

# **Grievance Policy**

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# 1. Introduction

We consider it important that all employees have access to a policy to help deal with any grievances relating to their employment fairly and without unreasonable delay. We aim to investigate any formal grievance you raise, hold a meeting to discuss it with you, inform you in writing of the outcome, and give you a right of appeal if you are not satisfied. Grievances are concerns, problems or complaints that employees raise with us.

## Purpose

The purpose of this policy is to set out how employees can raise a grievance and how we will investigate and deal with grievances.

## Scope

This policy applies to all temporary and permanent Scottish Social Services Council employees, including the Chief Executive and Executive Management Team (EMT) members. This policy does not apply to current agency workers who should refer to their agency for details on how to raise a grievance. This policy does not apply to former employees or former agency workers.

## Definitions

A **Companion** is a colleague, a workplace trade union representative who's certified by their union to act as a companion or an official employed by a trade union.

A **malicious complaint** is one that is made with the intention of causing harm by seeking to defame a colleague or manager, through knowingly providing false or misleading information or withholding information about an incident or issue.

A **vexatious complaint** is one that is made solely or mainly to harass, annoy or subdue another person, or something that is unreasonable, without foundation, frivolous, repetitive, deliberately burdensome or unwarranted.

## Legislation, codes of practice, guidance

- ACAS Code of Practice on disciplinary and grievance procedures
- Employment Rights Act 1996
- Employment Relations Act 1999
- Data Protection Act 2018
- UK General Data Protection Regulation (2016/679 EU)

## Data protection

We will process any personal data collected in relation to this policy keeping to our [Data Protection Policy](#) and will record only the personal information required and keep the information only for as long as necessary.

## Monitor and review

Human Resources and the Partnership Forum are responsible for monitoring this policy to make sure that we are fairly and consistently applying it and that we meet the stated principles and values. We review this policy every three years (or earlier if legislation changes) and make appropriate amendments in consultation with the Partnership Forum. We outline minor amendments in the change log and update the version control. Where there are major changes, we will consult more widely and follow the consultation cycle.

## 2. Principles

In operating this policy the following principles are followed:

- Managers and employees must raise and deal with issues promptly and not unreasonably delay meetings, decisions or confirmation of those decisions.
- Employees will have an opportunity to have their say on the reason for their grievance, to put their case and will be listened to.
- Managers will make consistent decisions or explain why inconsistent decisions are made.
- We carry out any necessary investigations, to establish the facts of the case.
- All parties treat any information communicated to them in connection with an investigation or grievance matter as confidential. Involvement and awareness of the cases being dealt with under this policy will be restricted appropriately.
- Where matters of governance are evident, appropriate advice will be sought from Legal and Corporate Governance.
- Any decisions made must be proportionate to the issues at hand and will take into account any relevant circumstances.
- Employees can be accompanied at grievance meetings / hearings.
- Employees can appeal against a decision made at the Grievance Hearing.

When applying this policy we require our employees and our managers to treat each other with dignity and respect by acting in accordance with our values.

### **Recognition and respect for others**

- We treat each other with kindness and respect and value the contribution every employee makes.
- At every stage of the process there will be no discrimination on the grounds of protected characteristics as listed in the Equality Act 2010. We provide support and assistance where we can.

### **Working together**

- We recognise that others can hold different opinions regarding the same circumstances and each genuinely held view is valid.
- We recognise the value of positive and constructive involvement and participation from the trade union. The commitment to partnership working is confirmed in the Partnership Agreement and is integral to the development and maintenance of harmonious employee relations.
- Employees have the right to be accompanied at formal stages of the policy by a work colleague or a trade union representative. We will allow support at the informal stages where appropriate.

### **Accept responsibility and accountability**

- Take steps to resolve grievances at every stage and take corrective action.
- Respecting confidentiality and only sharing information, as appropriate, with relevant people.
- Deal with issues kindly, sensitively and showing compassion

## 3. Roles and responsibilities

### 3.1 Council and committee

People management policies which include any of the following are reserved for the Council:

- associated additional costs that are not contained within the current budget
- any proposed fundamental change to terms and conditions of employment
- where the Council has a clearly defined role to play.

