

Agenda Item	<b>13.</b>
Report No	<b>RES/49/23</b>

# The Highland Council

**Committee:** Corporate Resources

**Date:** 7 December 2023

**Report Title:** Grievance Policy and Guidance Review and Update

**Report By:** Depute Chief Executive

## 1. Executive Summary

- 1.1 The Resources Committee on 22 February 2023 approved the updated policy and guidance be implemented on a trial basis and reviewed after 6 months of implementation to ensure no detrimental impact on policy users.
- 1.2 The review and subsequent recommendations were developed in partnership with Trade Union Representatives and other key stakeholders. The revised policy and supporting guidance documents were considered and approved by the HR Subgroup on 2 November 2022. The impact of the trial has been considered in consultation with HR and the Trade Unions.
- 1.3 Further discussion is required with Teacher Trade Union EIS due to the impact on LNCT 4 Disciplinary and Grievance procedures which includes a stage 3 Members' appeal hearing and a stage 4 Joint Secretary SNCT appeal.

## 2. Recommendations

- 2.1 Members are asked to:
  - i. **Note** the new Grievance and Resolution Policy and Guidance as outlined in Section 5;
  - ii. **Note** progress to date; and
  - iii. **Agree** to extend the pilot and report back to March 2024 Resources Committee.

## 3. Implications

- 3.1 **Resources** – Employees are an essential and highly valued and Council resource. Resolving and concluding issues appropriately and within a shorter timescale can have a positive impact on staff wellbeing and mitigate absence or protracted absence from work.
- 3.2 **Legal** - There are requirements around managing the health, safety and wellbeing of our workforce as contained within current employment legislation.

3.3 **Community Impact** (Equality, Poverty, Rural and Island) - A Community Impact Assessment will be undertaken of any new or revised policies, it is not anticipated there will be a negative impact arising from this proposal.

3.4 **Sustainability / Climate Change** – No implications

3.5 **Risk** – The policy and guidance may require further revision after the trial period.

3.6 **Health and Safety (risk arising from changes to plant, equipment, process or people)** – The policy is intended to have a positive impact on staff wellbeing and mitigate absence or protracted absence from work.

3.7 **Gaelic** – No implications

#### 4. **Policy Purpose**

4.1 By law, employers must set out a grievance procedure and share it in writing with all employees. The purpose of this policy is to provide an effective mechanism to raise and address grievances as fairly and quickly as possible.

4.2 The aim of the guidance is to:

- provide a step-by-step guide for employees;
- support managers to deal with issues raised by employees;
- maintain employee wellbeing, motivation, and job satisfaction; and
- comply with ACAS code of practice.

#### 5. **Policy Updates**

5.1 The changes to the policy and guidance that were approved by Resources Committee on 22 February 2023, are as follows:

- Change of title from Grievance Policy to Grievance and Resolution Policy
- Where a grievance is raised against another employee, the content will be shared with that employee where appropriate, to enable them to respond to the grievance.
- Information gathering will take place by the nominated officer after the hearing takes place.
- Facilitated conciliation meetings are encouraged to achieve early and informal resolution.
- Services to provide support to employees who raise a grievance, and who have a grievance raised against them.
- The maximum timescale to set up a grievance meeting to be increased from 10 to 15 working days.
- Grievance appeal form introduced (**Appendix 4 of the Policy**)
- Clarification of acceptable reasons for appeal
  - Employees have the right to appeal the outcome of a stage 1 grievance if they feel the outcome was wrong, the procedure was unfair, or because there is new evidence relating to the original grievance.

5.2 The changes to the policy and guidance that were approved by Committee on a trial basis are as follows:

- Grievance hearing stages reduced from 3 to 2 with removal of the Members' appeal sub-committee stage 3 hearing. Details of the revised grievance stages, appeal process and suggested time limits are set out in **Appendix 1 of the Policy**.
- The original proposal detailed that stage 2 grievances could be heard by a Service ECO or nominated senior officer from a different service. Following further consultation with trade union representatives during the trial, it is proposed that the policy will state that stage 2 grievances will be heard by a Service ECO or nominated senior officer from a different service. This is to ensure an impartial review of the stage 1 outcome and will mitigate the removal of the appeals sub-committee.

## 6. Findings from the trial policy implementation

6.1 Since the implementation of the revised policy on 23 February 2023, 30 grievances have been submitted.

6.2 Table 1 shows that 40% of the grievances submitted under the new policy were resolved informally.

6.3 This is an improvement compared to data analysed of grievances submitted in 2021 and 2022 which showed that 32% of 75 grievances were resolved informally and 9% of grievances progressed to stage 3 Members' appeal hearing which took place during 2022 and 2023.

6.4 It is important to note that none of these grievances have progressed to employment tribunal. This suggests that the revised policy is effective in resolving employee grievances and the removal of stage 3 has not been detrimental to employees.

### 6.5 Table 1 – Grievance Cases from 23 February 2023 to 31 October 2023

Grievance Cases				
Outcome	Informal	Stage 1	Stage 2	Total
Informal	12			12
Not upheld		2		2
Ongoing		9	2	11
Upheld		2		2
Upheld in part		1		1
withdrawn	2			2
<b>Total</b>	<b>14</b>	<b>14</b>	<b>2</b>	<b>30</b>

### 6.6 Table 2 – Grievance Cases from 1 January 2021 to 22 February 2023

Grievance Cases					
Outcome	Informal	Stage 1	Stage 2	Stage 3	Total
Informal	25				25
Not upheld		15	2	2	19
Ongoing		2			2
Partially upheld		12	3		15

<b>Upheld</b>		<b>6</b>	<b>1</b>	<b>3</b>	<b>10</b>
<b>Withdrawn</b>		<b>2</b>		<b>2</b>	<b>4</b>
<b>Total</b>	<b>25</b>	<b>37</b>	<b>6</b>	<b>7</b>	<b>75</b>

- 6.7 It is recognised that further development is required to consistently meet the revised timescales in dealing with grievances. Measures have been implemented to monitor progression of grievances including escalation mechanisms within services through regular case management discussions. Further methods of escalation are currently being discussed with the trade unions.
- 6.8 Further consultation with the Teachers Trade Union EIS is required to adopt the revised 2 stage grievance and resolution process. Currently LNCT4 Disciplinary and Grievance Process apply to Teachers who are employed by the Highland Council and this includes a third stage appeal process which is heard by the Members appeal sub-committee.
- 6.9 Two of the grievances raised during this policy trial were raised by Teachers, both of which were resolved informally. 1 Teaching case has progressed to stage 3 appeal hearing since 2021.

