

# Policy and Sustainability Policy

10.00am, Tuesday, 22 August 2023

## Grievance Policy

Item number  
Routine  
Wards  
Council Commitments

### 1. Recommendations

---

- 1.1 To approve the new Grievance Policies for local government employees and for teaching staff and note the revised Personnel Appeals Committee policy and process.
- 1.2 To note that both these policies have been reviewed and revised in line with recommendations following the Independent Inquiry and Whistleblowing Culture Review by Susanne Tanner KC, with Pinsent Mason in 2021.

**Dr Deborah Smart**

Executive Director of Corporate Services

Contact: Nareen Owens, Service Director, Human Resources

E-mail: [Nareen.owens@edinburgh.gov.uk](mailto:Nareen.owens@edinburgh.gov.uk)

## 2. Executive Summary

---

- 2.1 As part of the findings from the Independent Inquiry and Whistleblowing Culture Review in 2021 (“Inquiry and Review”) there was a recommendation to review all conduct related employment policies and, where appropriate, to revise.
- 2.2 As part of this review, the Grievance and Avoidance of Bullying and Harassment policies were considered together with the aim of consolidating them into one new policy to manage all employee complaints.
- 2.3 Teaching staff have a separate Grievance Policy in accordance with the Scottish Negotiating Committee for Teachers (SNCT) which has also been reviewed.
- 2.4 The policies focus on early resolution conversations which should be outcome focussed and sets out our formal processes where this cannot be achieved. New user guides have been developed for both local government and teaching staff outlining the roles, responsibilities, and actions to be undertaken through each stage. In addition, training for managers on early resolution conversations is being developed by the HR team.
- 2.5 The Grievance Policy for local government employees replaces our current policy which was approved at Committee on 25 February 2014. The Grievance Policy (Teaching Staff) replaces our current policy which was approved at Committee on 20 June 2006. The Personnel Appeals Committee – Appeals Policy replaces our current Personnel Appeals Committee – Grievance Appeals Policy, which was approved at Committee on 1 August 2015 as well as the Personnel Appeals Committee – Disciplinary Appeals Policy which was approved at Committee on 31 August 2022. We have taken the opportunity to incorporate these policies as they follow the same process and will stand down the older versions.
- 2.6 The Avoidance of Bullying and Harassment Policy, approved by Committee on 4 August 2015 will be stood down.

## 3. Background

---

- 3.1 The Council currently has two policies to manage employee complaints: Grievance and Avoidance of Bullying and Harassment. Both policies focus on early intervention as part of the informal stage, escalating to a formal complaint where it cannot be resolved locally.
- 3.2 As the process for handling grievances for teaching staff is outlined by the Scottish Negotiating Committee for Teachers (SNCT), we are required to have this as a standalone policy. However, both policies consider all complaints in relation to employment matters e.g., where an employee does not believe a policy has been implemented correctly or they are raising a concern about a management decision. The first element to both policies is early resolution through an informal stage.
- 3.3 For local government employees, the formal grievance is considered by a Nominated Officer (internal manager) and any appeal is considered by the Personnel Appeals Committee (Elected Members).
- 3.4 For teaching staff, the process is as outlined in the SNCT:
  - Stage 1: Hear original grievance – Nominated Officer

- Stage 2: First appeal stage – Headteacher or Director
- Stage 3: Second appeal stage – Personnel Appeals Committee
- Stage 4: Third appeal stage – Joint Secretaries of the SNCT

3.5 The Avoidance of Bullying and Harassment Policy covers all employees and considers all allegations and complaints in relation to bullying and harassment. The complaint is originally considered by a Nominated Officer (internal manager) and any appeal is considered by a neutral senior manager (internal manager).

## 4. Main report

---

4.1 Whilst the underlying principles of both Grievance policies as well as the Avoidance of Bullying and Harassment Policy are aligned with the ACAS Code of Practice, we undertook to review them through the lens of the Inquiry and Review recommendations, as well as seeking to improve the employee journey. We undertook engagement with colleagues who had been through the grievance process, acted as Nominated or Investigating Officers as well as senior managers and HR colleagues to understand where the current policies could be enhanced.

4.2 We also took into consideration the overarching employment policy recommendation following the Inquiry and Review which was:

*“That a full review of all Council policies relating to staff conduct is undertaken to determine how these could be consolidated and clarified to aid compliance and investigation in future.”*

4.3 Feedback gathered during the policy engagement process suggested that complaints handled under these processes were not always clear cut and often resulted in colleagues raising similar concerns under multiple policies and processes at the same time. This can often lead to delays in process as well as putting additional pressure on employees who are required to attend multiple meetings under the different policies to seek a resolution.

