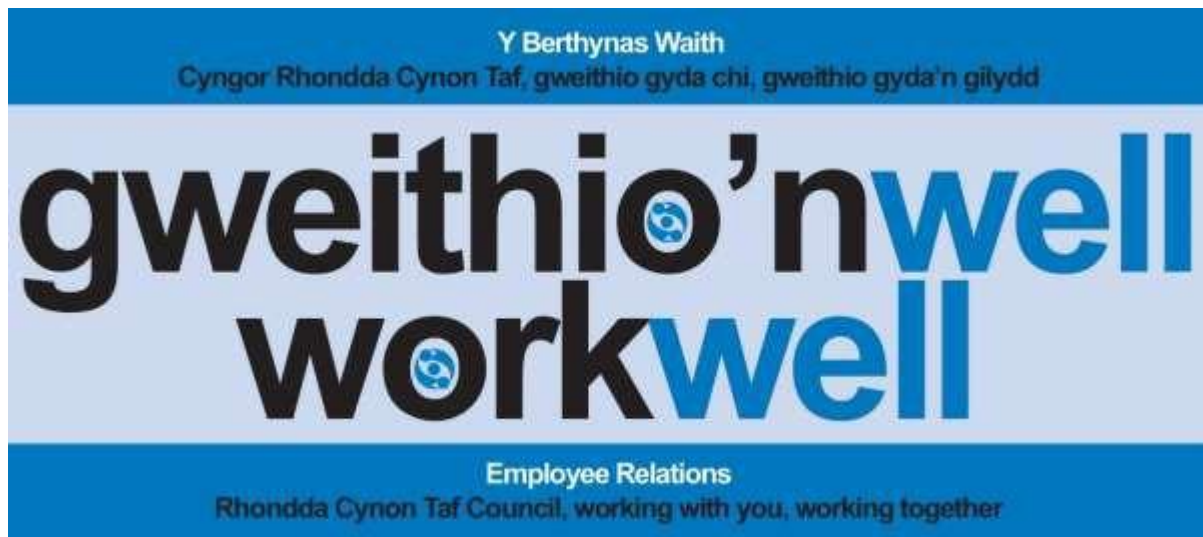


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## Grievance Policy

This document is available in Welsh please see Polisi Gweithredu Cwynion

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This document is available in Welsh or English and other formats are available on request

## CONTENTS

|                                                       |      |     |
|-------------------------------------------------------|------|-----|
| OBJECTIVE                                             | Page | 4   |
| DEFINITION OF A GRIEVANCE                             | Page | 4   |
| AIM OF THE POLICY                                     | Page | 4   |
| PROCESS :                                             | Page | 4   |
| INFORMAL                                              | Page | 4-5 |
| FORMAL                                                | Page | 6   |
| CHIEF OFFICER APPEAL                                  | Page | 7   |
| APPEALS COMMITTEE                                     | Page | 7   |
| PROVISION OF RECORDS                                  | Page | 7   |
| RELATIONSHIP BETWEEN DISCIPLINE AND GRIEVANCE         | Page | 8   |
| MODIFIED GRIEVANCE PROCEDURE FOR FORMER EMPLOYEES     | Page | 8   |
| APPENDIX 1 – PROCEDURE AT FORMAL MEETING              | Page | 9   |
| APPENDIX 2 – PROCEDURE AT THE CHIEF OFFICER APPEAL    | Page | 10  |
| APPENDIX 3 – PROCEDURE AT THE MEMBER APPEAL COMMITTEE | Page | 11  |
| APPENDIX 4 – REQUEST TO SUBMIT FORMAL GRIEVANCE       | Page | 12  |

## **OBJECTIVE**

A grievance is a concern, problem or complaint that an employee raises with their employer.

This policy relates to the resolution of grievances arising from employment or employment decisions. If an employee has a grievance relating to their employment, they have the right to express it and for a resolution to be sought.

