



**ST HELENS**  
BOROUGH COUNCIL

**Policy Reference No: PM06**

# **Employee Dispute Resolution Policy**

## **St Helens Borough Council**

Effective from: 01/06/2022



# Employee Dispute Resolution Policy

## Policy Information

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<b>Responsible Directorate</b>	People Management – Corporate Services
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## Version Control

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## Our Vision and Values

The Council has co-designed a clear vision for workplace culture and worked together with employees to identify values and behaviours for everyone. These will be at the core of how we work together to deliver our services. Employees will be empowered to deliver new ways of thinking and new ways of working, encouraging innovation and creativity in a learning environment.

Our vision, values and behaviours are underpinned by our Bonds for Working Together at St Helens which outline what employees can expect from working at the Council and what is expected of them.

[Our Culture, vision, values, behaviours and Bonds for Working Together at St Helens](#)



## Definitions and Abbreviations

In the Policy, the following words and phrases mean:

**Council** - St Helens Borough Council

**Employee** - Those employed by St Helens Borough Council including agency/consultancy staff, secondees to the organisation and those employed under partnership arrangements but excluding those employed in schools.

**Conduct** – An employee’s behaviour in the workplace.

**Grievance** – a problem or concern that an employee has about their work, working conditions or relationships with colleagues or managers.

## Introduction and Purpose

The Dispute Resolution Policy has been developed to provide a framework for resolving conflict within the workplace. It sets out principles for dealing with disciplinary, grievance and bullying and harassment issues that may arise and incorporates the Council’s disciplinary and grievance procedures.

Many potential disputes in the workplace including disciplinary, grievance and bullying and harassment issues can be resolved informally as part of the day-to-day management of employees. A quiet word is often all that is required to resolve an issue without recourse to formal action. However, where an issue cannot be resolved informally then it should be considered formally. This policy sets out the basic requirements of fairness that will be applicable in most cases, and the procedures to follow when dealing with such issues.

## Equality, Diversity and Inclusion

The Public Sector Equality Duty of the Equality Act 2010 applies to both employment at the Council and in the delivery of Council Services. The Council’s Comprehensive Equality Policy sets out the duties and requirements of the Equality Act 2010, and other relevant legislation.

The Equality Act 2010 protects all people from discrimination, harassment and victimisation. The Council is committed to promoting equal opportunities in employment and all employees will receive equal treatment regardless of age, disability, gender reassignment, marital or civil partner status, pregnancy or maternity, race, religion or belief, sex or sexual orientation or caring responsibility.

The Council has a zero tolerance towards discrimination, harassment and victimisation. All employees must show due regard to acknowledge and value people’s differences, and, as far as possible, where permissible in Council policy and practice, meet an individual’s needs in accordance with their choices and preferences.

The minimum standard of behaviour and attitude expected of council staff is to ensure all people who employees come into contact with are given equal opportunities and treated fairly and respectfully

## Principles

- All issues raised either via the disciplinary or grievance process will be dealt with fairly and transparently.
- Managers and employees should raise and deal with issues promptly and should not unreasonably delay meetings or decisions.
- All employees should highlight and/or challenge unacceptable behaviour in the workplace.
- Employees are expected to familiarise themselves and comply with the Council's Code of Conduct and the Council's values, behaviours and Bonds for Working Together at St Helens Council.
- Managers should carry out any necessary investigations to establish the facts.
- The Council will allow all employees to be accompanied at any formal disciplinary or grievance meeting.
- Employees will be informed of the basis of any problems and given an opportunity to respond before any decisions are taken.
- Any decisions taken will be done so objectively without unfair discrimination.
- Employees will be allowed to appeal against any formal decisions that are taken.

## Investigations

Investigations will be necessary to resolve disputes within the workplace to ascertain facts and to determine what action, if any, is necessary and appropriate. Whether dealing with a conduct concern or a grievance raised by an employee, there will be one investigation. Any employee either subject to a disciplinary investigation or who has raised a grievance will be given the opportunity provide any information they deem necessary to support their case and to provide details of any potential witnesses who they believe can support their case. It will be for the management representative to consider who needs to be interviewed as part of the investigation and what information is relevant or not.

