

# Public Document Pack

## NOTICE OF MEETING

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# EMPLOYMENT PANEL

will meet on

**MONDAY, 16TH OCTOBER, 2017**

**At 6.30 pm**

in the

**ASCOT AND BRAY - TOWN HALL, MAIDENEHAD**

TO: MEMBERS OF THE EMPLOYMENT PANEL

COUNCILLORS LISA TARGOWSKA (CHAIRMAN), EILEEN QUICK (VICE-CHAIRMAN), PHILLIP BICKNELL, PAUL BRIMACOMBE, STUART CARROLL, DR LILLY EVANS, LYNNE JONES AND MJ SAUNDERS

### SUBSTITUTE MEMBERS

COUNCILLORS CHRISTINE BATESON, SIMON DUDLEY, DAVID HILTON, JACK RANKIN, JOHN STORY, EDWARD WILSON, MALCOLM BEER, SIMON WERNER, SAMANTHA RAYNER AND WISDOM DA COSTA

Karen Shepherd - Democratic Services Manager - Issued: Friday, 6 October 2017

Members of the Press and Public are welcome to attend Part I of this meeting. The agenda is available on the Council's web site at [www.rbwm.gov.uk](http://www.rbwm.gov.uk) or contact the Panel Administrator **Karen Shepherd** 01628 796529

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## AGENDA

### PART I

<u>ITEM</u>	<u>SUBJECT</u>	<u>PAGE NO</u>
1.	<u>APOLOGIES FOR ABSENCE</u>  To receive any apologies for absence	
2.	<u>DECLARATIONS OF INTEREST</u>  To receive any declarations of interest	5 - 6
3.	<u>MINUTES</u>  To consider the Part I minutes of the meeting held on 14 August 2017	7 - 10
4.	<u>OPTIONS FOR GRIEVANCE PROCEDURE REVISION</u>  To consider the above report	11 - 30
5.	<u>LOCAL GOVERNMENT ACT 1972 - EXCLUSION OF THE PUBLIC</u>  To consider passing the following resolution:-  "That under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the remainder of the meeting whilst discussion takes place on item 6 on the grounds that it involves the likely disclosure of exempt information as defined in Paragraphs 1-7 of part I of Schedule 12A of the Act"	

**PRIVATE MEETING**

6.

**MINUTES**

31 - 32

To consider the Part II minutes of the meeting held on 14 August 2017.

***(Not for publication by virtue of Paragraph 1, 4 of Part 1 of  
Schedule 12A of the Local Government Act 1972)***



## MEMBERS' GUIDE TO DECLARING INTERESTS IN MEETINGS

### Disclosure at Meetings

If a Member has not disclosed an interest in their Register of Interests, they **must make** the declaration of interest at the beginning of the meeting, or as soon as they are aware that they have a DPI or Prejudicial Interest. If a Member has already disclosed the interest in their Register of Interests they are still required to disclose this in the meeting if it relates to the matter being discussed.

A member with a DPI or Prejudicial Interest **may make representations at the start of the item but must not take part in the discussion or vote at a meeting.** The speaking time allocated for Members to make representations is at the discretion of the Chairman of the meeting. In order to avoid any accusations of taking part in the discussion or vote, after speaking, Members should move away from the panel table to a public area or, if they wish, leave the room. If the interest declared has not been entered on to a Members' Register of Interests, they must notify the Monitoring Officer in writing within the next 28 days following the meeting.

### Disclosable Pecuniary Interests (DPIs) (relating to the Member or their partner) include:

- Any employment, office, trade, profession or vocation carried on for profit or gain.
- Any payment or provision of any other financial benefit made in respect of any expenses occurred in carrying out member duties or election expenses.
- Any contract under which goods and services are to be provided/works to be executed which has not been fully discharged.
- Any beneficial interest in land within the area of the relevant authority.
- Any licence to occupy land in the area of the relevant authority for a month or longer.
- Any tenancy where the landlord is the relevant authority, and the tenant is a body in which the relevant person has a beneficial interest.
- Any beneficial interest in securities of a body where:
  - a) that body has a piece of business or land in the area of the relevant authority, and
  - b) either (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body **or** (ii) the total nominal value of the shares of any one class belonging to the relevant person exceeds one hundredth of the total issued share capital of that class.

Any Member who is unsure if their interest falls within any of the above legal definitions should seek advice from the Monitoring Officer in advance of the meeting.

A Member with a DPI should state in the meeting: ***'I declare a Disclosable Pecuniary Interest in item x because xxx. As soon as we come to that item, I will leave the room/ move to the public area for the entire duration of the discussion and not take part in the vote.'***

*Or, if making representations on the item: 'I declare a Disclosable Pecuniary Interest in item x because xxx. As soon as we come to that item, I will make representations, then I will leave the room/ move to the public area for the entire duration of the discussion and not take part in the vote.'*

### Prejudicial Interests

Any interest which a reasonable, fair minded and informed member of the public would reasonably believe is so significant that it harms or impairs the Member's ability to judge the public interest in the item, i.e. a Member's decision making is influenced by their interest so that they are not able to impartially consider relevant issues.

A Member with a Prejudicial interest should state in the meeting: ***'I declare a Prejudicial Interest in item x because xxx. As soon as we come to that item, I will leave the room/ move to the public area for the entire duration of the discussion and not take part in the vote.'***

*Or, if making representations in the item: 'I declare a Prejudicial Interest in item x because xxx. As soon as we come to that item, I will make representations, then I will leave the room/ move to the public area for the entire duration of the discussion and not take part in the vote.'*

### Personal interests

Any other connection or association which a member of the public may reasonably think may influence a Member when making a decision on council matters.

