

Grievance Procedure

July 2024

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1. Policy Statement

This procedure takes account of the ACAS Code of Practice on Disciplinary and Grievance Procedures and replaces any previous procedures that were in place. Dignity at Work issues will also now be dealt with under this Procedure.

This procedure applies to all employees of the Authority except employees in locally managed schools where there are separate arrangements.

A grievance can be defined as a cause of distress (such as an unsatisfactory working condition or an unfair practice) leading to a genuine reason for complaint. This may also include discrimination, bullying, harassment, and victimisation.

Unacceptable, Inappropriate and Unwanted Behaviours

These are behaviours that cause discomfort or distress to a person or a group of people and/or could bring the council and its officers into disrepute. These behaviours could be linked to a protected characteristic, but this is not always the case.

Protected characteristics for the purpose of this policy are:

- Age
- Care experienced children and care leavers
- Carers
- Disability
- Gender reassignment and gender identity
- Marriage and civil partnership
- Military veterans
- Pregnancy and maternity
- Race
- Religion and belief
- Sex and gender
- Sexual orientation
- Socio-economically vulnerable

All protected characteristics are equal, unwanted behaviour towards one characteristic based on another is unacceptable behaviour.

Behaviours could be physical, verbal or non-verbal, written or graphical, digital or non-digital and can be isolated incidents or sustained behaviours.

Definitions of Discrimination, Bullying, Harassment and Victimisation

Discrimination – This is where a person or a group of people are treated unfairly, less favourably or negatively due to a protected characteristic.

Bullying – This is where a person or group of people experience unwanted behaviour that is offensive, intimidating or humiliating.

Harassment – This is bullying based on a protected characteristic or sustained acts of bullying.

Victimisation – This is where a person or group of people experience unfair, less favourable or negativity due to making a report or complaint of discrimination, bullying or harassment.

In these situations, employees may wish to contact their Trade Union representative who can offer support and advice in these difficult situations.

Purpose

The primary purpose of this procedure is to resolve any grievance quickly and the focus is on the remedial steps required to resolve the situation. Employees are encouraged to talk to their manager in the first instance about any work-related issue or complaint they may have as concerns can often be addressed without acceleration to a formal process.

The Council is committed to ensuring that all employees have access to a procedure to help deal with any grievances relating to their employment fairly and without unreasonable delay. Before a grievance progresses to a formal stage, it may be appropriate to consider mediation. Mediation can help to resolve disputes between two or more parties. It can be used where informal discussions have failed to resolve the matter satisfactorily or where a complainant feels that the matter needs to be raised more formally. Both sides **must agree** to mediation and either side has the right to withdraw during the process. If the offer of mediation is rejected by one or both parties, or if mediation fails to resolve the issue, then the complainant still has the option to proceed to the formal stage of the Grievance Procedure. The Council employs Officers who are trained in Mediation Techniques, and employees are strongly encouraged to explore this as an option where appropriate. Further information about Mediation is attached at **Appendix 2**.

It is in the interests of all parties to try and resolve issues informally; instigating a formal grievance can be stressful and time consuming, and a positive outcome is not guaranteed. If the issue cannot be resolved via mediation or at the informal stage, the aim is to investigate any formal grievance raised, hold a meeting to discuss the matter with the employee, inform them in writing of the outcome, and offer a right of appeal if they are not satisfied.

This procedure **cannot** be used to:

- Complain about the use of any other procedure or process (e.g. disciplinary, capability, grievance, restructuring/redundancy, pay issues, absence management, job evaluation outcome) as separate procedures/policies are in place for these matters.
- Appeal against any decision to terminate employment whether on grounds of ill-health, incapacity, redundancy, poor performance or other grounds.

- Complain about matters which are more than three months old (though this shall not prevent an employee referring to matters more than three months old in relation to a current grievance).

The Council shall not usually seek to resolve grievances raised after an employee has ceased to be an employee. Any issues will be dealt with under the Complaints Procedure.

In exceptional circumstances, an external investigation may be required.