4.4 On this basis, it was proposed that a new consolidated Grievance Policy be created to manage and consider all employee complaints to ensure one employee journey and improve oversight and investigation. The Avoidance of Bullying and Harassment Policy will be stood down and preventative work against bullying and harassment covered by the new Violence at Work Policy which is to be renamed as Protecting Our Colleagues from Unacceptable Behaviours.

4.5 Some of the key feedback from colleagues and Trade Unions was not specifically on the policy content but how it is implemented by management. It was highlighted that there is a need for managers to recognise grievances at an early stage and address these promptly and clearly explaining the reasoning behind this. Investing time at the informal stage to manage concerns and hear colleagues’ concerns will mitigate lengthy formal processes and is what management should focus on.

4.6 The revised policies seek to focus on Early Resolution conversations, with managers responding to and engaging with colleagues as soon as concerns are raised. These discussions should be **outcome-focussed** to address issues quickly, locally, and informally. Where concerns cannot be resolved at an Informal Stage or where the nature of the complaint is so serious, then the matter is escalated to a more formal process.

- 4.7 User guides have been created, the first time for teaching staff, to detail the roles and responsibilities of everyone involved in the process: Nominated Officers, Investigating Officers, those raising a grievance, witnesses, and HR.
- 4.8 Part of the feedback we received from our engagement sessions was in relation to timescales. The new policy outlines the timescales which should be followed, and regular updates should be provided through the process, however where there are unexpected delays the responsibility lies with the Nominated Officer to ensure all parties are informed of the delays, the reasons for this as well as providing revised timescales.
- 4.9 Accountability was also important to colleagues - ensuring processes are being followed and people being held to account when they are not, as well as ensuring those responsible for taking forward recommendations or next steps follow through. To ensure this policy is successful, we need to ensure the support and messaging to managers is clear and consistent in aiming to resolve grievances and holds managers to account where there may be a lack of action.
- 4.10 The final stage of all grievances is that colleagues can appeal the decision of the Nominated Officer.
- 4.11 For teaching staff, the appeals stage is clearly articulated in the Scottish Negotiating Committee for Teachers (SNCT) and our new policy reflects this requirement. There are three stages of appeal: the first to a senior manager, then to Personnel Appeals Committee and finally to the Joint Secretaries of the SNCT where the original grievance relates to the interpretation or implementation of a national agreement promulgated by the SNCT.
- 4.12 **Personnel Appeals Committee Terms of Reference** - as part of the review into the new Grievance Policy for local government employees, we also sought feedback on the appeals process. Currently all grievance appeals are heard by the Personnel Appeals Committee (the Committee). It currently consists of nine elected members, with a wider pool of a further eleven trained elected members where cover is required – however it tends to be the same members who attend the Committee when required. Avoidance of Bullying and Harassment Appeals are considered internally by neutral senior managers, and it was requested that consideration be given to specific cases being considered by the Personnel Appeals Committee moving forwards.
- 4.13 There was a request to review the current process for grievance appeals. This was due to timescales, the remit of the committee (what they do or do not have scope to decide upon) and the formality of the process. To better understand, and consider any case for changing the current approach, the ER and Policy Team undertook a review of the Committees that had been held since 2019 to understand where, if any, concerns lie and ways to mitigate them. While the Council hold data before this date, more robust recording arrangements were put in place in 2019 which allowed for better analysis.

**Timescales:** As well as Grievance Appeals, the Committee also consider appeals against discipline penalties and dismissals. The data highlighted that since 2019, the average timescale to hear a grievance or discipline appeal from the date it was assessed as competent until the hearing exceeded the current policy timescales of 28 days. No case since 2019 had been considered within this timescale. On

average, during 2022 Grievance Appeal Hearings (5 cases) have taken 28 weeks and Discipline Appeal Hearings (11 cases) have taken 22 weeks.