Members with a Personal Interest should state at the meeting: ***'I wish to declare a Personal Interest in item x because xxx'. As this is a Personal Interest only, I will take part in the discussion and vote on the matter.***

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# Agenda Item 3

## EMPLOYMENT PANEL

MONDAY, 14 AUGUST 2017

PRESENT: Councillors Lisa Targowska (Chairman), Eileen Quick (Vice-Chairman), Phillip Bicknell, Paul Brimacombe, Stuart Carroll, Lynne Jones, MJ Saunders and Edward Wilson

Officers: Terry Baldwin and Karen Shepherd

### APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Dr L Evans.

### DECLARATIONS OF INTEREST

None received.

### MINUTES

**RESOLVED UNANIMOUSLY: That the Part I minutes of the meeting held on 13 June 2017 be approved.**

### RESULTS OF PAY REWARD PROCESS 2017

Members considered the results of the 2017 pay reward process. Members noted that, for the first time in some years, the council had agreed to give both a Pay Award and Pay Reward. All staff had received a 0.8% Pay Award and budget had been made available for Pay Reward, although this figure had been less than in previous years because of the Pay Award.

Members commended officers on the fact that all staff had a completed appraisal by 31 March 2017.

The Head of HR confirmed that 11 appraisal score reviews were requested, with three being upheld. Less appeals were made than the previous year, and less were upheld. Staff were now more used to the system although there had been some feedback that the scheme was still complicated, particularly for staff at the top of a grade. Members had approved a number of changes to the scheme for the following year, to address such issues. Feedback had also been received that some staff were disappointed that a smaller amount was available for Pay Reward than in previous years.

Councillor Saunders highlighted that that some 10% of employees received an outstanding score and had been rewarded with an increase (unrelated to promotion) of just less than 2.2%. In excess of one third who had been given an excellent rating received a total increase just short of 1.5%; this was also a very credible figure in the context of public sector pay awards across the UK. Councillor Saunders suggested a table showing the base figure of 0.8% and increments associated with good/excellent/outstanding scores, alongside any increases associated with promotions or grade changes, would be useful so that the average increase in employee salary was clear. He expected that a person outside the council would believe no one had received more than 1%.

The Head of HR confirmed that HR reviewed each of the cases relating to the 30 staff deemed as 'Requiring Improvement' as at 31 March 2017. Approximately half had already moved out of the category; others had six month improvement plans in place. He would be able to circulate a table giving further details, although this would likely be in Part II due to the small cohort. Councillor Quick suggested figures by directorate would be useful in this respect. Councillor Brimacombe commented that he felt the term 'Requires Improvement' could be misleading as even those at good, excellent or outstanding would have areas to improve. The Head of HR explained that the term 'Requires Improvement' linked to Ofsted and was a recognised term.

Councillor Brimacombe commented that more than half were deemed good/excellent/outstanding, which was commendable, but cautioned about grade inflation. Some schemes were normative: Individuals were graded against others, so there was never more than 10% in the top grade. The Head of HR confirmed that safeguards were in place including moderation of objectives undertaken by service leaders and moderation of scores at Directorate and CMT level.

Councillor Bicknell asked if there were any environmental factors that were affecting officers' ability to perform? Details about department and grade would be needed to ensure Members had the full picture. The Head of HR commented that he could draw out any lessons learned from the individual cases for the next paper. He commented that someone was deemed 'Requiring Improvement' as soon as they dropped below 78 points. A number of the individuals concerned were very close to 78 so, with an improvement plan in place, quickly moved out of the category.

Councillor E. Wilson commented that the 0.8% Pay Award was good news; many private firms could not afford to give pay rises at the moment. He asked whether being graded as 'outstanding' provided motivation and helped to retain staff. The Head of HR responded that the outstanding results were across a variety of grades. The Pay Award had been welcomed by staff, along with a reward scheme that recognised performance. Some feedback from those receiving outstanding scores had related to the limited funding available compared to previous years.

Councillor Saunders commented that the analysis previously requested by Councillor Quick could be found in the appendix to the Part II report the Panel had received at a previous meeting. The only significant bias he could identify was that those scoring at the lower end tended to be older.

The Head of HR agreed to circulate the statistics in relation to length of service.

**RESOLVED UNANIMOUSLY: That Employment Panel notes the report.**

#### REVISION TO GRIEVANCE PROCEDURE

Members considered an amendment to the council's grievance procedure. The Head of HR explained that the procedure currently had three stages. An employee who remained dissatisfied with the outcome of their grievance at stages one and two was able to have their grievance heard at stage three by the Member Employment Appeal Panel (EAP). The report recommended shortening the current procedure and was in accordance with the ACAS code. Since the beginning of 2016 only 3 of the 14 grievances had been taken to the EAP level and of these all three had not been upheld. The decision reached by officers was



supported by Members. The proposal meant that Members would only hear grievance appeals for members of the senior leadership team.

The Chairman commented that she was supportive of removing the Member element which was inefficient, dragged the process out and did not add a lot of benefit. Member involvement for grievances by senior officers was appropriate, for example for the Managing Director this could go the Lead Member for decision and the Leader for appeal.

Councillor Saunders commented that this presented a dilemma. He had sat on panels and was conscious of the important role played by Members in considering the evidence and coming to a balanced judgement. The second element was the desire for the employee to feel they had a line of appeal to people perceived to be unencumbered by the organisational structure. If the policy was amended as proposed, he struggled to see that the employee would feel their manager and the other managers above them would have the necessary independence and objectivity they would expect and deserve.

The Chairman commented that outside the public sector it would be unusual to find that someone outside the organisation in question would be involved in making the decision. The process could be improved by allowing the appeal to be made to HR, who would then appoint an appropriate investigator and decision maker at least one grade above and in another department. Any appeal would be to an individual in another department.

