



mental welfare
commission for scotland

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1. Introduction

The grievance policy and procedure exists to ensure that there is a framework for handling employees' concerns, problems or complaints relating to their employment. The Commission is committed to a culture of openness and improvement and, in this context, grievances should be viewed in a positive light as a way of bringing difficulties to the fore so that improvements may be made.

At the same time, it is anticipated that only a small number of grievances will actually need to be dealt with using this procedure and the Commission encourages the use of informal processes to resolve issues where possible.

This procedure applies to all employees of the Commission and to grievances raised by both individuals and groups of employees.

The legal framework around dealing with employee grievances is outlined in Appendix 1.

2. Principles & Values

- The principles of fairness, openness, integrity and promptness are central to this policy and employees are encouraged to raise grievances without fear of penalty or victimisation. Senior Management gives a clear commitment to operate in an open, consistent and fair manner with an aim to create a no-blame culture.
- It is expected that any day-to-day problems, concerns, complaints or difficulties will be resolved in an informal way between the individual and their immediate line manager.
- At all stages of the grievance procedure an individual will have the right to be accompanied by a trade union representative or work colleague. It is recognised for some staff raising a grievance in a smaller organisation can be particularly stressful. An individual who raises a grievance should have access

to appropriate personal support and advice. Given the potential sensitivity of some issues and the potential stressors, counselling for individuals involved can be accessed through the Employee Assistance Programme.

- No employee will be disadvantaged in any way by raising a grievance.
- The Dignity at Work Policy should be considered, if appropriate, in relation to to bullying or harassment issues.
- The Public Interest Disclosure Policy should be used if an employee wishes to raise concerns about organisational malpractice or impropriety.
- This policy is internal and for employee use only and is entirely separate to the Complaints Policy, which operates to enable the public to make a complaint about the Commission.
- Grievances cannot be raised on behalf of a third party or anonymously.
- This procedure should not be used to raise concerns in a vexatious or malicious manner. Inappropriate use of the procedure in this way may result in disciplinary action.
- Once a grievance has been concluded or withdrawn it cannot be reinstated.

Procedure

3.1 Informal Procedure

Should an employee have a concern, problem or complaint relating to their employment, they should first raise it orally with their line manager, who should meet with the employee to discuss their concerns. It may be necessary to have a number of meetings to deal with this matter. Where the informal matter relates to working relationship difficulties, it may be appropriate to consider the option of mediation. Advice can be sought from Human Resources on when this would be appropriate.

3.2 Formal Procedure

a) *Advising the Commission of the grievance*

When an individual is unable to resolve their grievance through the informal procedure, it should be raised formally. Examples of what might be raised under the Grievance Procedure are outlined in Appendix 2.

Individuals should intimate any grievance, in writing, to their line manager. (See appendix 3 – ‘Grievance meeting’). If the grievance is against the person’s line manager then the grievance should be raised with the line manager’s manager. The letter intimating the grievance should outline the nature of the grievance.

b) *Right to be accompanied*

You may bring a companion to any grievance hearing or appeal meeting under this procedure. The companion may be either a trade union representative or a colleague. You must tell the person holding the grievance hearing who your chosen companion is, in good time before the hearing.

At the hearing, your companion may make representations and ask questions, but should not answer questions on your behalf. You may talk privately with them at any time during the meeting.

Acting as a companion is voluntary and your colleagues are under no obligation to do so. If they agree to do so they will be allowed reasonable time off from duties without loss of pay to act as a companion.

If your chosen companion is unavailable at the time a hearing is scheduled and will not be available for more than five working days afterwards, we may ask you to choose someone else.

c) *Investigation*

It may be necessary for us to carry out an investigation into your grievance. The amount of any investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from you and any witnesses, and/or reviewing relevant documents.

You must co-operate fully and promptly in any investigation. This may include informing us of the names of any relevant witnesses, disclosing any relevant documents to us and attending interviews, as part of our investigation.

We may initiate an investigation before holding a grievance hearing where we consider this appropriate. In other cases we may hold a grievance hearing before deciding what investigation (if any) to carry out. In those cases we will hold a further grievance hearing with you after our investigation and before we reach a decision.

d) *Holding the hearing*

The manager receiving the grievance should formally acknowledge the grievance and invite the employee in writing to a hearing to discuss the grievance, normally within seven working days. The employee has the right to be accompanied to this hearing by a trade union representative or a colleague. The manager holding the hearing may choose to be accompanied by another manager who has not been involved in the grievance. At the hearing the employee will be given the opportunity to explain the grievance and how they think it could be settled. The hearing may be adjourned if further advice or investigation is required.

