

Grievance Procedure

November 2024

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1. Policy Overview

Scope

This procedure takes account of the ACAS Code of Practice on Disciplinary and Grievance Procedures and replaces any previous procedures that were in place. It also supports the Authority's obligations under the Equality Act 2010, including the legal duty on employers to take reasonable steps to prevent the sexual harassment of workers, which came into force in October 2024.

This procedure applies to all employees of the Authority except schools' employees where a local policy will be in place as agreed by the relevant Governing Body .

The procedure covers all complaints made by an employee which are either:

- Concerns, problems or complaints that employees raise with their employers.(A grievance)
- Allegations of discrimination, bullying, harassment, and victimisation. (Dignity at Work).

On the whole, the procedure outlined applies equally to both circumstances. Where there are differences, these are set out within the detail of this procedure.

This procedure is designed to deal with either individual grievances. Collective grievances can be raised either by a Trade Union representative or a member of staff nominated to do so by those raising the complaint.

Purpose

The Council believes that every employee has the right to be treated with dignity and respect in the workplace and is committed to providing a supportive working environment where employees are free from bullying and harassment. It is recognised that threatening or intimidating work environments can interfere with job performance, undermine job security and can cause undue stress.

This Procedure sets out a framework to resolve any grievances quickly and, wherever possible, informally. Where informal resolution is not possible it describes a clear route for any concerns to be considered and addressed.

This procedure cannot be used in relation to:

- Complaints against an agreed Council policy or procedure
 - Matters covered by ongoing action under other procedure or process (e.g. disciplinary, capability, restructuring/redundancy, pay and grading and absence management) as separate procedures/policies are in place for these matters.
 - Appeals against any decision to terminate employment whether on grounds of ill-health, incapacity, redundancy, poor performance or other grounds.
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- Complaints 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 their employment with the Council through this Procedure. Any issues will ordinarily be dealt with under the Complaints Procedure.

Support

It is recognised that support may be required for all employees involved in a grievance regardless of whether they are making the complaint or the complaint is about them. This may be particularly the case in relation to Dignity at Work related issues. All employees can access the Council's confidential Employee Assistance Programme. Other methods of support will be considered according to the circumstances.

2. Grievance Procedure

Informal Resolution

Employees are encouraged to talk to their line manager in the first instance about any work-related issue or complaint they may have as concerns can often be addressed without progression to a formal process. If a grievance is about an individual's line manager the employee may contact that individual's Line Manager, their Trade Union representative, or HR for advice.

It is important that managers keep an open mind when dealing with such complaints and the manager should listen carefully to what the employee is saying, not make assumptions, and consider how the alleged actions may have made them feel.

The manager will need to consider the most appropriate action to take to resolve the situation. If appropriate, this may be a quiet word with the person who has been complained about, explaining their conduct was inappropriate and outlining how it made that person feel, or maybe an apology from that person, if they willing to consider this.

Depending on the situation, the manager may think it is appropriate to arrange an informal meeting with both parties. Before arranging this, the manager should meet with everyone separately to ensure they are all willing to meet to try to resolve the complaint.

Managers can seek support from HR or the Equality, Diversity & Inclusion Manager if required.

It may be appropriate for the manager to confirm the outcome of any informal resolution in writing to the employee raising the concern and any other parties.

If an issue cannot be resolved through normal management discussions, 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. Mediation can only be used if both parties agree to it and either party 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 an issue cannot be resolved at this stage an employee should follow the formal procedure. Acceleration to the formal stage must be within 10 working days from the date of mediation, or the informal meeting where relevant.

Formal Procedure

If an employee has not been able to resolve a problem through informal discussions or mediation, they should submit a formal grievance to their Line Manager using the form available on the intranet which should be copied to the relevant HR Business Partner. (If the grievance concerns their Line Manager, the employee should submit it to that individual's Line Manager or contact their Trade Union representative, or HR for advice).

If the matter is being raised as a collective grievance this should be submitted by a member of staff nominated to do so by those raising the complaint or the Trade Union and the submission should include details of all those who are part of the collective.

The Manager to whom the Grievance is submitted will ordinarily act as the 'Grievance Manager' and arrange to meet with the employee without unreasonable delay, ideally within 5 working days, to discuss the issues raised and the steps needed to investigate the concerns. The Grievance Manager should arrange a note taker to be present and keep a record of the meeting.

In some circumstances it may be more appropriate for a different, independent, manager (or in exceptional circumstances an external investigator) to act as the 'Grievance Manager'.¹ – The individual receiving the grievance should discuss any need for an independent 'Grievance Manager' with HR and the decision to do so should be made by the appropriate Head of Service (or above). In Dignity at Work

¹ The term Grievance Manager is used throughout this policy irrespective of whether this is the individual's line manager, an alternative manager or an external investigator.

related complaints an independent manager should always act as the 'Grievance Manager'.

Before the initial meeting between the individual raising the concern and the Grievance Manager some initial enquiries may have already been carried out by the Grievance Manager based on the details within the submitted grievance.

At the meeting, the employee should outline the nature of their grievance and explain how they think this should be resolved. A general discussion can take place about the issues and possible ways forward. The meeting may be adjourned if further information, evidence, or investigation is required by the Grievance Manager. This may include speaking to any relevant witnesses.

It should be explained to the employee that where complaints are made against another employee this will need to be shared with that person in order to get their response. In these circumstances, the Grievance Manager should arrange a confidential conversation with the individual whom a complaint has been made against to inform them of the complaint and who has made this and seek their response. They should also ensure the individual's line manager is aware to support their wellbeing. The Grievance Manager, with the support of HR, should keep the individual who has been complained about informed of progress throughout all stages of the grievance and inform them of the outcome as it relates to them, whilst respecting confidentiality requirements and not, for example, sharing the outcome letter.