Councillor Saunders commented that he appreciated that a complicated but deliverable set of Chinese walls could be put in place to seek to ensure the party taking the initial judgement had no operational responsibility for the area in question, but as you went up the organisation, the pyramid tightened. Additionally, the council promoted collaboration and co-operation between teams therefore it was difficult to ask someone to be independent for the purposes of an investigation yet work collaboratively at other time. The only alternative was some sort of Member involvement in the appeal process.

Councillor Brimacombe commented that most organisations did not use independent people because they did not have the option. The council was lucky to have independent people embedded and should see this as a virtue. The principle of an independent person was an effective check and balance. The council should hold itself to a higher standard and have a more robust system.

Councillor Jones commented that the council was much smaller now than a few years ago, so officers were more likely to know each other, which would make it more difficult to identify an individual who would be seen as independent. The necessary degree of separation did not now exist.

Councillor Bicknell commented that in his view councillors were not independent, many were involved in service areas. The proposal was only to remove the grievance aspect; Members would continue to consider disciplinary appeals.

Councillor Carroll supported the continuation of Member involvement. He felt that it was odd to have a process where a grievance was submitted to a line manager, this should go to HR. However, despite best efforts, some people would still believe the HR department would work for the benefit of the

organisation not the employee. In other organisations the HR reporting line was taken away from the operational structure to try to overcome this perception. Where it was done well, a process would include a mechanism for independent review, for example consultants.

The Head of HR explained that the Shared Audit and Investigation team was used to undertake investigations. Complex investigations or for more senior individuals would involve independent investigators. The main benefit of the proposal in the report was the reduction in the timescale to get a final decision. The current process allowed 20 working days for an appeal to be heard; this extended process could be uncomfortable for the employee. The Chairman commented that a significant amount of officer time was involved in putting the appeal together.

Councillor Saunders commented that he felt it would be inappropriate to remove Member involvement. However he accepted the current process represented a level of bureaucracy that was out of proportion with the benefit provided. He therefore suggested that officers be requested to bring a report to a future Panel meeting to include options that achieved the objective inspired by the report but maintained a meaningful role for Members.

Councillor Quick commented that the council should seek to be one of the best employees in the area. It was important that grievances were dealt with in a satisfactory manner. If the third level of Member involvement was chopped out this could be perceived as the council trying to gag an employee's grievance and to stop them having contact with Members.

The Head of HR confirmed that the trade unions had not as yet fed back in relation to the report.

**RESOLVED UNANIMOUSLY: That Employment Panel requests an options paper be presented to the October 2017 meeting of the Panel on amendments to the grievance procedure.**

#### LOCAL GOVERNMENT ACT 1972 - EXCLUSION OF THE PUBLIC

**RESOLVED UNANIMOUSLY: That under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the remainder of the meeting whilst discussion takes place on item 7 on the grounds that it involves the likely disclosure of exempt information as defined in Paragraphs 1-7 of part I of Schedule 12A of the Act.**

The meeting, which began at 6.30 pm, finished at 7.18 pm

CHAIRMAN.....

DATE.....

Report Title:	<b>Options for Grievance Procedure Revision</b>
Contains Confidential or Exempt Information?	NO - Part I
Member reporting:	N/A
Meeting and Date:	Employment Panel:16 October 2017
Responsible Officer(s):	Terry Baldwin, Head of HR
Wards affected:	None



## REPORT SUMMARY

In August 2017 Employment Panel considered a report on the Grievance Procedures. Officers were requested to bring an options paper to October 2017 Panel.

This report presents three options:

- Retain the current three stage procedure which includes a Member appeal panel at the final stage.
- Revise the procedure to a two stage process carried with no Member panel.
- Revise the procedure to a two stage with a review at the end of stage two by the Chair or Employment Panel if the employee remains dissatisfied at stage two.

## 1 DETAILS OF RECOMMENDATION(S)

**RECOMMENDATION: That Employment Panel:**

- i) Approves option 3 as set out in point 2.9.**

## 2 REASON(S) FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

2.1 HR annually reviews employment policies and procedures. The Royal Borough's grievance procedure for its employees currently has three stages. Stage three of the existing procedure provides for an employee who remains dissatisfied with the outcome of their grievance to have their grievance heard at stage three by the Council's Member Employment Appeal Panel (EAP), comprising three Elected Members. The report considered by Employment Panel on 17 August 2017, see Appendix A, recommended that the procedure be revised to a two stage process carried out by officers. Members requested consideration of a number of options. This reports contains three options.

2.2 The options presented have been limited to those which are legislatively compliant, practical, feasible to administer, and cost effective.

### **Option 1: Retain three stage procedure**

2.3 Under the three stage process hearing of a grievance at stage three of the process is carried out by Elected Members.

2.4 There are a number of reasons why a three stage process is not practical:

- Two rights of appeal, stage 2 and 3, is in excess of the ACAS Code of practice on discipline and grievance.
- The three stages are overly cumbersome particularly given stage two has been carried out by a member of senior leadership team.
- Three stages are complex and lengthy if the employee wishes to exhaust it, giving rise to a prolonged period of uncertainty for all parties involved whilst the final resolution is outstanding.
- Three stages requires a significant amount of management time.

**Option 2: Revise the RBWM grievance procedure to a two stage officer consideration process**

- 2.5 The procedure would become a two stage process with the final stage being considered by the Head of Service or Deputy Director and where stage one was heard by one of these officers the Executive Director or Managing Director would hear stage two. The officer hearing stage two would not have previously be involved in the case is retained
- 2.6 Any grievance raised by a member by the Senior Leadership Team would be heard at stage two by Elected Members.
- 2.7 The two stage procedure is fully compliant with the ACAS code.
- 2.8 Of the 14 formal grievances raised since the beginning of 2016, three have been raised to stage three and in all cases the grievance has not been upheld by Members and the outcome at stage two has remained unchanged. This demonstrates that officers are appropriately dealing with grievances at earlier stages. As a result the actual impact on staff as a result of changing the procedure is likely to be minimal.

