

GRIEVANCE POLICY AND PROCEDURE



| Policy Schedule | | |
|------------------------|--------------------------------|---------------|
| Policy owner and lead | ODHR: HR Policy Manager | |
| Consultation | Trade unions | December 2017 |
| | CMT | December 2017 |
| | CCF | December 2017 |
| Approving body | Employment & Appeals Committee | |
| Date of approval | | |
| Date of implementation | | |
| Version number | V6 Jan 2018 | |
| Related documents | Dignity at Work Policy | |
| Review interval | Three yearly (August 2020) | |

| Contents Number | Page |
|---|-------------|
| 1. Process flowchart | 3 |
| 2. Introduction | 3 |
| 3. Scope | 3 |
| 4. Exceptions | 4 |
| 5. Principles | 4 |
| 6. Representation | 5 |
| 7. Timescales | 5 |
| 8. Maintaining Records | 5 |
| 9. Confidentiality | 6 |
| 10. Grievance Procedure; Informal Stage Formal Stage 1 Formal Stage 2 – Appeal Hearing | 6 |
| 11. Outstanding Capability/Disciplinary | 11 |

Appendices 1 - 10

GRIEVANCE POLICY & PROCEDURE

INSERT FLOWCHART on Insite

1. INTRODUCTION

- 1.1. Slough Borough Council is committed to creating a work environment where everyone is treated with dignity and respect and is committed to encouraging free and open communication between employees and their managers to ensure that concerns arising during the course of employment can be raised and, wherever possible, resolved quickly.
- 1.2. Grievances may be concerned with a wide range of issues, including the allocation of work, the working environment or conditions, operational management procedures, work relations, health and safety issues, opportunities for career development or the style of management.
- 1.3 In order to promote good employee relations, the Council's Grievance Policy and Procedure provides a framework for resolving grievances and disputes in a fair, reasonable, timely and consistent manner at the earliest possible stage and as close to the point of origin as possible. This policy therefore encourages proactive and meaningful discussions to take place at the informal stage of this policy.
- 1.4 The roles and responsibilities of the Council, managers, employees and OD&HR in applying this policy are set out in **Appendix 1**.

2 SCOPE

- 2.1. This policy and procedure applies to all employees of the Council except for schools based employees who are under the control of Governing Bodies. It applies equally to individual grievances and a grievance raised by a group of employees, in which case the group must elect one of their number to act as spokesperson and follow the procedure on behalf of the group.
- 2.2 Collective grievances raised by a recognised Trade Union are dealt with under the Council's Collective Grievance Policy and Procedure available on SBC insite.
- 2.3 Where an employee is subject to a probationary period and the grievance concerns the application of the probation procedure this will be dealt with as part of any discussion or hearing under the probationary procedure. Other grievances can be raised using the grievance procedure but no extension of any notice of termination of employment under the probation procedure will be granted.

- 2.4 This policy excludes the Chief Executive, Section 151 and Monitoring Officer roles as separate procedures apply.
- 2.5 Any grievances raised under the informal or formal stage of this procedure should be raised within 6 months of the issue arising. The grievance will be considered to be out of time if raised after 6 months and as such it will not be allowed to proceed unless there are extenuating circumstances as confirmed by the Service Lead People.
- 2.6 The Council encourages all employees to resolve issues in good time and whilst in employment. Grievances raised by leavers whose complaint falls outside 3 months time limit will not be progressed.

3 EXCEPTIONS

- 3.1 The procedure cannot be used to question actions and/or decisions taken, relating to any other procedure or process within which there is a mechanism for the employee's concern(s) to be considered. Where separate procedures exist for dealing with grievances on particular issues (e.g. grading appeals) these should be used instead of the grievance procedure.

For concerns arising from: Refer to:

- Job evaluation gradings - Job Evaluation Appeals Procedure
- Collective grievances that have been raised in writing by a recognised trade union on behalf of a number of employees - Council's Collective Grievance Policy and Procedure
- Recruitment - SBC Complaints Procedure
- Disciplinary process - Disciplinary Policy and Procedure
- Application of pension scheme rules
- Protected disclosure within the meaning of the Public Interest Disclosure Act 1998 - Council's Whistleblowing Policy and Procedure
- Issues relating to redundancy – Appeal against redundancy procedure
- Capability - Capability Procedure
- Sickness/ill-health issues -Sickness Absence Procedure

4 PRINCIPLES

- 4.1. Other than in exceptional circumstances the status quo, i.e. the previously agreed working and/or management arrangements, which applied before the grievance will continue through the informal stages of this procedure.

