

**CITY AND COUNTY OF CARDIFF
DINAS A SIR CAERDYDD**

Employment Conditions Committee: 24 November 2004

Report of the Corporate Director (Policy)

AMENDMENTS TO GRIEVANCE POLICY AND PROCEDURE

Background

1. Under the provisions of the Employment Act 2002 all employees must have access to a statutory grievance procedure. The regulations define a grievance as “a complaint by an employee about action which his employer has taken or is contemplating taking in relation to him.” In brief the Act introduces with effect from 1 October 2004 the following three step procedure
 - **Step 1.** The employee must set down in writing the nature of the alleged grievance and send the written complaint to the employer.
 - **Step 2.** The employer must invite the employee to a meeting to discuss the grievance, and after the meeting inform the employee of it’s decision and the right to appeal.
 - **Step 3.** If the employee is dissatisfied with the result of the hearing, he/she must have the right to appeal. A further hearing must be held with where possible a more senior manager attending the appeal.
2. The Council’s existing procedure in general meets the requirement of the Act, with the exception that it does not contain a procedure for the Chief Executive to raise a grievance.

Issues

3. The purpose of this report is to recommend that the current grievance procedure is amended so that it complies with the Act with regard to the Chief Executive. When an employee raises a grievance it is usually heard by a more senior officer. As the Head of Paid Service the Chief Executive is the most senior member of staff employed by the Council and therefore any grievance will have to be heard by Elected Members.

Proposals

4. That should the Chief Executive wish to raise a grievance then the issue should heard by a panel of Elected Members.
5. That if the Chief Executive is dissatisfied with the outcome of a grievance hearing then he should have the right to appeal to an alternative panel of Elected Members. The decision of the alternative panel will be final.

6. The panels should consist of no more than 5 and no less than 3 members and should be selected in accordance with the procedure for selecting disciplinary appeals panels.
7. The existing grievance procedure has been amended to reflect these proposals and a copy is attached as appendix A.

Advice

8. This report has been prepared in consultation with relevant Corporate Directors and reflects their advice. It contains all the information necessary to allow Members to arrive at a reasonable view, taking into account the following advice.

Legal Implications

9. The Employment Act 2002 and the Employment Act 2002 (Dispute Resolution) Regulations 2004 provide for all employees having the right to a dispute resolution process. The Council's Grievance Procedure is the process within which Council employees may raise issues concerning actions or contemplated actions against them (which would include actions taken by Managers appointed to manage on the Council's behalf). All decisions taken by or on behalf the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers of behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. standing orders and financial regulations; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

Financial Implications

9. There are no financial implications arising from this report.

Human Resource Implications

10. The amendments to the grievance procedure recommended in this report will enable the Council to comply with the Employment Act 2002 with regard to the Chief Executive's right to raise a grievance.

Trade Union Comments

11. The Trade Unions are content that the Grievance Policy and Procedure be amended to include a procedure in respect of the Chief Executive.

RECOMMENDATION

It is recommended that the Council's Grievance Policy and Procedure is amended in accordance with the attached appendix A.

STEVEN PHILLIPS
CORPORATE DIRECTOR

16 November 2004

The following appendix is attached:

Appendix A - Revised Grievance Policy and Procedure

CARDIFF COUNCIL

GRIEVANCE POLICY & PROCEDURE

PURPOSE

1. The Council recognises that from time to time, employees may wish to seek redress for grievances relating to their employment. It also recognises that it has a responsibility to deal with any such grievances raised in a timely fashion to maintain discipline, good order, motivation and morale amongst the employee in the interests of service delivery.
2. In this respect, therefore, the Council's policy is to encourage free communication between employees and their respective managers to ensure that questions and/or problems arising during the course of employment can be aired and, wherever possible, resolved quickly and informally to the satisfaction of all parties.
3. To that end, therefore, the Council's Grievance Procedure should be followed in respect of grievances that, for whatever reason, cannot be resolved informally.

SCOPE

4. This policy applies to **all** employees of the County Council with the exception of its school based employees and aims to provide a single framework for the resolution of individual as well as collective grievances. The Policy is commended to all School Governing Bodies.

