



Down District Council

Grievance Procedure

14 December 2010

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Appendices:

Appendix 1 – Notification of Formal Grievance (GP1)

Appendix 2 – Minimum Authorisation Levels

This policy supersedes all previous grievance procedures in operation within Down District Council with effect from 14 December 2010 and is applicable to all Down District Council Employees.

THIS PROCEDURE SHOULD BE READ IN CONJUNCTION WITH THE GRIEVANCE POLICY WHICH IS AVAILABLE ON THE COUNCIL'S INTRANET AND IN PAPER FORMAT FROM THE HUMAN RESOURCES TEAM.

1.0) DEALING WITH MATTERS INFORMALLY

1.1 This procedure is not intended to replace the normal working relationship that exists between a Line Manager/Supervisor and his/her employees.

1.2 Employees should aim to resolve most grievances informally by asking for a meeting with their Line manager/Supervisor which potentially allows for grievances to be resolved promptly. Should it be impracticable to approach the Line manager/Supervisor, the employee may approach another manager/supervisor preferably from his/her department or speak to Human Resources/Trade Union Representative who will support the employee or speak to the line manager on their behalf.

1.3 The Line Manager (or other manager/supervisor if approached) should make every attempt to resolve the grievance informally and advise the employee within 10 working days.

1.4 The grievance should be raised informally at the earliest opportunity of either when the incident/event occurred or when the employee might reasonably have become aware of the incident/event.

1.5 Only if the grievance cannot be resolved informally should the employee raise it under the Council's formal procedure and let his/her Line Manager/Supervisor (or other manager/supervisor if approached) know that he/she will be proceeding with the grievance under the formal procedures and the reasons for doing so.

2.0) RAISING A FORMAL GRIEVANCE

2.1 The employee should set out his/her grievance in writing using the Council's proforma (Refer to Appendix 1 – Notification of Formal Grievance (GP1)) and enclosing copies of any supporting documentation/material if appropriate.

2.2 The employee should submit the GP1 to his/her line manager and copy to Human Resources within 10 working days after an attempt to resolve the matter informally.

3.0) GRIEVANCE HEARING

3.1 The purpose of the Grievance Hearing is to deal with a complaint about a legal duty owed by them to a employee whether the duty arises from statutory or common law.

3.2 Subject to any clarification (by the nominated Grievance Officer) that may be required regarding Form GP1, the formal grievance hearing will be convened within 10 working days.

3.3 The employee will be given a minimum of 5 working days notice to attend his/her grievance hearing and of the arrangements including notification of the right to be accompanied (Refer to Section 4 – The Right to be Accompanied for further information). Where possible the Council will agree a suitable date with the employee.

3.4 At the hearing the employee will be given the opportunity to fully explain **his/her grievance and to indicate how he/she would like to see it resolved.**

4.0) THE RIGHT TO BE ACCOMPANIED

4.1 Informal discussions do not attract the right to be accompanied.

4.2 The employee has the right to be accompanied at the grievance hearing by a work colleague or trade union representative. This may be a full-time official employed by a union or a lay union representative who has been certified in writing by the union as having experience of, or received training in, acting as a workplace companion at a grievance hearing. Documentary evidence of such a certification may be required by the Council.

4.3 Before the hearing takes place the employee should notify Human Resources of who shall be accompanying him/her.

4.4 An employee cannot insist on being accompanied by a work colleague whose presence would prejudice the hearing or who is a witness in the case or whose interests might conflict with the need for natural justice (Refer to Section 1.7 of the Grievance Policy– Conflict of Interest for further information). When a suitable alternative work colleague is available on site, it would not be reasonable for an employee to ask to be accompanied by a less conveniently located colleague.

4.5 Anyone contacted by an employee to accompany him/her to a hearing has a right to decline and should not be pressurised to do so by the Council or its employees. The Council will not disadvantage an employee who has exercised the right to be accompanied or who has acted as a companion. A fellow employee who has agreed to be a companion will be given a reasonable amount of paid time off to familiarize him/herself with the case, confer with the employee before and after the hearing and to attend the hearing itself.

4.6 The employee will be responsible for requesting time off to prepare for and attend the grievance hearing.¹ The employee is also responsible for notifying his/her companion and any witnesses of the arrangements for the hearing. The employee must take all reasonable steps to attend the grievance hearing.

4.7 The requirement for the employee to attend the grievance hearing will also be confirmed with his/her Line Manager by Human Resources.