5. REPRESENTATION

- 5.1. All employees have the right to be accompanied by a Trade Union representative or a current workplace colleague (not acting in a legal capacity) in the formal stages of this policy. The onus lies on the employee to make arrangements to be accompanied.
- 5.2. If the employee's representative is unable to attend on the proposed date, the employee may be offered an alternative time and date so long as it is reasonable and falls before the end of the period of a further 5 working days. Should the representative be unavailable on the rescheduled date, the meeting may go ahead in their absence.

6. TIMESCALES

- 6.1. In line with the ACAS (Advisory, Conciliation and Arbitration Service) Code of Practice on Disciplinary and Grievance Procedures, March 2015, the Council will aim to resolve all grievances in as timely a manner as possible, bearing in mind genuine operational time factors. Where resolution to a grievance is being delayed various options may be considered to ensure a timely resolution to the matter e.g. Union representation in the absence of an employee, written submissions where formal meetings cannot be arranged or agreed. Where resolution to a grievance is being delayed, the employee will be notified of this.
- 6.2. In the event an informal method of resolution is being explored, any formal processes or investigations underway will be halted. Formal processes will only recommence once the informal process has come to an end and there has not been resolution.
- 6.3. Investigations will be progressed as quickly as possible and normally concluded within 4-6 weeks.

7. MAINTAINING RECORDS

- 7.1. Where possible, the employer and employee will both keep written records during the entire grievance process. The records will include:
 - The nature and type of grievance raised
 - A copy of the written grievance
 - The Council's response
 - Any actions that the Council or employee has taken
 - The reasons for any actions taken
 - Any information relating to appeals
 - Copies of all evidence obtained

- 7.2 The exception to this is the mediation process, where only a record of a final agreement may be made and only with all parties consent. No notes will be made of this process.
- 7.3 Audio or visual recordings at any stage of the Grievance Procedure are not permitted.
- 7.4 Records of any individual complaint raised under this policy will normally be kept on both the complainant and respondent's Employee Record/file for a period of 1 year following outcome, detailing the nature of the grievance raised, the Council's response, any action taken and the reasons for it. All records will be kept confidential and retained in accordance with the Data Protection Act 1998.

8. CONFIDENTIALITY

- 8.1 To ensure the requirement for confidentiality is not breached, the grievance notification letter and outcome letter should only be sent to the relevant line manager, the Investigating Officer, the respondents (only the parts relevant to them), Human Resources and the Trade Union representative or workplace colleague who will be accompanying the complainant during the process. The grievance documentation should not be sent or copied to other employees, external people or organisations. If this occurs it could be considered a breach of the Data Protection Act and it could also be a breach of complainant's contract of employment which includes a confidentiality clause. Therefore disciplinary action could be taken after consideration is given of the facts related to the disclosure.

GRIEVANCE PROCEDURE

9. INFORMAL STAGE

- 9.1 Most grievances can be resolved quickly and informally by an employee raising matters with their line manager. Therefore, an individual should raise any grievance with their immediate line manager in the first instance or to the next-in-line manager/other appropriate manager if the grievance is against the line manager.
- 9.2 The manager will meet with the employee (complainant) to give them the opportunity to discuss the issue and will endeavour to resolve their concerns informally.
- 9.3 The manager will write to confirm the outcome of the informal discussion to the employee within 5 working days, including details of any remedial action which may be taken and notifying of the method by which the employee may invoke the formal

procedure if still dissatisfied.

- 9.4 Informal resolutions may include (this list is not exhaustive):
- A one to one meeting with the employee who the grievance is against.
 - The line manager or a work colleague may facilitate an informal conversation i.e. a three-way meeting.
 - Mediation carried out by a workplace mediator. See Mediation 10.7 below and **Appendix 2**.
- 9.5 A file note should be kept of any informal discussions (except in mediation meetings, where consent by both parties must be given).
- 9.6 Every effort should be made by the manager and complainant to explore all options to resolve the grievance informally before proceeding to the formal stages of this process.

Mediation

- 9.7 Research indicates that most grievances or disputes between parties are best resolved through mediation. The role of the mediator is to help parties reach a solution to their problem and to arrive at an outcome that both parties are happy to accept. Mediators do not take sides, make judgements or give guidance. They are simply responsible for developing effective communications and building consensus between the parties. The focus of a mediation meeting is to reach a common sense settlement agreeable to both parties in a case.
- 9.8 Mediation is a voluntary process and will only take place if both/all parties agree. It is a confidential process where the terms of discussion are not disclosed to any party outside the mediation meeting.
- 9.9 It is expected that employees raising a grievance or having a grievance raised against them should wish to resolve matters informally and it is therefore anticipated that, in most instances, employees will be willing to mediate. However, in some instances employees may not be willing to participate and should therefore offer a clear justification, so that this can be taken into consideration when escalation to the next stage is being contemplated.
- 9.10 If parties are unable to reach agreement through mediation, they can still progress their grievance through the formal procedure. Refer to **Appendix 2 for details of the mediation procedure**.
- 9.11 Following successful mediation both parties should be offered an opportunity to review the outcome allowing a reasonable period and no more than 3 months.

