



## **Grievance Policy and Procedure**

**Policy Date:** 2 December 2013

**Version Date:** 03 December 2020

For further advice and guidance in relation to this policy, please contact HR ONE at [hrdirect-mailbox@devon.gov.uk](mailto:hrdirect-mailbox@devon.gov.uk) or on 01392 385555.

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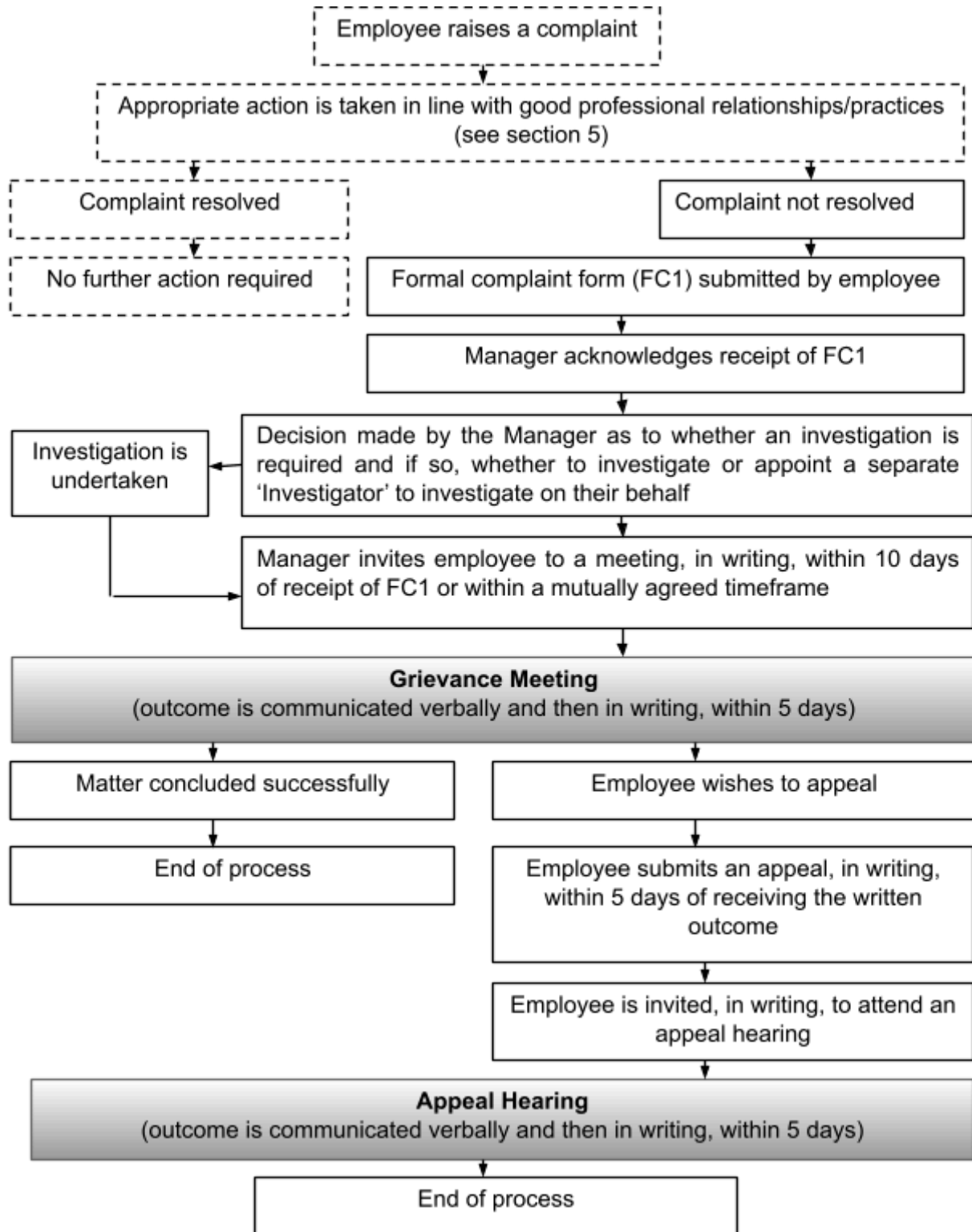
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need guidance or an alternative format, email [Hrdirectmailbox@devon.gov.uk](mailto:Hrdirectmailbox@devon.gov.uk) with details of any preferred format and the assistive technology you use.

## **PROCEDURE FLOW CHART**

Could the allegation constitute a 'protected disclosure' under the Whistleblowing Policy (see section 3)



## **POLICY AND PRINCIPLES**

### **1. Definition**

A grievance is a concern, problem or complaint raised by an employee regarding their work, working conditions or relationships with work colleagues.

