



Title: Personnel Policies and Guidelines - Grievance

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PERSONNEL POLICIES AND GUIDELINES

Scottish Borders Council

GRIEVANCE PROCEDURE

Scope

This procedure applies to all employees of Scottish Borders Council except for the Chief Executive, who is covered by a separate procedure.

Purpose

This procedure is to be used where an employee has a problem or concern about their work, working environment or working relationships that they have been unable to resolve informally with their line manager.

The main issues which may give rise to a grievance include:

- terms and conditions
- health and safety
- working relationships
- bullying and harassment (see separate guidance)
- new working practices
- working environment
- organisational change
- equal opportunities

The procedure does not cover

- an appeal against disciplinary action proposed or taken against an employee, as this right of appeal is included in the disciplinary procedure
- concerns about the grade of a job for which there is a separate procedure
- any issue which is already the subject of consultation or negotiation with a recognised Trade Union

Employer/Employee Responsibilities

Scottish Borders Council recognises that unresolved grievances are likely to adversely affect work standards, morale and working relationships. The Council acknowledges its responsibilities as an employer to deal promptly and fairly with concerns raised by employees to stop them developing into major problems.

All managers and employees have a responsibility to try to resolve issues informally if at all possible. Where this is inappropriate or the issues remains unresolved the Council has established this procedure to enable the grievance to be addressed formally.

Principles

Where possible employees are encouraged to use informal mechanisms to secure a resolution to any potential grievance.

A grievance must be raised in writing.

A grievance may be raised by an individual employee or collectively by two or more employees who share a common grievance.

A meeting must be offered to the employee(s) to discuss the grievance and try to resolve it.

The employee(s) must take all reasonable steps to attend the meeting.

At any grievance meeting the employee(s) will have the right to be represented by a Trade Union representative or a colleague.

The employee(s) and/or the manager may call witnesses to attend meetings at any of the formal stages. Line managers of witnesses called must take all reasonable steps to grant the required time off, which will be with pay, to enable any witnesses to attend.

The employee(s) will be advised of the outcome of any grievance meeting, normally orally at the conclusion of the meeting, but in any event, in writing within 5 working days.

The employee(s) will have the right of appeal against any decision, ultimately to the Staffing Appeals Committee. (In addition Teachers may have a right of appeal to the Scottish Negotiating Committee for Teachers)

There are four stages in the formal grievance procedure, including an internal appeal. Decisions relating to a grievance should be taken at the lowest appropriate level, but depending on circumstances and the level of the employee in the management structure it may be appropriate that a grievance is raised at any of the first three levels.

All grievances should be dealt with quickly, fairly and within agreed time limits.

Informal Resolution

Where the employee has a concern he/she should normally raise the issue directly with their line manager, or ask their Trade Union representative to make an informal approach on their behalf. In the majority of cases it will be possible to resolve potential grievances informally through discussion with the line manager.

Where discussion with the line manager is not appropriate, for example if the line manager is the subject of the concern, the potential grievance may be raised with the next level of management. If the potential grievance is of a particularly sensitive or complex nature the employee may seek advice from Personnel Services.

Where an informal approach does not resolve the problem, then the Grievance Procedure should be used by raising a grievance in writing.

Formal Grievance

If it has not been possible to resolve a potential grievance informally the employee(s) should normally proceed to Stage 1 of the formal procedure.

It may be appropriate, however, to raise the grievance at Stage 2 or 3 for example:

- where the employee reports to a Head of Service the grievance would commence at Stage 2.
- where the employee reports to a Director or to the Chief Executive the grievance would commence at Stage 3.
- where the grievance relates to the employee's line manager the grievance should be raised with the next more senior manager, if this more senior manager is a Head of Service the grievance would commence at Stage 2.

The employee(s) will have the right to be represented at all stages by a Trade Union representative or a colleague.

The manager may be accompanied at any meeting by an appropriate adviser(s) and/or a note-taker.

STAGE 1

The employee(s) must complete a Grievance Notification Form (GNF), including clear details of the reason for the grievance, the resolution sought and who will represent them if appropriate, and give/send it to their line manager.

The line manager will arrange to meet with the employee(s) to discuss the grievance within 10 working days (or otherwise by mutual agreement) of receipt of the GNF, advising who, if anyone, will accompany them at the meeting. Before the meeting the manager may need to undertake some investigation to clarify issues raised in the grievance.

At the meeting the manager will discuss the grievance and possible resolutions with the employee(s), with a view to reaching a mutually agreeable resolution. If possible the manager will give their decision at the end of the meeting following an adjournment if necessary. However, depending on the complexity of the issues a decision may be delayed to allow the manager to further investigate and/or consult other managers or advisers. In any case the decision, including the reason for it, will be given to the employee(s) in writing within 5 working days (or otherwise by mutual agreement). The letter must also indicate who the employee should contact if they are dissatisfied with the decision and the time limit for doing so.