10. FORMAL STAGE 1

Upon receipt of Formal Grievance

- 10.1 If the informal procedure has not been successful, the employee should outline the nature of their concerns in writing, using the **Formal Stage 1 Grievance Notification Form which is attached as Appendix 3** and send this to their immediate line manager (or next-in-line manager/other appropriate manager if the grievance is against their line manager) within 5 working days of date of the outcome letter of the informal stage.
- 10.2 A grievance raised under the Dignity at Work Code of Practice which has had no resolution at the informal stage of that Code will be raised at the Formal Stage 1 of this procedure.
- 10.3 The grievance should be sufficiently detailed to allow the manager dealing with it to understand the nature of the grievance and should include any accompanying evidence to support their complaint. The grievance should also include why it was not resolved at the informal stage and the desired outcome.
- 10.4 No new aspects of grievance may be raised at this stage unless otherwise agreed by the Service Lead, People.
- 10.5 The grievance will be acknowledged by the line (or next-in-line) manager in writing within 5 working days of receipt of the Grievance Notification Form and confirm the designated manager who will be dealing with the grievance.
- 10.6 The designated manager will meet with the employee to discuss their grievance within 10 working days of receipt of the Grievance Notification Form.
- 10.7 Where material facts are in dispute or there is a need to establish facts, an investigation into the grievance will be conducted and the designated manager will act as the Investigating Officer or in the event of a very complex case an external Investigating Officer may be appointed. In cases where the employee and/or their representative raise concerns in respect of a potential conflict of interests, an external Investigating Officer should be appointed. The investigation may involve meeting with the complainant (aggrieved employee) on more than one occasion and considering any supporting information provided, to investigate and resolve the matter. The employee may be accompanied by a Trade Union representative or workplace colleague.
- 10.8 The Investigating Officer will write to the employee the grievance is against outlining the grievance, the outcome sought and any meetings set up to investigate and

resolve the matter. The employee can be accompanied by a Trade Union representative or workplace colleague.

- 10.9 An investigation will normally be concluded within 4-6 weeks. Where this is not possible the situation should be fully explained to the employee and they should be kept regularly updated in respect of the progress of the investigation.
See Appendix 4 for details of the role of an Investigating Officer and how to conduct an investigation and **Appendix 5 Investigation Report Template**.

10.10 **Possible Outcomes**

After due consideration the Investigating Officer may dismiss, partially uphold or uphold the grievance;

- **To uphold or partially uphold the grievance.**

If such a finding is made it will normally be appropriate for the manager to recommend actions to remedy the situation. This could include further informal resolution, capability management, or formal disciplinary action. Due to confidentiality, the complainant may not be given details of the remedy; it will be sufficient that they are made aware that appropriate action has been taken.

- **To not uphold the grievance.**

It may also be appropriate with such a finding to also recommend actions, although it may be the case that no further action is required.

- **To find that the grievance is vexatious.**

The Council is confident that the very large majority of grievances raised by employees are not vexatious and would not deter any individuals from raising a grievance that is genuine and made in good faith. However, if it is found that the grievance is vexatious, then the next-in-line manager should also conclude whether they would recommend disciplinary action against the grievant which will be dealt with under the Council's Disciplinary Policy & Procedure. In this event a separate formal process may commence which may draw upon the information gathered as part of the grievance process.

- 10.11 The Investigating Officer will advise the complainant and responding employee of the outcome in writing within 5 working days of conclusion of investigation and provide a copy of the investigation report to the complainant. The complainant will also be notified of the right and process to appeal.