4.8 An employee who cannot attend a hearing must inform Human Resources in advance whenever possible. If the employee fails to attend through circumstances outside his/her control and unforeseeable at the time the hearing was arranged, the Council will arrange another hearing. If an employee cannot attend a hearing without good reason, refuses to attend or does not attend without explanation, the hearing may proceed and a decision taken in his/her absence.

4.9 If the employee's companion cannot attend on a proposed date, the employee can suggest another date so long as it is reasonable and is not more than 5 working days after the date originally proposed by the Council. This 5 day time limit may be extended by mutual agreement.

5.0) INVESTIGATION ARRANGEMENTS

5.1 The nature and extent of any investigation required will depend on the circumstances of each grievance. It will be the responsibility of the nominated Grievance Officer to carry out any necessary investigation.

¹ Time off will be reasonable and paid.

5.2 The Council shall seek to ensure that where it is possible, the matter should be dealt with internally, however there may be certain circumstances in which the Council may decide that the grievance should be investigated by an external investigator/independent body.

5.3 As part of an investigation the nominated Grievance Officer may find it necessary to hold interviews with other employees who could possibly provide relevant information. The Council will, as far as is possible, fully confirm the facts of the matter promptly, and interview witnesses and/or other persons who could assist in the investigation (Refer to Section 6 – The Role of Witnesses/Other Persons for further information).

5.4 Investigation meetings do not attract the right to be accompanied unless they could result in formal warnings or other actions. If it becomes clear during the course of such a meeting that disciplinary action is called for, the meeting should be ended and a formal hearing arranged at which the worker will have the right to be accompanied.

6.0) THE ROLE OF WITNESSES/OTHER PERSONS

6.1 Witnesses/other persons, within reason, will be expected to co-operate fully with the process and to let their Line Manager know they are required to attend the meeting at the earliest opportunity so that their Line Manager can arrange cover.

6.2 The requirement for witnesses/other persons to attend any meeting associated with the grievance process will also be confirmed with their respective Line Managers by Human Resources.

6.3 Where it has been demonstrated that witnesses/other persons have no direct relevance and /or a potential conflict of interest exists, such individuals will be excluded from the investigation process (Refer to Section 1.7 of the Grievance Policy – Conflict of Interest for further information).

6.4 Witnesses will be interviewed separately and will not normally be accompanied unless by prior agreement. Witnesses will be required to agree and sign off their statements/records of meetings (Refer to Section 11 – Records for further information). Whilst the Council will attempt to protect the anonymity of witnesses where appropriate, this cannot be guaranteed.

6.5 It is not normal practice for the Council to interview those who are not employees of the Council.

7.0) DECISION

7.1 The employee will be informed of the outcome of his/her grievance within 10 working days of the grievance hearing. Any extension to this timescale must be mutually agreed. If there is any further delay in issuing the decision the employee will be advised in writing before the end of the agreed period for the decision, of the reasons for the delay and when he/she can expect to be informed.

7.2 The employee will be provided with any appropriate documentation/material to enable his/her right of appeal, where applicable. In certain circumstances, the Council may withhold some information (Please refer to Footnote ²).

² Certain circumstances may include, for example, to protect a witness – as defined by the Labour Relations Agency Code of Practice on Disciplinary and Grievance Procedures.

8.0) APPEALS PROCEDURE

8.1 Employees who are dissatisfied with the outcome of their grievance have the right to appeal the Council's decision if consider they have sufficient grounds for appeal. An employee must inform the Council in writing within 10 working days of the day on which confirmation of the grievance decision was received that he/she wishes to appeal the decision. The employee must appeal in writing to Human Resources within the aforementioned timescales stating the specific grounds for appeal.

8.2 Any request for an extension by the employee to the above timeframe must be agreed with Human Resources.

8.3 If an appeal is not lodged within the agreed period it is assumed that the employee accepts the grievance decision and the right of appeal will lapse.

8.4 An appeal hearing will not normally be arranged until the specific grounds of appeal, in liaison with the employee concerned, are sufficiently clear. An appeal should not take the form of a full rehearing of the grievance but will be limited to the specific grounds of appeal.

8.5 Subject to the appeal grounds being sufficiently clear the appeal hearing will be convened within 10 working days. Where possible the Council will agree a suitable date with the employee.

8.6 The employee will be given at least a minimum of 5 working days notice to attend his/her appeal hearing and of the arrangements including the grounds on which the appeal will be heard and the right to be accompanied.

8.7 The employee will be responsible for requesting time off to prepare for and attend the appeal hearing.

8.8 The requirement for the employee to attend the appeal hearing will also be confirmed with his/her Line Manager by Human Resources.