**Option 3: Revise the procedure to include a review by the Chair of Employment Panel to determine if a stage three hearing is required**

- 2.9 The procedure would become a two stage process with a review, if the employee remains unsatisfied with outcome of stage two, by the Chair of Employment Panel and an option to draw together a Panel if considered appropriate.
- 2.10 The review would require the Chair to consider the case and the decisions available to them are:
- No further hearing is required and that the stage two decision stands with no further right of appeal.
  - Sanction the case to proceed to a full stage three hearing by EAP. So as not to elongate the process one week would be assigned for the Chair to carry out the review and in the event the Chair determined the matter should proceed to a stage three hearing, this week would be deducted from the 20 working days allowed in the current procedure to convene the hearing. This would be on the basis that the potential requirement for a hearing will be known and provisional arrangements can be made.
- 2.11 If this option is chosen the process and criteria will be drafted and agreed with the Chair of Employment Panel and Head of HR prior to implementation.
- 2.12 It is likely that this option would not require amendment to the terms of reference for EAP in the constitution.

2.13 This additional step addresses the concerns raised by Members at the meeting on 14 August 2017 as it allows for a check and balance of the process carried out by someone outside of the management structure with the opportunity for a full hearing by EAP should this be deemed necessary by the Chair. However for cases where the Chair decides a stage three hearing is not required, it allows for a swifter resolution to the process and a significant reduction in employee, management, HR and Member time.

2.14 This revision would be fully compliant with the ACAS code of practice.

2.15 Members suggestion for an independent person to review the material was also considered as an alternative option; however it is not considered as a feasible option for a number of reasons:

- The cost involved with engaging an external person each time a review is required. Costs are usually in the region of £750 to £1,000 per day depending on the seniority of the person engaged and the complexity of the case.
- The time involved for officers to prepare papers for external review.
- The time it adds on for employees waiting for the matter to be resolved.
- It is an additional step in the process that is not included now as currently only members review papers.

**Table 1: Options**

<b>Option</b>	<b>Comments</b>
Do nothing.  <b>Not recommended.</b>	The grievance procedure will continue to be lengthy and resource intensive with extended periods of uncertainty for all parties. The current procedure is cumbersome and protracted.
Revise the RBWM grievance procedure to a two stage officer consideration process. (Grievances raised by SLT Members would be heard by Members at the final stage)  <b>Not recommended.</b>	Changing the procedure to a two stage process is legally compliant and will enable employees the opportunity to have grievances heard with a right of appeal if they remain dissatisfied. Reduction in the number of stages will significantly reduce the overall time and resource taken to complete the process. May be perceived by employees as removing a degree of impartiality from the process.
Revise the RBWM grievance procedure to include a review by the Chair of Employment Panel to determine if a third stage hearing is required.  <b>The recommended option.</b>	Allows for a review of the process undertaken by someone not within the management structure if requested by the employee. Retains the option of a full stage three hearing if deemed necessary by the Chair. Will significantly reduce the overall time and resource taken to complete the process for cases where permission to proceed to a stage three hearing is not granted.

### 3 KEY IMPLICATIONS

**Table 2: Key implications**

Outcome	Unmet	Met	Exceeded	Significantly Exceeded	Date of delivery
Revised procedure implemented and communicated to staff		1 Dec. 2017			1 Dec. 2017

### 4 FINANCIAL DETAILS / VALUE FOR MONEY

- 4.1 There are no direct financial implications as a result of the recommendation. Revision of the grievance procedure to a two stage offer determined process will reduce the level of management, HR and Member time and resource required. It is anticipated that incorporating a review stage would also lead to a reduction in time resource.

### 5 LEGAL IMPLICATIONS

- 5.1 The ACAS Code of Practice on discipline and grievance provides basic practical guidance to employers, employees and their representatives and sets out the principles for handling discipline and grievance situations in the work place. A failure to follow the code does not, in itself, make a person or organisation liable to proceedings. However employment tribunals will take the Code into account when considering relevant cases and may adjust any awards made in relevant cases by up to 25% for unreasonable failure to follow the code.

### 6 RISK MANAGEMENT

**Table 3: Impact of risk and mitigation**

Risks	Uncontrolled Risk	Controls	Controlled Risk
Revision in option 2 and 3 might be perceived negatively by staff leading to low morale.	LOW – Staff may view revision as reducing opportunities to resolve issues and prevention of access to Members.	Communicate benefits to staff at time of publication i.e. swifter resolution	LOW – Majority of staff will understand the reason for the change and it is a small number of employees who use the procedure and therefore will effect a very small number.

## 7 POTENTIAL IMPACTS

- 7.1 Option two and to some extent option three will enable the relatively small number of employees who raise a grievance to receive a final outcome within a shorter period of time and the procedure will be more straight forward and accessible

## 8 CONSULTATION

- 8.1 Discussions have been taken place with the Principal Member for HR, Managing Director and members of CMT and SLT prior to the submission of this report.
- 8.2 The proposal has been circulated to the recognised Trade Unions.

## 9 TIMETABLE FOR IMPLEMENTATION

- 9.1 The revised procedure will be published and the change communicated to staff by 1 December 2017.

## 10 APPENDICES

- 10.1 There is one appendix:
- Appendix A - Revision to Grievance Procedure EP Report 14 August 2017.

## 11 BACKGROUND DOCUMENTS

- 11.1 None.

