

PERSONNEL SUB-COMMITTEE

AGENDA



Thursday 29 August 2019

at 9.30 am

in Committee Room C,
Civic Centre, Hartlepool.

MEMBERS: PERSONNEL SUB-COMMITTEE

Councillors S Akers-Belcher, Harrison and Loynes.
(Councillor Hamilton to substitute for Councillor Harrison.)
(Councillor James to substitute for Councillor S Akers-Belcher.)

1. **APOLOGIES FOR ABSENCE**
2. **TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS**
3. **MINUTES**
 - 3.1 To confirm the minutes of the meeting held on 12 August 2019 (*attached*) and 15 August, 2019 (*to follow*).
4. **ANY OTHER BUSINESS WHICH THE CHAIR CONSIDERS URGENT**
5. **LOCAL GOVERNMENT (ACCESS TO INFORMATION) (VARIATION) ORDER 2006**

EXEMPT ITEMS

Under Section 100(A) (4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that it involves the likely disclosure of exempt information as defined in the paragraphs referred to below of Part 1 of Schedule 12A of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006

6. **ITEMS FOR DECISION**
 - 6.1 Stage 3 Grievance Hearing – *Director of Adult and Community Based Services (para 1)*

7. ANY OTHER CONFIDENTIAL BUSINESS WHICH THE CHAIR CONSIDERS URGENT

PERSONNEL SUB COMMITTEE
MINUTES AND DECISION RECORD
12 AUGUST 2019

The meeting commenced at 9.30 am in the Civic Centre, Hartlepool.

Present:

Councillor Brenda Harrison (in the Chair)

Councillors Stephen Akers-Belcher and Brenda Loynes.

Officers: Tony Hanson, Assistant Director, Environment and Neighbourhoods
Jaysen Gray, HR Advisor (Management)
Steve Russell, Support Manager (Investigating Officer)
Gillian Laight, Human Resources Manager (Advisor to Sub Committee)
David Cosgrove, Democratic Services Team

1. Apologies for Absence

None.

2. Declarations of interest by members

None.

3. Confirmation of the minutes of the meeting held on 14 and 15 May, 2019

Confirmed.

4. Local Government (Access to Information) (Variation) Order 2006

Under Section 100(A)(4) of the Local Government Act 1972, the press and public were excluded from the meeting for the following items of business on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 2 of Part 1 of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006.

Minute 5 – Discipline Dismissal Hearing (*Director of regeneration and Neighbourhoods*) - This item contains exempt information under Schedule

12A Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 namely information relating to a particular employee, former employee or applicant to become an employee of the Council (para 1).

- 5. Discipline Dismissal Hearing** (*Director of regeneration and Neighbourhoods*) (This item contains exempt information under Schedule 12A Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 namely information relating to a particular employee, former employee or applicant to become an employee of the Council (para 1)

The Committee was convened to consider a Disciplinary Dismissal Appeal received from a Council employee in the Regeneration and Neighbourhoods Department. The meeting followed the procedure as set out in the Council's approved HR Policies and Procedures.

Decision

The decision of the Committee is set out in the exempt section of the minutes.

- 6. Any Other Items which the Chairman Considers are Urgent**

None.

The meeting concluded at 12.05 pm.

CHAIR



Grievance Policy & Procedure

HR Division

Contents / Index

Section	Contents	Page
	Contents / Index	2
1	Introduction	3
2	Scope of the Procedure	3
3	Representation	3 - 4
4	Collective Grievance	4
5	Raising a Grievance	4
6	Stages of the Grievance Procedure <ul style="list-style-type: none"> • Informal – Stage 1 • Formal – Stage 2 • Formal Appeal – Stage 3 	4 - 5 5 5 - 6
7	Chief Officers	6
8	Directors	6
9	Chief Executive	6
10	Timescales	6
11	Illness / Absence During the Formal Grievance Procedure	6 - 7
12	Overlapping Grievance and Disciplinary Cases	7
13	Mediation	7
14	Malicious Complaints and Behaviour	7
15	Records and Confidentiality	7
16	Withdrawal of a Grievance	8
	Appendix A	
1	<ul style="list-style-type: none"> • Constitution of the Committee 	9
2	<ul style="list-style-type: none"> • Written Statements 	9
3	<ul style="list-style-type: none"> • Representation and Attendance 	9 – 10
4	<ul style="list-style-type: none"> • Procedure 	10 – 11

