

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

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 employee's 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

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## **APPENDIX B**

### **Proposed Procedure**

# **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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