11. FORMAL STAGE 2 APPEAL

- 11.1. If the complainant is dissatisfied with the decision and outcome of Stage 1 they should complete the **Grievance Appeal Form attached in Appendix 8** and deliver to their employing Director (the Director they report to) within 5 working days of the receipt of the letter confirming the outcome of Stage 1. They must fully explain their grounds for appeal and why they feel the issues have not been resolved. This should include an explanation of what factors the employee felt should have been taken into consideration and what factors they felt were not taken into consideration. No new aspects of grievance or new evidence will be accepted.
- 11.2. The Appeal Hearing will consider the grounds for appeal. The grounds for appeal should cover one or more of the reasons below and evidence must be provided to support the grounds:
- the grievance policy and procedures were not followed and was not taken into consideration by the panel
 - the grievance was not properly investigated
 - non-compliance with statutory policy, procedure and legal rights
 - acts of discrimination, bullying and harassment in the process
 - the grievance investigations and evidence which was not considered by the panel
- 11.3 The Employing Director will not be able to progress the matter to the Appeal Hearing until sufficient evidence and grounds for appeal are provided.
- 11.4 The appeal will be acknowledged in writing within 5 working days of the employing Director receiving the Grievance Appeal Form.

Grievance Appeal Hearing

- 11.5. The Appeal Hearing is not a re-hearing of the Stage 1 hearing. An Appeal Hearing will be scheduled in diaries within 15 working days to take place within 25 working days and the panel will normally comprise of a Director/Service Lead from another Directorate who has not been associated with the case and a HR Representative. The appeals process is attached as **Appendix 8 and 10**.
- 11.6 Possible outcomes of an Appeal Hearing are as set out in Section 11.10 of this policy.

12. OUTSTANDING DISCIPLINARY/CAPABILITY MATTERS RELATING TO GRIEVANCE

- 12.1. If the grievance is raised during the course of a disciplinary or capability process and is related to the case / allegations then it should be looked into as part of that process. If the grievance is about another unrelated matter then the grievance procedure should be invoked and run concurrently (this would not impact on any outcome of the disciplinary or capability process as that would be dealt with on its own merit).
- 12.2 Where an employee subject to the disciplinary or capability procedure raises a grievance, advice should be sought from Human Resources. The employee must submit his/her grievance, using the appropriate forms, to the line manager/manager's manager who will determine the appropriate route for the grievance to be heard.
- 12.3 If the grievance relates to the disciplinary process then it will be heard under the disciplinary procedure. If it relates to the capability process then it will be heard under the capability procedure.

Appendix 1

Role and Responsibilities

The Council

The Council will ensure that:

- Formal training to support this policy is provided to appropriate employees, in particular people who will facilitate, mediate or hear grievance hearings and those who support and advise individuals who complain or are complained about
- All employees are informed about the contents of this policy and procedure
- Policy provisions comply with UK law and regulations
- Trained Mediators are available to conduct the informal mediation process.

Managers

Managers have a particular duty to ensure that their own behaviour is beyond reproach at all times. Managers are essential in implementing this policy. They do this by:

- Ensuring employees know about this policy and know how to raise a grievance.
- Dealing with any complaints fairly, thoroughly, quickly and confidentially, respecting the feelings of all concerned
- Getting advice from Human Resources as quickly as possible following the receipt of a grievance
- Ensuring that there is no retaliation against the employee who made the complaint
- Complying with the timescales set out in this policy

Employees

All members of staff are responsible for adhering to this policy. They are required to:-

- Seek to resolve matters informally as much as possible
- Ensure that they understand the policy and the consequences of vexatious complaints and abuse of this policy
- Comply with the requirements of this policy when setting out a grievance, including the provision of evidence and compliance of timescales set out in this policy

OD/HR

The Human Resources Department has a responsibility to ensure that the policy is followed fairly and consistently. Their duties include:

- Advising managers on the application of the policy.
- Ensuring the effective implementation of the policy.
- Monitoring levels of grievances, identifying trends, initiating appropriate action and reviewing and amending the policy as necessary.

Appendix 2

MEDIATION

Mediation can be used by anyone who is experiencing a conflict or a dispute at work. Mediation is a process of dispute resolution in which an impartial third party (the mediator) facilitates a series of private and joint meetings with the parties to identify a mutually acceptable and appropriate resolution. Mediation is a voluntary, non-binding process which addresses the underlying (root) causes of conflict or tension. Mediators create the conditions for dialogue using a non-adversarial, non-partisan approach. The final outcome of mediation is agreed by the parties, not the mediator.

Mediation tends to last for one full day. However in more complex cases or cases involving more than two parties it may last for up to two or three days. Mediation takes place in a neutral venue comprising of three rooms. Each party has their own private room for the entire day and there is a separate room for the joint meetings.

The mediator offers a structured process for the parties to make best use of in seeking mutually satisfactory solutions. The process consists of two private, individual sessions first before being brought together for a joint session.

Having separate meetings with the mediator gives all parties the chance to talk about the conflict from their point of view. The mediator listens to what all parties say and they explore how party's feel, what their concerns are and what their underlying needs are. The mediator and the parties explore the conflict from three perspectives:

- 1) the past,
- 2) the present
- 3) the future.

