



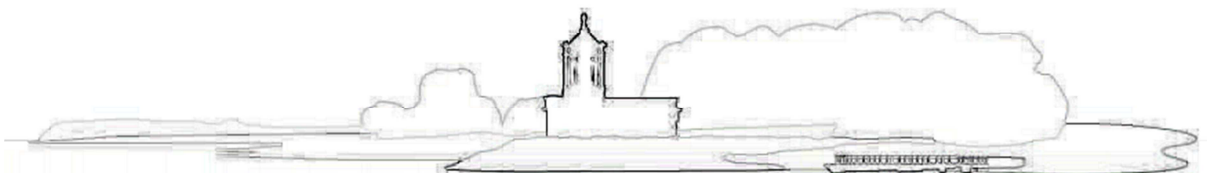
# Rutland County Council

## GRIEVANCE POLICY AND PROCEDURE

(Including Bullying, Harassment and Discrimination)

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## **1. SCOPE**

- 1.1 This policy applies to employees of Rutland County Council regardless of their status or length of service but does not apply to individuals employed by non-Rutland County Council schools or colleges.
- 1.2 This Procedure will be subject to periodic review and amendments may be made from time to time following consultation with the appropriate recognised unions.
- 1.3 Where necessary, this Procedure can be departed from depending on the particular circumstances of the grievance – this would be done with further advice from Human Resources.

## **2. PURPOSE**

- 2.1 The purpose of this Procedure is to enable employees (whether collectively or individually) to raise a grievance about problems or concerns at work, working conditions or relationships with colleagues (this includes discrimination, victimisation, bullying and harassment).
- 2.2 The Council operates a separate Whistleblowing Policy to enable employees to report issues of concern, illegal activities, wrongdoing or malpractice.

## **3. PRINCIPLES**

- 3.1 Rutland County Council expects, and is committed to ensuring that all employees are treated fairly and treat others fairly, respectfully and in accordance with its Equality and Diversity Policy
- 3.2 Where possible we will aim to resolve grievances informally but in all other circumstances the formal procedure will be followed.
- 3.3 All grievances will be treated seriously and addressed promptly and sensitively.
- 3.4 In cases where a grievance is upheld, Rutland County Council will take all appropriate and recommended action.
- 3.5 Proven allegations capable of amounting to gross misconduct or misconduct will be dealt with under the Disciplinary Procedure.
- 3.6 Where an employee raises a grievance during a disciplinary process the disciplinary process may be temporarily suspended in order to deal with the grievance.

- 3.7 Where a grievance triggers a disciplinary investigation the grievance process may be temporarily suspended in order to deal with the disciplinary matter.
- 3.8 In any circumstance where both the grievance and disciplinary procedures apply in relation to the same facts it may be appropriate to deal with both matters together. This decision will be made by the Grievance and/or Disciplinary Manager in consultation with Human Resources.
- 3.9 In any circumstance where a grievance relates to someone other than an employee all reasonably practicable steps will be taken to prevent against risks of recurrence.
- 3.10 It is agreed, that there will be no departure from normal employee relations, whilst this procedure is in use. The “Status Quo” (i.e. the working and management arrangements that applied prior to the dispute), will be maintained until agreement is reached at any stage of the procedure or until the procedure is exhausted.

#### **4. DEFINITIONS**

This section is for guidance purposes only and is intended to assist employees in determining whether or not the Grievance Procedure applies.

##### **4.1 Grievance**

A grievance is a concern, problem or complaint that an employee would like to raise with their employer.

Issues that may cause grievances include but are not limited to:

- Harassment, bullying, discrimination and/or victimisation;
- Terms and conditions of employment;
- Health and Safety;
- Work relations;
- New working practices;
- Working environment; and
- Organisational change.

##### **4.2 Grievance Manager**

For the purpose of this procedure the Grievance Manager is defined as the individual tasked with dealing with and responding to the grievance.

Where an employee feels unable to speak to their line-manager for example, because the complaint is about them, the grievance should

instead be raised with a Head of Service or Human Resources Adviser for allocation to another manager of at least the same seniority.

#### **4.3 Employee**

In this procedure references to employees will be taken to include references to current and/or former employees and in the context of a Grievance Meeting will be taken to also include references to their work place colleague or Trade Union representative.