Council is responsible for:

- approving this policy
- making sure that the application of this policy does not breach any statutory requirement placed upon the SSSC
- making sure that the Chief Executive and EMT have in place appropriate and up to date policies and procedures for the effective management of employees
- making sure policies and procedures are applied fairly and in accordance with the law
- approving these policies:
  - [Agile Working Policy](#)
  - [Code of Conduct \(Employees\)](#)
  - [Dignity at Work Policy](#)
  - [Disciplinary Policy](#)
  - [Family Friendly Policy](#)
  - Grievance Policy
  - [Redeployment Policy](#)
  - [Retirement and Severance Policy](#)
  - [Whistleblowing Policy](#)
  - [Work Performance Policy](#)
  - [Workforce Change Policy](#)

### 3.2 Executive Management Team

The EMT are responsible for:

- the implementation of the policy and to create a culture in which employees can flourish through interesting and rewarding work
- delegating responsibilities related to the policy to Operational Management Team (OMT) and line managers
- making sure that managers and employees receive appropriate development, support and training to implement the policy appropriately.

### 3.3 Operational Management Team

The heads of department are responsible for:

- making sure their managers and employees are aware of the processes to be followed within this policy
- making sure that employees are treated consistently and fairly, being mindful of the needs of the organisation as well as that of the individual.

## 3.4 Line manager

The line manager is responsible for:

- setting clear standards of behaviour
- acting in a fair and consistent way, being open and honest
- always acting promptly to deal with issues that arise
- dealing with issues kindly, sensitively and showing compassion
- respecting confidentiality and only sharing information, as appropriate, with relevant postholders
- considering our responsibilities under the Equality Act 2010 and, where appropriate, make reasonable adjustments for any individual who may have a disability or other protected characteristic
- considering any health impact and considering supports such as occupational health.

## 3.5 Employees

We expect the highest standards of integrity and conduct from all employees. Employees must comply with the SSSC Code of Conduct for Employees.

Employees, including when acting as a witness, must:

- promptly raise concerns they have to the relevant person
- co-operate fully and promptly with actions under this policy
- with the exception hate speech, recognise and respect that colleagues may hold views you disagree with
- to raise concerns in an appropriate time, place and manner
- treat one another with politeness and courtesy and follow this policy
- treat information in a confidential manner.

## 3.6 Human resources (HR)

HR are responsible for:

- updating this policy in line with the agreed schedule, or as changes occur, to comply with employment and other pertinent legislation, best practice and the people strategy
- developing this process and policy collaboratively to meet legal and business requirements
- developing template letters, forms and guidance
- offering advice on how to apply this policy
- making sure the process is followed in line with the policy
- reminding employees and managers of their responsibilities under the policy, if required
- monitoring use of the policy and reporting any non-compliance to heads of department / directors.

## 3.7 Union representatives

Union representatives are responsible for:

- offering advice and support to the employee at all stages of the process
- attending grievance meetings and hearings



- helping the employee to present their case or speak on their behalf, but they cannot answer questions addressed to the employee directly
- advising the employee of their rights
- raising concerns where the policy is not applied correctly and fairly
- making sure that the employee receives a fair hearing at the formal stages.

## 4. Policy

### 4.1 Grievance issues

You can raise a grievance regarding a wide variety of subjects and there is no definitive list of every possible subject. Grievances are concerns, problems or complaints that employees raise with their employers. The following is an indicative list of issues that can cause grievances:

- terms and conditions of employment
- health and safety
- work relations
- bullying and harassment
- new working practices
- working environment
- organisational change
- discrimination.

You should only raise a grievance if you have a concern that impacts on you or your workspace and are looking for a way to resolve it. You should normally have tried to sort out any issues informally. A Grievance Chair will be appointed to consider your grievance. If they determine that your grievance is vexatious or malicious, it will not be considered any further. You will be notified in writing of any decision not to progress your grievance.

The Grievance Policy cannot be used to appeal the outcomes of other procedures (eg flexible working, disciplinary etc).