KEY PRINCIPLES

5. The Policy and the Procedure that underpins it will apply to all grievances (both individual and collective) and to registered disputes. The process and procedure must be adhered to by all parties.
6. Employees can register individual and/or collective grievances about any aspect of their employment with the Council without fear of reprisal and/or recrimination. Employees cannot use this Policy and Procedure if the nature of the grievance relates directly to their substantive grade or constitutes an appeal against disciplinary decisions taken against them.

[In the case of the former, the Council has a separate procedure for dealing with any applications for regrading submitted by employees. In the case of the latter, appeals against disciplinary decisions can only be taken up in accordance with the Council's Disciplinary Procedure]
7. Employees registering a grievance have the right to pursue the grievance without representation but also have the right to be represented, at any stage of the Procedure, by a trade union representative or work colleague.
8. Where more than one employee has the same grievance, then the Procedure should be applied on a group basis. A group grievance will be subject to one investigation and will be treated as a single grievance albeit from a group of employees.

9. The reference to “days” in the Procedure means **working days** from Monday to Friday. The time limits incorporated into the Procedure are to ensure the speedy resolution of grievances. All parties will endeavour to deal with grievances as quickly as possible and within the timescales stated. Should it be necessary, the time limits can be extended or modified but only with the agreement of all the parties.
10. Where a grievance relates to a difference in the interpretation and/or application of a particular Council policy, procedure or agreement, consideration of the grievance may be adjourned with the agreement of all the parties to enable appropriate advice and guidance to be sought. When this has been received, consideration of the grievance will be resumed at the level at which it was adjourned.
11. Records should be kept of each stage of the Procedure and checked for accuracy by all parties. Employees should be given copies of any meeting records. All such records will be regarded as confidential and retained in accordance with the provisions of the Data Protection Act 1998
12. Each grievance will be considered on its merits looking at the individual issues and circumstances involved.
13. The Council reserves the right to deal with any unusual or urgent grievance outside the normal Grievance Procedure but will only exercise that right, following consultation with all the parties, in truly exceptional circumstances.
14. This Policy and Procedure will be reviewed in the light of operational experience.

PROCEDURE

15. For ease of reference, the Procedure has been written in the singular i.e. reference is made throughout to the “employee” and to “him” or “her” etc. The procedure, however, as outlined in the Key Principles, is intended to apply on a group basis where more than one employee has the same grievance.

Stage 1

16. Where an employee has a grievance relating to any aspect of his/her employment with the Council, he/she should raise the matter in writing using the Grievance Form ([GP 1](#)) with his/her immediate line manager/supervisor.
17. The person with whom the grievance has been lodged must make arrangements to meet with the employee (and his/her representative if one has been appointed) as soon as possible but not later than **5 days** after receiving the GP1 Form.
18. The line manager/supervisor, after due consideration of the grievance, will record on the GP 1 form when he/she heard the grievance and will communicate his/her decision in writing to the employee (and his/her representative if one has been appointed) within **7 days** of the meeting.

Stage 2

19. If an employee is dissatisfied with the decision communicated to him/her at Stage 1, he/she may request a meeting to discuss the grievance with the appropriate Operational Manager. The request to meet with the Operational Manager must be made **in writing** and must be

submitted to him/her within **5 days** of the Stage 1 decision being communicated to the employee(s).

20. The Operational Manager will obtain from the employee's immediate line manager or supervisor a copy of the original GP 1 form together with a copy of any notes taken at the first meeting. He/she will then arrange to meet with the employee (and his/her representative if one has been appointed) within **5 days** of receiving the written request for a meeting.
21. The Operational Manager will consider the grievance, make a record of the hearing and will communicate his/her decision to the member(s) of staff **in writing** within **7 days** of the meeting.

Stage 3

22. If the employee remains dissatisfied with the decision of the Operational Manager, he/she may request a meeting with the appropriate Head of Service. The request to meet with the Head of Service must be made **in writing** and must be submitted to him/her within **5 days** of receiving the letter that communicated the Operational Manager's decision.
23. The Head of Service will obtain from the Operational Manager copies of all correspondence (including the meeting notes from Stages 1 & 2) in his/her possession relating to the grievance. He/she will then arrange to meet with the employee (and his/her representative if one has been appointed) within **5 days** of receiving the written request for a meeting.
24. The Head of Service will consider the grievance, make a record of the hearing and will communicate his/her decision to the employee (in writing) within **7 days** of the meeting.