Designation: Head of People

Date: 24 November 2023

Authors: Louise McGunnigle (HR Manager), Hannah Jones (HR Business Partner), Jannet Sikkema (HR Business Partner)



Human Resources  
Goireasan Daonna

---

# Grievance & Resolution Policy

<b>Section 1:</b>	<b>Introduction</b>	<b>3</b>
<b>Section 2:</b>	<b>Aims</b>	<b>3</b>
<b>Section 3:</b>	<b>Policy Principles</b>	<b>4</b>
<b>Section 4:</b>	<b>Conciliation Meeting</b>	<b>4</b>
<b>Section 5:</b>	<b>Types of Grievances</b>	<b>4</b>
<b>Section 6:</b>	<b>Procedures</b>	<b>5</b>
	Status Quo Ante	<b>5</b>
	Withdrawal	<b>6</b>
	Collective grievances	<b>6</b>
	Confidentiality	<b>6</b>
	Stages & time limits	<b>6</b>
	Guidance	<b>6</b>
	Legislation	<b>6</b>
	Monitoring	<b>7</b>
<b>Section 7:</b>	<b>Appendices</b>	<b>7</b>
	Appendix 1	<b>7</b>
	Stage 1	<b>7</b>
	Stage 2	<b>8</b>
	Stage 3 (Teachers only – LNCT 4)	<b>8</b>
	Appendix 2	<b>9</b>
	Grievance stages, appeals and time limits	<b>9</b>
	Appendix 3	<b>10</b>
	Grievance submission form	<b>10</b>
	Appendix 4	<b>11</b>
	Grievance Appeal submission form	<b>11</b>

# Document Control

## A: Version History

Version	Date	Author	Change
1.2			
1.1		Hannah Jones	?
1.0	24/02/23	Hannah Jones	Revised Policy

## B: Document Approval

Name	Title	Role
Elaine Barrie	Head of HR	Approver
Louise McGunnigle	HR Manager	Approver



# 1. Introduction

Every employee has a right to raise concerns with their manager relating to their employment. If it has not been possible to resolve the concern through informal means, a more formal process may be required.

Grievance procedure provides a mechanism whereby problems in relation to work, the working environment or working relationships can be raised and addressed more formally.

These problems should be dealt with speedily and fairly before they can develop into major problems or, potentially, collective disputes.

This policy and procedure will apply to all employees, except staff on Agenda for Change T&Cs, ~~Teachers~~, the Chief Executive and Executive Chief Officers (ECOs). Chief Officials are employed under the Scottish Joint Council for Chief Officials of Local Authorities (Scotland) terms and conditions.

This procedure will also apply to former employees where the grievance is raised within 4 months of cessation of employment.

Where a concern is raised out with this timescale, it should be referred to the Head of People.

# 2. Policy Aims

The aim of this policy is to provide a mechanism for identifying and addressing employee concerns or grievances fairly and as quickly as possible.





## 3. Policy Principles

All employees must be made aware of the terms of this grievance procedure and have ready access to a copy of it.

Every effort should be made to resolve a concern or potential grievance using informal mechanisms e.g., discussion with the immediate supervisor, discussion with a senior colleague, approach to HR or through an informal approach by a trade union representative.

If informal methods are unsuccessful and the aggrieved party remains dissatisfied with the outcome or response, the formal procedure should be used, starting with a conciliation meeting.

## 4. Conciliation Meeting

An informal conciliation meeting should take place between the aggrieved employee, an appropriate line manager and a representative from HR to discuss the contents of the grievance, potential solutions and next steps. This step may resolve the matter without further need to proceed with the formal process.

The purpose of this policy is to deal with grievances quickly, fairly and within the suggested time limits. There should be a genuine willingness to resolve matters.

It may be appropriate for formal mediation to take place to resolve a grievance. Advice should be sought from HR regarding the most appropriate early intervention.

## 5. Types of Grievances

It is neither possible nor desirable to precisely specify all the issues which may give rise to a grievance, but the main areas would include:

- terms and conditions
- health, safety & wellbeing
- relationships at work
- new working practices

- organisational change
- equal opportunity matters

The following issues are not covered by the grievance procedure:

- disciplinary matters
- issues not related to employment
- taxation, national insurance, and pension matters
- collective disputes (generally defined under the Trade Unions and Labour Relations (Consolidation) Act.

Decisions relating to a grievance will be taken at the lowest appropriate level and will, where possible, involve the use of informal mechanisms to secure a resolution.

Employees have the right to be accompanied by an individual at all stages of the grievance process.

## Bullying and Harassment

Any concerns of bullying and harassment should be dealt with in accordance with the Bullying and Harassment policy.


## 6. Procedure

When an employee raises a concern the immediate manager, supervisor or other senior manager must respond as quickly as possible to an informal approach, not necessarily in writing.

If the aggrieved party is dissatisfied with the response or if no response has been forthcoming within a reasonable period, the employee may initiate the first stage of the formal grievance procedure. Where a formal grievance is received, the procedure set out at **Appendix 1** will be followed.

The employee must be given every opportunity to present evidence in support of their grievance and the employee and/or representative can call witnesses, submit additional written information and/or use verbal presentation. In addition, the nominated officer must justify a decision which is subject to appeal.

### Status Quo Ante



In the event of a formal grievance being lodged in response to a proposed change to terms and conditions of employment or organisational structures, no change shall be implemented until the agreed grievance procedures have been exhausted, where practicable.

## **Withdrawal**

The aggrieved employee may at any stage withdraw from these procedures with notification in writing. In these circumstances the employee will be deemed to have withdrawn the grievance.

## **Collective Grievances**

Two or more employees who share a common grievance arising from the same circumstances shall be entitled to pursue their grievance jointly by means of the procedures outlined above.