2. Informal resolution

Before raising a formal grievance under this procedure, an employee should try to resolve the matter informally with their Line manager or, where applicable, with the other party. It may be appropriate to confirm the outcome of informal resolution in writing to the employee. The Council is committed to trying to resolve issues at the earliest opportunity, to avoid protracted and difficult situations for employees. Mediation may be appropriate as outlined above. **See Appendix 1 for detailed information about Mediation.**

If an issue cannot be resolved informally, an employee should follow the formal procedure below. Progression to the formal stage must be within 10 working days from the date of mediation, or the informal meeting, if one has been held.

3. Formal Grievance

If an employee has not been able to resolve a problem through informal discussions, they should submit a formal grievance to their Line Manager. (If the grievance concerns their Line Manager, the employee should contact that individual's Line Manager, their Trade Union representative, or HR for advice).

The employee should complete the Grievance Form available on the intranet and submit this to their Line Manager/ Manger's Manager/HR as appropriate. The Manager to whom the Grievance is submitted, or an alternative Manager appointed by HR, will arrange to meet with the employee as soon as possible but normally within 20 calendar days to discuss the issues raised and the steps needed to investigate the concerns. (In some circumstances, it may not be appropriate for the Line Manager to deal with the Grievance so a more senior Manager will identify an appropriate person). (The Manager considering the grievance will be referred to as the Grievance Manager from this point).

Some initial investigation may have already been carried out by the Grievance Manager at the time of this hearing and depending on the nature of the issues raised by the employee, it may be necessary to undertake further investigations to resolve the issues.

The employee should outline their grievance and explain how they think this should be resolved. Where necessary a general discussion can take place about the issues and possible ways forward. The hearing may be adjourned if further information, evidence, or investigation is required by the Grievance Manager.

After the hearing, the Grievance Manager will confirm the outcome in writing to the employee and any relevant parties as soon as possible and where possible, within 10 calendar days. The letter should indicate what action will be taken to resolve the grievance and a copy of this letter will be placed on the employee's personal file. If the employee continues to be aggrieved in respect of the original complaint, they may appeal and take their grievance to the Employment Appeals Panel, whose decision will be final. The employee must lodge their appeal within 10 working days of receipt of the letter outlining the decision of the grievance hearing. The appeal must be addressed to the Director of People and Inclusion who will acknowledge receipt.

4. Right to be Accompanied

An employee can be accompanied at all stages of the Grievance process.

The employee may choose from one of the following:

- a work colleague.
- a trade union representative who is certified or trained in acting as a companion.
- an official employed by a trade union.

It is the employee's responsibility to make the necessary arrangements.

The person accompanying the employee is permitted to address the meeting, including putting the employee's case, asking questions of any witnesses, summing up, and responding on the employee's behalf to any view expressed at the meeting. The person accompanying should not answer questions on behalf of the employee.

Adjustments can be considered in accordance with the Equality Act 2010. This might mean allowing someone else to accompany them, for example a support worker or someone with knowledge of a disability and its effects.

The employee must let the Grievance Manager know who their companion will be at least 2 working days before the meeting. The Procedure does not allow for any legal representation.

If the employee or companion is unable to attend on the date of the scheduled meeting, this will normally be rescheduled on one occasion only.

5. Confidentiality

Proceedings and records of any grievance will be kept as confidential as possible, but employees must appreciate that circumstances can mean that grievances cannot always be dealt with on an entirely confidential basis.

A grievance raised could result in the instigation of disciplinary action in respect of another employee. To protect the confidentiality of that process, the Council may not be able to inform the employee of the fact of the disciplinary process or any disciplinary outcome.

An employee should not disclose the fact of or content of any grievance to any employee or third party without the express consent of the Grievance Manager (except that an employee is allowed to approach a prospective companion or Trade Union Representative).

Employees will not be disadvantaged or victimised for raising a Grievance.

6. False, Vexatious or Malicious Grievances

Making a deliberately false, vexatious, or malicious grievance under this procedure is unacceptable and may result in disciplinary action. Such issues will not normally be progressed through the Grievance Procedure.

If a Grievance is raised at any time during the formal stage of the Disciplinary Procedure, the Disciplinary procedure will not be suspended except in a situation where to continue could cause clear prejudice to the employee. If the Disciplinary and Grievance issues are related, it may be appropriate for both procedures to run concurrently.