1. Introduction

- 1.1 Hartlepool Borough Council is committed to the welfare of all employees (including workers). It is, however, recognised that on occasion grievances may arise.
- 1.2 This procedure provides a mechanism for employee concerns, problems or complaints relating to their work, working environment or working relationships to be raised and addressed fairly, quickly and as close to the source of the problem as possible. Examples may include:
- Terms and conditions of employment
 - Health and safety
 - Work relations
 - New working practices
 - Organisational change
 - Discrimination
 - Bullying and Harassment (separate procedure)

2. Scope of the Procedure

- 2.1 This policy and procedure applies to all employees of the Council with the exception of those employed in schools with delegated budgets who have alternative procedures adopted by their Governing Bodies.
- 2.2 Some complaints about employment fall outside the scope of the Grievance Procedure as they require different treatment. Examples may include:
- Disciplinary
 - Job Evaluation
 - Reorganisation
 - Whistleblowing
- 2.3 An employee may have a number of grievances some of which may be unrelated to each other. In such cases it may be necessary to apply the grievance procedure to each issue separately or, if appropriate, apply a different procedure.
- 2.4 This grievance procedure does not apply to ex-employees.

3. Representation

- 3.1 Employees have the right to be accompanied by their Trade Union Representative or a work Colleague at all formal stages of this process.
- 3.2 Where unreasonable delay may be caused by awaiting the availability of the chosen representative; management reserve the right to proceed with the investigation on the date set and to advise the employee to seek an alternative representative.

- 3.3 Where the employee raising the grievance does not engage in the process without acceptable reason; then a decision will be made by the relevant Chief Officer, with Human Resources (HR) advice, on whether to draw conclusion on the facts available or alternatively to discontinue the grievance. This will be confirmed in writing to the employee.

4. Collective Grievance

- 4.1 In some circumstances a grievance may apply to more than one employee (collective grievance). In such cases the group will be required to select one member to represent the group to state their case, supported by a Trade Union Representative if required. In some circumstances, it may be necessary to miss out the informal stage and address the matter formally.

5. Raising a Grievance

- 5.1 A quiet word is often all that is required and many problems can be raised and settled at an early stage during the course of everyday working relationships. This approach is normally less time consuming and less likely to damage working relationships.

6. Stages of the Grievance Procedure

6.1 Informal – Stage 1

- 6.1.1 Employees should aim to settle problems informally with their Colleagues and/or Line Manager where possible without recourse to the formal grievance procedure.
- 6.1.2 It is important that an employee raises their grievance verbally (although may opt to do this in writing) with their Line Manager. Where possible a grievance should be raised as soon as reasonably practicable after an incident / cause for grievance has occurred.
- 6.1.3 If the concerns relate to a Line Manager, an employee should still raise their grievance directly with the Line Manager if they feel able to do so. Where this is not possible, employees should discuss their concerns with the next most senior person.
- 6.1.4 If an employee is unsure as to who they should contact about a grievance they may, in confidence, ask HR who will let them know who the appropriate person is.

6.1.5 The Line Manager should:

- Within 5 working days of receipt of the grievance (working days for the purposes of this procedure are Monday to Friday in any working week excluding bank holidays), respond to the employee clearly outlining the issues and subsequent actions agreed.
- Where the grievance is not upheld then make sure the reasons are explained.

6.1.6 Where the employee feels that their grievance has not been satisfactorily resolved at this informal stage then they should raise the matter formally at Stage 2 without unreasonable delay.

6.2 Formal - Stage 2

6.2.1 If the matter is not resolved at the informal stage and the employee is still aggrieved the employee should submit a grievance, in writing, on the grievance form, setting out the nature of the grievance to the appropriate Chief Officer within 5 working days of receipt of the written outcome of the informal stage.

6.2.2 The Chief Officer will respond in writing as soon as possible and within 5 working days or arrange a meeting as soon as possible with the employee and his/her Trade Union Representative or Colleague from work, the immediate Line Manager (if appropriate), a HR Representative and any other relevant people.