## 12 CONSULTATION (MANDATORY)

<b>Name of consultee</b>	<b>Post held</b>	<b>Date sent</b>	<b>Commented &amp; returned</b>
Cllr Targowska	Principal Member	29/9/17	2/10/17
Alison Alexander	Managing Director	28/9/17	28/9/17
Russell O'Keefe	Executive Director	28/9/17	28/9/17
Andy Jeffs	Executive Director	28/9/17	29/9/17
Rob Stubbs	Deputy Director/Head of Finance	28/9/17	29/9/17
Mary Kilner	Head of Law and Governance	28/9/17	29/9/17

## REPORT HISTORY

<b>Decision type:</b> Non-key decision	<b>Urgency item?</b> No
Report Author: Kathy Hook, Lead HR Business Partner, 01628 796414	

Report Title:	<b>Revision to Grievance Procedure</b>
Contains Confidential or Exempt Information?	NO - Part I
Member reporting:	N/A
Meeting and Date:	Employment Panel 14 August 2017
Responsible Officer(s):	Terry Baldwin, Head of HR
Wards affected:	None

## REPORT SUMMARY

HR regularly review the Council's employment policies and procedures to see if they can be simplified for the benefit of users. The Royal Borough's grievance procedure for its employees currently has three stages. An employee who remains dissatisfied with the outcome of their grievance at stages one and two is able to have their grievance heard at stage three by the Council's Member Employment Appeal Panel (EAP). This report recommends shortening the current procedure and is in accordance with the ACAS code.

## 1 DETAILS OF RECOMMENDATION(S)

**RECOMMENDATION:** That Employment Panel notes the report and:

- i) Approves the revision of the RBWM Grievance Procedure to a two stage process carried out by officers.

## 2 REASON(S) FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

### Background

- 2.1 All employees of the council are able to raise a grievance. Grievances are concerns, problems or complaints that employees raise with their employers. The council has a grievance procedure that covers all Royal Borough employed staff and encourages the resolution of issues informally through discussion with the individual's immediate manager. The procedure sets out the formal steps to be followed if the individual believes that informal action has failed to resolve the matter or produces an outcome which doesn't satisfy them.
- 2.2 The council's grievance procedure has three formal stages, as set out in table 1. The full grievance procedure is attached as appendix A

**Table 1 – Formal stages of the grievance procedure**

<b>Stage one</b>	Employee must set out their grievance in writing for consideration by their line manager	Line manager meets with employee, investigates further and notifies employee of the outcome
<b>Stage two</b>	If the employee remains dissatisfied with the outcome they can escalate their grievance to stage two for consideration by the Head of Service	Head of Service reviews the case and notifies employee of the outcome



<b>Stage three</b>	If the employee remains dissatisfied with the outcome they can escalate their grievance to stage 3 which is the final stage	The final stage is heard by the council's EAP comprising of three Elected Members
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2.3 14 formal grievances have been lodged by employees since the beginning of 2016. Table 2 shows the split of formal cases at each stage and it should be noted that none of the three grievances raised to stage three since the start of 2016 have been upheld. EAP have agreed with the decision at stage two in all cases.

**Table 2: Formal grievances and stage resolved/completed**

<b>Formal Stage</b>	<b>Number of Grievances</b>
Stage 1	7
Stage 2	4
Stage 3	3
<b>Total</b>	<b>14</b>

2.4 HR regularly review employment procedures to see if they can be simplified and made more accessible to employees. The current three stage grievance procedure is overly cumbersome, complex and lengthy particularly as stage two has been carried out by a senior leadership team member. This gives rise to a prolonged period of uncertainty for all parties involved whilst the final resolution is outstanding. In addition a significant amount of management time and HR support is required to service a procedure of this length and number of stages.

#### **Proposed revision**

- 2.5 The revised procedure is attached as appendix B and proposes that:
- A two stage procedure is introduced.
  - The final stage will be considered by a member of senior leadership team, usually a Head of Service unless they have been involved at an earlier stage.
  - Where the Head of Service has been involved at stage one, the appeal will be considered by a Deputy Director or Executive Director/Managing Director
- 2.6 The ACAS Code of practice on discipline and grievance has no requirement for a three stage process. It states that where an employee feels that their grievance has not been satisfactorily resolved they should appeal and that appeals should be dealt with impartially and wherever possible by a manager who has not previously been involved in the case. There is no provision within the code to offer an employee more than one opportunity to appeal.

#### **Impact of proposed revision**

- 2.7 20 working days are allowed for the scheduling of the EAP which is required for practical reasons. Removing the third stage will significantly reduce the time taken to reach a final resolution and complete the process, therefore lessening the impact and uncertainty on the employee, management and HR.
- 2.8 There is the possibility a reduction in the number of stages and removal of the opportunity to have grievances considered by Members may be viewed negatively by staff. However the revised procedure is fully compliant with the ACAS code and the opportunity to have grievances considered by a senior

## APPENDIX

officer of the council not previously involved in the case is retained. It should also be noted that comparatively few employees raise a grievance under the procedure. Of the 14 formal grievances raised since the beginning of 2016, three have been raised to stage three. As stated in 2.3 in each of these cases the grievance has not been upheld by Members and the outcome at stage two remained unchanged. This demonstrates that officers are appropriately dealing with grievances at earlier stages and the actual impact on staff as a result of changing the procedure is likely to be minimal.

### Monitoring and lessons learned

- 2.9 A briefing note detailing the types and number of grievances, as well as lessons learned, will be provided to Employment Panel on a quarterly basis.

**Table 3: Options**

Option	Comments
Do nothing. This is not recommended.	The grievance procedure will continue to be lengthy and resource intensive with extended periods of uncertainty for all parties. The current procedure is cumbersome and protracted.
Revise the RBWM grievance procedure to a two stage officer consideration process. <b>This is the recommended option</b>	Changing the procedure to a two stage process is legally compliant and will enable employees the opportunity to have grievances heard with a right of appeal if they remain dissatisfied. Reduction in the number of stages will significantly reduce the overall time and resource taken to complete the process.

