



The grievance procedure is intended as the tool by which employees may formally have a grievance, regarding any condition of their employment, heard by the Council. It confirms that the Council will follow the ACAS Code of Practice when dealing with grievances [https://www.acas.org.uk/media/1043/Discipline-and-grievance-at-work-The-Acas-guide/pdf/DG\\_Guide\\_Feb\\_2019.pdf](https://www.acas.org.uk/media/1043/Discipline-and-grievance-at-work-The-Acas-guide/pdf/DG_Guide_Feb_2019.pdf). This reflects the provisions governing grievances at work found in the Employment Act 2008 and The Employment Tribunals (Constitution & Rules of Procedure) (Amendment) Regulations 2008 and LTN22 /Disciplinary and Grievance Arrangements. National Association of Local Councils ( Issued November 2019)

### **Ledbury decision**

The High Court case of R (Harvey) v Ledbury Town Council [2018] EWHC 1151 ( Admin) ( “ Ledbury”) has changed the way in which councils must deal with an employee grievance if the complaint is about the conduct of a councillor. Employees cannot now use **the formal stages** of their council’s grievance procedure if their complaint should be dealt with under the council’s code of conduct. If the council cannot resolve the **matter informally ( which can include mediation)** the complaint can only be dealt with by the employee submitting their complaint to the principal monitoring officer. The council has no power to deal with it. If the complaint is not a code of conduct matter, it can be dealt with under the formal stages of the council’s grievance procedure. For more information on Ledbury see Legal Briefing L 08-18 June 2018

In the event of employees wishing to raise a grievance, it is preferable for the grievance to be satisfactorily resolved as close to the individual and their line manager as possible. It is accepted that this might not always be possible and that a formal procedure is required to ensure the swift and fair resolution of the matter/s that aggrieve employee/s.

Time scales have been fixed to ensure that grievances are dealt with quickly, however these may be extended if agreed upon by both parties, as circumstances demand, (to take into account long holidays etc.)

This procedure is not intended to deal with dismissal or disciplinary matters, which are covered under the Council’s disciplinary procedure policy.

In all matters addressed internally, the ACAS code of practice will apply to the procedure.

### **Informal Stage**

If employees raise a concern, problem or complaint against the Council as their employer or about their colleagues, the first course of action will be to speak with the Chair of the Council informally. Should the matter itself concern the Chair then employees should approach the Vice Chair.

If the matter cannot be resolved, informally, then the employee can ask that the matter is referred for objective mediation with an appointed Parish Councillor. The agreement of both parties to the dispute will be necessary. The Chair/Vice Chair will then approach a Councillor to mediate.

### **Formal process : Stage 1: Conciliation and Mediation**

If the matter cannot be resolved informally or circumstances make informal resolution inappropriate, then the employee should submit a formal written grievance within **7 (seven) working days**. The Council must respond within a like period to the grievance unless an extended period of time is agreed upon by both parties. It is the policy of the Council that discussions between both parties should be entered into with the express purpose of resolving the matter through a process of mediation seeking conciliation without taking further formal steps. Mediation will be regarded as a voluntary process where the mediator helps those involved in dispute to attempt to reach an agreement and any agreement comes from those in dispute, not

from the mediator. The mediator will not judge, apportion blame or instruct each party on what they should do. The mediator is in charge of the process of seeking to resolve the problem but not the outcome. Employees and The Council will mutually agree on a person of choice to lead the mediation process. The person does not have to be a Parish Councillor.

If mediation is not successful, then stage 2 of the formal grievance procedure can be commenced.

### **Stage 2**

For all employees, the grievance should be taken via the Chair or Vice Chairman to a panel of Parish Councillors agreed on by both parties who are fully informed of the grievance history for a public excluded debate (grievance hearing) at which both sides of the argument can be placed. Employees are entitled to representation at that meeting. This must be done within **14 (fourteen) working days** of the original

response to the employee's grievance when the employee will be sent an invitation to attend the meeting (including details of venue, time and the name of any person who may be appointed by the Council to represent or accompany the Council. The employee will be informed of the appointed person's role (eg: HR consultant, solicitor). The employee will also be informed of their statutory right to be accompanied at the meeting. Request for a companion to attend the meeting should be made in advance and the companion can be a colleague, an accredited trade union representative or an official employed by a trade union or an accredited employment professional. This includes any meeting held with them to gather facts about, discuss, consider or resolve their grievance. The companion will be permitted to address the grievance /appeal meetings, to present the employees case for his/her grievance/appeal and confer with the employee. The companion cannot answer questions put to the employee, address the meeting against the employee's wishes or prevent the employee explaining his/her case .

The employee and their companion must make reasonable efforts to attend. If the companion is not available for the proposed date of the meeting , the employee can request a postponement and can propose an alternative date that is within five working days of the original meeting date unless it is unreasonable not to propose a later date.

A member of the panel must be appointed as Chair for the meeting. The purpose of the hearing will be to attempt to resolve the grievance. The proceedings will be minuted by a note-taker. If the employee is persistently unable to attend a hearing, the Council panel will decide whether the hearing can go ahead in the employee's absence. If inability to attend is due to ill-health, the Council panel will seek the employee's consent to obtain a prognosis from the employee's GP. If the employee does not attend the hearing, they will be given the opportunity to be represented and to submit evidence. Should the hearing need to be adjourned to allow the employer to undertake further investigation, this will be permitted within a satisfactory period of time. Any further investigation must involve a full and fair research to determine the facts. After the hearing or reconvened hearing, a formal response and decision of the council panel with a full explanation will be given in writing, as will the name of the person to whom they can appeal if still aggrieved, **within 7 (seven) working days of the meeting**.

### **Stage 3**

If the employee wishes to appeal against the outcome of the hearing, or they consider that a proper or fair process was not followed; they must notify the Council within **14 (fourteen) calendar days** (taking account of long holidays) of the date of the decision letter. The notification should include written reasons for the appeal.

Appeals can be made on a number of grounds e.g.:

- A failure by the council to follow its grievance policy

- The decision was not supported by the evidence
- The action proposed by the committee was inappropriate
- New evidence has come to light since the grievance meeting

The appeal will be heard by a panel of councillors who did not sit on the panel that made the original decision. The appeal panel will not have less than three members and its decision will be final. The full Council will need to appoint the Appeal Panel and delegate relevant powers to enable the Panel to make the final decision. The appeal hearing will either take the form of a complete rehearing or a review of the original decision. The employee has a right to be accompanied. The outcome will be communicated in writing, and if possible, this will be handed to the employee as soon as possible after the appeal hearing.

#### **Stage 4**

If the council and employee decide it is so, there is an option for professional mediation or arbitration. The Council will seek the services of an external expert to forward this process to reach a conclusion satisfactory to both parties in the dispute. This appeal must be made in writing to the Chair of the Parish Council within **10 (ten) working days** of receipt of the Stage 3 response. This Chair/Vice Chair will arrange professional mediation through a recognised body. This body to be agreed on by both parties. This appeal hearing and/or process to be called **within 25 (twentyfive) working days**.

The outcome of the outside mediation/arbitration is final. There is no further right of appeal within this mechanism.

#### REVIEW HISTORY

Version 1	Adopted	20/08/12
Version 2	Adopted:	09/03/15
Version 3	Adopted:	13/07/20