- 4.14 For those employees who are appealing a dismissal, this delay in hearing appeals has a significant impact on them day to day affecting their job as well as any knock-on effect should they wish to pursue the matter further through a legal route.
- 4.15 Colleagues have a limited timeframe to submit any subsequent claims to an Employment Tribunal. By meeting timescales as set out in the Policies, we are seeking to conclude the case in a timely manner that allows colleagues to pursue matters further in a reasonable timeframe or where a decision has been overturned and they are reinstated, means that they will be able to reintegrate back into the workplace more effectively and efficiently.
- 4.16 **Workloads:** As all complaints will be heard by the same appeal panel in the new Policy, there were also concerns about the impact of introducing bullying and harassment complaints to PAC and the knock-on effects it would have to the timescales previously highlighted.
- 4.17 It was also noted that the revised Whistleblowing Policy will provide more clarity on what matters should be considered within its remit, and where there is an employment matter focus on the complaint, it is likely this will be processed under our Grievance Policy as the most appropriate route for consideration. This may also have an impact on the numbers of appeals potentially being considered by the Committee.
- 4.18 **Decision making:** Finally, we reviewed the outcomes from PAC to understand whether decisions made by the Nominated Officers (internal managers) were had been overturned by the Committee. Of the appeals considered since 2019, only two had been upheld by Committee. The others did not see a change in the original outcome by the Nominated Officer. This did not suggest that the Committee were highlighting errors in senior manager decision making within the Council.
- 4.19 Based on this evidence, it was proposed that to enable faster decision making and a timelier process for colleagues that consideration would be given to changing the appeals process within the local government employee policy and specifically the types of appeals to be heard. Engagement sessions were held with members of the Personnel Appeals Committee as well as Committee Services to identify different proposals for considering appeals ensuring they still had sight of any overarching, Council-wide grievances. The final proposal was put to the Trade Unions during consultation. Unfortunately, agreement could not be reached on this proposal, and no others were put forward as reasonable alternatives.
- 4.20 Based on the above, it was agreed that all appeals will proceed to the Personnel Appeals Committee however this arrangement would be further considered in 18 months from implementation. At that point, a review will be undertaken on the impact of the new process to understand if timescales have improved or continue to miss deadlines. Where the latter occurs, we will seek to review the policy and re-enter consultation with the trade unions on this matter to seek alternative ways to consider appeals. Continual monitoring and review will also take place with Appeals Committee members and direction will be taken in the event of an earlier review if deemed necessary.

- 4.21 Finally, we have also taken the opportunity to review the supporting guidance for the Personnel Appeals Committee. Currently there are two separate documents which outline the same process. We have sought to streamline this into one document for ease of reference. This process has been agreed by Committee Services.
- 4.22 Throughout the policy review project, we have collaborated with colleagues in Learning and Development to ensure all learning resources and training modules and materials were aligned to the new policy with a focus on early resolution. As a result, scenarios on resolving grievances are being built into new learning for managers on how to have difficult conversations.

## **5. Next Steps**

---

- 5.1 The policies will be put forward to Policy and Sustainability Committee on 21 August 2023 for approval.
- 5.2 An implementation plan, including communications, will be put into effect to relaunch the policy and associated e-learning to raise awareness with colleagues and line managers.
- 5.3 Training will be provided to Personnel Appeals Committee members on handling appeals against bullying and harassment allegations.

## **6. Financial impact**

---

- 6.1 There is no material impact arising from this report.

## **7. Stakeholder/Community Impact**

---

- 7.1 An integrated impact assessment was conducted as part of the wider policy review project and to date, no negative implications have been identified and a more streamlined approach for colleagues was seen to positively impact groups.
- 7.2 These policies meet our legal obligations in relation to formal consultation. The trade unions (both local government and teaching) have been engaged on the new policies. The policy for teaching staff is a local collective agreement and is currently in the process of becoming a Local Negotiating Committee for Teachers (LNCT) agreement. In addition the LGE trade unions have agreed to a collective agreement on the Grievance Policy.
- 7.3 Engagement was also held with elected members in relation to the Personnel Appeals Committee process.

## **8. Background reading/external references**

---

- 8.1 Not applicable.

## **Appendices**

---

- Appendix One - Grievance Policy  
Appendix Two - Grievance Policy (Teaching Staff)  
Appendix Three - Personnel Appeals Committee Policy.

# Grievance Policy

The Council recognises the importance of maintaining good working relationships between colleagues and seeks to promote an environment where any problems that arise can be discussed and dealt with easily and at an early stage.

The Council believes that most grievances can be resolved informally through honest and open discussion, however in some cases, this may not be possible or appropriate and a formal grievance may need to be raised.

[Our Behaviours](#) of Respect, Integrity & Flexibility should be demonstrated throughout every stage of this process, and it should be applied without discrimination.

This policy outlines the grievance process, informally and formally and highlights the roles and responsibilities of those involved and the support that is available.

## Author

Employee Relations & Policy, Human Resources,  
Corporate Services Directorate

## Scope

This policy applies to all Council colleagues,  
except teaching staff covered by the SNCT.

## Purpose

The purpose of this policy is to provide guidance to colleagues on how to raise and resolve any issues which may arise within the workplace.

## Review

The policy will be reviewed as and when a change to the existing policy deems this necessary, primarily because of changes to legislation or statute; agreement of new national terms and conditions of service or Government Policy; organisational change; or resulting from changes agreed through Trade Union Consultation.

## Local Agreement

This policy is a local collective agreement between the Council and our recognised Trade Unions. We will make every effort to ensure that it is maintained as a local collective agreement. Any changes will be made by agreement. If we cannot agree, either party can end the local collective agreement by giving four months' notice in writing, with the policy ceasing to apply to staff at the end of that period.