## 3 KEY IMPLICATIONS

### 3.1 Table 4: Key implications

Outcome	Unmet	Met	Exceeded	Significantly Exceeded	Date of delivery
Revised procedure implemented and communicated to staff.		1 Sept 2017			1 Sept. 2017

## 4 FINANCIAL DETAILS / VALUE FOR MONEY

- 4.1 There are no direct financial implications as a result of the recommendation. Revision of the grievance procedure to a two stage officer determined process will reduce the level of management, HR and Member time and resource required.

**Table 5: Financial impact of report's recommendations**

<b>REVENUE</b>	2017/18	2018/19
Addition	£0	£0
Reduction	£0	£0
Net impact	£0	£0

<b>CAPITAL</b>		
Addition	£0	£0
Reduction	£0	£0
Net impact	£0	£0

## 5 LEGAL IMPLICATIONS

- 5.1 The ACAS Code of Practice on discipline and grievance provides basic practical guidance to employers, employees and their representatives and sets out the principles for handling discipline and grievance situations in the work place. A failure to follow the code does not, in itself, make a person or organisation liable to proceedings. However employment tribunals will take the Code into account when considering relevant cases and may adjust any awards made in relevant cases by up to 25% for unreasonable failure to follow the code.

## 6 RISK MANAGEMENT

### 6.1 Table 6: Impact of risk and mitigation

<b>Risks</b>	<b>Uncontrolled Risk</b>	<b>Controls</b>	<b>Controlled Risk</b>
Revision perceived negatively by staff leading to low morale.	LOW – Staff may view revision as reducing opportunities to resolve issues and prevention of access to Members.	Communicate benefits to staff at time of publication i.e swifter resolution.	LOW – Majority of staff will understand the reason for the change and it is a small number of staff who use the procedure and therefore will effect a very small number.

## 7 POTENTIAL IMPACTS

- 7.1 This revision will enable the relatively small number of employees who raise a grievance to receive a final outcome within a shorter period of time and the procedure will be more straight forward and accessible.
- 7.2 An EQIA has not been carried out.

## 8 CONSULTATION

8.1 Discussions have taken place with the Principal Member for HR, Managing Director and members of CMT and SLT prior to the submission of this report. All support the proposed revision.

8.2 The proposal has been circulated to the recognised Trade Unions.

## 9 TIMETABLE FOR IMPLEMENTATION

9.1 The revised procedure will be published and the change communicated to staff by 1 September 2017.

## 10 APPENDICES

10.1 Appendix A – Current RBWM Grievance Procedure.  
Appendix B – Proposed RBWM Grievance Procedure.

## 11 BACKGROUND DOCUMENTS

11.1 None.

## 12 CONSULTATION (MANDATORY)

Name of consultee	Post held	Date sent	Commented & returned
Cllr L Targowska	Principal Member	03/08/17	04/08/17
Alison Alexander	Managing Director	01/08/17	02/08/17
Rob Stubbs	Section 151 Officer	01/08/17	03/08/17
Andy Jeffs	Executive Director	01/08/17	04/08/17
Mary Kilner	Head of Law and Governance	01/08/17	03/08/17

### REPORT HISTORY

<b>Decision type:</b> Non-key decision	<b>Urgency item?</b> No
Report Author: Kathy Hook, Lead HR Business Partner, 01628 796414	

## ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD

### GRIEVANCE PRODECURE

**Covers:**

- **Informal Action**
- **Formal Procedure**
- **Stage One of Procedure**
- **Stage Two of Procedure**
- **Stage Three of Procedure**

## ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD

### GRIEVANCE PROCEDURE

#### 1. Informal Action

- 1.1 Most routine complaints and grievances are best resolved informally in discussion with the employee's immediate manager or supervisor. Addressing grievances in this way can often lead to speedy resolution of problems and can help maintain the integrity of the immediate line manager who may well be able to resolve the matter directly.
- 1.2 Where this route is followed, both the manager and employee should keep a mutually agreed written note of their meeting and the outcome(s).
- 1.3 Where informal action either fails to resolve the matter within a two week period of it being raised, or produces an outcome, which does not satisfy the employee, then the grievance should be pursued under the following formal Grievance Procedure.

#### 2. Formal Procedure

- 2.1 This procedure is designed to achieve the objectives referred to in the Policy in an effective and efficient manner. It should not be used unless local discussions have left the matter unresolved, the informal approach has not proved successful or that the problem or issue is inappropriate to be dealt with through the normal communication channels at that level.
- 2.2 This would include cases where the grievance relates in some way to the conduct or performance of the employees immediate line manager. In such cases the grievance should initially be raised with the next senior level of management and consideration for interim reporting lines should be discussed where appropriate.
- 2.3 If the grievance relates to bullying or harassment, wherever possible a manager outside of the immediate service area should conduct the formal process.
- 2.4 To enable full consideration of the issue or issues, any relevant documents should be supplied either with the written grievance or at least 2 working days prior to any meeting.
- 2.5 There are three stages to the formal Grievance Procedure. A member of the HR Business Partner team should be present at any formal meetings held within each stage in order to facilitate the process and to actively assist in

seeking a resolution to the grievance. Employees have the right to be accompanied at each stage of the procedure.

3.1 Have the option for somebody other than the manager to receive the grievance from the employee. The Head of HR should be able to appoint suitable person to receive the grievance from the employee

### **2.4.1 Stage One**

2.4.1.1 Employees must set out their grievance in writing and send their statement to their immediate line manager within ten working days of the issue occurring or as soon as is reasonably practicable or, if it remains unresolved at the informal stage. In certain circumstances a direct personal approach will be accepted, particularly if the issue involves a sensitive or personal matter, but must be followed up in writing afterwards.