We have a separate [Dignity at Work Policy](#) that may be useful if you have experienced bullying or harassment or wish to report an incident of bullying or harassment involving other people. Our [Dignity at Work Policy](#) is available on the intranet (see 4.11 below).

We operate a separate [Whistleblowing Policy](#) to enable employees to report illegal activities, wrongdoing or malpractice. However, where you are directly affected by the matter in question, or where you feel you have been victimised for an act of whistleblowing, you may raise the matter under this Grievance Policy. The [Whistleblowing Policy](#) is available on the intranet.

### 4.2 Informal resolution

Using the informal resolution process is recommended but it is not mandatory, however most grievances can be resolved quickly and informally through discussion with your line manager. If you feel unable to speak to your line manager because the complaint concerns them, then you should speak informally to the HR Department. It is important to be clear with them that you are seeking informal resolution as part of this policy.

Where you have attempted informal resolution and this has been unsuccessful you can request mediation from your head of department, director or the HR Department. Mediation is voluntary and all parties involved must be willing to participate prior to this being arranged. Mediation is often the best way to resolve matters.

If the informal process or mediation has been used but does not resolve the issue, you should follow the formal procedure below

## 4.3 Formal resolution

An employee can raise a formal grievance if:

- they feel raising it informally has not worked
- they do not want it dealt with informally.

If your grievance cannot be resolved informally you must put it in writing and submit it to the Human Resources, clearly indicating in unambiguous terms that it is a formal grievance. A template letter is available on the intranet. Complaints in writing that do not state they are a grievance will be presumed not to be grievances.

The written grievance must contain a brief description of the nature of your complaint, including any relevant facts, dates, names of individuals involved and desired resolution. We understand that when you raise a grievance you may have had concerns or problems for some time. At this stage it is important to focus on the **key** issues. You do not need to provide an exhaustive history of the situation or state every example. HR may ask you to clarify or provide further information so that we can properly understand your position if this is needed.

A Grievance Chair will be identified, usually by HR, to conduct any grievance meeting, instruct any investigation consider the outcome of the investigation and chair a Grievance Hearing if required. Where it is not possible, practical or would create an unacceptable conflict of interest for HR to do so, a member of the EMT will identify the Grievance Chair.

The Grievance Chair will normally meet with you to initially discuss your grievance to make sure that they understand the nature of your grievance, its basis, the desired outcome or any other relevant matter. The process for this is described under paragraph 4.6. Where the manager does not need to meet you prior to a grievance hearing, they will notify you of this.

If the Grievance Chair decides that an investigation is required involving interviews with individuals about whom a complaint is made, at this stage the Chair will determine the minimum level of information that can be shared with the interviewee, for example the name of the complainant and the relevant details of the complaint. The Grievance Chair must be cognisant of their duty to maintain confidentiality (eg health matters or other sensitive data or information).

All involved will be reminded of the requirement to maintain confidentiality throughout and beyond the conclusion of the process.

Please note that individual grievances cannot be raised on your behalf (other than by your trade union representative) nor do we accept "group grievances" or grievances signed by multiple employees. Where you have a grievance regarding the same or substantially similar matter as another, you must raise these individually.

Please note, where your trade union representative raises a grievance on your behalf you are responsible for their statements and the positions they present for you. Should you disagree with their description of your grievance or the position adopted you must say so promptly.

As our recognised trade union, only UNISON can raise a collective grievance (ie a grievance on behalf of multiple employees). Collective grievances follow the procedure set out in the Partnership Agreement.

You can withdraw your grievance at any time by writing to Human Resources stating clearly that you wish to withdraw it. The Grievance Chair or a member of Human Resources will determine how best to consider and address the issues raised. Where you withdraw your grievance you may still be required to participate in any related investigation process or other related meetings. You will not be notified of any outcome where it relates to other employees. You may be notified of any decisions we subsequently make regarding your withdrawn grievance. You may or may not be involved in any subsequent process.

## 4.4 Investigation

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

We will follow the investigation process described in Appendix 1 of [Disciplinary Policy](#). The investigating officer is responsible for identifying any information that should not be shared with the person raising the complaint (eg due to confidentiality reasons such as specific health issues of the person accused of wrongdoing).