## **Confidentiality**

The Council will treat records arising from the grievance process as confidential. Copies of such records will be made available to the employee concerned and to their representative and to officers involved in the grievance and appeals process. Grievances that are raised against employees will be shared with those employees to enable them the opportunity to fully respond.

## **Stages and time limits**

Details of the grievance stages, appeal process and suggested time limits are set out in **Appendix 2**.

## **Guidance**

Guidance, information and tools relating to the management of grievance matters will be developed and maintained in partnership through the Highland Council Partnership Framework. In relation to grievance management this guidance will:

- guide managers on the informal resolution of grievances including the informal conciliation meeting
- provide advice on hearing a grievance

- explain how to conduct a grievance hearing
- guide managers on the appropriate use of mediation
- advise on decision making and communication with employees

## Legislation

The development and application of this policy is guided by:

- Employment Rights Act 1996
- Employment Relations Act 1999
- Employment Act 2008
- ACAS code of practice on disciplinary and grievance procedures

## Monitoring

The application of this policy will be monitored through the Highland Council Partnership Framework and the Corporate Resources Committee.

# 7. Appendices

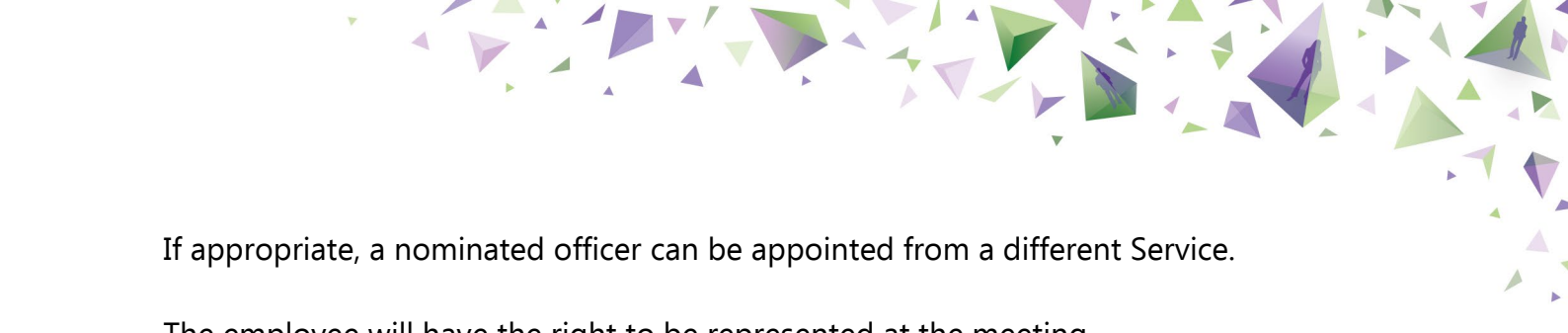
## Appendix 1 – Formal Grievance Procedure

### Stage 1

The employee should submit a formal written statement of grievance to the Head of Service using the grievance submission form (**Appendix 3**), clearly outlining the nature of the grievance and the resolutions sought. A copy should also be sent to HR via [hr@highland.gov.uk](mailto:hr@highland.gov.uk). If it is felt that submitting the grievance to the Head of Service is not appropriate, it should be submitted to the Service ECO.

Where possible, a conciliation meeting facilitated by HR should take place with the aggrieved employee and other appropriate parties. The purpose of the meeting is to support the employee and to enable a timely, fair, and transparent and informal resolution.

If conciliation is unsuccessful in resolving the grievance, the Head of Service will nominate an officer to convene a grievance hearing within 15 working days (or otherwise by mutual agreement) of receipt of the written statement of grievance.



If appropriate, a nominated officer can be appointed from a different Service.

The employee will have the right to be represented at the meeting.

The nominated officer will respond in writing to the formal statement of grievance within 5 working days after the date of the meeting, unless otherwise agreed to allow the nominated officer to speak to any witnesses or subject experts.

Support will be available from Services for employees who raise a grievance, as well as for employees who a grievance is raised against. Contact should be made with HR to discuss appropriate arrangements. Examples of support could include:

- agreeing a communication plan with the employee
- appointing an alternative manager as the point of contact where necessary
- referral to the Employee Assistance Programme

## **Stage 2**

Employees have the right to appeal the outcome of a stage 1 grievance. The reasons for appeal should be clearly explained and could be because the outcome is wrong or unfair, or because the procedure was not followed appropriately.

A statement of appeal must be submitted in writing using the Grievance Appeal Form (**Appendix 4**) within 10 working days of receipt of the nominated officer's decision, explaining the reason(s).

The Service ECO will nominate an appropriate manager from a different Service, to convene a formal appeal hearing within 15 working days of receipt of the grievance appeal form.

The Service ECO or nominee shall respond in writing to the aggrieved employee within 5 working days after the date of the hearing, unless otherwise agreed. This will conclude the grievance process.

## **Stage 3 – Teachers Only (LNCT 4)**

If a teacher considers that they have a grievance with the Council regarding the application and/or interpretation of the national agreement on salaries and conditions of

service, they must exhaust the Council’s internal procedures, in the first instance (Stage 1 & 2).

If a teacher is dissatisfied with the outcome of the Council’s procedures, then they may ask for the case to be considered by the Joint Secretaries representing the Employers’ Side and the Teachers’ Side of the SNCT.

The Joint Secretaries will consider whether the Council has complied with and/or properly interpreted the national agreement on salaries and conditions of service and has taken into account of all of the relevant factors. If the Joint Secretaries are not satisfied that the Council has acted correctly or appropriately, it will refer the matter back to the Council with appropriate advice. If this advice or mediation by the Joint Secretaries does not resolve the matter, or if there is a failure to agree, the Joint Secretaries will refer the case to an Appeals Panel of the SNCT.

The decision of the Appeals Panel will be final and binding on all parties to the appeal.

## Appendix 2 – Grievance Stages, Appeals and Time Limits

The following table provides and describes the basic stages and time limits within the process.

Stage	Heard By	Suggested Time Limit
1	Nominated Officer	Up to 15 working days for the conciliation meeting or the formal meeting to take place  5 working days to issue written response, unless otherwise agreed
2	Executive Chief Officer or Nominee	Appeal hearing to be heard within 15 working days from the date of appeal received  5 working days to issue written Response, unless otherwise agreed

3*	Scottish Negotiating Committee for Teachers.	Determined by the Scottish Negotiating Committee for Teachers.