2.4.1.2 The individual must clearly indicate:

- that the formal Grievance Procedure is being invoked
- the details of the grievance including, where appropriate, against whom the grievance is lodged and the reasons for this
- How, in their view, their grievance can be reasonably resolved to their satisfaction or what resolution is expected.

2.4.1.3 A Pro-Forma has been produced to aid the process:

[Grievance procedure registration form](#)

2.4.1.4 Where the grievance appears to be immediately unresolvable, the line manager must arrange a meeting with the individual as soon as is reasonably practicable. The first meeting should normally take place within 10 working days of the notification of the grievance being received. This will allow the manager a reasonable opportunity to consider a response to the grievance.

2.4.1.5 If the initial meeting cannot be arranged within the above timescale, the employee will receive written notification of the reasons for the delay and an indication of when the meeting will take place.

2.4.1.6 When the employee is informed of the date of the meeting they will also be advised of their right to be accompanied.

2.4.1.7 A written summary of the contents of the meeting will be recorded on the Pro-Forma by the manager and will include all decisions, recommendations and outcomes. This will be signed and kept by both parties with a copy sent to the HR Business Partner team to be kept confidentially on the employee's personal file. Where an individual chooses not to be accompanied at the meeting this fact will also be recorded in the written summary.

2.4.1.8 Managers will only be able to fully complete the Pro-Forma once the employee has received confirmation from the manager of the outcome of the meeting and indicated whether the grievance is settled or they wish to proceed to the next stage. The employee's decision needs to be made within 10 working days of receiving the outcome of the grievance at this stage.

2.4.1.9 Where an employee believes that there has been undue delay in addressing their grievance at Stage One, is not satisfied with the progress being made, or cannot accept the proposed period before action is to be taken, then they are able to progress their grievance to Stage Two automatically.

### **2.4.2 Stage Two**

2.4.2.1 If an employee disagrees with the decision(s) made at Stage One they have a right to refer the matter to Stage Two of the procedure. This right can only be exercised if the employee seeks a referral to Stage Two within 10 working days of being notified of the outcome of Stage One.

2.4.2.2 In pursuing their grievance to Stage Two, the employee must submit a letter asking for their grievance to be considered further at Stage Two of the Grievance Procedure. This letter will need to include the reasons why the employee remains dissatisfied and how they see the grievance being reasonably resolved to their satisfaction. The letter should be addressed to the Head of Service. A copy of this letter must also be sent to the Human Resources Business Partner Team.

2.4.2.3 The Head of Service will arrange a meeting with the employee normally within 10 working days of receipt of the employee's letter of appeal. Any subsequent meetings required at this stage will be mutually agreed and normally arranged within 5 working days of each other. When the employee is informed of the date of the meeting they will also be advised of their right to be accompanied.

2.4.2.4 If any meeting cannot be arranged within this timescale, the employee will receive written notification of the reasons for the delay and an indication of when the meeting will take place.

2.4.2.5 The Head of Service in consultation with the HR Business Partner representative will consider the grievance as documented from Stage One. Where the issues are complex this initial meeting may be of an exploratory nature and lead to further investigations being carried out or further information being sought.

2.4.2.6 A written summary of the contents of the meeting, including all decisions, recommendations and outcomes, will be made by the Head of Service by use of the Pro Forma, with a copy to the HR Business Partner team to be kept confidentially on the employee's personal file. All decisions and outcomes will be confirmed in writing to the employee within 5 working days of the final meeting being held with the employee to consider the grievance at this stage of the procedure.



2.4.2.7 Again, Managers will only be able to fully complete the Pro-Forma once the employee has received confirmation from the manager of the outcome of the grievance at this stage and indicated within 10 working days whether the grievance is settled or they wish to proceed to the next stage.

### **2.4.3 Stage Three**

2.4.3.1 Where the employee still remains dissatisfied with the outcome of their grievance they may appeal against the decision(s) made at Stage Two and progress to Stage Three of the Grievance Procedure. The appeal must be made in writing to the Members Appeal Panel, within 10 working days of receiving formal notice of the outcome of their grievance at Stage Two.

As at previous stages, this letter should include the reasons why the employee remains dissatisfied and how they see the grievance being reasonably resolved to their satisfaction. A copy of this letter must also be sent to the HR Business Partner team.

2.4.3.2 A meeting of the Members Appeal Panel will normally be arranged within 20 working days of receipt of the appeal or sooner where practicable. When the employee is informed of the date of the meeting they will also be advised of their right to be accompanied.

2.4.3.3 The Head of Service will present the council's case, representatives from both Legal and HR may advise the Panel. The decision of the Panel will be given verbally wherever possible and all decisions and outcomes will be confirmed in writing to the employee within 5 working days of the final meeting being held with the employee.

2.4.3.4 A written summary of the contents of the meeting, including all decisions, recommendations and outcomes, be made by the Employment Panel will be kept confidentially on the employee's personal file with a copy to the HR Business Partner team.

2.4.3.5 The decision of at the Members Appeal Panel is final

**ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD**

**GRIEVANCE PROCEDURE**

This document should be read in conjunction with the Royal Borough of Windsor and Maidenhead Grievance Policy.

**Covers:**

- **Informal Action**
- **Formal Procedure**
- **Stage One of Procedure**
- **Stage Two of Procedure**

**ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD****GRIEVANCE PROCEDURE****1. Informal Action**

- 1.1 Most routine complaints and grievances are best resolved informally in discussion with the employee's immediate manager or supervisor. Addressing grievances in this way can often lead to speedy resolution of problems and can help maintain the integrity of the immediate line manager who may well be able to resolve the matter directly. Where support may be required, the individual can speak to the HR Business Partner team.
- 1.2 Where this route is followed, both the manager and employee should keep a mutually agreed written note of their meeting and the outcome(s).
- 1.3 Where informal action either fails to resolve the matter within a two week period of it being raised, or produces an outcome, which does not satisfy the employee, then the grievance should be pursued under the following formal Grievance Procedure.

