

WEST MIDLANDS FIRE SERVICE

GRIEVANCE PROCEDURE

1. POLICY

The Service will have in place a grievance procedure that accords with negotiated conditions of service, statutory requirements and the ACAS Code of Practice and guidance. The procedure will allow employees to raise grievances relating to their employment and ensure that they are dealt with fairly, consistently and speedily.

2. STRATEGY

The procedure will apply to all staff.

The appendices to this Standing Order detail the procedure to be followed when dealing with grievance.

The Personnel Planning and Policy Team will ensure that efficient and effective procedures are maintained. They will also monitor the use of these procedures to ensure that they are applied consistently and fairly.

Managers involved with the grievance procedure will be appropriately trained to fully understand the procedure and will receive support and guidance from the Human Resources Department.

3. PROCEDURES

3.1 Preamble

The grievance procedure should only be used where normal discussions with line management have failed to resolve the issue. The procedure is not intended to undermine the normal management process.

The resolution of grievances should be treated as a priority by all parties and timescales must be adhered to, save in exceptional circumstances.

The purpose of the procedure is to achieve resolution between the parties and is not designed to establish innocence or guilt or to instigate discipline enquiries.

3.2 Confidentiality

All matters dealt with under the grievance procedure will be conducted in the strictest confidence. There is a need to protect both the aggrieved person and the individual against whom the grievance is raised from malicious allegations or rumours.

There must be equal treatment of all the parties including access to information. The Human Resources Department will advise on documents which may be disclosed. Documents relating to national security or public interest, confidential legal advice,

confidential medical records or advice, or whistleblowing communications will not be disclosed.

There will be times when confidentiality cannot be maintained, particularly where criminal, discipline or management issues come to light. In order to resolve a grievance there will be occasions when it is necessary to speak to other people involved. In these circumstances, line managers will discuss the disclosure of information with the individual.

3.3 What is a grievance?

Grievances are concerns, problems or complaints that an employee raises with an employer about their employment.

Issues that may cause grievances include:

- Terms and conditions of employment
- Health and safety
- Work relations
- Bullying and harassment
- New work practices
- Working environment
- Organisational change
- Equal opportunities

There are separate procedures that should be used to deal with particular issues or appeals against organisational decisions.

These include:

- Whistleblowing
- Refusals of requests to work flexibly
- Decisions regarding job evaluation
- Recruitment, transfer or promotion decisions
- Disciplinary decisions

3.4 What is the Procedure?

There are three stages:

- **Informal Stage**

Employees should aim to resolve most grievances quickly and informally by discussing them with their line manager.

- **Formal Stage**

If a grievance cannot be settled informally it should be raised formally in writing with the appropriate level of management, normally the line manager. A meeting to discuss the grievance will normally be held within seven days. The employee

may be accompanied at the meeting and a written response will be sent within seven days.

- **Appeal Stage**

If the grievance remains unresolved the employee may appeal. This must be in writing and within seven days of receipt of the response at the formal stage. The appeal will be heard by a more senior manager who has authority to review and change the original decision. The employee may be accompanied at the meeting and a written response will be sent within seven days.

More details of the procedure can be found in the Appendices to this order.

3.5 Special considerations

Where a grievance raises serious issues such as allegations of bullying, harassment, racism or other unlawful discrimination which suggest major problems, for example of culture or management style, and the matter remains unresolved, a further hearing will be conducted by the corporate level of the employing authority which is appropriate to the issue. For example, the appropriate level will be that which both appreciates the wider importance and significance of the issue and has the authority to deal with it.

For the purposes of this procedure, this will be to an Area Manager or Section Head. There is a defined list of Section Heads who may hear a further appeal. They are: Administration Manager, Personnel Manager, Personnel Policy Manager, Strategic Head of ICT, Estates Manager, Fleet Manager, Supply Chain Manager, Finance Officer.

Where either the authority or the recognised trade unions determine that the matter is a collective issue, it may at any stage be transferred to stage one of the local negotiation procedure set out in Part C of Section 5 of the Grey Book and dealt with through the local consultative machinery.