\* Only applicable to matters relating to the teacher's national agreement on salaries and conditions of service

## Appendix 3 – Grievance Submission Form

### Grievance Form

Name: ..... Post: .....  
Service: ..... Location: .....

**The contents of this form and any related documents may be shared with employees who a grievance is raised against, to provide them with the opportunity to respond.**

You should submit this form to your Head of Service, who will delegate your grievance to be dealt with by the most appropriate manager. Please also email a copy of the grievance form to [HR@highland.gov.uk](mailto:HR@highland.gov.uk).

If you wish, you can submit the form through your trade union or other representative. Please set out the key details of your grievance below and continue on the reverse of this form if necessary. Supporting relevant documentation can be submitted, within reason.

Remember to provide your resolution sought and to sign and date the form.

---

### Nature of Grievance

### Resolution Sought

---

Date ..... Signature .....



**Receipt of this form must be acknowledged**

## **Appendix 4 – Grievance Appeal Submission Form**

### **Grievance Appeal Form**

Name: ..... Post: .....

Service: ..... Location: .....

Date of Stage 1 Hearing: ..... Heard by: .....

**The contents of this form and any related documents may be shared with employees who a grievance is raised against, to provide them with the opportunity to respond.**

Employees have the right to appeal the outcome of a stage 1 grievance. The reasons for appeal could be because the outcome is wrong or unfair, or because the procedure was not followed appropriately. This form should be submitted to the Service ECO within 10 days of receipt of the grievance outcome.

You should submit this form to your Service Executive Chief Officer, who will delegate your grievance appeal to be dealt with by the most appropriate manager. Please also email a copy of the grievance appeal form to [HR@highland.gov.uk](mailto:HR@highland.gov.uk).

If you wish, you can submit the form through your trade union or other representative.

---

### **Grounds for Appeal**

### **Resolution Sought**

---

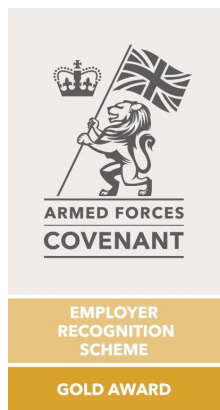
Date .....

Signature .....

**Receipt of this form must be acknowledged**

## Quick Links

The Hyperlinks listed here will redirect you to the related guidance, letters, information, and relevant organisations mentioned in this policy.	
<b>Grievance and Resolution Guidance</b>	<b>Click Here</b>
<b>Appendix 1 – Formal Grievance Procedure</b>	<b>Click Here</b>
<b>Appendix 2 - Grievance Stages, Appeals and Time Limits</b>	<b>Click Here</b>
<b>Appendix 3 – Grievance Submission Form</b>	<b>Click Here</b>
<b>Appendix 4 – Grievance Appeal Submission Form</b>	<b>Click Here</b>
<b>Employee Assistance Programme</b>	
<b>Mediation Policy and Guidance</b>	
<b>Bullying and Harassment in the Workplace Policy</b>	<b>Click Here</b>
<b>Guide to Dealing with Bullying and Harassment</b>	<b>Click Here</b>
<b>Bullying and Harassment Contact List</b>	<b>Click Here</b>



Human Resources  
Goireasan Daonna

---

# Guidance for Managers in Resolving Grievances

# Contents

## Clàr-innse

<b>Section 1:</b>	<b>Introduction</b>	<b>2</b>
<b>Section 2:</b>	<b>Definitions</b>	<b>3</b>
<b>Section 3:</b>	<b>Informal Resolution</b>	<b>5</b>
<b>Section 4:</b>	<b>Formal Grievance Procedure</b>	<b>6</b>
<b>Section 5:</b>	<b>Hearing the Grievance</b>	<b>9</b>
<b>Section 6:</b>	<b>Decision and Follow-Up</b>	<b>12</b>
<b>Section 7:</b>	<b>Post- Employment Grievances</b>	<b>12</b>
<b>Section 8:</b>	<b>Seperation from the Disciplinary Process</b>	<b>13</b>
<b>Section 9:</b>	<b>Role of HR</b>	<b>13</b>
<b>Section 10:</b>	<b>Supplementary Issues</b>	<b>13</b>
<b>Section 11:</b>	<b>Quick Links</b>	<b>16</b>



# Introduction

## Purpose of the Guidance

- To ensure employee concerns are heard and dealt with fairly, promptly, and effectively
- To equip managers to deal with issues raised by employees
- To ensure continued employee wellbeing, motivation, and job satisfaction
- To comply with legislative requirements.

The purpose of these guidelines is to provide advice and guidance on the use of the Council's grievance procedures. It is essential that genuine grievances are dealt with fairly and promptly. It is important from the outset to be clear that the Grievance Procedure is separate and distinct from the Council's Disciplinary Procedure.

Employment law requires employees to be informed as to whom they can apply to seek redress for any grievance, and how that application should be made. It also requires employees to be notified of a procedure which involves as a minimum the right to raise a grievance and to have it heard and, where necessary, a right of appeal against the decision. The Council's Grievance Procedure is a local collective agreement between the Council as employer and the recognised trade unions, on behalf of employees. As such, the Grievance Procedure is incorporated into employees' contracts of employment.

The Council's Grievance Policy can be accessed on the Council's HR Microsite. This was developed taking account of employment legislation, the ACAS Code of Practice on Disciplinary and Grievance Procedures and best practice in hearing and resolving employment grievances.

The clear emphasis of the Grievance Procedure is for early intervention by managers to listen to and attempt to resolve concerns or grievances as quickly as possible, and within the specified timescale of up to 15 working days. It involves managers not only receiving and dealing with the concern or grievance, but also reaching a decision and solution and confirming it to the employee.

The Grievance Resolution Policy and Guidance will apply to all employees, except staff on Agenda for Change T&Cs, the Chief Executive and Executive Chief Officers (ECOs). Chief Officials are employed under the Scottish Joint Council for Chief Officials of Local Authorities (Scotland) terms and conditions.