STAGE 2

If the employee(s) is not satisfied with the decision given at Stage 1 they must write to the nominated manager, within 10 working days of receiving the response, requesting a Stage 2 meeting. The letter must explain why they are dissatisfied with the decision and what resolution they are seeking and a copy of the GNF and the Stage 1 response must be attached.

The manager will arrange to meet the employee(s) to discuss the grievance within 10 working days (or otherwise by mutual agreement) of receipt of the request for a Stage 2

meeting. The manager who took the Stage 1 decision will normally attend this meeting to clarify the reason for their decision and assist in the discussion.

Thereafter the process is the same as set out in Stage 1.

STAGE 3

If the employee(s) is not satisfied with the decision given at Stage 2 they must write to the nominated manager, within 10 working days of receiving the response, requesting a Stage 3 meeting. The letter must explain why they are dissatisfied with the decision and what resolution they are seeking and a copy of the GNF and the Stage 1 response and the request for a Stage 2 meeting and the Stage 2 response must be attached.

The manager will arrange to meet the employee(s) to discuss the grievance within 10 working days (or otherwise by mutual agreement) of receipt of the request for a Stage 3 meeting. The manager who took the Stage 2 decision will normally attend this meeting to clarify the reason for their decision and assist in the discussion. A representative from Personnel Services will also normally attend to advise the manager chairing the meeting. The manager who took the Stage 1 decision may also be asked to attend.

Thereafter the process is the same as set out in Stage 1.

STAGE 4

If the employee(s) is not satisfied with the decision given at Stage 3 they must write to the Head of Personnel, within 10 working days of receiving the response, requesting an Appeal meeting under Stage 4. The employee(s) must attach a copy of the GNF and all subsequent correspondence relating to the grievance.

The employee and the manager who chaired the Stage 3 meeting will be advised by the Head of Personnel to prepare a written statement of case to be submitted to the Staffing Appeals Committee. The employee's(s') statement must explain why they are dissatisfied with the decision, what resolution they are seeking and give details of any other relevant information and/or copies of any papers to which they wish to refer at the Appeal. The manager's statement must explain why they could not agree to the employee's proposed resolution, why they reached their decision and give details of any other relevant information and/or copies of any paper to which they wish to refer at the Appeal. The statements must be submitted to the Head of Corporate Administration to be received at least 8 working days before the date of the Appeal.

The Appeal meeting with the Staffing Appeals Committee will be arranged to take place normally within 20 working days of receipt by the Head of Personnel of the request for the Appeal meeting. The employee(s) and the manager who chaired the Stage 3 meeting will be given at least 10 working days notice of the date of the Appeal.

The Head of Personnel will attend the Appeal meeting to advise the Committee. The employee will attend the meeting, along with a Trade Union or other representative of their choice if they wish. The manager who chaired the Stage 3 meeting will also attend, supported by another manager and/or personnel representative. If either party wishes to call witnesses they must notify the Head of Corporate Administration of their names at least 3 working days before the meeting.

The conduct of the Appeal meeting is set out in Appendix 1.

If possible the Chair of the Committee will give the decision at the end of the meeting following an adjournment. However, depending on the complexity of the issues a decision may be delayed to allow further investigation and consideration. In any case the decision will be given to the employee(s) in writing within 10 working days (or otherwise by mutual agreement).

Appeals to National Level

In respect of non-Teaching staff the Grievance Procedure ends at Stage 4, unless it is mutually agreed between Scottish Borders Council and a recognised Trade Union that the grievance be referred to national level to be considered as appropriate by the Scottish Joint Council for Local Government Employees, Scottish Joint Negotiating Committee for Local Authorities Services or the Joint Negotiating Committee for Chief Officials.

In respect of Teaching staff the Grievance Procedure ends at Stage 4 unless the teacher considers that he/she has a dispute with Scottish Borders Council regarding the application and/or interpretation of the national agreement on salaries and terms and conditions of service. He/she may then ask for the case to be considered by the Joint Secretaries representing the Employers' Side and the Teachers' Side of the Scottish Negotiating Committee for Teachers.

General Provisions

Subject to the employee(s) and the manager agreeing, the time limits may be extended (e.g. to take account of matters such as sickness absence on the part of the employee, manager or a critical witness).

If a manager does not respond to a grievance within the specified time limits, or mutually agreed revised time limits, the employee may proceed to the next stage of the procedure.