### **2. Purpose**

This policy should be used to manage a complaint from an employee about their work and/or working conditions and/or a work colleague, fairly and without delay.

### **3. Application and Exclusions**

This policy is based on good practice to ensure a consistent and effective approach. The application of this policy will be fair, equitable, objective and will not discriminate either directly or indirectly on the grounds of an employee's gender, age, disability, gender re-assignment, marital or civil partnership status, pregnancy, maternity status, race (including colour, nationality and ethnic or national origins), religion or belief, sex and sexual orientation.

This policy:

- applies to all employees engaged under Devon County Council (DCC) statement of particulars including those contracted to a school (where it has been adopted)
- can be adopted by Voluntary Aided/Foundation/Trust/Academy schools
- in schools, does not cover complaints from or about governors unless the complaint relates to the governors' role as the employer of the Headteacher in Voluntary Aided/Foundation/Trust/Academy schools. In other cases the relevant Complaints Procedure should be used
- may only be used by individual employees; group complaints will not be accepted. This may however be varied by mutual agreement and individual complaints may be looked at collectively where appropriate
- does not apply to those employed by other organisations, employed under another organisations' terms and conditions of employment which includes a contractual grievance policy, casual workers or volunteers
- is not for use by a manager who has concerns and/or complaints about employees they manage. These concerns should be dealt with through the application of the appropriate HR policies, for example the disciplinary or capability policy and procedure.

The following matters are excluded from this policy because separate procedures exist:

- overpayments or pay issues (see salary overpayments policy and procedure – DCC corporate employees only)
- evaluation and grading of jobs (see job evaluation for new and changed posts policy and procedure)
- matters that are in the public interest and may constitute a 'protected disclosure' and are or maybe:

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- an unlawful or a criminal offence;
- a breach of a legal obligation (but not a personal contractual breach unless such breach involves a matter of public interest);
- a miscarriage of justice;
- mistreatment or abuse of a client or a member of the public for whom the Council has a responsibility;
- in disregard of legislation governing health and safety at work;
- seeking undue favour over a contractual matter or a job application; or against the Council's Financial Regulations;
- improper conduct or an unauthorised use of public funds;
- actions which have led to or could lead to damage to the environment; or
- an action which deliberately covers up information tending to show any of the above.

In these circumstances it would usually be appropriate to invoke the Council's Whistleblowing Policy instead of the Grievance Policy.

- selection for redundancy (see applicable redundancy policy)
- redeployment (redundancy) process (see applicable redundancy policy)
- disciplinary and/or capability issues (see disciplinary and/or capability policy)

#### 4. **Time Limits**

The time limits included in this policy may be varied by mutual agreement. The policy makes reference to a number of 'days' within which certain actions/events are to occur. A 'day' is defined as any Monday to Friday excluding public holidays as defined by ACAS.

If a complaint is raised during a period of service/school closure, the timeframes indicated in the policy will commence from the first day of the service/school being open. Where a complaint is raised immediately prior to a period of service/school closure, the availability of any person(s) who may need to be interviewed as part of any investigation will be taken into consideration by both parties when mutually agreeing any required extension to the timeframes.

#### 5. **Good Professional Relationship/Practices**

It is the responsibility of all employees to take all reasonable steps to develop and maintain good working relationships with colleagues and to deal with workplace issues in a professional, practical and constructive manner.

Employees should try to resolve any difficulties at the earliest opportunity without having to use a formal process. This should be done in such a way as to have the minimum impact on the service/school/other work colleagues and to preserve working relationships.

Resolving issues in a sensible and sensitive way will require all parties to recognise their part in the issue/difficulty and how their behaviour may be contributing to the circumstances. Employees should be willing and open to looking at ways of resolving the issues without resorting to formal processes, for example by using:

- an informal setting to discuss the matter with the colleague
- the line manager or an appropriate colleague as a facilitator
- mediation

Employees should be able to resolve issues professionally and respectfully by agreeing that when discussions take place there should be:

- effective listening - so that each person fully understands the issues at hand and each other's view
- effective understanding so that each person is able to respond, knowing what the issues are
- a calm environment - no raised voices or inappropriate body language
- common ground – identifying and agreeing common understanding
- the taking of responsibility – each person should admit when they are wrong, if appropriate, and take steps to make professional relationships work
- agreed action – offering apologies if appropriate, agreeing the way forward and agreeing to meet again, if appropriate.

Every attempt should be made to resolve the issues informally. If the matter cannot be resolved by way of professional dialogue the formal process should be used.

Failure to foster good professional working relationships could, in certain circumstances, lead to a decision to terminate the employment of one or more parties involved on the grounds that substantial reasons exist that make appropriate working relationships impossible and this is directly affecting the service/school. This may be an irretrievable breakdown in working relations or irresolvable personality differences between employees at work. This is known as dismissal for Some Other Substantial Reason (SOSR) and will be dealt with under the Disciplinary Policy and Procedure.