# Definitions

What is and what is not a competent grievance is not readily quantified. The Employment Act (Dispute Resolution) Regulations 2004 define a grievance as a concern on the part of an employee about some action taken or proposed to be taken by an employer affecting an employee, which the employee considers is to be taken for some reason unconnected with the way he or she is doing the job. The action taken or proposed to be taken by the employer could affect the employee's terms and conditions of employment including pay and other contractual benefits, working environment including location, or health and safety concerns. It may also be competent to challenge under the grievance procedure proposals to vary the way work is organised e.g., shift or rota systems, team compositions and work procedures and practices. However, by far the most common grievance involves disagreements between colleagues which reach a point where service provision and employee motivation suffer.

## Bullying and Harassment

Any concerns of bullying and harassment should be dealt with in accordance with the Bullying and Harassment policy.


The Grievance Procedure does not cover the following: -

## Disciplinary Matters

A grievance concerning disciplinary action taken or the decision of a designated officer to investigate an incident under the disciplinary procedure should not be considered under the Grievance Procedure. There may be circumstances where an employee alleges that the decision to take disciplinary action is wholly due to a breakdown in the working relationship between the employee and their manager and not due to misconduct on the part of the employee. Such allegations should be considered in the course of the disciplinary procedure, at the hearing stage or appeal stage, should it be required.

### A Grievance is, for example:

- Any concern an employee has about action taken by management (or failure to act) which the employee does not feel is justified
- Disagreement over proposed changes to terms and conditions of employment, shift rotas and/or working arrangements

- 
- Concerns about the working environment, health and safety or work practices/procedures (including working relationship problems between colleagues that affect work).

### **A Grievance is not, for example:**

- Disagreement with the outcome of disciplinary Proceedings
- Issues unrelated to employment with the Council
- Taxation, National Insurance and Pension Matters
- Collective Disputes
- Matters relating to employee conduct or performance. Other avenues are available to manage this.

## **Issues not related to Employment**

Employees of the Council are generally also recipients of its services. An employee cannot pursue a grievance under the Council's Grievance Procedure in respect of an issue or complaint they may have about services provided to them by the Council. Nor is it legitimate for a grievance to be raised in respect of matters affecting an employee's private life that are unconnected to their employment with the Council.

## **Taxation, National Insurance and Pensions Matters**

Matters of taxation and National Insurance are out with the control of the Council and as such, employees' concerns about such issues cannot be resolved by the Council. Such issues should be taken up with the Inland Revenue. Issues relating to pension matters should be addressed to relevant pension scheme administrators.

## **Collective Disputes**

Collective disputes are defined as issues where there is a failure to agree between the employer and employee representatives, acting on behalf of a group of employees, in respect of a policy, practice or proposed change affecting that group of employees resulting from a decision taken by the Council. Such collective disputes shall not be resolved through the grievance procedure but will be the subject to the Council's Disputes Procedure.



## Pay Issues

It is not appropriate to use the grievance procedure to appeal against the outcome of a job evaluation or job sizing process. However, where the concern relates to differences of opinion between the employee and manager about whether the duties and responsibilities have changed significantly, it may be appropriate to consider this matter under the grievance procedure. Grievances may also arise out of differences of opinion concerning the application of pay enhancements or allowances.

**If there is any doubt at all about the competency of a Grievance the advice of HR should be sought in the first instance.**

**There is a separate Whistleblowing Policy which an employee or worker should use if they suspect malpractice or wrongdoing such as: criminal offences; failure to comply with legal obligations; miscarriage of justice; health and safety danger of an individual; damage to the environment; deliberate attempt to cover up any of these issues. A link to the policy is included in the Quick Links at the end of this guidance.**

## Informal Resolution

### Purpose:

- To deal quickly with employee concerns before they become more serious
- To encourage appropriate management intervention to resolve legitimate employee concerns
- Strengthen the employee and manager relationship by encouraging two-way communication to resolve differences
- Promote employee motivation by demonstrating that work related concerns can be addressed quickly and effectively through discussion with line management.





## Desired Outcome:


- Employee concerns are promptly and effectively resolved through informal discussion and management intervention.

In most cases, the most effective way to deal with a grievance is through informal discussion between the aggrieved employee (or their representative) and the immediate line manager or supervisor. An informal approach from an employee does not require to be responded to in writing; however, the emphasis should be on reaching a lasting and mutually acceptable resolution to the employee's concern.

Speed of response is important. Whilst there are no specific timescales within which a manager should respond to an informal grievance, it should be recognised that a failure to respond within a reasonable period can often make matters worse, causing a grievance to become deeper seated and opposing views to become more entrenched. However, where time is required to investigate the circumstances of the grievance, this should be clearly communicated to the aggrieved employee and agreement sought as to a reasonable timescale within which a response to the informal grievance can be expected.

Resolving informal grievances depends on effective two-way communication. It is important for the future of the manager and employee relationship that concerns raised informally by an employee with their manager are taken seriously and responded to appropriately. A manager dealing with an informal grievance might require the following skills and attributes to respond effectively: -

- **Take the employee seriously**, in most cases people do not complain without good reason. Consider whether the reason given for the grievance is the actual problem or if there is an underlying issue of concern troubling the employee
- **Listen** to what the employee is saying and demonstrate that you are listening (summarise, clarify understanding, ask probing questions)
- **Build rapport** - demonstrate that you are willing to resolve any legitimately held concerns, engage the employee in conversation about their concern
- **Analyse** what is being said and probe for more information. Consider what the employee is not saying as well as what they are. Is there a possible explanation for their concern that they are not prepared to discuss?
- **Be honest** – if the solution being sought by the employee is not achievable, advise the employee, giving reasons
- **Seek proposals for resolution** from the aggrieved employee. What would improve the situation for them?
- **Seek agreement** with the employee to the resolution proposed

- 
- **Move quickly** to implement the agreed resolution and monitor the situation for improvements.

Whilst it is not necessary to respond to an informal grievance in writing, it may be necessary to retain a file note summarising the date of the meeting, resolutions proposed and whether the aggrieved employee accepted the resolution proposed.

## Formal Grievance Procedure

### Stage 1

#### Purpose:

- To provide an opportunity for an aggrieved employee to formally state the grounds for their grievance and the resolution sought
- To provide management with an opportunity to consider the statement of grievance, supporting evidence and any previous action taken (e.g. attempts at informal resolution)
- To hear a grievance in accordance with the requirements of the grievance procedure (i.e. observing timescales, etc).