Appendix 1: Examples of unacceptable, inappropriate or unwanted behaviour

Examples include (but are not limited to):

AGE	Considering someone as too young or too old for promotion; making derogatory remarks or assumptions about someone's ability or competence based upon their age; pressuring someone to retire.
DISABILITY	Derogatory remarks; mimicking; invasive personal questions; staring; ostracising, which is directed at any individual with an impairment, or group of disabled people, which results in the individual feeling threatened or compromised; making assumptions about an individual's ability because of their impairment; assuming that a disability means that the individual is inferior; assuming that a mental disability means that the person lacks intelligence; excluding people from social activities; failing to direct comments to a disabled person; use of words specific to impairment being used in a derogatory way (e.g. spastic); unreasonably highlighting a person's disability.
GENDER/SEX	Unwelcome sexual advances; touching; standing too close; forms of sexual assault; sexual jokes; displaying pornographic photographs or drawings or sending emails with material of a sexual nature; unwanted or derogatory comments about clothing or appearance; leering or suggestive gestures or remarks.
GENDER INDENTITY	Transphobic comments, 'jokes' and name calling; verbal or physical abuse or intimidation; refusing to treat a person as of their new gender when they transition; failing to address a person by their preferred name and correct gender pronouns; denying people access to the appropriate single sex facilities such as toilets/changing rooms; outing a person as transgender/non-binary without their consent or spreading rumours (this may also be a criminal offence); excluding a person from conversation or activities; sexual harassment; intrusive questions.
RACE	Racial abuse; racially explicit derogatory statements; offensive jokes; racist graffiti; display of offensive material; an offensive or dismissive manner; insulting someone on the grounds of their race; refusing to work with someone or deliberately isolating them because of their race, colour, nationality or ethnic origin; unfair work allocation.
RELIGION OR BELIEF	Mocking or deriding people's religious or other beliefs; making unwanted comments on dress; making it unnecessarily difficult for people to conform to their religions or beliefs; pressure to participate in political/religious groups.
SEXUAL ORIENTATION	Making homophobic or biphobic insults or threats; making unnecessary and degrading references to an individual's

	<p>sexual orientation; engaging in banter or making jokes which are degrading to a person's actual or perceived sexual orientation; outing an individual as LGB without their permission; ignoring or excluding a colleague because they are LGB; spreading rumours or gossip about an individual's sexual orientation; asking an LGB colleague intrusive questions about their private life; making assumptions and judgements about a colleague based on their sexual orientation; using religious belief to justify anti-gay bullying and harassment; displaying or circulating homophobic or biphobic materials; assuming that everyone is heterosexual; assuming that all gay men are HIV positive.</p>
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Appendix 2: Mediation

What is Mediation?

Mediation in organisational settings is used as a conflict resolution strategy. It is a clearly structured, formal process between two individuals, facilitated by a neutral, trained mediator. It is an entirely voluntary process and aims to defuse conflicts, allow parties to constructively resolve problems, mend broken relationships and establish ground rules for future behaviour.

Mediation should not be confused with arbitration, conciliation, or investigation. The mediator is a neutral facilitator and does not make judgements or decisions about the conflict. Their role is to assist the disputants in creating their own resolution by concentrating on future rather than past behaviours.

It is not intended that the Mediation Service replaces good management practice; rather that it offers appropriate support to managers if or when required.

How does the Mediation Service fit with other Bury Council procedures?

Mediation acts as a 'working partner' alongside Bury Council's formal procedures such as the Grievance Procedure. Where appropriate, mediation should be suggested and offered to employees in the first instance as an alternative process in conflict resolution, aiming to avoid the use of the formal procedures. It may also be used in addition to other procedures, typically at the end of the use of these procedures; aiming to assist the individuals concerned to find ways of rebuilding and maintaining working relationships.

When is it suitable to use mediation?

Mediation is suitable for use in most disputes, irrespective of either their origin or duration.

Examples of when mediation can prove useful are listed below:

- Personality clashes
- Disputes/conflict between colleagues
- Disputes/conflict between staff and supervisors/managers
- Repairing working relationships after management investigations
- Communication difficulties
- Return to work situations.

It is recommended that mediation be used as early as possible in a disagreement, to prevent conflicts from escalating or becoming entrenched.

The only prerequisite for mediation is that both parties agree to the process and wish to attempt to resolve their dispute - this is vital to its success.

Therefore, it should not be used punitively. Sometimes, however, the basis for the dispute may be so serious that mediation is inappropriate.