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

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

## 4.5 Companions

You can be accompanied by a trade union representative or a co-worker (known as a Companion) at any meetings under this policy. Please confirm to the manager of the meeting prior to any meeting who your Companion is and make sure that you have briefed them. Your Companion can, at your request, explain your key points and can respond on your behalf. You can also confer with them during the meetings. They must not answer questions put directly to you or try to prevent us asking questions or outlining our points.

## 4.6 Grievance meeting

We will arrange a grievance meeting, normally to take place within two weeks of receiving your written grievance (excluding any time seeking clarification from you). You and your Companion (if any) must make every effort to attend grievance meetings. If you or your Companion cannot attend at the time specified, you should inform us immediately and we will try, within reason, to agree an alternative time.

The purpose of a grievance meeting is to make sure that we understand your grievance, its basis, the desired outcome or any other relevant matter. We do not make grievance decisions at grievance meetings, only at Grievance Hearings. A minute of the meeting will be maintained and shared with you within 14 calendar days. After an initial grievance meeting we may carry out further investigations and hold further grievance meetings as we consider appropriate. Such meetings will be arranged without unreasonable delay.

Details of how we conduct meetings are specified in 4.9 below.

## 4.7 Grievance Hearing

The purpose of a Grievance Hearing is to review any investigation report, to hear and consider your grievance, your preferred outcomes and to determine what action should be taken regarding your grievance.

To make sure you are well prepared the Grievance Chair will set out the following in writing to you at least 14 calendar days prior to the hearing date:

- Date, time and location of the meeting
- A summary of the grievance
- Copy of the investigation report (redacted as appropriate) (where applicable)
- Copy of any supporting evidence or relevant policies
- That you have the right to be accompanied by a Companion
- That you can call relevant witnesses
- That you can present or refer to evidence
- Provide a copy of this policy.
- That you must provide details, where possible, of any witnesses you wish to call and / or evidence that you wish to present to HR and the Chair at least five calendar days before the hearing date.

The Grievance Chair, with support from HR, will discuss the following with you:

- Identity and role of those present
- Purpose and structure of the meeting
- Remind you of the role of the Companion
- Check that you have received the documentation provided
- A summary of the grievance
- A summary of the investigation findings (where applicable)
- Whether you wish to present any further evidence
- Whether there are witnesses to call
- What your desired outcome is
- The view of the Companion (where attending)
- When a decision will be made and details of any appeals process.

We do not normally expect witnesses to attend a Grievance Hearing, but they can be called where necessary. At the Grievance Hearing both management and the employee have the right to call witnesses. It is the employee's responsibility to arrange for any witnesses that they wish to call and to produce any documentary evidence that they intend to rely on. The employee must provide details, where possible, of both to HR and the Chair at least five calendar days before the hearing date.

A representative from HR will attend any Grievance Hearing. You may be accompanied by a Companion.

The Grievance Chair will either meet with you and inform you of their decision or they will notify you of their decision in writing. Possible outcomes include (but are not limited to):

- Apology
- A change in policy or practice
- A change in your terms and conditions
- Change in staffing or other resources
- Change in structure, line management or similar
- Investigation or other action
- Facilitation
- Mediation
- Reasonable adjustments
- Training or retraining.

We always seek to achieve a satisfactory resolution where possible. There may be some limited situations where there is no viable satisfactory resolution. Where this occurs, we will explain why we consider this is to be the case.

A record of the hearing and any decision will always be communicated to the employee usually within 14 calendar days of the hearing. The Grievance Chair will notify them, their head of department and (usually) their line manager of the outcome of the hearing. They will not usually notify anyone else of the decision but can do so where they consider there is a reason to do so.

Following the conclusion of the Grievance Hearing we will write to you, usually within two weeks of the Grievance Hearing to inform you of the outcome of your grievance and any further action that we intend to take to resolve the grievance. We will also remind you of your right of appeal.

The Grievance Chair and the employee will agree who, if anyone, should be notified of the outcome of your grievance, when and to what extent. In most cases this will be limited to the fact that the process has ended and that there is no impact on them.