#### **4.4 Discrimination, Harassment and Victimisation**

The definitions set out at Appendix A of the Equality and Diversity Policy will apply to grievances in relation to perceived acts of unlawful discrimination, harassment and victimisation.

#### **4.5 Bullying**

For the purposes of this procedure bullying is defined as the persistent and deliberate misuse of power or position to intimidate, humiliate or undermine.

Bullying can arise through intentional misuse of power or position to criticise unreasonably or unjustifiably and condemn; to humiliate and undermine an individual's skills and ability such that they become fearful, lose confidence and belief in themselves.

Bullying can take many forms for example:

- physical (at worst assault);
- verbal (shouting, swearing, public reprimands, personal insults and name calling, spreading rumours, making threats, persistent criticism); and
- non-verbal (ostracising, setting impossible objectives, persistent intrusion, withholding information, unreasonable allocation of duties, removing responsibility, allocating menial tasks, constantly changing working guidelines)

Legitimate, reasonable and constructive criticism of an employee's performance or behaviour or reasonable instructions given to workers in the course of their employment will not amount to bullying on their own.

A single incident can be bullying if it is sufficiently serious.

## **5. RAISING A GRIEVANCE – STAGE 1 - INFORMAL STAGE**

- 5.1 If an employee has an issue of concern they should, wherever possible, start by talking it over with their line-manager to try and agree an early solution without recourse to the Grievance Procedure. If this is not possible, or satisfactory, the employee should raise a Stage 1 Grievance
- 5.2 Where an employee feels unable to speak to their line-manager for example, because the complaint is about them, the grievance should instead be raised with a Head of Service or Human Resources Adviser for allocation to another manager of at least the same seniority.
- 5.3 Grievances should be raised as soon as possible after the event or incident complained of. In all circumstances grievances should be raised within 2 months unless exceptional circumstances exist which justify a departure from this.
- 5.4 The Line Manager should arrange to meet with the employee in order to come to a solution regarding the employee's grievance. The outcome of the grievance should be advised to the employee in writing within 10 working days.
- 5.5 Managers may offer the services of an independent, 3<sup>rd</sup> – party facilitator if considered appropriate and if acceptable to both parties. This is to assist with arbitration that would enable the substance of the grievance to be resolved.
- 5.6 Where the informal discussion at Stage 1 does not resolve the grievance the formal procedure at Stage 2 should be followed.

## **6. RAISING A GRIEVANCE – STAGE 2 - FORMAL STAGE**

- 6.1 If an employee's grievance cannot be resolved informally they should, within ten working days of receiving the reply at Stage 1, submit a Grievance Form (see Appendix 1) to their line managers immediate manager (the Grievance Manager).
- 6.2 The Grievance Form should include details about the nature of the complaint as well as the outcome being sought.
- 6.3 The Stage 2 Grievance Meeting will be held as soon as possible and where achievable within ten working days of receiving a formal written grievance.

- 6.4 If there are any aspects of the grievance which are unclear, the Grievance Manager should clarify these with the employee before any meeting takes place or undertake an investigation (see paragraph 7).
- 6.5 If the issue is proceeding to a full Grievance Meeting the employee should be informed and an explanation given of what will happen next.

## **7. INVESTIGATION**

- 7.1 The Grievance Manager, in conjunction with Human Resources, will determine whether or not an investigation of some or all of the issues raised in the Grievance Form is required. This decision will ordinarily be taken prior to the Grievance Meeting.
- 7.2 The Grievance Manager will determine the most appropriate means of investigation to include conducting their own investigation or appointing an internal or external investigator. In all cases guidance should be sought from Human Resources before making this decision.
- 7.3 The amount of any investigation required will depend on the nature of the allegations and will vary from case to case. It may involve collecting documentation from and/or interviewing and taking statements from the employee, the subject of the complaint and any other relevant witnesses.
- 7.4 Employees must co-operate fully and promptly in any investigation. This may include providing the names of any witnesses, disclosing relevant documents and attending interviews.

## **8. STAGE 2 - GRIEVANCE MEETINGS**

- 8.1 If the grievance is a collective grievance only one Grievance Meeting will be arranged.
- 8.2 The Grievance Manager should notify Human Resources as soon as possible after receiving a formal grievance. The Human Resources Advisor will assist the Grievance Manager in preparing for the meeting and will attend the Grievance Meeting to take notes and provide advice as required.