Stage 4

25. If the employee remains dissatisfied with the decision of the Head of Service, he/she may request a meeting with the appropriate Corporate Manager. The request to meet with the Corporate Manager must be made **in writing** and submitted to him/her within **5 days** of receiving the letter that communicated the Head of Service's decision.
26. The Corporate Manager will obtain from the Head of Service copies of all correspondence (including the meeting notes from Stages 1, 2 and 3) in his/her possession relating to the grievance. He/she will then arrange to meet with the employee (and his/her representative if one has been appointed) with **5 days** of receiving the written request for a meeting.
27. The Corporate Manager will consider the grievance, make a record of the hearing and will communicate his/her decision to the employee (in writing) within **7 days** of the meeting.

Stage 5 – This stage is only open to Officers at Chief Officer Level and above

28. If the employee remains dissatisfied with the decision of the Corporate Manager, he/she may request a meeting before a panel of elected members. The request to meet the elected members must be made **in writing** and must be submitted to the Head of Human Resources within **5 days** of receiving the letter that communicated the Corporate Manager's decision on the matter.

29. The Head of Legal Services, in consultation with the Head of Human Resources, will organise a meeting of a panel of elected members appointed to hear the grievance at the earliest opportunity.
30. Copies of **all** correspondence relating to the grievance (including the meeting notes taken at Stages 1,2, 3 and 4) will be despatched to the elected members in advance of the hearing. The Corporate Manager will present the “management case” to the elected members and may be accompanied (if he/she wishes) by the Head of Service who made the Stage 3 decision.
31. In a collective grievance there could be a significant number of employees involved so the Council reserves the right to restrict the “employee side” delegation attending the actual meeting with the members to a maximum of 2 plus their representative (if one has been appointed).
32. It is a matter for the employees themselves (and their representative if one has been appointed) to determine which employees will appear before the Panel.
33. The Panel shall hear the grievance and communicate its decision and its rationale to the employee involved (and to their representative if one has been appointed) either verbally on the day of the actual hearing or **in writing** within **7 days** of the hearing.

Stage 6 – This Stage is only Open to the Chief Executive

34. If the Chief Executive wishes to raise a grievance under the provisions of this Policy and Procedure then he/she may request a meeting before a panel of elected members. The request to meet the elected members must be made in writing and must be submitted to the Chief Human Resources Officer.
35. The Chief Legal and Democratic Services Officer, in consultation with the Chief Human Resources Officer, will at the earliest opportunity organise a meeting of a panel of elected members appointed to hear the grievance.
36. Copies of **all** correspondence relating to the grievance will be despatched to the Panel Members in advance of the hearing.
37. The Panel shall hear the grievance and communicate its decision and its rationale to the Chief Executive (and to his/her representative if one has been appointed) either verbally on the day of the actual hearing or **in writing** within **7 days** of the hearing.

Stage 7 – This Stage is only Open to the Chief Executive

38. If the Chief Executive remains dissatisfied with the decision of the Panel, he/she may request a meeting before a alternative panel of elected members. The request to meet the elected members must be made **in writing** and must be submitted to the Head of Human Resources within **5 days** of receiving the letter that communicated the Panel’s decision on the matter
39. The Chief Legal and Democratic Services Officer, in consultation with the Chief Human Resources Officer, will at the earliest opportunity organise a meeting of an alternative panel of elected members appointed to hear the appeal
40. The Panels will contain not more than 5 and not less than three Members and be selected in accordance with the procedure for the disciplinary appeals panel.

41. Copies of **all** correspondence relating to the grievance (including the notes taken at the first grievance hearing) will be despatched to the Alternative Panel Members in advance of the hearing.
42. The Panel shall hear the grievance and communicate its decision and its rationale to the Chief Executive (and to his/her representative if one has been appointed) either verbally on the day of the actual hearing or **in writing** within **7 days** of the hearing. The decision of this panel will be final.