Where agreement is not reached and the Grievance Chair has identified an obligation to share the information with others, they will specify this reason to the employee.

Following the conclusion of the Grievance Hearing (and any appeal) we expect **all** those involved to see beyond the grievance and work together in line with our values to restore good relationships.

## 4.8 Appeals

If the employee wishes to appeal a decision made at the Grievance Hearing they must submit their written grounds of appeal and their desired outcome to the Head of Human Resources within 14 calendar days of receipt of the written record of the decision. A member of the Executive Team would write to the Chief Executive. Grounds of appeal could include but are not limited to those listed below:

- New evidence has come to light since the hearing which may have an impact on the decision.
- An issue with the process and procedure followed.
- The decision was wrong, unfair or inappropriate in the circumstances
- If the outcome does not resolve the grievance.

The appeal cannot take place without clear relevant grounds of appeal being set out or a clear desired outcome. The Head of Human Resources will clarify these with the employee where they are insufficient for an Appeal Chair to consider.

Where an appeal is lodged this will not automatically delay the implementation of any action although these may be amended or revoked because of the appeal process.

A manager who has not been previously involved in the case will hear the appeal. This will normally be a senior manager or may be an Employment Appeals Panel where none are suitable. The Chair for the original decision will attend the Appeal Hearing to present the reasons for their decision.

The Appeal Hearing may be a complete re-hearing of the matter or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light. This will be at our discretion depending on the circumstances of the case.

The employee will be given written notice of the date and time of the Appeal Hearing at least 14 calendar days in advance unless otherwise mutually agreed.

Where the employee does not confirm that they will attend the appeal we will make reasonable attempts to contact them by telephone and email. Having made these attempts and where we do not receive a satisfactory reason for their lack of confirmation the Appeal Chair will dismiss the appeal. Where satisfactory reasons are provided the appeal will continue.

An Appeal Hearing may be adjourned if we need to gather further information or consider matters discussed at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened (this may include during the hearing where the new information or its impact is slight).

The potential outcomes of the Appeal Hearing are:

- the appeal is fully or partially upheld and the previous decision is overturned
- the appeal is fully or partially upheld and a new Grievance Hearing is instructed to be arranged
- the appeal is fully or partially upheld and a different outcome is substituted
- the appeal is not upheld and the original decision remains.

A record of the hearing and any decision will be communicated to the employee usually within 14 calendar days of the hearing. In all events, the decision of the Appeal Chair is final. There are no other rights of appeal.

## 4.9 Meetings

The sooner the employee lets us know if they think they may need additional time or support, the more likely it is that we can make any necessary arrangements or adjustments. During any meeting (or hearing) the employee may request a break or another adjustment and we will happily consider these as and when they occur.

We work in an agile manner and many of the meetings and discussions that we have will be conducted using Teams or similar video technology. It is essential for meaningful discussion to take place that when meeting on Teams that all parties have their cameras

and audio turned on throughout the discussion. Where this is not possible then meetings must take place in person.

We prefer to meet with employees directly to discuss matters. Where we cannot meet within a timescale that we consider reasonable we can make a decision in your absence. We will not do so without first warning you of this possibility.

## 4.10 Investigation and Grievance Chairs

We can bring in an external consultant or party to undertake the investigation, chair the grievance or appeal. This is determined by the Grievance Chair or a member of EMT, or where conflicts of interest arise, by a member of HR. In these instances we will make sure that our processes are followed and are conducted in line with ACAS codes of practice. If an external consultant or party is sought an internal contact will be appointed, usually a member of HR will liaise with them.

The officers should not have been directly or indirectly involved in the case, that is, they should not have been a witness to the alleged misconduct. In any event there should be no conflict of interest as this may jeopardise the perceived fairness of the investigation or the hearing. Where a conflict of interest becomes clear an alternative officer will be identified where possible.

In all cases, the ultimate decision maker will be a SSSC employee or Council member.

## 4.11 Special circumstances

### **Health or disability**

Where the employee is unfit to attend work this does not necessarily mean that they are unfit to attend an investigatory meeting or hearing. We prefer to take a statement or to discuss matters with employees directly wherever possible. We will make decisions based on the information that we have, balancing this against their right to engage in the process fully and meaningfully.