Any witnesses interviewed as part of the investigation will be required to sign a record of the interview or a statement to indicate their agreement. Witnesses may be accompanied by a trade union representative or work based colleague of his/her choice. The anonymity of certain witnesses may need to be maintained dependant on the circumstances of the complaint made. Anonymous witnesses will be treated in accordance within ACAS guidance.

The investigation will be concluded without unreasonable delay and completed in the shortest time reasonably practicable. All those involved in any investigation should participate and co-operate with the investigating officer.

## Representation

Employees have the right to be represented at formal meetings being held under either the Council's Disciplinary Procedure or Grievance Procedure. The representative will be from a trade union or an official employed by a trade union. Alternatively, the employee may be represented by a workplace colleague of his/her choice from within the Council. The Council will not permit representation by other sources or organisations.

The Council expects the employee to make appropriate and timely arrangements to be accompanied when invited to a formal meeting. Where a representative cannot attend on the proposed date the date can be re-arranged in accordance with the Employment Relations Act 1999. The Employment relations Act provides for one postponement due to the unavailability of a representative/workplace colleague. Failure to attend or provide a submission at the

rearranged hearing may result in the hearing proceeding and a decision being taken on the evidence available.

## **Notes of meetings**

Notes of any formal meeting should be taken by the management representative. These notes will constitute the employer's record and will be included in any investigation report, should the matter progress to a formal hearing. They will not be produced as a verbatim script of the meeting or as a statement from the employee and therefore do not require agreement. Employees are entitled to submit a written account of their explanation/answers before, at or following any interviews which will be considered as part of the investigation.

## **Professional Conduct**

All parties involved in any dispute resolution will be aware of other people's rights to be treated with courtesy. No party should feel bullied or insulted or be verbally attacked by another party. Should one party disagree with another, then there is a professional and courteous way to disagree without the need to act in an inappropriate manner.

## **Anonymous Information**

Occasionally the Council may receive anonymous information which requires further consideration. The Council will consider any such information; however, care will be taken to safeguard the rights of the employee/s subject to the allegations.

## **Support**

Employees who find themselves involved in any dispute resolution can access support which is available from Occupational Health. In addition, support may also be available from Trade unions.

## **Advice**

Advice to Managers is available from People Management.

# Incorporated Procedures and Policy Statement

## Disciplinary Procedure

The Council expects that all employees achieve and maintain the highest standards of conduct. Disciplinary action is primarily intended to help and encourage all employees to maintain appropriate standards of conduct and improve unsatisfactory behaviour. The aim of the procedure is to provide consistency in the treatment of staff and to promote good practice and to ensure that all disciplinary action taken is as a result of a fair and reasonable investigation. The Council's Code of Conduct accessible [via this link](#), references expected standards of behaviour for employees. Examples of what constitutes misconduct is available [via this link](#).

In order to provide a fair and effective method of dealing with disciplinary matters the disciplinary procedure will be applied in all instances where disciplinary action is regarded as warranted. It has been drafted in accordance with the ACAS Disciplinary and Grievance Procedures Code of Practice (March 2015).

## Scope

The disciplinary procedure applies to all employees of the Council other than the Chief Executive, Executive Director of Corporate Services (S151 Officer) and the Director of Legal and Governance (Monitoring Officer).

This procedure applies to trade union representative employed by the Council. However, no formal disciplinary action will be taken against a trade union steward until the matter has been discussed with a trade union convenor. Similarly, no formal disciplinary action will be taken against a trade union convenor until the matter has been discussed with a relevant full time official. In cases of suspected gross misconduct, or where it is deemed in the better interest of any future investigation, then a trade union steward or convenor can be suspended prior to the appropriate official being notified, with the official being notified, as a matter of urgency.

## Informal Action

An informal reprimand (management instruction) may be given for a relatively minor act of misconduct. This is designed to reflect the proportionality of the misconduct and the individual's response to it ie. their acceptance of the reprimand. If there is no acceptance, the matter will be addressed via the formal procedure. A written management instruction letter will be used to address such issues. A copy of any such reprimand be retained including the date of issue.