**2. Formal Procedure**

- 2.1 This procedure is designed to achieve the objectives referred to in the Policy in an effective and efficient manner. It should not be used unless local discussions have left the matter unresolved, the informal approach has not proved successful or that the problem or issue is inappropriate to be dealt with through the normal communication channels at that level.
- 2.2 This would include cases where the grievance relates in some way to the conduct or performance of the employees immediate line manager. In such cases the grievance should initially be raised with the next senior level of management and consideration of interim reporting lines should be discussed where appropriate. The HR Business Partner team can provide advice on this process.
- 2.3 If the grievance relates to bullying or harassment, wherever possible a manager outside of the immediate service area should conduct the formal process. HR will provide support where required.
- 2.4 To enable full consideration of the issue or issues, any relevant documents should be supplied either with the written grievance or at least 2 working days prior to any meeting.
- 2.5 There are two stages to the formal Grievance Procedure. A member of the HR Business Partner team should be present at any formal meetings held within each stage in order to facilitate the process and to actively assist in seeking a resolution to the grievance. Employees have the right to be accompanied at each formal stage of the procedure.

### 3. Stage One

- 3.1 Employees must set out their grievance in writing and send their statement to their immediate line manager, copying the HR Business Partner team within ten working days of the issue occurring or as soon as is reasonably practicable or, if it remaining unresolved at the informal stage. In certain circumstances a direct personal approach will be accepted, particularly if the issue involves a sensitive or personal matter, but must be followed up in writing afterwards.
- 3.2 The individual must clearly indicate:
- That the formal grievance procedure is being invoked
  - The details of the grievance including, where appropriate, against whom the grievance is lodged and the reasons for this
  - How, in their view, their grievance can be reasonably resolved to their satisfaction or what resolution is expected
- 3.3 A Pro-Forma has been produced to aid the process-  
[Grievance procedure registration form](#)
- 3.4 Where the grievance appears to be immediately unresolvable, the line manager must arrange a meeting with the individual as soon as is reasonably practicable. The first meeting should normally take place within 10 working days of the notification of the grievance being received. This will allow the manager a reasonable opportunity to consider a response to the grievance.
- 3.5 If the initial meeting cannot be arranged within the above timescale, the employee will receive written notification of the reasons for the delay and an indication of when the meeting will take place.
- 3.6 When the employee is informed of the date of the meeting they will also be advised of their right to be accompanied.
- 3.7 A written summary of the contents of the meeting will be recorded on the Grievance Response Form by the manager and will include all decisions, recommendations and outcomes. This will be signed and kept by both parties with a copy sent to the HR Business Partner team to be kept confidentially on the employee's personal file. Where an individual chooses not to be accompanied at the meeting this fact will also be recorded in the written summary.
- 3.8 Managers will only be able to fully complete the form once the employee has received confirmation from the manager of the outcome of the meeting and indicated whether the grievance is settled or they wish to proceed to the next stage. The employee's decision needs to be made within 10 working days of receiving the outcome of the grievance at this stage.
- 3.9 Where an employee believes that there has been undue delay in addressing their grievance at stage one, is not satisfied with the progress being made, or

cannot accept the proposed period before action is to be taken, then they are able to progress their grievance to stage two automatically.

#### 4. Stage Two

- 4.1 If an employee disagrees with the decision(s) made at stage one they have a right to refer the matter to stage two of the procedure. This right can only be exercised if the employee seeks a referral to stage two within 10 working days of being notified of the outcome of stage one.
- 4.2 In pursuing their grievance to stage two, the employee must submit a letter asking for their grievance to be considered further at stage two of the Grievance Procedure. This letter will need to include the reasons why the employee remains dissatisfied and how they see the grievance being reasonably resolved to their satisfaction. The letter should be addressed to the Head of Service. A copy of this letter must also be sent to the HR Business Partner Team.
- 4.3 The Head of Service will arrange a meeting with the employee normally within 10 working days of receipt of the employee's letter of appeal. Any subsequent meetings required at this stage will be mutually agreed and normally arranged within 5 working days of each other. When the employee is informed of the date of the meeting they will also be advised of their right to be accompanied.
- 4.4 If any meeting cannot be arranged within this timescale, the employee will receive written notification of the reasons for the delay and an indication of when the meeting will take place.
- 4.5 The Head of Service in consultation with the HR Business Partner representative will consider the grievance as documented from stage one. Where the issues are complex this initial meeting may be of an exploratory nature and lead to further investigations being carried out or further information being sought.
- 4.6 A written summary of the contents of the meeting, including all decisions, recommendations and outcomes, will be made by the Head of Service on the Grievance Response Form, with a copy to the HR Business Partner team to be kept confidentially on the employee's personal file. All decisions and outcomes will be confirmed in writing to the employee within 10 working days of the final meeting being held with the employee to consider the grievance.
- 4.7 Where the grievance was considered by the Head of Service at stage one, the employee should send their letter to the next senior manager for example, Deputy Director or Executive Director. That person will either consider the grievance themselves or nominate another manager senior to the person who considered the grievance at stage one.
- 4.8 The decision of the Manager considering the grievance at stage two is final.

**Senior Leadership Team**

- 4.9 Should a member of the senior leadership team, (Heads of Service, Deputy Director or Executive Director) raise a grievance, the above process will be followed, however it may be appropriate for an elected Member to hear the Stage 2 appeal.
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# Agenda Item 6

By virtue of paragraph(s) 1, 4 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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