3.6 Who will hear the grievance?

The **informal stage** of the procedure will be conducted by the line manager. If the grievance is a complaint against the line manager with whom the grievance would normally be raised the employee can approach that person's manager or another manager at the same or similar level of authority.

If the grievance moves onto the **formal stage** of the procedure normally the same manager will conduct the grievance meeting. However if the decision that gave rise to the grievance was made at a higher level, the grievance will initially be heard at that level.

The **appeal stage** will be conducted by a manager more senior to the one who dealt with the formal stage.

3.7 How are employees informed of the grievance procedure?

All new employees are provided with a copy of the grievance procedure in their starter pack which is sent out with their contract of employment.

A copy of the procedure is in the Standing Orders library which can be found on the intranet.

3.8 Recording and Monitoring

Grievances that are resolved at the informal stage will not normally have any associated paperwork. However, details of the nature of the grievance and the resolution should be submitted to Equalities and Diversity Section.

Grievance paperwork from the formal and appeal stages should be forwarded to the Equalities and Diversity Section when the process is concluded. They will retain the paperwork in order to monitor and address issues raised through the grievance procedure.

Grievance documents will not be kept on the Personal Record File but will be retained separately and confidentially.

Quarterly information bulletins giving details of the number and type of grievances (without personal details) will be produced by the Personnel Planning & Policy Team.

4. CROSS REFERENCES

Standing Order 2/1 – Discipline Procedure

Standing Order 2/20 – Whistleblowing

Standing Order 2/27 – Flexible working

ACAS Code of Practice

Employment Act 2002

The following Web sites may be useful: www.acas.org.uk
www.dti.gov.uk/er

5. RESPONSIBILITY AND REVIEW/AMENDMENT DETAILS

5.1 Responsible Director/Department

This Standing Order is the responsibility of the Director HR and the Personnel Planning and Policy Team.

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GRIEVANCE PROCEDURE GUIDANCE FOR EMPLOYEES

1. How do I initiate the Grievance Procedure?

If you have an issue or problem that is causing you concern, or a complaint, you should discuss this with your line manager in the first instance. This is the **Informal stage** of the grievance procedure.

You have a responsibility to behave reasonably and co-operate with the procedure, and to ensure that any grievance raised by you is genuine. Misuse of the procedure, including raising malicious complaints, could be dealt with as a disciplinary matter.

In normal circumstances you should raise your grievance within 3 months of the management decision or individual action that caused you to become aggrieved. If you delay it may be rejected on the basis that it is out of time.

If your grievance is a complaint about the line manager with whom the grievance would normally be raised you may approach their manager or another manager at the same or similar level of authority to discuss the grievance.

The line manager will meet with you to discuss your concerns and ask you to clarify how you would like the situation to be resolved. A verbal response will be given and you will be asked if this resolves the grievance.

2. What if I am not satisfied with the reply?

If you are not satisfied with the reply, you should set out your grievance in writing and forward it to your line manager. This is the **formal stage** of the grievance procedure.

If you need to, you may seek help to set out your grievance from either a work colleague or representatives of recognised unions.

Again if your grievance concerns your line manager with whom the grievance would normally be raised you can raise the grievance in writing with another manager at a higher or the same level. Where the decision that gave rise to the grievance was made at a higher level, the formal stage of the grievance will also be heard at that level.

3. What will happen then?

You will be invited to a meeting with the line manager to discuss your grievance, normally within 7 days. The time and place of the meeting will be agreed with you.

4. Can I take someone with me?

Yes. You have a statutory right to be accompanied by a fellow worker or trade union representative.

Remember that colleagues or trade union representatives do not have to accept a request to accompany you, and they should not be pressured to do so.

When choosing a companion bear in mind that it may not be reasonable to insist on being accompanied by a colleague whose presence would prejudice the hearing or who might have a conflict of interest.

If you do take a companion, before the meeting takes place you should tell the line manager who will be accompanying you.