Prior to the Grievance Meeting the employee should be notified in writing of the following:

- Confirming the date, time and venue;
- Asking for details of any witness or representative (work place colleague or Trade Union representative) they intend to bring with them; and

- Informing them of any other persons who will be attending to give evidence e.g. where an investigation has taken place, the investigating officer.
- 8.3 If the employee or their work place colleague or Trade Union representative is unable to attend the meeting they must notify the Grievance Manager as soon as possible. They should be asked to suggest an alternative date so long as it is reasonable and unless exceptional circumstances exist not more than 1 week after the original date proposed.
- 8.4 The employee and/or their work place colleague or Trade Union representative (if any) should make every effort to attend the Grievance Meeting.
- 8.5 If an employee continues to be unable to attend scheduled Grievance Meetings, a meeting may take place in their absence and a decision will be made on the evidence available. Where the Grievance Manager intends to hold the meeting in the employee's absence, the employee will be notified (where time permits in writing) beforehand.
- 8.6 For collective grievances, if all individuals are members of the same trade union, their trade union representative can (if they all agree) raise the grievance on their behalf. Alternatively, they can agree to nominate one of them to act on behalf of them all. If there is no one nominated representative, the individuals will be entitled to address concerns individually at the Grievance Meeting, but they will have no additional right to be accompanied beyond having their colleagues present. If the individuals wish to be represented by their trade union representatives on an individual basis, arrangements will be made to hear the grievances separately.
- 8.7 Meeting format**
1. The employee should be asked to present the grievance, ensuring that it is confined to matters directly relevant to the issues raised.
  2. Where it is necessary for the employee to invite witnesses to attend and provide information, the Grievance Manager will have an opportunity to ask them questions at the end of each presentation.
  3. Where an Investigating Officer has been appointed and is required to attend the Grievance Meeting they will present the investigation report. The employee should be given an opportunity to ask questions at the end of that presentation.
  4. Where any other relevant witnesses attend to provide information, the employee should be given an opportunity to ask them questions at the end of each presentation.
  5. Once the evidence has been explored, and the employee has been given an opportunity to comment and respond, the meeting should be adjourned for the Grievance Manager to reach a decision.



6. The Grievance Meeting should be reconvened on the same day, unless there are matters arising which require further investigation which will take longer than the remainder of the day to complete.
7. Where the Grievance Meeting cannot be reconvened on the same day, a future date will be arranged without undue delay. In such circumstances the employee should be given written notice of the date, time and venue at the earliest opportunity.
- 8.8 The Grievance Manager should reconvene the Grievance Meeting whether on the same or a different day to explain the decision, the reasons for it and any further action proposed to rectify the issues raised.
- 8.9 In appropriate circumstances and with the agreement of the employee it may be possible to agree for the decision to be communicated in writing only but in any event all decisions should be confirmed to the employee in writing within ten working days of the Grievance Meeting.
- 8.10 The decision letter should contain the following information:
  - The decision made and the reasons for reaching it; and
  - Confirming the employee's right to appeal and to whom.
- 8.11 The decisions available to the Grievance Manager are:
  - To uphold the employee's grievance and advise the Line Manager to take the necessary action
  - To not uphold the employee's grievance.
- 8.12 For collective grievances each employee will be notified individually of the outcome.

## **9. STAGE 3 - APPEAL**

- 9.1 If an employee still feels that the substance of their Grievance has not been satisfactorily resolved, they may appeal against the decision made at Stage 2. They should put their grounds for appeal in writing to the appropriate Director within ten working days of receiving the outcome of Stage 2.
- 9.2 An Appeal will be heard by either the Director or a nominated senior officer (Appeal Manager).
- 9.3 An Appeal Meeting will be held as soon as possible and where achievable, within 10 working days. The meeting will be attended by the Appeal Manager, employee and their representative, and HR representative and if applicable, the Grievance Manager. The format of the meeting shall follow the same process as in Stage 2.