A collective grievance may arise where more than one employee has the same grievance. This grievance policy will in these circumstances be applied on a group basis and treated as a single complaint albeit from a group of employees. All employees can be interviewed with a maximum of 2 employees (who have been agreed by the group and /or Trade Union) being in attendance at any meeting or hearing.

## **DEFINITION OF A GRIEVANCE**

Issues that may cause grievances include:

- The incorrect application of terms and conditions of employment
- Potential breaches of Health and safety
- Failure to follow /application of employment policies.
- Working environment

Employees facing disputes or difficulties with other employee (s) around interpersonal conflict will be directed to use the Council's Managing Conflict provisions

Employees language preference will be respected during this process, either in Welsh or English, and includes any written correspondence.

## **AIM**

Any grievance should be resolved as close to the point of origin as is possible and to the satisfaction of both parties wherever practicable. The process should be open and transparent to allow for a fair hearing for all parties.

It is acknowledged that raising a grievance can arise from workplace concerns and therefore a swift and local resolution is intended to avoid further anxieties for all involved.

Please note that if an issue has already been subject to an investigation process under another policy (e.g. disciplinary or managing conflict arrangements) then this policy does not apply, and the issue will not be investigated again under this policy. This position can be reviewed only in cases where substantial new information has come to light.

The Council recognises the possibility that grievances may be brought forward with malicious, vexatious or false intent. If there is evidence to support such intent the Council reserves the right to consider disciplinary action in accordance with the Council's Disciplinary Policy.

## **PROCESS TO BE FOLLOWED**

### **INFORMAL**

Where an employee is aggrieved on a matter arising out of their employment and this matter has not been raised via any other policy they should discuss the matter in the first instance with their line Manager. Should the issue concern the line manager they should discuss it with a Senior Manager in the service.

Where an employee prefers to have their grievance handled for them by their trade union then the grievance should be reported to their trade union representative who will raise the matter with the employee's line Manager. The employee should be clear about the grievance which must in most circumstances relate to the definitions above.

Information that has been submitted by the complainant as part of the grievance and relates to another employee may be shared with that employee in the interests of transparency, unless there are circumstances (as determined by the Council) that to do so will cause avoidable harm to either party. If there is specific information that the employee raising the grievance feels cannot be shared with the other employee, they must make their Manager and/or Human Resources aware of this at the outset of the process.

The employee's line Manager /Senior Manager will consider the grievance and provide a verbal response ideally within 5 working days and in any case without unreasonable delay. If the grievance is submitted in writing, then the response should also be written.

If this is not possible the line manager may ask to discuss the matter in person with the employee (and trade union representative if requested) before providing a written response. Where this occurs, the above timescales may need to be flexible. In addition, a delay may arise due to relevant officers' availability e.g. annual leave or sickness.

The Council recognises that a grievance process can be difficult for those involved and where appropriate the Council's wellbeing provisions will be made available. If the employee or the Manager feels that the working relationship is difficult while the discussions are ongoing, they may discuss the matter with a more Senior Manager in the service so that interim arrangements for workflow or supervision can be discussed.

The Council also understands that actions taken to resolve a grievance may have an impact on other individuals. While confidentiality is of importance in handling any grievance, in some circumstances there may be other individuals who may need to know the outcome, or certain aspects of the outcome that will impact on them. For instance, in cases where the grievance was about a fellow employee, that employee will also be informed of any aspect of the decision that affects them and the reasons for it. In such cases, the employee who raised the grievance should be informed of who else will be told about the decision and what type of information will be shared.

## **FORMAL**

If there is no satisfactory solution arising from the informal stage, then the employee or their trade union representative can request a meeting to discuss the matter with a relevant senior manager. The details of the grievance should be clearly set out in writing to that manager along with any supporting information. This must include details as to why the employee wishes to proceed to the next stage of the process.

The request form at Appendix 4 must be used and sent to the relevant Manager within 5 working days of receiving the outcome of the informal stage.