SUPPLEMENTARY ADVICE & GUIDANCE ON THE OPERATION OF THE COUNCIL'S GRIEVANCE PROCEDURE

43. The above mentioned procedure is to be regarded as the “model” procedure and Appendix A, for ease of reference, is a “flow chart” that maps out the various Stages within the process.
44. The Council recognises, however, that the “model” procedure may not be appropriate for all grievances and Appendix B, therefore, sets out a number of “customised” versions intended to cope with all eventualities.
45. The time limits set out in the “model” procedure will apply to the “customised” versions.

A "FLOW CHART" THAT MAPS OUT THE KEY STAGES OF THE COUNCIL'S "MODEL" GRIEVANCE PROCEDURE

Stage 1

Employees wishing to register a formal grievance (individual or collective) must complete a [GP 1 Form](#) and submit it to the relevant Line Manager/Supervisor.

Meeting organised by the relevant manager within **5 days** of receipt of the GP 1 Form.

Meeting held. Decision communicated **verbally** to the employee(s) within **7 days** of the meeting.

Stage 2

Employees dissatisfied with the decision at Stage 1 may request a meeting with the relevant Operational Manager. The request must be submitted in writing within **5 days** of receiving **verbal decision** of the relevant line manager/supervisor.

Meeting organised by the Operational Manager within **5 days** of receipt of the written request.

Meeting held. Decision communicated **in writing** to the employee(s) within **7 days** of the meeting

Stage 3

Employees dissatisfied with the decision at Stage 2 may request a meeting with the Head of Service. The request must be submitted in writing within **5 days** of receiving the **written decision** of the Operational Manager.

Meeting organised by the Head of Service within **5 days** of receipt of the written request.

Meeting held. Decision communicated **in writing** to the employee(s) within **7 days** of the meeting.

Stage 4

Employees dissatisfied with the decision at Stage 3 may request a meeting with the relevant Corporate Manager. The request to meet must be submitted in writing within **5 days** of receiving the **written decision** of the Head of Service.

Meeting organised by the Corporate Manager within **5 days** of receipt of the written request.

Meeting held. Decision communicated **in writing** to the employee(s) within **7 days** of the meeting.

Stage 5 - Stage Only open to Staff at Chief Officer Level and Above

Employees dissatisfied with the decision at Stage 4 may request a meeting before a panel of elected members. The request to meet the elected members must be submitted **in writing** within **5 days** of receiving the **written decision** of the relevant Corporate Manager.

Meeting held. Decision communicated by the Panel either **verbally** on the day of the hearing or **in writing** within **7 days** of the meeting. The decision of the elected members shall be deemed to be final.

Stage 6 Stage Only Open To the Chief Executive

The First stage for the Chief Executive, who may request a meeting before a panel of elected members. The request to meet the Panel must be submitted **in writing**.

Meeting held. Decision communicated by the Panel either **verbally** on the day of the hearing or **in writing** within **7 days** of the meeting

Stage 7 Stage Only Open To the Chief Executive

If the Chief Executive remains dissatisfied with the decision of the Panel, he/she may request a meeting before a alternative panel of elected members. The request must be made **in writing** and must be submitted within **5 days** of receiving the Panel's decision on the matter.

Meeting held. Decision communicated by the Panel either **verbally** on the day of the hearing or **in writing** within **7 days** of the meeting. The decision of the elected members shall be deemed to be final.

"CUSTOMISED" VERSIONS OF THE GRIEVANCE PROCEDURE

If the grievance is lodged against the employee's immediate line manager/supervisor

Stage 1 – Operational Manager

Stage 2 - Head of Service

Stage 3 - Relevant Corporate Manager - **Final Stage**

If the grievance is lodged against a particular Operational Manager

Stage 1 - Head of Service

Stage 2 - Relevant Corporate Manager – **Final Stage**

If the grievance is lodged against a particular Head of Service

Stage 1 - Relevant Corporate Manager

Stage 2 – Chief Executive – **Final Stage**

If the grievance is lodged against a particular Corporate Manager

Stage 1 - Another Corporate Manager

Stage 2 - Chief Executive - **Final Stage**

If the grievance is lodged against or by the Chief Executive

Stage 1-Elected Members

Stage 2 - Alternative Panel of Elected Members – **Final Stage**