## Fast Track

The Council has a 'Fast Track' process within the Disciplinary Procedure to help speed up the process and enable a faster resolution and closure to a disciplinary matter for the employee in certain circumstances. This process is entirely voluntary and can be used for cases of misconduct where the employee admits the allegations and agrees to accept a sanction up to and including a written warning. The fast track process will not be used for matters of gross misconduct.

Further information on the fast track process can be accessed [via this link](#).

## Employment Considerations

The procedure offers guidance to managers when considering whether an employee who is subject to a disciplinary procedure should continue working normally during the investigation. Consideration may be given to suspending the employee from work or providing an alternative to suspension such as a move to a different department or undertaking different duties. Further information relating to employment considerations and the implications can be found [via this link](#).

### **Involvement of Other Agencies**

Where other agencies are investigating the matter e.g. the Police, Benefits Agency etc. in the interest of natural justice the internal investigation may need to be held in abeyance pending the notification from such other investigating agencies that the Council's investigation will not detriment that of the other party. If the third party investigation does not hamper the disciplinary investigation then the investigation will continue and be brought to a conclusion.

### **Surveillance**

Where the investigation involves surveillance the Council should follow the principles in the General Data Protection Regulations (GDPR) and in accordance with the Human Rights Act 1998. Further advice on this is available from People Management, Employee Relations Section and Internal Audit.

### **Disciplinary Hearing**

If, after the investigation is complete, a decision is taken that on the balance of probabilities there is a case to answer, a disciplinary hearing will be convened. The procedure comprises of two distinct processes that a disciplinary hearing will follow which depends on the seriousness of the allegations under consideration. The process for misconduct hearings can be found [via this link](#) and the process for gross misconduct hearings can be found [via this link](#).

The procedure outlines the notification requirements and timescales in respect of documentation to be used at the hearing. It also provides details of how information from witnesses will be presented to the hearing officer.

Notes of the hearing will be taken. This will usually be by the adviser to the Hearing Officer.

### **Disciplinary Action**

The Hearing Officer will arrive at a decision in respect of the allegations and if proven, the following sanctions may be imposed:

- Oral Warning
- Written Warning
- Final Written Warning
- Dismissal with Notice
- Summary Dismissal
- Action as an Alternative to Dismissal

Further information relating to sanction can be accessed [via this link](#).

### **Appeal**

Employees who receive a sanction issued under the disciplinary procedure have the right of appeal. Employees can appeal against the findings or the level of sanction issued.



Appeals will take the form of a review. The Appeal Hearing Officer will review the original decision taken by the hearing officer and determine, based on the evidence, if the decision was reasonable.

Appeals will be heard by a more senior officer than the original hearing officer with the exception of appeals against dismissal which will be heard by the Council's Personnel Appeals Panel.

Further information in respect of appeals is accessible [via this link](#).

Access to the Manager's Toolkit for dealing with potential disciplinary issues can be accessed [via this link](#).

Guidance for employees is also available [via this link](#).

### **Referral to appropriate bodies**

The Council will refer cases as required to relevant bodies including the Police, Disclosure and Barring Service, Health and Care Professions Council, other professional regulatory bodies etc.

### **Monitoring Disciplinary Action**

The Council has a statutory obligation to undertake monitoring in respect of race, gender and disability. Disciplinary actions undertaken are one of the items that must be monitored under this obligation to ensure that they are free from discriminatory bias in respect of their content and handling.

The Council is required to record and monitor any reported hate incidents involving its staff. Any action that is founded, and concerns discrimination in matters of racism, disablism, sexism, religious discrimination, homophobia, discrimination related to gender reassignment or to ageism must be recorded.

## Grievance Procedure

The Council expects, as per ACAS Guidance, that most grievances will be resolved informally. Many problems can be raised and settled during the course of everyday working relationships without recourse to a formal process. This also allows for problems to be settled quickly. The grievance procedure exists so that employees have a mechanism to address issues as they arise via a relevant and agreed process. It is accepted that in some cases that is either not possible or not appropriate to address issues informally and that they may have to be dealt with formally from the outset.