#### Desired Outcome:

- Employee concerns are fully heard and, where appropriate, means of resolving the problem are agreed. Where the grievance is not upheld, this is clearly communicated to the employee along with reasons for the decision.

Where a grievance cannot be settled informally, stage 1 of the formal Grievance Procedure will be invoked. To formalise a grievance, the aggrieved employee must complete a [statement of grievance](#) and submit it to the Head of service who will nominate an officer to deal with the grievance. A copy of the grievance should also be sent to [HR@highland.gov.uk](mailto:HR@highland.gov.uk).



## Conciliation Meeting

Where possible, a conciliation meeting that is facilitated by HR should take place with the aggrieved employee and other appropriate parties. The purpose of the meeting is to support the employee and to enable a timely, fair, and transparent resolution.

Where the conciliation meeting is not appropriate, or it is unsuccessful, a stage 1 grievance meeting should take place with a nominated officer or by another manager who has been nominated to act on behalf of the Head of Service. Normally the line manager would deal with a stage 1 grievance unless it is inappropriate for them to do so. In either case, it is important that the nominated officer has authority to take action to resolve the grievance and is in a position where they can consider the grievance and make an objective judgement on its merits.

Please refer to the [checklist](#) and process flow chart which forms part of these guidelines for further information on the process of preparing to hear a grievance.

Background research after the meeting will ensure that the nominated officer understands the surrounding circumstances without developing any fixed views as to how the grievance can be resolved. It may involve speaking to people, calling for reports, searching files and examining procedures. Such research demonstrates that the nominated officer is treating the grievance seriously and in a positive way. When arranging the meeting, it is important that the nominated officer informs the aggrieved party of the intention to carry out research after the meeting. **It is not appropriate or necessary to appoint an investigating officer to carry out this background research.**

## Right of Appeal

Employees have the right to appeal the outcome of a stage 1 grievance if they feel the outcome was wrong, the procedure was unfair, or because there is new evidence relating to the original grievance. The [grievance appeal form](#) (**Appendix 4 of the Grievance and Resolution Policy**) should be submitted to the Service ECO within 10 days of receipt of the grievance outcome, clearly outlining the reason for appeal.

The Service ECO will nominate an appropriate manager from a different Service, to convene a formal appeal hearing within 15 working days of receipt of the grievance appeal form.



## Stage 2

### Purpose:

- To give an aggrieved employee the opportunity to challenge the outcome of the stage 1 grievance or if they feel the outcome was wrong, the procedure was unfair, or because there is new evidence relating to the original grievance.


### Desired Outcome:

- Employee concerns are fully heard and, where appropriate, means of resolving the problem are agreed. Where the grievance is not upheld, this is clearly communicated to the employee along with reasons for this decision
- The grounds on which the employee is aggrieved are resolved; or
- The employee is clearly informed that the outcome of stage 1 is considered to be correct and that the stage 2 grievance is not upheld:  
or
- Further action is proposed on the basis that attempts to resolve the grievance at stage 1 have not gone far enough to resolve matters or because further incidents have taken place since stage 1.

The purpose of the stage 2 appeal hearing need not necessarily be to rehear the entire grievance (although in most cases this will be unavoidable to ensure a fair hearing). Rather, the purpose of the appeal hearing is to enable the aggrieved employee(s) to briefly state their case and the grounds on which they are aggrieved at the decision reached at stage 1 of the procedure. The manager who heard the stage 1 grievance should also be given the opportunity to justify the decision reached and any action taken. Thereafter, the nominated Officer should respond in writing to the grievance appeal within 5 working days, indicating whether the appeal is upheld or not. As with stage 1 of the procedure, it is not necessary for a decision to be reached at the end of the hearing if it is considered that further investigations are required. In such a case, a timescale should be agreed when a decision will be notified.

The stage 2 appeal hearing should be conducted in accordance with the process outlined below and in **Appendix 1** of the Grievance and Resolution Policy.

In exceptional circumstances, it may be appropriate for an aggrieved employee to submit new evidence (i.e. that was not considered at stage 1) at the appeal hearing, if



the new evidence demonstrates that action taken at stage 1 to resolve the grievance has not had the desired effect. However, it is not appropriate for an employee to introduce grievances at a stage 2 hearing that have not previously been heard at a stage 1.

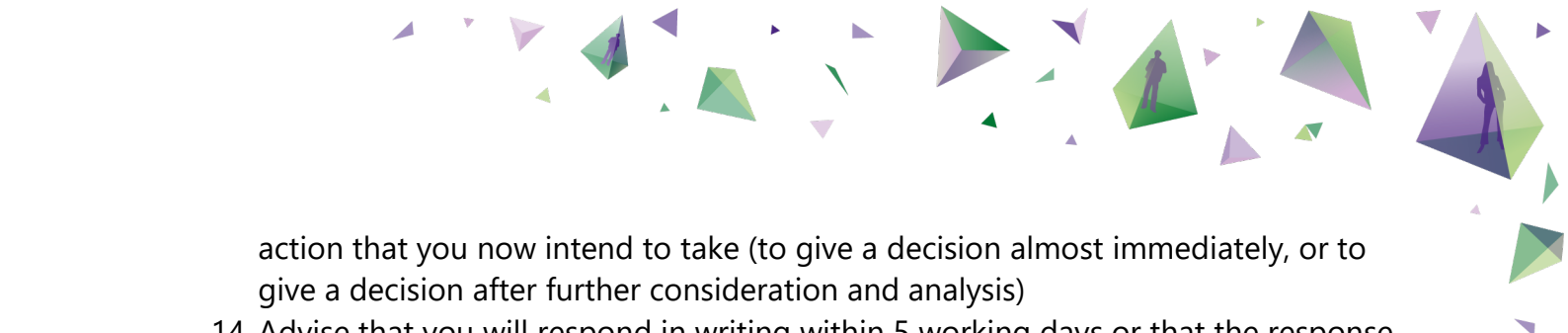
The outcome of the stage 2 grievance hearing concludes the grievance process.

<sup>1</sup> Except in defined circumstances for Teachers who can take a grievance to the Scottish Negotiating Committee for Teachers.