At this stage a Human Resources Officer will be asked to facilitate the gathering of all relevant information in order to assist the remainder of the process. This will include talking to all parties involved in the grievance. On completion of this the senior manager will subsequently arrange a grievance meeting to be held without unreasonable delay.

If the trade union representative or work colleague will not be available at the proposed time the meeting will be postponed to a time suitable for the employee providing that the alternative time is both reasonable and not more than one week after the original date proposed.

If either of the employees wish for the meeting to be conducted in Welsh, they should give 5 days' notice prior to the meeting. Absence of any notification will result in the meeting being conducted in English.

If either of the employees need any reasonable adjustments to participate in this process, they should discuss with an appropriate representative so that arrangements to be made.

## **FORMAL GRIEVANCE MEETING**

The meeting described above should allow for discussion for the Senior Manager to reach a decision. This will ordinarily include the employee who has raised the grievance (in the context of the meeting be referred to as the Complainant) and whoever the grievance has been raised against (in the context of the meeting be referred to as the Respondent) and meetings will usually take place separately at this stage. Parties may be accompanied by a trade union representative, or a work colleague and a note taker should also be present. The Senior Manager will hear all of the information, make a decision and arrange to feedback to the parties involved. This may be in the form of an outcome meeting or in writing to the employees.

Whilst the procedure at the meeting is intended to be flexible allowing for the discussions necessary, a guide to the format of the meeting is attached at Appendix 1.

Should new evidence come to light after the decision is relayed clarification on this new information may be referred back to the Senior Manager who heard the grievance for review of their own decision. This does not affect the employees right to an Appeal. Timescales to be followed will mirror those described above for the original grievance.

Grievances that have been considered under other policies relating to the same matters will not be heard again.

## **CHIEF OFFICER APPEAL**

If the matter cannot be resolved despite the formal stage above or the employee is dissatisfied with the decision then the employee accompanied by their trade union representative, or work colleague may appeal to a Chief Officer. This must be lodged within 5 working days and the grounds **must** be either:

1. A procedural flaw, clearly indicating what this was and how the policy was not correctly followed/applied.
2. The findings were inconsistent with the evidence presented providing reasons in writing for this.

The Chief Officer will arrange a meeting with the employee as soon as they are able to consider the grounds for the appeal as above. The purpose of this meeting is to consider the appeal under one or more of the two conditions and not to hear the grievance again.

Whilst the procedure at the meeting is intended to be flexible allowing for the discussions necessary, a guide to the format of the meeting is attached at Appendix 2.

Once this meeting has been held the Chief Officer will respond to the employee in writing and will notify the employee's line manager of the outcome.

## **APPEALS COMMITTEE**

If the employee remains dissatisfied with the decision of the Chief Officer, then the employee may appeal to an Appeals Committee. An employee may exercise their right of appeal by writing to the Director of Human Resources within 5 working days of the decision of the Chief Officer. The request must state the grounds for the appeal in full, which must be in line with the grounds shown as above.

The Director of Human Resources will arrange a meeting of the Appeals Committee at the earliest opportunity following the receipt of the employee's request. A guide to the format of the meeting is at Appendix 3.

The employee will be invited to attend the Appeals Committee and may be accompanied by their trade union representative or work colleague. The purpose of this meeting is to consider the appeal under one or more of the two conditions and not to hear the grievance again.

The Appeals Committee will determine on the matter and respond to the employee in writing. The Committee's decision will be final.

## **PROVISION OF RECORDS**

Records will be treated as confidential and be kept no longer than necessary in accordance with the principles set out in Data Protection Legislation.

Where requested copies of formal meeting records will be given to the employees concerned including copies of any formal minutes that have been taken. In certain circumstances (for example to protect a witness or where the Council considers that the information is highly sensitive or confidential) the Senior Manager or Chief Officer in discussion with Human Resources may after careful consideration and taking into account the principles set out in Data Protection legislation, withhold some information.