5. What if my companion can't make the meeting?

If your companion cannot attend on the agreed date you can suggest an alternative date so long as it is not more than seven days after the original date proposed by the line manager.

6. What can my companion do?

Your companion will be given time to familiarise themselves with your grievance and to confer with you before and after the meeting.

Your companion will be allowed to:

- Put your grievance
- Sum up your grievance
- Respond on your behalf to any views expressed during the meeting
- Confer with you during the meeting
- Ask witnesses questions

Your companion has no right to answer questions on your behalf or to address the meeting if you do not wish them to or to prevent the employer from explaining their case.

7. What will happen at the meeting?

You will be given an opportunity to explain your complaint and say how you think it should be settled. If during the meeting a point is reached where it is not clear how to deal with the grievance or further investigations are necessary the meeting will be adjourned to get advice or to make further investigations.

The manager will give careful consideration to your grievance before responding and will write to you explaining the reason for their decision within 7 days of the meeting. If it is not possible to respond within 7 days the manager will let you know the reason for the delay and tell you when a response can be expected.

You will also be informed of the Appeal process if you are unhappy with the decision.

8. What if the manager is unavailable to conduct the meeting?

If the manager will be available within a 7 day period and you agree, the meeting will be postponed. Alternatively, another manager will be appointed to hear the grievance. The selection will be discussed and agreed with you.

9. What if I am not satisfied with the decision from the formal stage?

You must inform the manager in writing within 7 days of receipt of the decision that you are unhappy with this; this is the **Appeal stage** of the procedure.

The manager will arrange for an appeal hearing to be held normally within 7 days. The appeal will be heard by a manager at a more senior level who has the authority to review and change the original decision.

Again you will be given full opportunity to explain your complaint and say how you think it should be settled.

The manager will write to you explaining the reason for their decision within 7 days of the meeting. If it is not possible to respond within 7 days the manager will let you know the reason for the delay and tell you when a response can be expected.

If your grievance involves allegations of bullying, harassment, racism or other unlawful discrimination, and remains unresolved after the appeal stage, there will be an opportunity for a **second appeal**. This will be conducted at a corporate level which both appreciates the wider importance and significance of the issue and has the authority to deal with it.

As with previous meetings the manager will write to you explaining the reason for their decision within 7 days of the meeting.

10. What if I am still not satisfied with the decision of the appeal?

This represents the end of the grievance procedure internally. However, if there are appropriate grounds, you may make an application to an employment tribunal.

11. What happens to my grievance once it is concluded?

Records of the grievance will be kept; this is to help identify any trends or issues which the organisation should address.

Records will include the following:

- the nature of the grievance raised;
- a copy of the written grievance
- the manager's response;
- action taken;
- reasons for action taken;
- whether there was an appeal and, if so, the outcome; and
- subsequent developments.

You will be given copies of meeting records and any minutes that may have been taken. In certain circumstances (for example to protect a witness) some information may be withheld. If this is the case, then reasons will be given for withholding the information.

The original documents will be forwarded to the Equalities & Diversity Section. They will be retained for a period of two years, after which they will be destroyed. These documents will not be held on your Personal Record File and will be treated as confidential.

Details of the grievance will be recorded in order to monitor and analyse the levels of grievances, the reasons for grievances arising, how effectively and fairly they are being dealt with, and to make recommendations for any steps that need to be taken by the organisation to address the issues identified.

GRIEVANCE PROCEDURES GUIDANCE FOR MANAGERS

1. What do I do if I receive a Grievance?

Before you do anything, ensure that you understand the procedure. Be aware that if you do not follow the procedure, you may breach the statutory obligations placed on the organisation and you may be liable to appear before an employment tribunal.

It is your responsibility to behave reasonably and co-operate with the procedure, and to ensure that any grievance is given serious consideration. You should treat the matter as a priority and deal with it in a timely manner.

You should arrange to meet the individual on a one-to one basis normally within 7 days of the matter being raised with you; this is the **informal stage** of the procedure.