## Hearing the Grievance

An appeal hearing should involve the following steps:

1. Explain that your role (as the nominated officer) is to hear the grievance, to see if there is an opportunity for resolution and make it clear that the decision at this stage is yours
2. Explain the role of other people present (e.g. HR Representative, Employee's representative)
3. Explain the process to be followed during the meeting
4. Make it clear that whilst the Grievance Procedure states that you may give your decision at the end of the meeting; if circumstances require, you may take some time to consider the response or action to be taken, particularly if further information is required
5. Explain that you are prepared to consider constructive solutions which the individual(s) put(s) forward without a commitment to implement any or all
6. Invite the aggrieved employee to briefly state their grievance to ensure that your understanding is clear
7. Invite the aggrieved employee to call any witnesses in support of their grievance and present any supporting information (e.g. documents)
8. Ask questions of any witnesses called by the employee
9. Call any witnesses whom you consider can contribute to discussion of the grievance (and in the case of complaints against another employee, invite that employee to call witnesses)
10. Invite the aggrieved employee to ask questions of any witnesses called
11. Ensure that you keep a clear record of the important points
12. Be prepared to probe points made at the meeting, including post meeting enquiries so that your decision is well informed
13. At the end of the meeting, sum up your understanding of the grievance (or ask the employee to sum up their grievance), the content of the discussion, and the

- 
- action that you now intend to take (to give a decision almost immediately, or to give a decision after further consideration and analysis)
14. Advise that you will respond in writing within 5 working days or that the response will be delayed (in such circumstances explain the reason for the delay and when a written decision can be expected)
  15. After the meeting, carry out any further enquiries (if needed) to clarify your understanding of the situation
  16. Examine the Information gathered and analyse the circumstances. Consider how the grievance might be resolved and take account of the aggrieved employee's proposed resolution
  17. Respond in writing stating whether the grievance has been upheld, upheld in part or not upheld and briefly explain your decision, explain the resolution proposed and confirm the right of appeal, as appropriate.

It is important to ensure that the conduct of the grievance meeting is non-confrontational, but not so informal as to give the impression that the grievance is not being treated with sufficient seriousness. Where the grievance involves a breakdown in the working relationship between two or more employees, the advice of the HR Representative should be sought as to the best way of bringing the disputing parties together.

## Resolving a Grievance

It is not possible, nor is it desirable to be prescriptive about how grievances should be resolved and for this reason these guidelines do not include an exhaustive list of possible resolutions. However, the following issues should be borne in mind when hearing a grievance:

- It is important to have an open mind as to the options for resolution that might exist
- It is essential from the point of view of continued employee motivation that legitimately held employee concerns are heard and resolved promptly
- At the same time focus must be maintained on the best course of action for ensuring business continuity.

Options for resolution of a grievance might include counselling for one or more employees or mediation as a means of bringing the parties of a dispute together and resolving concerns. However, there are other options for resolving a grievance and the best means of reaching a resolution will depend on the grounds for the grievance and the extent to which it is expected that management intervention can effectively resolve matters.



## Mediation


While the range of issues which a manager can be asked to consider in a formal grievance meeting are diverse, by far the most time consuming can be those involving a breakdown in working relationships between two or more employees. Often there is a requirement that these employees work closely and effectively together for service delivery purposes and little option exists to redeploy one or more individuals or reallocate duties to separate the parties involved. It is also the case that such grievances can be the most damaging to continued effective service delivery and can have a long as well as short term impact on business continuity. In such circumstances, the role of the manager in bringing the parties together, getting to the root of the problem and finding an acceptable solution is crucial. It will not always be the case that the solution proposed will be to the satisfaction of all parties, however, in such circumstances the continued provision of a service is of paramount importance.

Where working relationships appear to have irretrievably broken down and the manager is presented with two (or more) conflicting versions of events, it may be appropriate to consider the involvement of an independent person to act as a mediator between the parties. The role of a mediator is to encourage open and frank discussion, without taking sides, to encourage all parties to reach an understanding of the impact of their behaviour on the other party. In many cases, understanding the impact of a particular behaviour on another person can help to encourage a change to that behaviour. In such circumstances, the advice of the HR Representative should be sought in the first instance, before moving to involve a mediator.

## Decision and Follow Up

### Key Features:

- Written response within 5 working days of the meeting
- Clearly state whether the grievance has been upheld or not
- Propose resolution to the grievance where appropriate
- Propose arrangements to monitor impact of resolution, where appropriate
- Notify the aggrieved employee of the conclusion of the grievance process



As stated above, the nominated officer may be required to conduct further research before reaching a decision. It is not likely that every grievance raised will be resolved in the way employees wish. It is an important skill for the person hearing the grievance to be able to say "no" - but with an explanation of why such a decision was reached. The decision must not be given in vague or inconclusive terms and should, wherever possible, be given verbally first. **It is the responsibility of the nominated officer to confirm the decision in writing within 5 working days.** [A template letter is available here.](#)

## Post-Employment Grievances

The Grievance Procedure requires that grievances submitted by a former employee must be heard in accordance with procedure where that grievance is submitted up to 4 months after the employee leaves the employment of the Council. The only exception to this provision would occur where it would not be practicable for the former employee to attend a hearing (for example because they have left the country). In such cases, and with the agreement of the aggrieved former employee, a modified procedure should be followed in which the former employee submits a detailed written statement of grievance which is investigated and responded to in writing.

## Separation from the Disciplinary Process

It is possible that potential disciplinary matters may arise through a grievance. The procedure for dealing with disciplinary matters is laid out in the Council's Disciplinary Procedures, including appeals. The Grievance Procedure should not be used for disciplinary purposes. Similarly, the Grievance Procedure cannot be used by employees to complain of the application to them of disciplinary sanctions. Should it emerge while hearing a grievance that there is a potential disciplinary issue, the grievance hearing should be suspended until the relevant matters have been investigated under the Disciplinary Procedure. Following this, the employee should be informed of the process to be followed.





## Role of HR

It is appropriate that the hearing of grievances is the responsibility of the Service. HR will be able to give advice and guidance on the application of the procedures, competent issues for consideration under the Grievance Procedure and the effectiveness of potential decisions and solutions. It may be that support from the [Employee Assistance Programme](#) is required, and HR can signpost this and other support measures to managers and employees.