If an employee does not progress the grievance within the specified time limits, or mutually agreed revised time limits, the employee will lose the right to progress the grievance and the grievance will be considered to be concluded.

Where a collective grievance is raised, attendance at meetings will normally be restricted to not more than three employees out of the group.

The aggrieved employee may at any stage withdraw from the procedure by giving notification in writing. In these circumstances the grievance will be considered to be concluded, however, any investigation instigated as a result of the grievance may still continue.

Where a grievance is lodged with the support of the relevant Trade Union in response to a proposed change to terms and conditions of employment, no change shall be made to the relevant terms and conditions of employment until this procedure has been exhausted.

Where a grievance has been lodged with the support of the relevant Trade Union in response to changes to working practices or organisational structures, where practicable no change shall be made until this procedure has been exhausted.

If any grievance is believed to be potentially malicious or frivolous a disciplinary investigation may be instigated against the employee(s) who raised the grievance, which may result in disciplinary action.

Where the procedure refers to the Head of Personnel and the Head of Corporate Administration, an alternative appropriate officer may represent them.

Scottish Borders Council

APPENDIX 1 CONDUCT OF APPEAL BY COMMITTEE

Introduction

1. The Chairperson should introduce those present, and explain that the purpose of the Hearing is to consider an appeal against a decision taken under the Grievance Procedure and outline how the hearing will be conducted.

Statement of Case by Employee(s) (or Representative)

2. The employee(s) (or representative) is given the opportunity to state his or her grievance, explain why they are dissatisfied with the decision, and what resolution they are seeking. This may include calling witnesses if appropriate and ensuring that those present are aware of the contents of any relevant documents.

Questions on Employee Case

3. The manager(s) is given the opportunity to ask questions to clarify the statement of case, including questioning any witnesses.
4. The employee (or representative) shall be given a further opportunity to question any witnesses on issues raised during the manager's questioning.
5. The Appeals Committee and their advisers are given the opportunity to ask questions at any stage to clarify the case.

Statement of Case by Management

6. The manager(s) shall state the reasons for the decision they have taken and outline why they were unable to agree to the resolution sought by the employee. This may include calling witnesses if appropriate and ensuring that those present are aware of the contents of any relevant documents.

Questions on Management Case

7. The employee (or representative) is given an opportunity to ask questions to clarify the statement of case, including questioning any witnesses.
8. The manager shall be given a further opportunity to question any witnesses on issues raised during the employee's (or representative's) questioning.
9. The Appeals Committee and their advisers are given the opportunity to ask questions at any stage to clarify the case.

Further Questioning and Clarification

10. The Appeals Committee and their advisers may use this stage to clarify any issues and to check that what has been said is understood. Where either party is asked to clarify any point, the other party must also be given the opportunity to comment.

Summing - up

11. The employee (or representative) shall have the opportunity to sum-up if they so wish, introducing no new material.
12. The manager(s) shall have the opportunity to sum-up if they so wish, introducing no new material.

Adjournment

13. Any party may request an adjournment at any time during the hearing. It is essential however, that the Chairperson calls an adjournment before a decision is reached.
14. The Appeals Committee, together with any advisers shall deliberate in private. They may recall the employee (or representative) and the manager(s) to clarify points of uncertainty on the evidence already given, in which case both parties are to return. The Appeals Committee may also recall each party individually to explore/negotiate potential solutions to the grievance.
15. Where the facts are unclear the Appeals Committee may require further information to be provided and in these circumstances the Hearing may need to be reconvened at a later date to hear and consider the additional information. Any additional written information will be copied by the Chairperson to all parties. The hearing must be reconvened as soon as possible.
16. If practicable, the Chairperson shall recall the parties and announce the decision at the conclusion of the meeting.
17. In any event the Clerk to the Committee shall confirm the decision in writing to the employee (or representative) within 10 working days of the Hearing.

Scottish Borders Council

GRIEVANCE NOTIFICATION FORM

To raise a grievance following attempts to resolve the matter informally, the employee(s) must complete this form and give/send it to their line manager, or other appropriate manager as detailed in the Council's Grievance Procedure.

Name: _____ Post Title: _____

Department: _____ Tel No/ext.: _____

STATEMENT OF GRIEVANCE

1. Please outline your grievance below, including details of any relevant dates, witnesses and documents as appropriate (continue on a separate sheet if required).

2. Please outline what you would like to happen to resolve your grievance.

3. Please indicate the name of your representative (Trade Union or colleague) if you wish to have one.

Signature: _____ Date: _____

To be completed by the manager receiving the grievance, who must then send a copy of the form to the Senior Personnel Adviser in Council HQ

Name: _____ Post Title: _____

Signature: _____ Date of Receipt: _____