Decision and outcome

The individual will receive a written decision within seven working days of the hearing. The decision letter should set out what action the manager intends to take to resolve

the grievance where appropriate. It should also outline the appeals process should the employee feel that their grievance has not been satisfactorily resolved. Examples of the possible outcomes of a grievance meeting are outlined below:

Examples of possible outcomes from raising a grievance:

1. the manager hearing the grievance accepts that the employee has a legitimate grievance and moves are taken to resolve the situation:
 - disciplinary action against the subject of the grievance where there is evidence of a breach of the disciplinary policy
 - where working relationships have broken down and, following consultation, transfer of staff to another area
 - reconsideration of decisions taken
 - changes in policy, procedure or work practice
 - use of team building or three way meetings
 - use of mediation or the Employee Assistance Programme (EAP)
 - additional support, training and/or supervision
2. the employee gains a better understanding of the circumstances surrounding their grievance and no longer feels aggrieved
3. the employee receives a verbal or written apology and no longer feels aggrieved
4. disciplinary action against the employee raising the grievance if it is found to be malicious

d) *Overlapping grievance and disciplinary cases*

If an employee raises a grievance during a disciplinary process, the disciplinary process should be temporarily suspended in order to deal with the grievance. Where the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently. At all times the manager should seek advice from HR.

f) *Grievances not concluded at the time of employment terminating*

If a grievance has been raised but not concluded by the time the employment terminates, where there are outstanding grounds of appeal, then whatever stage the grievance is at will be concluded with a paper review of the position and a written response.

4. Appeals

4.1 If the individual is not satisfied with the outcome of the grievance hearing, they should submit an appeal, in writing, to the appropriate person as outlined in the 'Appeal' column in Appendix 3 within the appropriate timescale set out in the decision letter. The appeal letter should set out their grounds for appeal. This appeal will be

with a more senior manager than the one who dealt with the original grievance. The person receiving the appeal should formally acknowledge the appeal and invite the employee in writing to a hearing to discuss the grievance, normally within seven working days. The employee has the right to be accompanied to this appeal hearing by a trade union representative or a colleague.

4.2 The manager holding the appeal hearing may choose to be accompanied at the meeting by another manager who has not been involved in the grievance. The employee will be given the opportunity to explain their grounds for appeal and how they think it should be settled. The individual will receive a written outcome of the appeal hearing within seven working days. The decision on the outcome of the Appeal is final.

Legal Framework

Underpinning the approach to dealing with employee grievances are a number of statutory and regulatory requirements which employers are obliged to comply with. This includes:

Employment Rights Act 2008

The Employment Act 2008 introduced new legislation pertaining to dealing with discipline and grievance. The Act is supported by the [ACAS Code of Practice - Disciplinary and Grievance Procedures](#).

ACAS Code of Practice - Disciplinary and Grievance Procedures

The Code sets out the principles employers should follow when dealing with disputes in the workplace. The Code encourages organisations to seek resolutions through informal means where possible.

The Code states that, whenever a disciplinary or grievance process is undertaken, the basic standards of fairness should still apply. For example, issues should be raised and dealt with promptly by both employers and employees, and employers should carry out any necessary investigations to establish the facts of the case.

Although a failure to follow the Code does not make a person or an organisation liable to proceedings, employment tribunals are legally required to take the Code into account when considering relevant cases.

More comprehensive advice and guidance on dealing with disciplinary and grievance situations is contained in the ACAS booklet, [Discipline and grievances at work: the ACAS guide](#). Unlike the Code, employment tribunals are not required to have regard to the ACAS guidance booklet. However, it provides more detailed advice and guidance that employers and employees will often find helpful both in general terms and in individual cases.

Employment Rights Act 1996

This legislation places a duty on an employer to provide written particulars to an employee within two months of commencement of employment. These written particulars must include details of any grievance policy or procedures which are applicable to the employee.

Employment Relations Act 1999

This legislation accords employees the right to be accompanied at any grievance hearing by a work colleague or trade union/professional organisation representative. If the chosen companion is not available at the time proposed for the meeting, the employer must postpone the hearing to the alternative time suggested by the employee, provided that such alternative time is reasonable and falls before the end of five working days after the day proposed by the employer.

Appendix 2

Examples of concerns that may be raised under the grievance procedure:

- terms and conditions of employment
- health and safety
- relationships at work
- new working practices
- organisational change
- equal opportunities
- discrimination against or on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation
- harassment
- bullying at work

This list is not exhaustive and serves only to illustrate the types of issues that might be raised under the grievance procedure

Appendix 3

Grievance meeting and hearing of Appeals

Role	Stage One – Person responsible for holding the ‘Grievance meeting’	Stage Two – Person who will hear the Appeal
Chief Executive	Chair	Panel of Board Members
Head of Corporate Services/ Executive Directors/Communications Manager/Business Change & Improvement Manager	Chief Executive	Chair
Practitioners/Positions that report to Executive Directors	Executive Directors	Chief Executive
Positions that report to Head of Corporate Services	Head of Corporate Services	Chief Executive
Positions reporting into the Head of Investigations	Head of Investigations	Executive Director
Positions reporting into the the Head of Project(s) Deaths in Detention Reviews	Head of Project DIDAR	Executive Director
Positions that report to HR Manager	HR Manager	HOCS
Positions that report to Finance Manager	Finance Manager	HOCS
Positions that report to Communications Manager	Communications Manager	HOCS
Positions reporting to Casework Manager	Casework Manager	HOCS
Positions reporting to Project Manager	Project Manager	HOCS
Positions reporting to Office Manager	Office Manager	HOCS