Disputants can seek guidance from their trade union representative before making any decision to agree to participate in mediation.

Ultimately, we will assess the suitability of a case for mediation.

Who is involved in the Bury Council Mediation Service?

The service consists of a team of trained mediators, representing different departments. This means that employees wishing to take part in mediation can work with a mediator who they don't know and who is from a different department to their own. This is to ensure the neutrality and objectivity of the mediator and that he/she is perceived as such by the two disputants.

What happens when a 'case' is referred for mediation?

Managers, HR professionals or Trade Union representatives can all refer cases for mediation.

In the first instance a confidential discussion concerning the "case" will be held with the referrer. Dependant on the circumstances we may also contact the disputants to discuss the process of mediation. The referral will either be accepted or declined and given information about alternative courses of action. These could include recourse to a formal Bury Council procedure, training, counselling, Occupational Health, or another suitable option.

Mediation is generally not a lengthy process, and we aim to have all stages completed within 10 working days of an initial referral being made.

The referrer will be informed whether mediation was successful. However, the content of the mediation session remains confidential to the two disputants and the mediator; unless they both agree that the agreement can be circulated more widely.

Accessing the service

You can access mediation services by contacting: HRBusinessManagement@Bury.gov.uk

Appendix 3: Hearing Procedure

1. The employee will explain the nature of the Grievance and will be able to call witnesses if relevant.
 2. The Manager and HR Advisor hearing the grievance will be able to ask questions of the employee and any witnesses in attendance.
 3. If appropriate, there will be a general discussion to establish the facts/clear up any misunderstandings.
 4. The employee will be able to summarise the main points of their case if they so wish. No new evidence or information should be included.
 5. The Manager and HR Advisor will adjourn to consider the matter.
 6. If any further clarification is required, the meeting will be reconvened.
 7. The Manager will normally reconvene the meeting to deliver the outcome verbally and this will then be confirmed in writing. If this is not possible for any reason, a letter will be sent to the employee within 10 working days of the meeting.
 8. The letter will include a right of appeal if appropriate.
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Appendix 4: Appeal Procedure

Staff have the right of appeal against the outcome of a grievance within 10 working days of the decision being communicated:

- Appeals against the outcome of a Grievance process are to be sent to the Director of People and Inclusion for a members' appeal.
- The appeal must clearly state the reasons for the appeal, which can include new evidence becoming available and/or any part of the procedure was wrong or unfair.

Upon receipt of an appeal, the Director of People and Inclusion or Director/ Assistant Director for the service will provide acknowledgement in writing, ideally within 2 working days.

Appeal hearings should ideally take place within 30 working days of receipt of the written request. Where this is not possible, the applicant should be informed as soon as practically possible.

Process

- The Chair of the original Hearing will present the management case to the hearing panel and may be accompanied by the HR representative who advised them during the Hearing. The HR representative's role is to provide support during the hearing if required, not to present the case.
- The applicant and respondent will be given at least 12 working days' notice of the date of the appeal.
- All statements and documentation to be referred to at the hearing (including any new evidence to be considered) will be submitted 6 working days prior to the hearing date, along with the names of any witnesses to be called.
- Papers will be distributed to Panel members, applicant and respondent 5 working days prior to the appeal.

Procedure

The Chair of the appeal Hearing will introduce everybody and explain the following procedure to both sides: -

1. The employee will be given the opportunity to state his/her case, explaining the reasons for the appeal.
 2. Management may ask the employee questions.
 3. The panel and the HR representative may also take the opportunity to ask questions.
 4. Management will state the nature of the case, and the reasons for the sanction/dismissal.
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5. The employee and representative may ask management questions.
 6. The panel and the HR representative may also take the opportunity to ask questions.
 7. If appropriate, there may be a general discussion to establish all the facts and/or clear up any misunderstandings.
 8. Management and employee may summarise the main points of their case. No new evidence or information may be included.
 9. The panel will adjourn to consider the case, with the HR representative.
 10. If the Chair wishes to clarify any points of evidence, both sides will be recalled.
 11. The Chair will reconvene the hearing to deliver the decision of the Hearing.
 12. The decision of the Chair will normally be given verbally at the end of the Hearing and will be confirmed in writing to both parties.
 13. There is no further right of appeal, so the process ends.
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