HR has an important role and provides support to managers and employees. It is essential in the case of grievances against proposals to change terms and conditions of employment that HR are contacted at an early stage to provide advice on available decisions and resolutions to grievances.

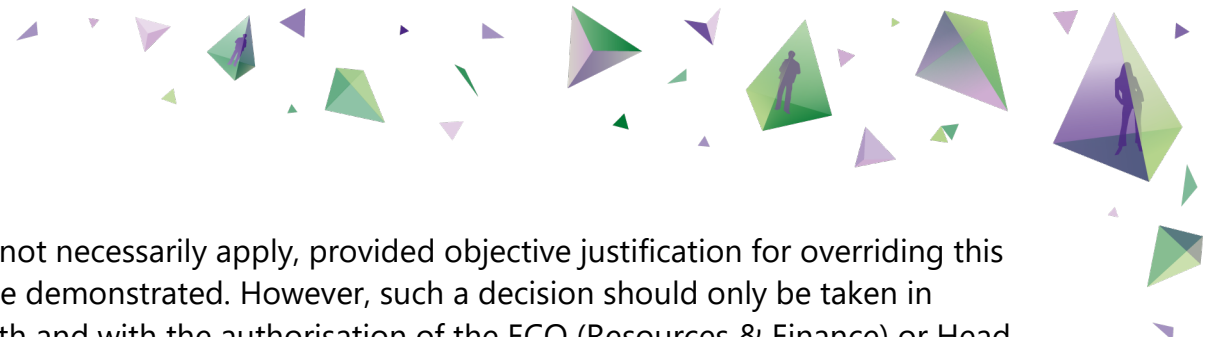
## Supplementary Issues

### Status Quo Ante

The purpose of the status quo ante provision is to protect employment rights, working arrangements and contractual terms and conditions which are subject to proposals for change, until such time as the affected employee(s) has had sufficient opportunity to voice concerns about the proposed change and to seek to make a case to management against the proposed change.

However, as an over-riding principle, the operational needs of service delivery take precedence and the status quo ante provision should not therefore be regarded as a mechanism for blocking or preventing the implementation of legitimate management decisions taken following consultation and having due regard to the circumstances of the individuals affected by the proposed change.

In general, it would be appropriate for the grievance procedures to be exhausted before a change is made. However, it should be recognised that management are entitled to make decisions about the way in which services are delivered, in the best interests of service recipients, and which may have an impact on employees. Where there are concerns that a grievance has been lodged purely as a means of obstructing, delaying, or otherwise preventing the effective management of service delivery then the status



quo ante need not necessarily apply, provided objective justification for overriding this provision can be demonstrated. However, such a decision should only be taken in consultation with and with the authorisation of the ECO (Resources & Finance) or Head of People.

## **Withdrawal**

Where an employee indicates verbally their intention to withdraw a grievance, they should in all cases be asked to confirm in writing that they no longer wish to pursue their grievance. However, in certain circumstances, where there are sufficient grounds for concern, it may be appropriate to advise the employee that the matter originally complained of will still be investigated or monitored for a period, notwithstanding the grievance will be deemed to have been abandoned. This may particularly be the case where concerns are raised about the treatment at work received by one employee from another employee or group of employees.

## **Collective Grievances**

A collective grievance is defined as a concern shared by two or more employees. This should be differentiated from a collective dispute between the Council and a group of employees, represented by employee representatives, concerning a decision of the Council. Such collective disputes should not be handled in terms of the Council's Grievance Procedure but should be subject to the Council's Disputes Procedure. The Head of People or HR Manager should be contacted regarding a collective dispute.

Collective grievances should be dealt with in the same way as a grievance from a single employee and in accordance with the procedure and these guidelines.

## **Confidentiality**

It is important that all parties involved in the grievance process understand that the process is confidential and can often concern matters of a personal nature to the employee who has taken out a grievance. It is the responsibility of the nominated officer dealing with the grievance to ensure that all participants (including witnesses) understand the confidential nature of the process.

Grievances that are raised against employees will be shared with those employees to enable them the opportunity to fully respond.

## Timescales

The Grievance Procedure requires that, when a formal grievance is lodged, a grievance meeting should normally be arranged within 15 working days. Following the hearing of the grievance a written response should normally be issued within 5 working days thereafter. Officers responsible for hearing formal grievances must wherever possible ensure that these timescales are observed. However, where, for example, further information is required or some other delay would make it impossible to respond fully within the timescales specified in the procedure, agreement should be reached on an acceptable timescale with the employee(s) who has lodged the grievance.

## Quick Links

The Hyperlinks listed here will redirect you to the related guidance, letters, information, and relevant organisations mentioned in this policy.

<b>Grievance and Resolution Webpage</b>	<a href="#"><u>Click Here</u></a>
<b>Disciplinary page</b>	<a href="#"><u>Click Here</u></a>
<b>Grievance Policy</b>	<a href="#"><u>Click Here</u></a>
<b>Bullying &amp; Harassment at Work Policy</b>	<a href="#"><u>Click Here</u></a>
<b>Mediation Guidance</b>	<a href="#"><u>Click Here</u></a>
<b>Guide to Dealing with Bullying &amp; Harassment</b>	<a href="#"><u>Click Here</u></a>
<b>Bullying &amp; Harassment Contact List</b>	<a href="#"><u>Click Here</u></a>
<b>Grievance Form</b>	<a href="#"><u>Click Here</u></a>
<b>Grievance Appeal Form</b>	<a href="#"><u>Click Here</u></a>
<b>Stage 1 Grievance Hearing – Invite Template Letter</b>	<a href="#"><u>Click Here</u></a>
<b>Stage 2 Grievance Appeal Hearing – Invite Template Letter</b>	<a href="#"><u>Click Here</u></a>
<b>Notification of outcome of Grievance Hearing</b>	<a href="#"><u>Click Here</u></a>
<b>Grievance Hearing Checklist</b>	<a href="#"><u>Click Here</u></a>
<b>Mediation Request Form</b>	<a href="#"><u>Click Here</u></a>
<b>Whistleblowing Policy</b>	<a href="#"><u>Click Here</u></a>