is reasonable and acceptable.
- 9.3. The manager receiving the grievance will be the person to consider it, in most cases. If, for any reason, this is not appropriate, the manager in receipt of the grievance will contact HR and an alternative manager will be identified. This may be a manager at the same or a higher level to the manager who received the grievance.
- 9.4. A meeting will be arranged as soon as is reasonably practicable, normally within ten working days of an initial investigation being undertaken.
- 9.5. At the meeting, you will be invited to explain the nature of your complaint in more detail and what action you feel should be taken to resolve the matter.
- 9.6. Where appropriate, the manager may adjourn the meeting in order to undertake further investigations and will aim to keep you informed of the investigation's progress. Any further investigation will be completed in a timely manner.
- 9.7. In cases which involve complaints against other employees, the employee(s) with complaints made against them will be provided with the details of the complaint(s) that are relevant to them, up to and including full disclosure. This will be provided in advance of an investigatory meeting where they will be given the opportunity to respond. They will also be provided with support from another manager not involved in the grievance process or a member of the HR team who they can contact should they wish to talk to someone, access information etc.
- 9.8. Following the meeting and any subsequent investigation, you will be informed of the outcome by the manager who has considered the case. This will be provided in writing as soon as is reasonably practicable and, wherever possible, within five working days. The outcome may be that your grievance is upheld, is partially upheld or is not upheld and will confirm the extent to which your remedies have been satisfied.
- 9.9. Where appropriate, you may also be informed of any action that the Council proposes to take as a result of your complaint but the progress and outcome of any subsequent actions or processes will not be shared.
- 9.10. Even in cases where the proposed action to be taken may remain confidential, all parties will be advised when the process has completed and the manager responsible for the process will discuss any aspect of the outcome that is relevant to them.
- 9.11. In cases where an investigation is undertaken and a report prepared as a result, it will be shared with all parties to the grievance unless, in exceptional circumstances, the manager determining the case feels that it would be detrimental to do so. Any decision to withhold an investigation report will be discussed and agreed with HR.
- 9.12. In cases where grievances have been upheld or partially upheld; the manager who has considered the case will make a recommendation for action to be taken. This may be disciplinary action at the informal or formal stage, depending upon the circumstances and the recommendation will be made to the manager of the employee against whom the allegation has been made. The process will then transfer over to the Disciplinary Policy and the employee's manager should seek advice from HR as to whether additional investigation is required prior to the implementation of any formal disciplinary action.

10. Appeal

- 10.1. If you are dissatisfied with the outcome of the formal process, you can appeal the decision.
- 10.2. An appeal must be made in writing to HR within five working days of receipt of the written outcome. This must detail the grounds of appeal i.e.
 - the basis on which you think that the result of the grievance was wrong and/or
 - why you believe that the action taken as a result was inappropriate.
- 10.3. A manager not previously involved in the process of the same level or more senior to the manager who considered the formal grievance will consider the appeal.
- 10.4. Depending on the circumstances of the case, the appeal may be dealt with as a paper exercise taking into consideration the content of the written appeal and the details of the outcome or an appeal hearing may be arranged. Either way, the approach to be taken will be confirmed in writing within five working days of receipt of the appeal. This will include either the timescale in which the manager will consider the appeal or an invitation to an appeal hearing which will be as soon as is reasonably practicable.
- 10.5. The appeal is not a rehearing of the original case but a consideration of whether the conclusion reached in the original hearing was appropriate and the action taken within a range of reasonable responses. If there is an appeal hearing, the manager considering the appeal may, therefore, confine discussions to those specific areas rather than reconsider the whole matter afresh.
- 10.6. The outcome of the appeal is final and will be confirmed in writing as soon as is reasonably practicable but usually within five working days of the appeal being considered.

11. Collective Grievances

- 11.1. If you and your colleagues are affected by the same grievance issue you must all agree (without any pressure being exerted on staff members to join the collective process) to raise it collectively.
- 11.2. If you do not all voluntarily agree to this arrangement or if your grievances are not identical then they will need to be considered as individual grievances.
- 11.3. You will be entitled to one collective grievance hearing and (if applicable) one appeal and you will need to nominate a spokesperson from within your group to represent you all throughout the process.
- 11.4. If you are members of the same trade union you may also be accompanied by a trade union representative or your trade union representative can raise the grievance on behalf of the collective, provided that you all agree to this.

12. Right to be accompanied

- 12.1. You have the right to be accompanied by a fellow worker or trade union representative at any formal grievance meeting or subsequent appeal.
- 12.2. The automatic right to be accompanied does not apply at any informal stage of this procedure but if requested then it will be allowed, provided that it does not cause any delay to the process.

- 12.3. The council reserves the right to refuse accompaniment by a person who is deemed to be unsuitable by the HR team. Examples of unsuitability would include someone who has a vested interest in the outcome of the grievance and anyone who has previously behaved inappropriately during a hearing.
- 12.4. If the employee's trade union representative or workplace colleague is not available at the time arranged for the hearing, the employee may request an alternative hearing date provided that it is within a reasonable timeframe, which will be determined by the chair of the panel. A postponement will normally also be granted where, to do otherwise would seriously prejudice the ability of either party to present their case. A hearing will normally only be rearranged once and the chair of the hearing may determine an outcome on the evidence available without the employee being present if they are unable to attend a hearing that has already been rearranged.
- 12.5. Employees who are interviewed as part of an investigation into allegations raised in a grievance do not have a statutory right to be accompanied. They may, however, request a colleague or trade union representative to accompany them at the investigatory meeting and it will be for the manager considering the case to determine whether or not it is appropriate. If the employee is allowed to be accompanied, the role of their companion will be to provide moral support and not to speak on behalf of the employee.

13. Confidentiality

- 13.1. During the grievance process (and after it is completed) the need to maintain confidentiality is of paramount importance. All employees have a personal responsibility for ensuring that information they receive remains confidential whether it is written or verbal and whether it is received directly or indirectly. This should be advised and reiterated to all those involved in any hearings or investigations.
- 13.2. Access to confidential information should be limited to those who 'need to know'. 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.

14. Records

Records should be kept of the nature of the grievance raised, meetings held, the manager's response, any action taken and the reasons for it. These records should be kept confidential and retained in accordance with the HR Retention Schedule. Copies of any meeting records should be given to the individual concerned although in certain circumstances some information may be withheld, for example to protect a witness. Copies of all documentation should be sent to HR for retention on the employee's file.

15. Equality Statement

The Council is committed to promoting equality, valuing diversity and combating unfair treatment. The Council will endeavour to ensure equal access to its policies and procedures and will combat discrimination or less favourable treatment on the grounds of any irrelevant consideration, in accordance with the Equality Act 2010.