## **6. Being Accompanied**

The Employment Relations Act 1999 determines that an employee has a statutory right to request to be accompanied at any disciplinary or grievance hearing. To invoke that right an employee must make a reasonable request to the employer to be accompanied by either:

- a paid official from a recognised trade union/professional association
- an official of a trade union/professional association whom the union has reasonably certified, in writing, as having experience of, or as having received training in acting as an employee's companion at disciplinary or grievance hearings
- an appropriate work colleague.

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Friends/family members are not permitted unless they fall under the above criteria and it is agreed as appropriate. It would not normally be reasonable for an employee to be accompanied by a work colleague or trade union/professional association representative whose presence would prejudice the hearing and/or was from a remote geographical location, if someone suitable and willing was available on site.

If an employee's chosen representative is not available on the day proposed for the meeting, the employee can propose an alternative date within the following five days of the original proposed date.

## **7. Non Attendance**

If an employee fails to attend a meeting through circumstances beyond their control, such as certified illness, an alternative time and date may be offered. Alternatively they may submit a written statement or nominate a representative to attend on their behalf.

Where an employee is persistently unable or unwilling to attend the meeting without good cause, it will proceed in their absence and a decision based on the evidence available will be made.

## **PROCEDURE**

### **8. Formal Process**

The employee must set out their complaint, the basis for it and the resolution they are seeking using the formal complaint form (FC1) and should forward this to their line manager. Any documents relating to the complaint should also be submitted at this stage.

If the complaint is regarding the employee's line manager, the matter should be raised with the line manager's manager.

In schools, where an employee raises a complaint about the Headteacher, this should be submitted to the Chair of Governors.

Receipt of the formal complaint form should be acknowledged in writing as soon as is reasonably possible. If there is a potential for the complaint to constitute a 'protected disclosure' under the Whistleblowing Policy, the manager should seek advice from the County Solicitor or her representative.

The parties may subsequently decide to resolve the complaint by means other than this policy, e.g. mediation. This decision must be confirmed in writing and will not preclude the employee from raising their complaint under this policy at a later date.

## 8.1 Investigation

Depending on the circumstances of the complaint, the manager may decide that an investigation is necessary. The manager can either undertake an investigation themselves or arrange for an appropriate person ('the investigator') to carry this out on their behalf and report back to them. The manager will confirm with the investigator the extent to which they should gather information.

The investigator should not have had any previous involvement in the circumstances of the complaint, no close relationship with any of the parties involved nor a vested interest.

## 8.2 The Responder

Where the complaint is related to the actions of another employee or body, for ease of reference and for the purposes of this policy, they will be known as the 'responder'. The responder should be informed of the complaint and given a copy of this policy. They should also be given the opportunity to respond to the complaint and be advised of the likely timescale of any investigation.

The FC1 complaint form should not be shared with the responder, as it is likely to contain personal data regarding the complainant. The responder(s) will be provided with information which is considered necessary for them to be able to fully respond to the complaint. If the complaint is about multiple responders, each individual should only be provided with information that relates to the complaint about them.

## 8.3 Grievance Meeting

The manager will arrange a meeting within 10 days of receiving the formal complaint form. This timescale can be extended by mutual agreement to allow additional time for information to be gathered, although it is important that there is no unreasonable delay. Consideration should be given to arranging for a suitable person to attend the meeting to take notes.

Prior to the meeting, the manager will determine the appropriateness of sharing the information gathered and which parties to share this with.

It is important that the meeting allows for free flowing discussion and dialogue in an attempt to find an amicable solution to the complaint. The employee should be invited to re-state their complaint and how they would like to see it reasonably resolved.

The manager will listen to all the points raised, consider any additional information gathered and then adjourn the meeting to make a decision. If a decision is reached, the manager will confirm this at the meeting. If a

decision cannot be made at the end of the meeting, the employee should be informed of the reason why and when a response may be expected.

The decision will be confirmed in writing, within five days, setting out the key factors considered, the reason for the decision and what action was agreed to resolve the complaint. This letter will also detail the employee's right of appeal and where to send the appeal, should the complaint not be fully resolved.

The manager should also ensure that suitable feedback is given to the responder and that this is undertaken within a reasonable timeframe.

## **9. Appeal**

If an employee wishes to appeal against the decision, they must do so in writing, stating the grounds for their appeal, within five days of receiving the written response.

The appeal should be sent to the Head of Human Resources (for DCC employees) or to the Clerk to Governors (for school employees). The Head of Human Resources or Clerk to Governors will then arrange for the appeal to take place.

