



# **GRIEVANCE PROCEDURE**

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This Grievance Procedure was adopted by the council at its meeting held on

## 1. INTRODUCTION

- I. This policy is based on and complies with the 2015 ACAS Code of Practice on Disciplinary and Grievance Procedures.
- II. It also takes account of the ACAS guide on discipline and grievances at work.
- III. It takes into account relevant law affecting Councils, including the Localism Act 2011 and the High Court decision in *R (Harvey) v Ledbury Town Council* [2018] EWHC 1151 (Admin).
- IV. It aims to encourage and maintain good relationships between the Council and its employees by treating grievances seriously and resolving them as quickly as possible. It sets out the arrangements for employees to raise their concerns, problems or complaints about their employment with the Council. The policy will be applied fairly, consistently and in accordance with the Equality Act 2010.
- V. Many problems can be raised and settled during the course of everyday working relationships. Employees should aim to settle most grievances informally with their line manager.
- VI. This policy confirms:
  - a) employees have the right to be accompanied or represented at a grievance meeting or appeal by a companion who can be a workplace colleague, a trade union representative or a trade union official. This includes any meeting held with them to hear about, gather facts about, discuss, consider or resolve their grievance. The companion will be permitted to address the grievance/appeal meetings, to present the employee's case and to confer with the employee. The companion cannot answer questions put to the employee, address the meeting against the employee's wishes or prevent the employee from explaining their case.
  - b) the Council will give employees reasonable notice of the date of the grievance/appeal meetings. Employees and their companions must make all reasonable efforts to attend. If the companion is not available for the proposed date of the meeting, the employee can request a postponement and can propose an alternative date that is within five working days of the original meeting date unless it is unreasonable not to propose a later date.
  - c) any changes to specified time limits must be agreed by the employee and the Council.
  - d) an employee has the right to appeal against the decision about their grievance. The appeal decision is final.
  - e) information about an employee's grievance will be restricted to those involved in the grievance process. A record of the reason for the grievance, its outcome and action taken is confidential to the employee. The employee's grievance records will be held by the Council in accordance with the UK GDPR and Data Protection Act 2018.
  - f) audio or video recordings of the proceedings at any stage of the grievance procedure are prohibited, unless agreed by all affected parties as a reasonable adjustment that takes account of an employee's medical condition.

g) if an employee who is already subject to a disciplinary process raises a grievance, the grievance will normally be heard after completion of the disciplinary procedure.

h) if a grievance is not upheld, no disciplinary action will be taken against an employee if they raised the grievance in good faith.

i) the Council may consider mediation at any stage of the grievance procedure where appropriate (for example where there have been communication breakdowns or allegations of bullying or harassment). Mediation is a dispute resolution process which requires the consent of affected parties.

j) the Council may engage external investigators, grievance or appeal panels for the purposes of the process.

## 2. EMPLOYEE COMPLAINTS ABOUT COUNCILLORS – LEGAL FRAMEWORK

- I. **Legal Constraints following the Ledbury Decision:** Following the High Court decision in *R (Harvey) v Ledbury Town Council* [2018] EWHC 1151 (Admin), employee complaints about councillor conduct that could constitute a breach of the Code of Conduct **cannot** be dealt with through the formal stages of the Council's grievance procedure. The Court held that such complaints must be dealt with under the arrangements made pursuant to section 28(6) of the Localism Act 2011, through the principal authority's Monitoring Officer. The Council **cannot impose sanctions** on councillors through a grievance process (such as removing them from committees or restricting their contact with staff) as this would be ultra vires.
- II. **Monitoring Officer Process:** The Monitoring Officer at Northumberland County Council will only accept Code of Conduct complaints made directly by individuals. The Monitoring Officer will not accept complaints made by the Council as the corporate body or employer. Therefore, if informal resolution has been attempted and failed, the employee may choose to submit a complaint directly and personally to the Monitoring Officer. The Council cannot compel an employee to make such a complaint. Employees should be aware that Code of Conduct proceedings are confidential and the Council as employer will not normally be informed of outcomes unless the employee chooses to share this information.
- III. **Limitations on Council Action:** This creates a significant gap in the Council's ability to resolve employee complaints about councillors where informal resolution is unsuccessful. The NALC Advice Note on Disciplinary and Grievance Arrangements (May 2024) confirms that employees cannot use the formal stages of the council's grievance procedure for a code of conduct complaint about a councillor, and that if informal resolution fails, an employee's complaint can only be dealt with by the principal authority's monitoring officer. The Council acknowledges that the Code of Conduct process may not fully address an employee's concerns as an employment matter, and that any sanctions arising from a Code of Conduct finding are limited. However, the Council **cannot lawfully** impose sanctions on a councillor through its grievance procedure, regardless of the outcome of any investigation.
- IV. **Lawful Actions Available to the Council:** Where a complaint cannot be resolved informally, the Council may lawfully take the following actions to protect employees while respecting the legal constraints:

a) **Review committee appointments** – the Council retains its normal power to make and vary committee appointments at any time. Where there are concerns about a councillor's conduct affecting staff, the Council may choose not to reappoint that councillor to certain committees, particularly those with staffing responsibilities, provided this decision is made through proper democratic process and not as a "sanction" imposed through a grievance procedure.

b) **Apply Standing Orders in meetings** – the Chair has authority under Standing Orders to maintain order during meetings, and inappropriate behaviour towards staff can be addressed as it occurs.

c) **Provide support and practical measures** – the Council may implement reasonable workplace adjustments to support employees, such as agreeing communication protocols, ensuring employees are not required to work alone with particular councillors, or offering access to employee assistance programmes.

d) **Offer mediation** – with the consent of all parties, independent mediation may assist in resolving workplace difficulties. This requires the councillor's voluntary participation.

- V. **Council's Vicarious Liability:** The Council is mindful of the Employment Appeal Tribunal decision in *Moore v Bude-Stratton Town Council* [2000] IRLR 676, which established that councils may be vicariously liable for the conduct of councillors that breaches the implied term of mutual trust and confidence in the employment relationship. The Council therefore takes seriously its obligation to protect employees, notwithstanding the legal constraints on taking direct action against councillors. The Council will document all concerns raised, responses made, and support offered, both to demonstrate compliance with its duty of care and to provide evidence should matters subsequently be raised at an Employment Tribunal.
- VI. **Personal Liability of Councillors:** The High Court decision in *Miller v Peake* [2025] EWHC 453 (KB) demonstrates that councillors may face significant personal liability for their conduct towards council employees. In that case, a parish councillor was ordered to pay £20,000 in defamation damages to a former parish clerk following a campaign of defamatory social media posts. The Court found the councillor was "consumed with a very strong personal dislike" of the clerk and had made accusations that were not justified by the evidence. This case serves as a reminder that while the Council's ability to sanction councillors is limited, councillors remain personally accountable for their conduct and may face legal consequences including defamation claims or other civil proceedings brought by affected employees.
- VII. **Duty of Care and Employee Wellbeing:** The Council's duty of care to its employees does not disappear because a complaint relates to councillor conduct that must be dealt with through the Monitoring Officer. As set out in the NALC Advice Note, the Council should always consider whether there is action it should take consistent with its ongoing duty of care that does not involve its formal grievance procedure. If an employee considers that a grievance concerns their health, safety or wellbeing, they should raise these concerns with their line manager. The Council will take all reasonable steps to ensure employees have a safe working environment, including undertaking risk assessments, ensuring appropriate training for staff and councillors, considering practical arrangements to minimise contact where relationships have broken down, and offering access to support services. The Council will consider whether it should take action in accordance with its employment policies (such as Health and Safety, Dignity at Work, or Stress Management policies).

These protective measures can be implemented without constituting unlawful sanctions against a councillor. The Council will document all support offered and measures taken to demonstrate compliance with its duty of care.

### 3. INFORMAL GRIEVANCE PROCEDURE

- I. The Council and its employees benefit if grievances are resolved informally and as quickly as possible. As soon as a problem arises, the employee should raise it with their manager to see if an informal solution is possible. Both should try to resolve the matter at this stage. If the employee does not want to discuss the grievance with their manager (for example, because it concerns the manager), the employee should contact the Chair of the staffing committee or, if appropriate, another member of the staffing committee.
- II. If the employee's complaint is about a councillor, **the informal stage is the only stage** of this grievance procedure that can be used. It may be appropriate to involve the councillor in informal discussions, but this will require both the employee's and the councillor's consent. Where appropriate, the Council may offer independent mediation to assist in resolving the matter informally; again, this requires voluntary participation by all parties.
- III. The Chair of the staffing committee (or another appropriate Member) will oversee the informal process for complaints about councillors and will document:
  - a) the nature of the complaint;
  - b) the steps taken to resolve it informally;
  - c) any support offered to the employee;
  - d) any practical arrangements put in place; and
  - e) the outcome.
- IV. If informal resolution of a complaint about a councillor is unsuccessful, the employee should be informed of their option to make a personal complaint directly to the Monitoring Officer at Northumberland County Council, and of the Council's ongoing commitment to its duty of care regardless of whether a Code of Conduct complaint is pursued.