## **RELATIONSHIP BETWEEN DISCIPLINARY AND GRIEVANCE**

In accordance with the ACAS code of conduct on Discipline and Grievance, where an employee raises a grievance during a disciplinary process the Council may determine to temporarily suspend the disciplinary in order to deal with the grievance.

Alternatively, where a grievance and disciplinary case are related or inextricably linked the Council may determine to deal with both issues concurrently. Where this occurs, the grievance will be dealt with at the same time as the disciplinary and will be heard within the same meeting. The disciplinary and grievance will however be referenced separately to ensure that clarity is maintained throughout the process and separate findings explained.

## **MODIFIED GRIEVANCE PROCEDURE TO BE USED AFTER EMPLOYEE HAS LEFT THE EMPLOYMENT OF THE COUNCIL**

The modified procedure applies only where employees have ceased to be employed by the Council and the standard grievance procedure had not already been completed or started in relation to the grievance. Both parties need to be in agreement to use the Modified Grievance Procedure.

### **Step 1 - Statement of Grievance**

The former employee must set out in writing their grievance in full and send the statement to their former Service/Senior Manager within 28 calendar days of ceasing employment with the Council.

### **Step 2 - Response to the Grievance**

The Service/Senior Manager will acknowledge receipt of the grievance without unreasonable delay and advise the former employee that they will use the Modified Grievance Procedure. This agreement needs to be recorded.

The Service/Senior Manager will consider the grievance and will set out their response in writing and send to the former employee without unreasonable delay from the date the agreement was recorded.

**The Council's Grievance Policy is kept under review allowing for updates in legislation, best practice and in light of operational experience.**



1. The Complainant, their TU representative or work colleague and Human Resources Officer shall attend to meet the Senior Manager /Chief Officer facilitating the formal stage. At the start of the meeting the Senior Manager will make introductions and explain the procedure.
2. The Human Resources Officer will give a brief background to the case and provide a summary of the information that they gathered from all parties involved.
3. The complainant or his/her representative will be given opportunity to explain the issues that remain unresolved for them.
4. The Senior Manager may ask questions to assist their understanding of the issues being presented to them.
5. The Senior Manager may determine that further information is needed from the Respondent and in this case, they will make arrangements to contact the Respondent and gain any clarity needed to assist in their decision making. (The Senior Manager may require the Respondent to be available on the same day, otherwise any further contact with the Respondent will be made without delay. There is no opportunity for the Complainant or their Representative to question the Respondent).
6. Where new and substantial evidence arises during the meeting it may be appropriate to adjourn in order to investigate or consider such points.
7. The Senior Manager will close the meeting in order to consider all the information presented.
8. Once a decision is made, it will be notified either in person or in writing to both parties together with the reasons for it. The decision will be confirmed in writing within 5 calendar days of the hearing wherever possible.

1. The Complainant, their trade union representative or work colleague, and Human Resources Officer shall be called in simultaneously to meet the Chief Officer facilitating the formal meeting. At the start of the meeting the Chief Officer will introduce those present and explain the procedure.

The purpose of this meeting is to consider the appeal under one or more of the two conditions permitted below and **not to hear the grievance again**.

2. The Human Resources Officer will give a brief background to the case and provide a summary of the procedures that have taken place to date (ie informal stage and/or formal meetings with Senior Manager).
3. The Chief Officer will ask the Complainant and/or their representative (trade union representative or work colleague) to state the grounds on which this appeal is being made and the grounds **must** be
  - **Either** a procedural flaw, clearly indicating what this was and how the policy was not correctly followed/applied,
  - **or** the findings were inconsistent with the evidence presented providing reasons in writing for this (see Appendix 4).
4. The Chief Officer may ask questions of the Complainant or Human Resources Representative to assist their decision making.
5. The Chief officer may if deemed necessary call the Senior Manager as a witness and ask questions specifically related to the grounds for appeal.
6. The complainant and their representative will leave the meeting.
7. Where new and substantial evidence arises during the hearing it may be appropriate to adjourn in order to investigate or consider such points.
8. The Chief Officer will close the meeting in order to consider all the information presented.
9. Once a decision is made, it will be notified either in person or in writing to both parties with the reasons for it. The decision will be confirmed in writing within 5 working days of the hearing wherever possible.