6.2.3 The Chief Officer's decision may be to accept the grievance, dismiss the grievance, refer the matter back to the immediate Line Manager for resolution with appropriate comments/guidance, or any other course of action which would be reasonable in the circumstances of the individual case.

6.2.4 A decision following a meeting will be confirmed in writing within 5 working days.

6.3 Formal Appeal - Stage 3

6.3.1 If the matter is not resolved at the formal stage and the employee is still aggrieved the employee should submit an appeal, in writing, setting out the grounds for the appeal to the Assistant Chief Executive within 14 days of the date of the letter confirming the decision reached at Stage 2. If no appeal is received within this period the employee will lose the right of appeal.

6.3.2 All appeals must be lodged by the employee concerned and cannot be lodged by other parties or representatives on behalf of the employee.

6.3.3 The grievance will be heard as soon as practicable by a Personnel Sub Committee of the Council. The employee will receive a minimum of 7 days notice of the date of the appeal hearing. This period may be reduced by mutual agreement.

6.3.4 The procedure for Appeals under Stage 3 are outlined in detail at Appendix A.

7 Chief Officers

7.1 As Chief Officers have only one or two officers who are senior to them in the structure of the Council it may not be possible for them to use all the stages of the grievance procedure as described above.

7.2 Grievances should, therefore, be referred to the appropriate Director in the first instance, who will respond within 14 days, and as a second stage to the Chief Executive who will respond within 14 days. Stage 3 will apply thereafter.

8. Directors

8.1 Directors and Divisional Heads within the Chief Executive's Department, should refer their grievance to the Chief Executive in the first instance. Stage 3 will apply thereafter.

9. Chief Executive

9.1 The Council's Grievance Procedure will be varied for the Chief Executive as necessary to ensure compliance with the CEX National Conditions of Service.

10. Timescales

10.1 Where it is not possible to respond to an employee within a specified time period e.g. a requirement for further investigation, then the employee should be notified of this delay and also advised as to when a response can be expected.

10.2 Within the terms of this procedure, if leave of the employee raising the grievance, or of the officer to whom it must be referred, impedes the application of the time limits shown then these may be extended by the requisite number of days.

10.3 Timescales set in the grievance procedure may be varied by mutual consent between the aggrieved employee and the person with whom the grievance has been lodged at the appropriate stage.

11. Illness / Absence During the Formal Grievance Procedure

11.1 Where an employee submits a grievance and is absent from work due to illness then the Council may, where necessary, seek advice from the Council's Occupational Health Advisor to determine the employee's fitness to engage in the process.

- 11.2 The Council will progress the grievance in the absence on an employee as far as possible.
- 11.3 The Council's Attendance Management Policy will continue to be implemented as normal throughout any grievance process.

12. Overlapping Grievance and Disciplinary Cases

- 12.1 If it becomes evident during any stage of the grievance procedure that a potential disciplinary issue is involved, the grievance procedure may be suspended and the matter dealt with under the Council's Disciplinary Policy and Procedure.
- 12.2 Where an employee raises a grievance during a disciplinary process, the disciplinary process may be suspended temporarily in order to deal with the grievance. However, where the grievance and disciplinary cases are related, the Council may deal with both issues concurrently under the disciplinary process.

13. Mediation

- 13.1 At any stage of this procedure, where both parties agree to participate, it may be appropriate for the Council to arrange mediation.

14. Malicious Complaints or Behaviour

- 14.1 The Council treats concerns raised by its employees very seriously. Similarly, it will view the raising of unfounded concerns for vexatious or malicious purposes, or for personal gain, very seriously and actions of this nature will be considered as potential disciplinary offences.

15. Records and Confidentiality

- 15.1 Information relating to an employee grievance will be retained in accordance with the Data Protection legislation. This will include:
- the nature of the grievance
 - what was decided and actions taken
 - the reason for the actions
 - whether an appeal was lodged
 - the outcome of the appeal
 - any subsequent developments
- 15.2 Copies of formal meeting records will be given to the employee including copies of any formal minutes that may have been taken. In certain

circumstances, the Council may withhold some information e.g. to protect a witness.