8.9 An employee who cannot attend a hearing must inform Human Resources in advance whenever possible. If the employee fails to attend through circumstances outside his/her control and unforeseeable at the time the hearing was arranged, the Council will arrange another hearing. If an employee cannot attend a hearing without good reason, refuses to attend or does not attend without explanation, the hearing may proceed and a decision taken in his/her absence.

8.10 If the employee's companion cannot attend on a proposed date, the employee can suggest another date so long as it is reasonable and is not more than 5 working days after the date originally proposed by the Council. This 5 day time limit may be extended only by mutual agreement.

8.11 Copies of any documents that an employee will rely on during an appeal must be submitted to Human Resources on or before the appeal hearing.

8.12 At the hearing the employee will be given the opportunity to fully set out his/her grounds of appeal before any decision is reached.

8.13 The outcome of an appeal will be that the original decision will be upheld or overturned, either in part or in full. The decision of the Appeals Officer will be final.

8.14 The employee will be informed of the appeal decision within 10 working days of the appeal hearing. Any extension to this timescale must be mutually agreed. If there is any further delay in

issuing the decision, the employee will be advised in writing before the end of the agreed period for the decision, of the reasons for the delay and when he/she can expect to be informed.

9.0) GRIEVANCE AND DISCIPLINE

9.1 In some cases an employee may wish to raise a grievance connected to his/her disciplinary case during the disciplinary process. The employee can raise this grievance before the appeal stage of the disciplinary process.

9.2 In such circumstances as explained at Point 9.1 above, the Council may suspend the disciplinary process for a short period for the grievance to be dealt with or change the disciplinary arrangements.

9.3 However, where a grievance relates to disciplinary action and a disciplinary appeal hearing is pending the Council may in certain circumstances, in agreement with the employee, hear the grievance as part of the disciplinary appeal hearing.

10.0) AUTHORISATION LEVELS

10.1 The minimum levels of management authorised to consider grievances under the formal procedure are set out in Appendix 2.

11.0) RECORDS

11.1 The Council will retain written records during the process which will be kept confidential in accordance with the Data Protection Act 1998.

11.2 As previously indicated, employees will be provided with the appropriate records during the formal procedure. In certain circumstances, the Council may withhold some information (Refer to Footnote ³).

11.3 Employees will be required to agree and sign off all records of meetings held with them. The record will be in its original hand-written format.

11.4 The meeting record can be made available for agreement and signature either (a) at the close of the meeting (i.e after the record has been agreed and signed off by both the Nominated Officer and Human Resources representative) or, (b) within 2 working days of the meeting.

11.5 With reference to option (b) above, if the employee does not sign off and return the record within 2 working days upon receipt, it is assumed that he/she accepts the record.

11.6 The arrangements explained at Points 11.3 –11.5 above will also apply in respect of meetings held with witnesses/other individuals.

³ Certain circumstances may include, for example, to protect a witness – as defined by the Labour Relations Agency Code of Practice on Disciplinary and Grievance Procedures.

12.0) ABUSE OF THE PROCEDURE

12.1 Abuse of the grievance procedure e.g. to make frivolous or vexatious claims will not be tolerated and will be dealt with accordingly under the Council's Disciplinary Procedure.

13.0) REVIEW

13.1 The Grievance Procedure will be kept under review by the Council and amended as required in consultation with employee and elected trade union representatives.

SECTION 2 – TO BE COMPLETED IN FULL BY THE LINE MANAGER

What date were you made aware of this grievance?

What attempts have you made to resolve the grievance at the informal stage?

<u>Date(s)</u>	<u>With Whom</u>	<u>Outcome(s)</u>

If you made no attempts to resolve informally - briefly indicate why not:

Supporting documentation/material attached: Yes/No (Please list below)

Additional Comments

Print Name	
Signature	
Date	

SECTION 3 – HUMAN RESOURCES

Received by	
Date	

Minimum Authorisation Levels

Appendix 2

Grievance Officer	An officer from any Department of at least Scale 5 and above and not previously involved.
Appeals Officer	An officer from another Department of at least an equivalent grade as the Grievance Officer and not previously involved.

Notes:

1. In all cases, the nominated officer will not have been previously involved in the earlier stages e.g. informal stage of procedure.
2. Officers involved in grievance/appeal hearings will have been appropriately trained and training maintained.
3. Appeals against any formal grievance where the decision was made by the Chief Executive will be heard by a Committee or Sub-Committee of the Council nominated for the purpose.