Having listened to all sides, the mediator will propose an agenda for the joint meeting.

At the end of mediation, the parties will hopefully have reached a resolution to the dispute including a number of points of agreement. These will be typed up and given to the parties (usually on the same day).

Mediators do not tell parties what to do. Mediators do not judge who is right or wrong nor do they impose a settlement or solution. However, mediators may ask all parties challenging and difficult questions during mediation relating to the nature of the conflict, the impact of the conflict and the steps required to reach a resolution.

Whilst we recognise that parties may wish to have someone with them, the mediators will create an environment where parties do not need to bring anyone else to support them.

If parties do wish to bring someone with them, this is only possible during the first meeting with the mediators.

**Appendix 3
Grievance Notification Form – Stage One**

Stage One of the formal grievance procedure should only be invoked if the informal process has not been successful.

This form must be completed and sent to the individual’s line manager and if the grievance is related to the line manager then it should be sent to the next-in-line manager, within 5 working days of the date of the outcome letter of the informal stage.

An employee registering a formal grievance should complete Parts 1 and 2 of this form.

PART 1 – EMPLOYEE DETAILS

Name: **Job Title:**

Department: **Location:**

Telephone No. **Email:**

PART 2 – DETAILS OF THE GRIEVANCE

Please summarise your grievance below and attach any supporting documentation. Please confirm whom your grievance is against (if this applies). You may continue on a separate sheet if necessary.

1. In your own words summarise what you are aggrieved about. If appropriate you should provide details such as dates and times of events, the names of any witness, where events took place and any relevant background information leading up to the grievance.

2. Why was your grievance not resolved at the informal stage? (Please include the outcome letter from the informal stage).

3. What outcome are you looking for?

Signature **Date:**

Received by:

Name: **Date:**

(Manager)

Signed

Appendix 4

How to carry out an Investigation

For the Disciplinary/Grievance Procedures

The below checklist is for guidance purposes only, as it is recognised that a manager will need to determine how best to manage any investigation given the individual circumstances of each case.

Please ensure that all discussions during this process are fair, appropriate and above reproach.



Prepare

- Clearly define the allegations/grievance in need of investigation.
- Consider the nature and likely scope of the investigation based on the allegation/issue(s) of concern. In the case of a formal grievance, the scope of the investigation should be discussed with the employee who has submitted a formal grievance.
- Decide how best to conduct the investigation - In many cases this can be a very simple/quick process, however, this will depend on the specific circumstances of the case e.g. whether the facts are disputed or clear and the seriousness of the matter. An investigation can simply be the gathering of facts looking at existing documentation e.g. relating to the previous in/formal management processes undertaken to address an issue. In other instances it may require the planned and systematic gathering of data, interviewing of relevant witnesses and analysing relevant documents, records, policies, etc. to determine next steps.
- Consider what information you need to gather, from whom and how this will be obtained.
- Consider the timescales of the investigation. Taking into consideration, where appropriate, the need to conduct interviews, collate witness statements, gathering information and write the investigation report etc.
- Identify if there are any potential barriers to obtaining information and how these can be addressed.
- If appropriate, identify any witnesses who could help with investigations, determining whether these should be interviewed or whether a written statement should be sought, Initial contact with a potential witness is often in the form of a telephone conversation

or e mail to: explain the situation; check their potential relevance; seek their agreement to participate in the process etc.

- Consider other resources you may need during the investigations e.g. note taking, specialist advice/guidance.
- If appropriate, prepare interview plan(s) and consider the specific issues that need to be explored during these interviews.
- Prepare the questions you may wish to ask, ensuring that the questioning (open, closed and probing questions) is appropriate e.g. for obtaining information/facts, exploring feelings or opinions. Avoid using leading questions.
- If appropriate, provide regular updates to those involved.
- **PLEASE NOTE:** It may be necessary to continually consider the need to amend your plan depending on the findings throughout the investigation.

Write to Employee*

*and Witness(s) if applicable

- Any employee subject to an investigation should be made aware that an investigation will be undertaken, and should be provided with a brief summary of the reasons for this and the practical measures involved.
- Include any paperwork/information which will be needed to be seen or considered prior to the interview.
- Advise and if necessary assist the employee (*and any witnesses) to access the counselling and support available to them.
- Take appropriate steps to ensure the confidentiality of the investigation process.
- If applicable, notify the witness' manager of their involvement in the investigations, so that they can attend any relevant meetings.