It is important to establish exactly what the grievance is about; sometimes the issue is not a grievance at all and may be better dealt with in another way. Get the employee to be specific about why they are aggrieved and ask them to say what outcome they are seeking. Also, be honest and frank with them about whether the desired resolution is realistic or achievable.

Often, grievance matters escalate because they are not dealt with appropriately at the early stages. At this stage, the key is to try and resolve the grievance quickly and informally.

The individual has no *right* to be accompanied at this stage of the procedure. However, depending upon the circumstances, it may be helpful for them to have someone to support them when they are raising the issue with you, particularly if it involves something which is causing them distress such as bullying or harassment.

The individual should raise their grievance within three months of the individual action or management decision that caused them to be aggrieved. If the grievance is raised after this time period it may be rejected on the basis that it is out of time. However, you should give careful consideration to the circumstances of the case and the reasons why an individual did not raise the matter sooner.

2. Can an individual raise a grievance with a line manager other than their own?

The expectation is that direct line managers will deal with grievances in the first instance; it is not acceptable for an employee to 'shop around' for a manager that they feel will be more sympathetic to their complaint. However, there are occasions when it would not be appropriate for the direct line manager to deal with the grievance at either the informal or formal stage, i.e., where the grievance involves a complaint against them. In these

circumstances it is acceptable for them to approach either the line manager's manager or another manager at the same or a similar level.

3. What if the grievance is regarding a serious issue such as harassment and bullying?

You should try to deal with the grievance in the first instance. If you feel there are very serious allegations involved which may result in disciplinary action or will require actions which you cannot authorise, you should seek advice from either your manager or the Human Resources Department.

There are a number of issues where separate procedures exist and which should be used by individuals, such as, requests to work flexibly, whistleblowing, transfer and promotion appeals, job evaluation appeals and appeals against disciplinary decisions.

Be mindful that individuals should not be allowed to 'procedure-hop'; this may occur if an individual is unable to obtain the solution they are looking for under one procedure and they attempt to seek a remedy from another procedure. If an employee has sought a remedy under one procedure, they should not be permitted to access the grievance procedure to seek the same remedy. Equally it ensures that all issues are dealt with once and once only and that the grievance procedure is accessed only where the issue has not been dealt with under an alternative, more appropriate procedure. It should not be used as an "either/or" option.

4. Should the 'status-quo' be maintained pending the outcome of a grievance?

There is no right of 'status quo' under the individual grievance procedure, i.e., management decisions can be implemented even where these decisions are subject to further stages of the grievance procedure.

However every effort should be made to delay implementing a change where the grievance involves difficulty in reconciling work and caring responsibilities, e.g., transferring an employee to a new duty system or a new location and immediate implementation would cause the employee difficulties with their current caring arrangements.

All these considerations are however 'subject to the exigencies of the service', and therefore management decisions can be implemented without delay if the service requires this.

Managers will have to make reasonable decisions based on the specific circumstances of the case. It may be that the exigencies of the service mean that the decision cannot be delayed until the grievance has been concluded, but some lesser delay can be agreed to enable the employee to make alternative arrangements.

5. What if the individual is not satisfied with the outcome of the informal stage?

If the individual is not satisfied that the informal meeting has resolved their grievance, they must put the grievance in writing; this is the **formal stage** of the procedure.

You should encourage the individual to seek help when setting out their grievance from either a colleague or union representative. Particular attention should be given to those individuals covered by the Discrimination Disability Act (DDA), where you are required to provide reasonable adjustments including assistance with the preparation and presentation of a grievance.

6. What arrangements should I make concerning the meeting?

Once you have received the grievance in writing you should arrange a meeting normally within 7 days. You should agree a time and place with the individual and ensure that the meeting is held in private and not interrupted. It is important that the individual feels that the grievance is being treated seriously and in confidence.

You must also inform them that they have a right to be accompanied at the meeting by either a fellow worker or a trade union representative.