In schools, a Governors' Appeal Committee will be convened and will hear the appeal. In DCC, a Chief Officer (Head of Service or their nominated representative) will hear the appeal. The appeal should be heard without unreasonable delay. A minimum of five days notice will be given to allow for preparation.

The decision will be given verbally to all parties at the end of the appeal hearing unless valid reasons exist not to do so. The decision will be confirmed in writing to the employee within five days. An appeal is not a re-hearing of all of the facts but to determine if the original decision was reasonable given the circumstances. The grievance process ends with the decision of the Chief Officer (DCC) or the Appeal Committee (schools).

## **ADDITIONAL INFORMATION**

### **10. HR Advice**

HR ONE can provide advice and support to any manager/governor/investigator involved in the application of this policy at any stage. This includes attendance at meetings/hearings where required.

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**11. Employee Responsibilities**

Employees have a contractual responsibility to carry out the requirements of their job satisfactorily, to ensure that their conduct is appropriate and that they have good professional working relationships with their colleagues.

Employees should bring to the attention of management any concerns/problems/complaints that arise in the course of their work so that they can be resolved fairly and promptly.

Employees involved in the investigation and resolution of complaints must participate appropriately and with due regard to the Acceptable Behaviour Policy.

**12. Multiple Complaints**

If an employee raises multiple complaints relating to different issues, to avoid duplication of this policy and to aid a prompt resolution, the issues will be dealt with together, where possible.

**13. Vexatious/Malicious Complaints**

False or vexatious complaints will be taken very seriously and will be managed under the Disciplinary Policy where it is clear that an employee has made an allegation(s) of this type against DCC / the school and/or another employee.

**14. Overlapping Issues**

Where an employee raises a grievance whilst being managed under another policy e.g. Disciplinary, Capability, Managing Sickness Absence, the manager should refer to the applicable policy and take appropriate action. Invoking the Grievance Policy does not necessarily mean that other processes will be put on hold.

**15. Mediation**

Mediation is a voluntary process, where trained mediators help people in dispute to attempt to reach an agreement. The Mediation Service can be contacted at [hrdirect-mailbox@devon.gov.uk](mailto:hrdirect-mailbox@devon.gov.uk) or by telephoning HR ONE on 01392 385555.

**16. Confidentiality**

Any parties affected by or involved in the application of this policy will be expected to maintain an appropriate level of confidentiality. Breaches of confidentiality will be taken seriously, especially if they hinder the application of the policy or the resolution of an issue. Failure to maintain confidentiality may result in action being taken under the Disciplinary Policy.

Disclosure of information may also be a breach of the Data Protection Act and may lead to action being taken under the provisions of this legislation in addition to action being taken under the Disciplinary Policy.

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**17. Recording of Information**

A written record must be made of all interviews and meetings held during the application of this policy. Those involved in each meeting will be provided with a copy of any records made. The manager will ensure there is a record of the process which should include all statements, records and evidence. All records will be retained confidentially, securely and in accordance with the Data Protection Act.

**18. Support for Employees**

Employees are encouraged to seek support from their trade union/professional association in the first instance. Procedural guidance relating to this policy is available from HR ONE at [hrdirect-mailbox@devon.gov.uk](mailto:hrdirect-mailbox@devon.gov.uk) or by telephoning 01392 385555.

Where a referral to Occupational Health is necessary, this should be made by the employee's line manager.

## **INFORMATION FOR SCHOOLS ONLY**

**19. Adopt the Policy**

This policy was adopted by the Governing Body of Monkleigh Primary School on 16<sup>th</sup> February 2022.

**20. Consultation**

This policy is provided following consultation with trade unions/professional associations and will apply to all employees as well as those contracted to a school, where this policy has been adopted. Should the Governing Body wish to make changes to this model policy, the required consultation must be undertaken with the County Officers of the recognised trade unions/professional associations.

This policy supersedes all previous grievance policies.

**21. Costs**

The Financial Intervention Panel for Schools (FIPS) has determined the conditions and circumstances for meeting the costs of defending an employment tribunal claim.

### POLICY HISTORY

<b>Policy Date</b>	<b>Summary of change</b>	<b>Contact</b>	<b>Version/ Implementation Date</b>	<b>Review Date</b>
27 November 2013	New policy Date of consultation with recognised Trade Unions – November 2012 and September 2013	HR ONE	27 November 2013	
November 2014	Revised to clarify links between Grievance and Whistleblowing policies			
April 2016	Update references to Occupational Health.	HR Direct	01 April 2016	
24 May 2016	Addition to Application and Exclusions, Section 3	HR One	24 May 2016	

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30 November 2016	Addition of paragraph in section 8.2 about not sharing FC1 form with respondent. Only necessary information should be shared.	HR Direct	30 November 2016	
03.12.2020	Additional information regarding Accessibility has been added under contents page 2.	HR Direct	03.12.2020	