### 4. FORMAL GRIEVANCE PROCEDURE

- I. If it is not possible to resolve the grievance informally and the employee's complaint is **not** a Code of Conduct complaint about a councillor (see above), the employee may submit a formal grievance. It should be submitted in writing to the Chair of the staffing committee.
- II. The staffing committee will appoint a sub-committee of 3 members to hear the grievance in the event that the grievance is raised by or relates to the Clerk. Where the grievance is not raised by or relates to the Clerk, the staffing committee may appoint the Clerk to hear the Grievance. The sub-committee will appoint a Chair from one of its members. No councillor with direct involvement in the matter shall be appointed to the sub-committee.

### 5. INVESTIGATION

- I. If the sub-committee decides that it is appropriate (e.g. if the grievance is complex), it may appoint an investigator to carry out an investigation before the grievance meeting to establish the facts of the case. The investigator may be an appropriate employee,

Councillor or external party. The investigation may include interviews (e.g. the employee submitting the grievance, other employees, councillors or members of the public).

- II. The investigator will summarise their findings (usually within an investigation report) and present their findings to the sub-committee.

## **6. NOTIFICATION**

- I. Within 14 calendar days of the Council receiving the employee's grievance (this may be longer if there is an investigation), the employee will normally be asked, in writing, to attend a grievance meeting. The written notification will include: a) the names of its Chair and other members b) the date, time and place for the meeting c) the employee's right to be accompanied d) a copy of the Council's grievance policy e) a copy of the information provided to the sub-committee including any investigation report or witness statements.

## **7. THE GRIEVANCE MEETING**

- I. At the grievance meeting, the Chair will:
  - a) introduce the panel members to the employee
  - b) explain the purpose of the meeting, which is to hear the employee's grievance and to gather information to assist in the consideration of the grievance
  - c) explain the procedure that the meeting will follow.
- II. The employee (or companion) will be asked to set out the grievance and may present evidence including any documents and/or witnesses in support of the grievance.
- III. The Chair will give the employee the opportunity to sum up.
- IV. The Chair will inform the employee that they will receive the decision and the panel's reasons, in writing, and when they are likely to receive the letter. This may be within 14 calendar days of the meeting however will be longer where further investigations are required.

## **8. THE GRIEVANCE DECISION**

- I. Within 14 calendar days of the grievance meeting, the staffing sub-committee will write to the employee, setting out its decision on the grievance. The letter will explain that they have a right of appeal.
- II. The staffing sub-committee may uphold the grievance, partially uphold the grievance or not uphold the grievance. Where the grievance is upheld or partially upheld, the letter will set out any action the Council will take to resolve the grievance.

## **9. APPEAL**

- I. Employees have the right to appeal against the decision about their grievance. An appeal must be made in writing to the Chair of the Council within 14 calendar days of the date of the written notification of the decision. It should set out the grounds of appeal.
- II. The Council will appoint an appeal panel of 3 members who have not been involved in the grievance to hear the appeal. The appeal panel will appoint a Chair from one of its members.

- III. The employee will be notified, in writing, of the names of the appeal panel, and the date, time and place for the appeal meeting. The employee will be given reasonable notice of the meeting and advised of their right to be accompanied. A copy of the staffing sub-committee's written decision will be provided with the written notification.

## **10. THE APPEAL MEETING**

- I. At the appeal meeting, the Chair will: a) introduce the panel members to the employee b) explain the purpose of the meeting, which is to hear the employee's reasons for appealing against the decision of the staffing sub-committee c) explain the action that the appeal panel may take.
- II. The employee (or companion) will be asked to explain the grounds of appeal.
- III. The Chair will inform the employee that they will receive the decision and the panel's reasons, in writing, and when they are likely to receive the letter. This may be within 14 calendar days of the appeal meeting however will be longer where further investigations are required.
- IV. The appeal panel may decide to uphold the decision of the staffing committee or substitute its own decision.
- V. The decision of the appeal panel is final.

## **Policy information**

Date of policy: 31<sup>st</sup> March 2026

Approving committee: Personnel recommendation to Full Council

Date of committee meeting:

Policy effective from 31<sup>st</sup> March 2026

## **11. MONITORING AND REVIEW OF THIS POLICY**

The Executive Officer shall be responsible for reviewing this policy annually to ensure that it meets legal requirements and reflects best practice.

Any proposed amendments will be presented to the Personnel Committee for approval and recommendation to Full Council.