Hold Interview(s)

(Only if appropriate)

- Thank the interviewee for attending and make any necessary introductions (include an explanation of roles). Please note that employees have the right to be accompanied to the investigative meeting by a Trade Union representative or workplace colleague.
- Confirm that it is a fact-finding meeting. It is important to remain objective.
- Explain the need for confidentiality/implications for breaching this e.g. potential impact on investigation/disciplinary action.
- Explain that the SBC prohibits the electronic recording of meetings and that written notes will be taken throughout the interview.
- The investigator officer should confirm notes will be shared/signed by the interviewee to agree they are an accurate reflection of the meeting. Where the interviewee

disagrees with an aspect of the record they will be able to annotate the notes before returning to the investigator.

- Confirm the area/allegation around which the employee or witness will be asked to comment. (When interviewing the employee under investigation ensure they understand the allegations being made against them and provide details of the allegations/grievance).
- Explain that the evidence/information may be used in a subsequent formal hearing/grievance meeting and that they may be required (or in the case of witnesses requested) to attend, depending on the outcome of the investigation.
- Check if interviewee has any questions regarding the process.
- Seek evidence/information using any prepared and supplementary questions.
- In questioning the employee under investigation, explore possible explanations/special circumstances. Ask them to respond to any allegations and if they are able to produce any evidence/information to support their response.
- Check if the interviewee wishes to provide any further information or raise any questions before the interview concludes.
- Explain next steps and indicative timescales and that it may be necessary to hold additional interviews should further evidence arise.

Seek Further Information**

** If appropriate

- Seek any relevant supporting information/evidence to substantiate information provided by the employee/witnesses.
- Consider whether other documentation may be helpful for the investigation. For example: Work rotas, attendance records, medical reports, incident reports, minutes from meetings, appraisal/training/development records, emails, letters etc (permission of the employee may be required for some of these examples). Also consider any wider documentation that may feed into informing expectations e.g. local agreements,
- Check as to whether the employee(s) is under investigation, employment record may provide any background or special/mitigating circumstances.
- Should you identify any information that may warrant immediate action please raise this with the manager who instigated the investigation as a matter of urgency.

Record

- After each interview forward the record, as appropriate, for signing, to the interviewee.
- If the interviewee disputes the accuracy of the record, asked them to: identify what is in dispute; offer their interpretation/recollections of the discussions by annotating the record provided, before signing and returning the record.
- In the case of witness statements gain the individual's consent to share this with other relevant parties.

- Maintain a record of all evidence gathered.

Investigation Report

- **See Investigation Report Template in Appendix 5**
- Ensure all documentation associated with the investigation is retained securely and only shared with discretion and confidentially. Tone/Style should be considered as all relevant information will be shared with key parties including the employee under investigation.

Appendix 5: Investigation Report Template

| CONFIDENTIAL INVESTIGATION REPORT- <NAME> | |
|--|--|
| Allegation/Issue | <i>Grievance/Disciplinary</i> |
| Name/Designation of employee subject to investigation (if appropriate) | <i><Name, Job title></i> |
| Name of complainant (if appropriate) | |
| Investigator | <i><Name, Job title, Service area></i> , |
| HR Support/Link | <i><Name, Job title, contact number></i> |

| Background |
|---|
| <ul style="list-style-type: none"> ▪ <i>Identify how the situation came to light (based on the factual information provided by the instigating manager); what actions have already been taken prior to the investigation commencing; what communications have taken place.</i> ▪ <i>Provide brief details of the 'subject' of the investigation, their employment history, current role and how long held etc.</i> ▪ <i>Note if employee suspended and when, whether redeployed for duration of investigation or if there are any specific changes in place to allow the investigation to take place i.e. line management responsibility removed, budget responsibility suspended, taken off usual duties but still within service area etc.</i> |
| Executive Summary (Optional - delete if appropriate) |
| <ul style="list-style-type: none"> ▪ <i>This may be suitable for complex investigations and should provide a brief summary of the main findings/conclusions.</i> |
| Remit of Investigation |
| <ul style="list-style-type: none"> ▪ <i>Agree terms of reference and remit of investigation, i.e. what allegations/concerns were identified as in need of investigation (provide concise bullet points list of all allegations, that will be expanded upon in "Findings" section).</i> ▪ <i>State policy under which the investigation was carried out (e.g. SBC Grievance Policy and Procedure</i> |
| Investigation Process |
| <p><i>Explain how the investigation progressed, including reasons for decisions which were made and the direction the investigation went including:</i></p> <ul style="list-style-type: none"> ▪ <i>A brief description of the method(s) used to gather information.</i> ▪ <i>Use table template 'Appendix 6' to record what interviews/statements were undertaken, when, and their appendix number within the bundle of evidence</i> ▪ <i>If the investigator has not interviewed all individuals suggested by the 'subject' of the investigation the decision should be recorded in this section (including reasons e.g. character reference only).</i> |