16. Withdrawal of a Grievance

- 13.1 On occasion an employee may decide that they want to withdraw their grievance. This may be due to a genuine change of heart; the employee resolving the issue personally or the receipt of information that has shed new light on an issue.
- 13.2 Where an employee chooses to withdraw this must be notified, in writing, to the Line Manager / chief officer dealing with the case outlining the reasons for withdrawal. This will be acknowledged, in writing, by the Line Manager / Chief Officer advising on how the Council will deal with this e.g. in some cases a grievance raised may be so serious that the Council still needs to pursue an investigation.

Documentation

HRPP-9 / F1 Employee Grievance Form

Appendix A

1 Constitution of the Committee

- 1.1 A Stage 3 Grievance will be heard by a duly convened and quorate Personnel Sub Committee of the Council. The Constitution defines the makeup of the Committee and how many Members constitute a quorum.
- 1.2 Members who have had any direct prior involvement in the case or where they have a prejudicial or pecuniary interest in the case will be excluded from sitting. The Human Resources Adviser to the Committee will attend the appeal to provide advice (including procedural and employment law advice) and will assist Members in establishing the facts being presented to them.
- 1.3 Normal Council Democratic Services support will be provided to the Committee. The Democratic Services Officer shall record the decision of the Committee but is not present to provide any form of advice other than on administrative matters.

2 Written Statements

- 2.1 Both Management and the Employee will be invited to submit a written statement of case.
- 2.2 Members of the committee will receive these statements (where submitted) 7 days before the hearing.
- 2.3 Where both parties have submitted statements these will be exchanged at least 3 days before the date of the hearing or as soon as possible if received after 3 days.
- 2.4 If one party does not produce a statement then they will receive the other party's statement as early as practicable on the day of the hearing.
- 2.5 Notice of a hearing will normally be 7 days unless it is agreed by both sides that a shorter notice period is acceptable.

3 Representation and Attendance

- 3.1 The Employee bringing the grievance appeal may attend with one Representative.
- 3.2 The Manager attending the appeal will attend with one HR Representative.
- 3.3 Witnesses, if any, will be called in to give evidence and will then leave the hearing.

- 3.4 It is at the discretion of the Panel to permit either side to bring additional Representatives/Managers, and to decide whether they may attend in an observer or participant capacity.

4 Procedure

The procedure will be as follows:

- (a) The aggrieved Employee and/or Representative shall state their grievance.
- (b) Whilst stating the grievance, if appropriate the Employee or their Representative may call Witnesses. The procedure for each Witness shall be:
 - Employee and/or Representative to question.
 - Management and/or HR Business Representative to question.
 - Employee or Representative to re-examine.
 - Chair to invite each member of the Committee and the HR Adviser to ask any questions.
 - Witness to leave the room.
- (c) The Management and/or HR Representative may ask questions of the Employee or Representative.
- (d) The Committee Members and the HR Adviser may ask questions of the Employee or Representative.
- (e) The Management and/or HR Representative to state the response to the grievance.
- (f) Whilst responding the Management and/or HR Representative may call Witnesses and the procedure for each Witness shall be:
 - Management and/or HR Representative to question.
 - Employee and/or Representative to question.
 - Management and/or HR Representative to re-examine.
 - Chair to invite each member of the Committee and the HR Adviser to ask any questions
 - Witness to leave the room.
- (g) The Employee/Representative may ask questions of the Manager and/or HR Representative.
- (h) The Committee members and the HR Adviser may ask questions of the Management and/or HR Representative.
- (i) The Management and/or HR Representative to have the opportunity to sum up his/her case if he/she wishes.

- (j) The Appellant or Representative to have the opportunity to sum up his/her case if he/she wishes.
 - (k) The Management and HR Representative and the Appellant and Representative to withdraw.
 - (l) The Committee to deliberate in private with only the HR Adviser and Secretary in attendance recalling the Management Representative, HR Representative, the Employee and Representative only if clarification of evidence already given is required. In such instances all parties should be recalled even though clarification may be required from only one party.
 - (m) The Committee shall announce its decision to both sides unless further time for deliberation is needed, in which case both sides will be advised of this.
 - (n) The decision of the Committee will be notified to both sides in writing within 7 days of the hearing.
- 4.1 The provision for summing up at (i) and (j) does not include the right to introduce new evidence at this stage in the procedure. If this becomes necessary, then the other side should be given the right of reply.
- 4.2 Any matters of procedure not covered above will be for the Committee to decide.