- 9.4 The purpose of the Appeal meeting is to consider the grounds that the employee has submitted and assess whether or not the conclusion reached in the Stage 2 Grievance was appropriate. The Appeal is not a rehearing of the original grievance, but rather a consideration of the specific areas with which the employee is dissatisfied in relation to the original grievance. The Appeal Manager may therefore confine discussion to those specific areas rather than reconsider the whole matter afresh.
- 9.5 The decisions available to the Appeal Manager are:
- To uphold the employee's grievance and advise the Line Manager to take the necessary action
  - To dismiss the grievance. The decision of the Appeal Manager is final and there is no further right of appeal.
- 9.6 The Grievance Manager should reconvene the Appeal Meeting whether on the same or a different day to explain the decision, the reasons for it and any further action proposed to rectify the issues raised.
- 9.7 In appropriate circumstances and with the agreement of the employee it may be possible to agree for the decision to be communicated in writing only but in any event all decisions should be confirmed to the employee in writing within ten working days of the Appeal Meeting.

## **10. COLLECTIVE GRIEVANCES**

- 10.1 Where an identical grievance is made by two or more employees (collective grievance) and all employees agree, a joint written grievance can be submitted. In such circumstances the Grievance Form should be headed "Formal Collective Grievance" and must:-
- detail the nature of the grievance and the outcome being sought;
  - identify the individuals who wish to raise the grievance;
  - identify any nominated trade union representative or colleague to represent them all;
  - state that all have voluntarily consented to use the collective grievance process and;
  - confirm that each individual understands that the grievance will give each of them the right to only one collective grievance meeting and outcome, and (if applicable) appeal meeting and outcome. If it is not agreed, separate grievances will apply.

## **11. RIGHT TO BE ACCOMPANIED**

- 11.1 Employees will not normally have the right to be accompanied at an investigative interview however, at the Investigating Officer's discretion, a work colleague or trade union representative may accompany the employee in an observer capacity to provide support but not in the role of an advocate. In allowing this support the investigation must not be unreasonably delayed.
- 11.2 Employees may bring a work place colleague or Trade Union representative to any Grievance Meeting under this procedure.
- 11.3 The Grievance Manager may at their discretion allow the employee to bring a Companion who is not a work place colleague or Trade Union representative if this will help overcome a disability or if the employee has difficulty understanding English.
- 11.4 A work place colleague or Trade Union representative may make representations and ask questions at a Grievance Meeting but should not answer questions on the employee's behalf. The employee may talk privately with their work place colleague or Trade Union representative at any time.
- 11.5 Acting as a work place colleague or Trade Union representative is voluntary and no employee is required to fulfil this role unless they are happy to do so.
- 11.6 If the employee's choice of work place colleague or Trade Union representative is unreasonable, the line manager will seek HR guidance regarding any requirement for them to choose someone else. For example:
  - If there is a conflict of interest or the work place colleague or Trade Union representative's attendance may prejudice the Grievance Meeting; or
  - If the work place colleague or Trade Union representative's unavailability will undermine the Grievance Manager's ability to call a Grievance Meeting within the prescribed timeframes unless exceptional circumstances exist.

An HR Adviser will also be present to take notes and provide procedural advice.

**GRIEVANCE FORM**

This form should be completed by an employee registering a Stage 2 Formal grievance and sent to the appropriate manager as stated within the procedure.

<b>Employee Name</b>	
<b>Job Title</b>	
<b>Department/Team</b>	
<b>Date</b>	

**Summary of complaint**

*Please set out the details of your complaint (providing as much detail as possible), particularly dates, times, locations and the identities of those involved). You may attach additional sheets if required.*

**Individuals involved in the alleged incident/complaint:**

*Please provide the names and contact details of any people involved in your complaint, including witnesses.*

<b>Outcome requested:</b>	
<i>Please set out how you would like to see your complaint dealt with, and why and how you believe that this will resolve the issue.</i>	
<b>Declaration:</b>	
<i>I confirm that the above statements are true to the best of my knowledge, information and belief. I understand that making any false, malicious or untrue allegations may result in disciplinary actions being taken against me by the Council. (In the most serious cases, making false, malicious or untrue allegations can be treated as gross misconduct).</i>	
<b>Form completed by</b>	
<b>Signature</b>	
<b>For completion by Rutland Council:</b>	
<b>Form received by</b>	
<b>Date</b>	
<b>Signature</b>	

**A large print version of this document is available on request**



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