- *A timetable of events. (Detailing any delays in the investigations).*
- *What documents/evidence were reviewed (Appendix 7: Record of Evidence)*

Findings

Provide a summary of the findings and observations:

- *Present the findings separately for each point/allegation/issue of concern in turn, by confirming the facts established by the investigation, identifying the sequence of events, cross-referencing any documentation and highlighting any mitigating factors e.g. lack of procedural guidance, management action or expected documentation and any other actions / behaviours which may have compounded or aggravated the situation*
- *Avoid using vast extracts from statements - only quote directly from the statements where it is necessary. It is the investigator's responsibility to analyse all the statements and draw out all corroborative evidence. Interviewees are not always articulate during interviews and the investigator should therefore use their own words to concisely convey the findings.*
- *If the evidence is inconclusive or there is no evidence to substantiate an allegation - say so. The instigating manager wants to know whether there is any evidence to support the allegations - it is also the investigator's responsibility to explain how significant the evidence is - this should come across throughout the report.*
- *Note any specific actions that demonstrate a breach of policy or standards of conduct/performance that did not meet those normally expected.*
- *Refer back to the agreed remit of investigation, ensuring that you cover all the points.*

Conclusion

NOTE: *When reviewing the evidence, investigators need to aim to demonstrate a reasonable belief as to what happened, based on their assessment of the evidence available. The standard of proof for internal investigations and any subsequent disciplinary hearing or grievance meeting is based on the "balance of probabilities", i.e. that on the basis of the evidence it was more probable than not that the alleged misconduct was committed. Investigators are not required to demonstrate beyond reasonable doubt, unlike in criminal investigations, but do need to act reasonably on behalf of the employer.*

- *For each allegation/concern/issue provide an overall fact based opinion on a) whether there is any evidence to support the allegations and b) the strength of the evidence.*
- *Support the conclusions with the strongest evidence without repeating the text in the main body of the report (where possible) - the conclusions should be clear and concise.*
- *Identify to the reader the strengths and weaknesses in the evidence - emphasising the importance of any issues and where evidence can be open to different interpretation / scenarios.*
- *Draw out key facts which demonstrate particular breaches of policy e.g. Code of Conduct, Harassment, Financial Regulations, service policies & procedures etc*
- *If there are any special circumstances/mitigating factors ensure that they are clear*

within the conclusions and it is important to explain their significance.

Appendices

- *Chronology of events; witness statements; investigatory interview notes; about the Job documents; organisational structure; medical advice etc.*

Signed by Investigatory Officer

Date

Appendix 6: Record of witnesses

The following table gives the names of the people who provided statements for this investigation.

| Name | Post | Reason | Date | Appendix |
|------|------|--------|------|----------|
| | | | | |
| | | | | |
| | | | | |

Appendix 7: Record of Evidence

| Date | Item | Appendix (attached with report) |
|---------------------------------|------|--|
| Investigation Statements | | |
| | | |
| | | |
| | | |
| Supporting Documentation | | |
| | | |
| | | |

**Appendix 8
Grievance Appeal Form**

This form must be completed and sent to the employing Director within **5 working days** of the date of the letter confirming the outcome of Stage 1. Please refer to paragraph 11 of the Grievance Policy and ensure that your grounds of appeal are clearly explained. Please note that your grievance cannot be progressed to appeal until you provide sufficient evidence and grounds. You may continue on a separate sheet.

Parts 1 and 2 of this form must be completed.

PART 1 – EMPLOYEE DETAILS

Name: ***Job Title:***

Department: ***Base:***

Telephone No. ***email:***

PART 2 – DETAILS OF APPEAL

Please state in your own words the grounds on which you are basing your appeal against the decision taken at the Stage One Grievance Meeting and what outcomes you are looking for.

Signature ***Date:***

Appendix 9

Appeals Procedure

Following receipt of an appeal, an appeal panel will be scheduled in diaries within 15 working days to be convened within 25 working days

The employee must submit the Grievance Appeal Form to their employing Director within 5 working days of the date of the letter confirming the decision/outcome of Stage 1. If the notification lacks sufficient detail as to which aspects of the Stage 1 decision the complainant is dissatisfied with may lose their right to appeal.

Upon receipt of the complainant's grounds for appeal, the employing Director will within 5 working days of receipt acknowledge the grievance appeal and confirm the arrangements for an Appeal Hearing.

The Grievance Appeal Form should be forwarded by the employing Director to the designated manager/Investigating officer of stage 1 so that they can write their response ('the management case').