7. What happens if the meeting cannot be arranged within 7 days?

It can sometimes be difficult to arrange the grievance meeting within 7 days, particularly where one or more of the parties are working a shift system. The time limits can be varied by agreement, and therefore where other commitments, including leave and off-duty days by either party, make it impossible to hold the meeting within 7 days there should be no difficulty in securing agreement to hold the meeting outside the normal 7 day limit. The procedure is based on the premise of reasonableness by all parties.

Another manager may be appointed to hear the grievance where, for example, the manager who would normally hear the grievance is on long-term sick leave or long-term secondment. This would not apply in situations of standard leave/roster arrangements, e.g., where the manager is on leave for a period longer than 7 days. In these cases the manager who would normally deal with the grievance should agree a suitable date with the employee. However, if the employee is unwilling to wait longer than 7 days, an alternative manager should be sought.

There is also a right to delay if the companion is unable to attend. This should be no longer than 7 days after the proposed date of the original meeting.

There is no statutory right for an individual to delay any further, although good practice would suggest that reasonable efforts should be made to accommodate such requests. However, where delay is regarded as being unreasonable it would be acceptable to proceed without representation.

8. What happens during the meeting?

You must give the individual full opportunity to explain their grievance and say how it can be resolved.

You should also be aware of the role of the companion; they are allowed to:

- Put the grievance on the individual's behalf
- Sum up the grievance
- Respond on the individual's behalf to any views expressed during the meeting

- Confer with the individual during the meeting

It is good practice to allow the companion to participate as fully as possible in the hearing, including asking witnesses questions. However the companion has no right to answer questions on the individual's behalf or to address the meeting if the individual does not wish them to, or to prevent you from explaining the employer's case.

If during the meeting a point is reached where it is not clear how to deal with the grievance or further investigations are necessary the meeting should be adjourned to get advice or to make further investigations. In any event you should not be rushed into making a decision. Often decisions made in one forum can have ramifications elsewhere; following the presentation of the employee's grievance it will often be the case that you will not be able to give an immediate decision, but will need to seek further advice/information before reaching a final decision.

9. What happens following the meeting?

You are required to write to the individual explaining the reason for your decision within 7 days of the meeting. If it is not possible to respond within 7 days you must let the individual know the reason for the delay and tell them when a response can be expected. You must also inform them of the Appeal process if they are not satisfied with the decision.

10. What are my responsibilities if an individual wishes to appeal?

The individual must inform you in writing within 7 days that they are unhappy with the decision following the grievance meeting; this is the **Appeal stage** of the procedure.

You are required to arrange an appeal hearing normally within 7 days. This will be to a manager at a more senior level who has the authority to review and change the original decision.

If you are unsure who to pass the appeal to, you should seek advice from the Human Resources Department.

11. What if I am a manager hearing an appeal?

You will conduct the appeal hearing in the same way as a formal stage meeting with a decision being communicated in writing within 7 days.

12. What if the employee is still not satisfied with the response?

In some circumstances there will be an opportunity for a **second appeal**. Where allegations of bullying, harassment, racism or other unlawful discrimination have been the subject of a grievance and the matter remains unresolved, a further appeal meeting will be conducted by an Area Manager or designated Section Head. As with previous meetings, this will be conducted normally within 7 days and the manager will write to the individual explaining the reason for their decision within 7 days of the meeting.

13. What records should be kept?

Grievances that are resolved at the informal stage will not normally have any associated paperwork. However, details of the nature of the grievance and the resolution should be submitted to Equalities and Diversity Section.

At the conclusion of the grievance the original documents should be forwarded to the Equalities and Diversity Section who will retain the documents for a period of two years, after which time the documents will be destroyed.

The documents should include the following:

- the nature of the grievance raised;
- a copy of the written grievance;
- the manager's response;
- action taken;
- reasons for action taken;
- whether there was an appeal and, if so, the outcome; and
- subsequent developments;
- copies of any formal minutes that may have been taken.

These documents will be treated as confidential, and will not be kept on the individual Personal Record file.

Records will be maintained in order for the Service to monitor and address issues raised through the grievance procedure.