Where you cannot participate in your grievance investigation, meeting or hearing due to your health we may pause proceedings regarding yourself until you are fit to do so. Where we consider we have sufficient information to investigate or take action we may do so.

We want to support employees as fully as possible and will consider reasonable adjustments for them. Where they have a disability under the Equality Act we have a legal obligation to make reasonable adjustments. Where an employee knows of a reasonable adjustment that would help please suggest this at the earliest opportunity to the Investigating Officer or Grievance Chair.

We offer the option of attending our Occupational Health Provider at no cost. We have obligations to resolve matters in a timely manner and we can choose to proceed to make a decision on the basis of the information we have.

Where the employee's health may be a contributing factor we will usually seek medical advice from our Occupational Health provider (unless the employee agrees it is not necessary or that any impact is minor).

### **Trauma**



We recognise that employees may have had a previous negative experience regarding formal grievance processes either with us or another organisation that caused stress and anxiety. We adopt a supportive and collaborative approach when managing grievance and treat everyone with dignity and respect.

### **Counter grievances**

Where a counter grievance is raised, the Grievance Chair will consider how best to manage the related procedures. We will set out our position to the parties involved and the reasons for doing so.

### **Multiple procedures**

Where an employee has a concern about an issue that could be raised under multiple procedures (eg [Dignity at Work](#)), the employee will be expected to choose one process only to avoid duplication.

### **EMT Members**

If a Grievance Hearing is required for a Chief Executive, the Grievance Chair will normally be the Convener. HR advice may be sought from an external source.

If a Grievance Hearing is required for another EMT member, the Grievance Chair will normally be the Chief Executive but in exceptional circumstances a Council Member or someone external to the organisation may be asked by the Convener to perform that role. HR advice may be sought from an external source.

In all cases, the decision maker will be a SSSC employee or Council member.

### **Trade union representatives or officials**

Where a grievance is raised regarding an accredited representative of a trade union, we will notify the full-time official of the union prior to our taking action under this policy wherever possible.

### **Issues relating to the same grievance**

Where we have considered the substance of a previous grievance we will not reconsider it other than at a Grievance Appeal Hearing. The Grievance Policy is not intended to discuss previously addressed issues whether under this policy or others.

### **Anonymous grievances**

We do not accept anonymous grievances from employees.

Where an anonymous grievance is received from someone claiming to be an employee this will not be treated as a grievance. We will consider the evidence presented and whether this is sufficiently reliable and cogent to merit investigation under another procedure. We will maintain a record of any decisions made for future reference.

Where an employee raises a grievance and wishes to remain anonymous during the process this severely limits our ability to investigate or to address their concerns. We will consider your request but may not be able to maintain anonymity where it is granted either due to practical considerations, other legal or safety obligations.

### **Terms and conditions**

Most terms and conditions of employment are agreed collectively. As such, we cannot accept grievance about what those terms and conditions are (as no manager can unilaterally change these). You can raise a grievance regarding whether or how these have been applied. If you wish to provide feedback or comment on what the terms and conditions are or what they should be you can do so by speaking to a member of HR.

**Victimisation**

Victimisation occurs when you are treated less favourably for raising a grievance or blowing the whistle. We think it is important that you feel supported to raise a grievance or blow the whistle and will support you where we can. As such, victimisation is prohibited and we treat seriously any complaint of victimisation.

## 5. Further information

### 5.1 Learning and development

To support the fair and consistent application of this policy, we will ensure full awareness and understanding of these issues for managers by incorporating training on this policy within line management development programmes and make sure that all managers have participated in such a programme.

### 5.2 Sources of support

- ACAS
- Human Resources
- Occupational Health
- The Employee Assistance Programme
- UNISON or other trade union representative

### 5.3 Related documents

- Code of Conduct
- [Disciplinary Policy](#)
- [Dignity at Work Policy](#)
- [External support organisations - an A to Z \(sharepoint.com\)](#)
- [Partnership Agreement](#)
- [Whistleblowing Policy](#)



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