A Director/Service Lead from a different Directorate who has not been associated with the case and an HR representative should be appointed to act as Appeal Panel Chair and panel member. The Appeal Panel Chair will arrange for a note taker.

The Stage 1 designated manager/Investigating Officer will have 5 working days before the Appeal Hearing to submit their management case to the complainants employing Director. This should include the Investigation report, notes of any meetings, Stage 1 outcome letter, a comprehensive justification for the decision made, names of any witnesses that may be called or confirmation that none will be called to the Appeal Hearing and a response to any queries raised by the complainant. The complainant's statement of case must be submitted 5 working days before the Appeal Hearing to their employing Director. No new aspects of grievance or evidence will be accepted. No other paperwork should be accepted after the deadline.

5 working days before the appeal hearing the complainant's statement of case and the Management side case will be forwarded to all relevant parties by the employing Director (all appeal panel members, the complainant and their representative, designated Manager/IO who investigated the grievance at Stage 1 and is presenting the management case and HR Advisor).

If the employee or management case has not been submitted within the stipulated time frame, the hearing will be postponed. In exceptional circumstances, an extension of 2 working days may be granted for the submission of the paperwork which requires the agreement of all parties.

Notice of appeal hearing date

The complainant should be given at least 10 working days' notice of the date and time that the appeal hearing will be convened.

Rescheduled appeal hearing timescales

Postponed appeal hearings will be rescheduled a second time. If the reason for postponement has been non-submission of paperwork, then all relevant missing paperwork must be submitted 5 working days before the date of the second hearing. The same timescales for exchange of missing paperwork applies, i.e. 2 working days.

If the Management/complainant case is not submitted 5 working days before the date of the second hearing is arranged then the hearing will go ahead. The management/complainant will be given the opportunity to present their case and question the other side. In the absence of a complainant case, the Appeal Grievance Form can be used in the hearing. No new paperwork or grievances or evidence can be presented at the hearing.

If the complainant is unable to make the date or does not turn up to the hearing, they will be given one further opportunity to attend. Failure to attend a second time will result in the Appeal Hearing being heard in their absence.

Appendix 10

Appeal Hearing

The appeal hearing is chaired by a Panel Member. At the Appeal Panel hearing the following procedure shall be observed:

1.0 Introductions

- The Chair ask all attendees to introduce themselves and should ask the employees representative whether they are a work colleague if not they should state what Trade Union/Recognised body they are from
- The purpose of the hearing is explained by the Chair of the panel
- The procedure to be followed is explained by the Chair of the panel

2.0 The Complainant's' case

- The complainant and/or their representative shall put their case to the panel in the presence of the Management side. In support they may call witnesses.
- The management side will have the opportunity to ask questions of the complainant, their representative and witnesses.
- The members of the Appeals Panel shall have the opportunity to ask questions of the complainant, their representatives and witnesses.
- The complainant or his/her representative shall have the opportunity to re-examine his/her witnesses on any matter referred to in their examination by members of the Appeal Panel or the management side.
- During the course of the meeting the chair may call adjournments to either consider evidence or for natural breaks.
- The complainant or their representative or the Management Side may ask the chair to consider an adjournment at any stage of proceedings. The Panel may at its discretion adjourn the appeal at any time in order that further evidence may be produced by either party to the dispute or for any other reason.

3.0 Management's Case

- The management side shall state the Council's case in the presence of the complainant and his/her representative. S/he may call witnesses.
- The complainant or his/her representative shall have the opportunity to ask questions of the management side and witnesses.
- The members of the Appeal Panel shall have the opportunity to ask questions of the Management Side and witnesses.
- The Management Side shall have the opportunity to re-examine his/her witnesses on any matter referred to in their examination by members of the Appeal Panel, the complainant or his/her representative.

4.0 Summing Up

- The panel will call a brief adjournment to all parties to prepare for the summing up of their cases.
- The management side sums up their case
- The complainant or his/her representative
- Neither party may introduce any new matter.

5.0 Adjournment

- An adjournment is called to allow the panel to consider the evidence
- Management, the complainant and his/her representative shall withdraw to allow the panel to make a decision.

6.0 All parties return and the decision of the panel is communicated.

- The Panel may call all parties back into the room on the day of the appeal hearing to give their decision. However, in some cases it may be necessary to consider the case overnight where a decision may be confirmed at a later date. The decision will be confirmed in writing within 5 working days of the decision being made.
- The panel will consider all the evidence and representations carefully before them in advance of making a decision. The panel will provide reasons for any decisions that they make.

There is no further right of appeal.