The procedure should be used by current employees where they have concerns, problems or complaints related to their employment including issues of Bullying and Harassment. It has been produced in accordance with the ACAS Disciplinary and Grievance Procedures Code of Practice (March 2015).

## Scope

The grievance procedure is open to all employees of the Council, excluding where:

1. there has been failure by the employee to comply with the reasonable time limits in the procedure, unless by agreement a particular time limit has been waived;
2. there is an attempt to restart the procedure in respect of the same complaint, unless any action agreed by management to redress the original complaint has not been implemented;
3. the employee concerned is subject to other procedures of the Council where there is an inbuilt appeal mechanism eg. the Disciplinary Procedure;
4. a matter over which the Council has no control and/or powers to provide a remedy to the complaint;
5. any matter which affects a change to National or Local Conditions, Council Policy or Decisions;
6. the complaint raised by a representative of a recognised trade union or other appropriate workplace representative affects other employees.

## Informal Stage

The informal stage allows an employee to raise any complaint about any matter relating to their employment, informally in the first instance with their immediate manager. If the complaint relates directly to their manager then it should be raised with a relevant more senior manager. The manager considering the grievance should attempt to facilitate a process which will allow the aggrieved individual to seek a resolution to their issues. If the employee remains dissatisfied with the outcome, they can invoke the formal stage of the procedure.

## Formal Stage

The formal stage requires the employee to provide signed, written notification of their grievance setting out the reasons they remain dissatisfied as soon as practicably possible or within 10 working days of notification of the outcome of the discussion if it has previously been raised informally.

[Link to Individual Grievance Form](#)

A management representative will be appointed to consider the grievance who will take reasonable steps to investigate the matter and provide a response to the individual. The

management representative will reserve the right to decide how the grievance will be dealt with, including which other individuals or pieces of evidence are required to enable a reasonable response to be provided. The employee will be notified, in writing, of the decision reached at the end of the process.

### **Re-Consideration in the Department**

If the employee remains dissatisfied with the decision at the formal stage, and the management representative is at a lower level than Assistant Director, the employee can have their grievance reconsidered by their relevant Director / Assistant Director as to why they are dissatisfied. The re-consideration will take the form of a review of the formal stage process and outcome. Consideration will be given to all information gathered at the formal stage, the content of the management response and written grounds for appeal. The outcome of any re-consideration will be communicated in writing to the employee.

[Link to Grievance Appeal Form](#)

### **Appeal**

Where the employee remains dissatisfied with the outcome at the formal stage after consideration by the Director, Assistant Director or nominated representative the employee has a right of appeal to Elected Members. The Personnel Appeals Committee will follow its normal procedure and will give a decision on the matter in writing.

### **New Evidence**

If new evidence emerges in the period between the formal stage response and any appeal hearing, then dependent upon the nature and significance of the evidence this may be remitted back to the original management representative at the formal stage of the procedure for their consideration. The employee must show why the evidence is new and why it was not possible to produce this evidence prior to the grievance meeting.

New evidence will not be accepted at appeal unless it is agreed by the Appeal Committee.

### **Protection against victimisation**

Employees have the right to raise a grievance without fear of victimisation, subsequent discrimination or disadvantage.

Access to the Manager's Toolkit for dealing with grievances can be accessed [via this link](#). Guidance for employees is also available [via this link](#).

### **Monitoring Grievance Action**

The Council monitors formal grievances in respect of protected characteristics to ensure they are free from discriminatory bias in respect of their content and handling.

## **Bullying and Harassment Policy Statement**

The Council opposes all forms of unlawful and unfair discrimination and is committed to providing a working environment for all employees that is free from any form of bullying, harassment, and intimidation.

The Council has a legal obligation under the Equality Act 2010 to ensure that the following types of harassment do not take place at work:

- Harassment related to the protected characteristics of race, disability, gender, gender reassignment, age, sexual orientation and religion or belief.
- Sexual harassment; and
- Less favourable treatment of an employee because they submit to or reject sexual harassment or harassment related to sex or gender reassignment.