After the original meeting or the adjourned meeting, the Grievance Manager will confirm the outcome in writing to the employee, as far as possible, within 10 working days. In more complex matters this will likely take longer. The letter should indicate what action, if any, 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 Panel, whose decision will be final. The employee must lodge their appeal within 10 working days of receipt of the letter outlining the Grievance Manager's conclusion. The appeal must be addressed to the Director of People and Inclusion who will acknowledge receipt.

If, following consideration of the evidence, the Grievance Manager concludes that there are learning points for individuals these should be shared with them via their Line Manager. If it is felt that it may be appropriate for action to be considered under the Council's Disciplinary Procedure the Grievance Manager should discuss this with HR. The grievance investigation may, in these circumstances, constitute or contribute towards the fact-finding phase of the Disciplinary Procedure and information gathered may be used to contribute towards the disciplinary investigation.

Right to be Accompanied

Employees can be accompanied at all stages of the Grievance process, including the informal stage. This includes the individual raising the grievance, the individual

who a complaint has been raised against (where a complaint has been raised against an individual) and any witnesses.

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 however they 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.

A HR Representative may attend meetings in an advisory capacity. However, this is not necessary in all cases.

3. 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. In particular, where complaints are made against another employee this will need to be shared with that person in order to get their response.

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 of 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).

Notes taken by the appointed note taker at the meeting with the aggrieved individual will be shared with the employee who will be asked to confirm their accuracy.

The Grievance Manager or HR Representative may wish to take notes during any meetings arranged to consider a grievance. These will not normally be shared with employees unless there is a specific reason to do so. An employee or representative/companion may wish to take their own notes.

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

Notifying staff involved at the conclusion of a Grievance process

The employee who has raised a grievance will be notified that the matter has been concluded and will receive an outcome letter. This will not ordinarily specify if disciplinary action against another employee is to be considered.

Where a grievance has been raised against an individual they will be informed that the matter has been concluded by the Grievance Manager and the outcome of any allegations in relation to them..

Depending on the individual circumstances of each grievance, other notifications may be required (for example if there are wider corporate learning points in relation to matters such as Health and Safety or Information Governance), and this will be determined on a case-by-case basis, in consultation with HR colleagues.

4. 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.

5. Dignity at Work

Discrimination, harassment and victimisation are unlawful behaviours in relation to protected characteristics that the council has a duty to prevent and eliminate. The council has a zero tolerance of these unlawful behaviours, and it is the responsibility of all council employees to ensure they do not discriminate, harass or victimise in the course of their work or when representing the council. Employees also have a right to work in an environment free of discrimination, harassment and victimisation.

Protected characteristics for the purpose of this policy are:

- Age
 - Care experienced children and care leavers
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- 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.

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.

Victimisation is treating a person or a group of people unfairly or negatively because they have made a complaint or report of discrimination or harassment, or helped someone or a group of people make a complaint or report of discrimination or harassment. This also applies to treating a person or group of people unfairly or negatively because they are believed to have made a complaint or report or are expected to do so.

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

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

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

Sexual Harassment is unwanted and inappropriate harassment/behaviour towards a person which is of a sexual nature.

Examples of sexual harassment include:

- sexual comments or jokes
- displaying sexually graphic pictures, posters or photographs
- suggestive looks, staring or leering
- propositions and sexual advances

- making promises in return for sexual favours
- sexual gestures
- questioning about a person's private or sex life or a person discussing their own sex life
- sexual posts or contact on social media
- spreading sexual rumours about a person
- sending sexually explicit emails, text messages or online messages
- unwelcome touching, hugging, massaging, kissing or being in someone's personal space

Unwanted and inappropriate behaviour can also include behaviours which were previously welcomed, invited or consensual but are no longer welcome, invited or consensual.

A person can experience sexual harassment from someone of the same or different sex.

Sexual harassment can also occur if a person experiences unfavourable or unfair treatment through rejecting unwelcome and uninvited behaviours or rejecting behaviours which were previously welcome, invited or consensual but are no longer welcome, invited or consensual.

In these situations, employees may wish to contact their Trade Union representative or the Equality Diversity and Inclusion Manager who can offer support and advice in these difficult situations.

Process of Considering: Dignity at Work issues

Dignity at work related matters will be managed in accordance with the procedure outlined above.

Appendix 1: Appeals 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 which has only subsequently become available and/or any part of the procedure was wrong or unfair.

Upon receipt of an appeal, the Director of People and Inclusion or their representative 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 Grievance Manager will present the management case to the hearing panel and may be accompanied by the HR representative who advised them during meetings. 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.

If an employee remains aggrieved after raising a grievance, the appeal will normally be a review of the paperwork and process undertaken during the investigation. It is not appropriate for the aggrieved employee to see this documentation as it may contain confidential information about another employee / employees.

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.
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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 process followed to achieve a resolution.
 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 end
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Appendix 2: 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; sending sexually explicit emails, text messages or online messages
CARE EXPERIENCED CHILDREN & CARE LEAVERS	Refusing to recognise the effects of adverse childhood experience (ACE); Invasive questions about homelife and childhood experiences.
CARERS	Assumptions that carers want extra time off work. refusing reasonable flexible working and special leave requests
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.
SOCIALLY ECONOMICALLY VULNERABLE	Expecting people to contribute to team funds for birthdays and special events; intrusive questioning about homelife and finances. Isolating or ostracising people for not taking part in social activities outside work
MILITARY VETERANS	Assuming veterans are unable to learn new ways of working
SEXUAL ORIENTATION	Making homophobic or biphobic insults or threats; making unnecessary and degrading references to an individual's 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.

Appendix 3: 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

Bury
Council