1. Chair of Appeals/Employee Appeals Committee to introduce the panel members. Chairperson will also introduce the adviser(s) to the committee and confirm that they will be present during the appeal hearing to provide procedural advice to members of the panel.
2. Chair will request both parties to introduce themselves and any representatives, which are attending the hearing. Representatives may be requested to confirm the capacity in which they are attending the hearing i.e. trade union official or work colleague.
3. Management side asked to state its case and call any witnesses.
4. The appellant (complainant) or his/her representative to ask questions of witnesses as they appear.
5. Members of Appeals/Employee Appeals Committee to ask questions of any witnesses as they appear.
6. The appellant (complainant) or his/her representative to ask questions of management at conclusion of their case.
7. Members of Appeals/Employee Committee to ask questions of management following the appellant.
8. The appellant (complainant) or his/her representative asked to state their case and call any witnesses.
9. Management to ask questions of witnesses as they appear.
10. Members of Appeals/Employee Appeals Committee to ask questions of any witnesses as they appear.
11. Management to ask questions of appellant or his/her representative at conclusion of their case.
12. Members of Appeals/Employee Appeals Committee to ask questions of appellant or his/her representative following management.
13. Once all questions are asked, the Chair of Appeals/Employee Appeals Committee to ask management to sum up their case. Both parties will be reminded that no new evidence can be introduced at this stage.
14. Appellant (Complainant) then asked to sum up their case.
15. All parties are then asked to withdraw whilst Appeal/Employee Appeals Committee deliberates the evidence presented. Adviser(s) to the committee will remain in the room to advise panel members on procedural issues.
16. Should it be necessary to clarify any points then all parties should be asked to re-convene for clarification.
17. Appeals/Employee Appeals Committee will deliver the decision of the panel at the conclusion of the hearing, or the appellant will be advised in writing if no decision is reached on the date of the appeal hearing.

**GRIEVANCE POLICY: REQUEST TO PROGRESS TO FORMAL STAGE****APPENDIX 4**

This form must be completed by an employee when requesting to progress from the informal stage of the process to the formal stage, officer or member appeal stages. The form should be received by the relevant Manager within 5 working days of receiving the outcome of the informal/formal/officer appeal stage.

|                |  |                        |  |
|----------------|--|------------------------|--|
| <b>Name</b>    |  | <b>Job Title</b>       |  |
| <b>Manager</b> |  | <b>Contact details</b> |  |

Please indicate one of the following: (delete others as appropriate)

1. I am requesting a meeting with a Senior Manager, please complete part A
2. I am requesting an appeal to a Chief Officer, please complete part B
3. I am requesting an appeal to the Appeals Committee, please complete part B

|           |                                                                                                                                                                                                                                                                                                          |        |
|-----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|
| <b>A.</b> | <b>The informal procedure has not resolved the problem, or I am unable to take part in the informal resolution.</b><br><br>Please explain:                                                                                                                                                               | Yes/No |
| <b>B.</b> | <b>I am dissatisfied with the outcome due to:</b><br><br>1. A procedural flaw, clearly indicating what this was and how the policy was not correctly followed/applied or:<br>2. The findings were inconsistent with the evidence presented providing reasons in writing for this.<br><br>Please explain: | Yes/No |

If necessary, please explain your continuing concerns in full, in doing so you may also wish to state the outcome (s) that you are looking for.

Information that has been submitted in relation to another employee may be shared with that employee in the interests of transparency, unless there are circumstances (which suggest to the Council) that to do so will cause avoidable harm to either party. If there is specific information that the employee raising the grievance feels cannot be shared with the respondent, they must make their Manager and/or Human Resources aware.

|                |  |
|----------------|--|
| <b>Signed:</b> |  |
| <b>Dated:</b>  |  |