### **What you can expect as an Employee**

Managers will:

- ensure their employees are made aware of the Council's policy statement
- highlight and/or challenge unacceptable behaviour in the workplace
- listen, respond and act appropriately and in a timely manner
- not collude with or condone the harassment or bullying by failing to take action

### **What we expect as an Employer**

We expect you to:

- ensure your conduct does not in any way constitute or contribute to incidents of harassment or bullying and does not cause offence or distress to others.
- where possible, highlight and/or challenge unacceptable behaviour.
- inform appropriate managers of any incidents of harassment or bullying as soon as reasonably possible.
- where possible, assist with any investigation into alleged bullying or harassment.

### **What is Bullying and Harassment?**

Bullying can be defined as misuse of power, persistent, offensive, intimidating, malicious or insulting behaviour, unfair use of sanctions, which make the recipient upset, threatened, humiliated or vulnerable and which undermines self-confidence.

Harassment is conduct related to a relevant protected characteristic, which has the purpose or effect of creating an intimidating hostile, degrading or offensive environment or violating an individual's dignity.

Protected characteristics included age, disability, gender re-assignment, race, religion or belief, sex, sexual orientation, marriage, and civil partnership, and pregnancy and maternity. Harassment applies to all protected characteristics except for pregnancy and maternity and marriage and civil partnership.

Conduct which is intended to be friendly could also amount to harassment – it is about what the recipient deems to be offensive, not about what was intended. The recipient of the

behaviour decides whether it is unwanted. Unwanted conduct does not need to be directed at a person. It can be witnessed or overheard.

It does not matter whether the conduct is acceptable to others or is common in the person's work environment. Harassment should always be considered in terms of the impact it has on an individual. However, it should be considered whether there is an indication of sensitivity on the complainant's part.

Examples of harassment and bullying can be accessed [via this link](#).

## **Support**

Employees who are subject to harassment or bullying at work may experience emotional or psychological reactions to their experiences. Support and/or counselling via Occupational Health may be considered for the employee concerned. Support may also be offered by the employee's Trade Union.

Support for the Respondent – where any complaints of bullying and harassment are not substantiated no record of that complaint or investigation will be maintained on the Respondent's file. The Respondent must be shown a similar degree of sensitivity, protection and discretion as the person making the allegation.

Only in exceptional circumstances should it be necessary to make alternative arrangements for working whilst the investigation is being carried out and advice should be taken from People Management if this is being considered.

Employees have the right to make a complaint without fear of victimisation, subsequent discrimination or disadvantage.

Malicious or vexatious complaints without foundation will not be tolerated and may lead to disciplinary action being taken.

## **How will complaints of Bullying and Harassment be dealt with?**

Complaints of bullying and harassment will be dealt with via the Grievance Procedure. Consideration should be given to which stage of the Grievance Procedure is most appropriate to deal with the issues raised. Complaints may be resolved informally, although it is recognised that some incidents by their nature, will be dealt with under the formal procedure immediately.

The respondent will be notified of the alleged complaint promptly and support offered as appropriate as outlined above, ideally within ten working days.

Where appropriate and possible the line manager may determine that attempts should be made to resolve the matter by means of conciliation and mediation. This will involve seeking a mutually acceptable outcome. This approach can only succeed if agreed by both parties. Conciliation and mediation can be highly effective as it brings the parties together, ensures recognition of the issue and seeks to avoid polarisation of views as well as identifying an agreed way forward. Your People Management team can provide further advice on this.

If at any point during the grievance process it appears probable that bullying or harassment may have occurred, the grievance will be upheld and the issue may be referred to relevant other procedures, including the disciplinary procedure.

## **Monitoring Incidents of Harassment**

All records of reported incidents of harassment are confidential and as such the detail of such complaints will be maintained in the strictest confidence.

The Council does, however, have a statutory obligation to undertake monitoring in respect of race, gender and disability. Grievances submitted are one of the items that must be monitored under this obligation to ensure that they are free from discriminatory bias in respect of their content and handling.