Grievance Policy .....	1
1. Policy Aims.....	2
2. Roles and Responsibilities .....	4
3. Informal Complaint Resolution – Stage 1 .....	5
4. Formal Procedure – Stage 2 .....	5
5. Grievance outcomes .....	7
6. Appeals – Stage 3.....	8
7. Outline of timelines.....	9

# 1. Policy Aims

The aim of this policy is to set out how to raise workplace issues and ensure they are dealt with in a fair, consistent, and timely manner. This policy provides a framework outlining the informal and formal processes.

The principles of this policy are that:

- We should try to resolve grievances locally and through informal resolution where possible;
- We will provide a safe and timely process for ensuring issues are resolved; and
- We will support colleagues who are faced with workplace issues.

This policy and the supporting user guide will be applicable when an individual has a workplace issue regarding:

- terms and conditions of employment;
- health and safety at work;
- workplace relations;
- new working practices;
- the working environment;
- organisational change;
- discrimination on the grounds of race, sex, sexual orientation, religion, disability, age, gender reassignment, marital status, or ethnic origin; and/or
- bullying and harassment.

This policy seeks to promote a culture where colleagues can raise concerns without fear of victimisation or recrimination and provides a procedure where a complaint or concern will be addressed quickly. Where colleagues are the subject to victimisation for raising a concern, this will be taken seriously and handled in line with the Council's [Disciplinary Policy](#).

## What does not fall under this policy?

In some instances, a concern or issue you wish to raise may not amount to a grievance or may not be within the scope of this policy and therefore the issue may be better to be raised under one of the other Council policies. If you are unsure, please seek advice from the askHR team or your trade union representative.

Please find some (non-exhaustive) examples of matters which are unlikely to fall under this policy below:

- Managers have a duty to manage the conduct, sickness absence and work performance of employees in a fair and responsible manner. This means that they need to use formal procedures, such as performance or absence management. These procedures provide support and should be conducted in this spirit.
- We operate a separate [Whistleblowing Policy](#) to enable colleagues to report illegal activities, wrongdoing, or matters related to the safety of service users and the public.
- Disciplinary action: this policy should not be used in response to disciplinary action. If you are dissatisfied with any disciplinary action, you should submit an appeal under the [Disciplinary Policy](#).
- [Grading appeals](#): this policy should not be used to challenge a job evaluation outcome following a grading review. If you are dissatisfied with the outcome of a grading review, you should submit an appeal under the Grading Appeals Process.

## **Bullying and Harassment**

Bullying and harassment is dealt with under this Policy.

There is no legal workplace definition of bullying. In general, it is characterised as negative behaviour being targeted at individuals, repeatedly or persistently, over time. Bullying is generally considered to be behaviour that leaves the victim feeling threatened, intimidated, humiliated, isolated, vulnerable, or otherwise upset. It does not need to be connected to a protected characteristic.

Harassment can relate to unlawful discrimination, which can be on the grounds of protected characteristics. It is unwanted contact that violates another person's dignity; or creates an intimidating, hostile, degrading, humiliating or offensive environment for that person.

More information on this can be found in the Protecting Colleagues from Unacceptable Behaviours Policy.

In some cases of bullying and harassment, individuals may not be aware of the impact their behaviour is having. Often cases can be resolved informally by having confidential conversations and through mediation.

If the matter is of a serious nature, it will be managed formally following this policy or another Council Policy such as Disciplinary.

If you have faced discrimination, you must highlight this and the nature of the discrimination, when you first raise the grievance. Your manager must then log this as a prejudice-based incident through the [SHE portal](#).

## **Collective Grievance**

In cases where more than one colleague wishes to raise an issue or complaint in relation to the same matter, the grievance should be heard as one grievance - this is known as a collective grievance.

Colleagues raising a collective grievance should do so via their trade union representative and appoint a maximum of 3 spokespeople to act as representatives for their group and where a case cannot be resolved informally, they should submit a formal grievance form which all members of the group must sign. The statement must clearly outline that the grievance should be heard 'collectively' and should follow the same process outlined in this policy for both informal and formal complaints.

Further information on the informal and formal processes and how to submit complaints can be found in the supporting User Guide.

## Right to be accompanied

You have the right to be accompanied to any formal grievance meeting by a colleague or a trade union representative. Please note that your companion cannot be anyone who is involved, conflicted or who has been interviewed as part of the grievance.

When a colleague acts as a companion it is voluntary, and they are under no obligation to do so. If they agree to do so they will be allowed reasonable time off from duties without loss of pay to act as a companion.

## Vexatious or malicious grievances

Whilst the Council is confident that most of the cases raised by staff are genuine and made in good faith, if a grievance is found to be deliberately vexatious or malicious it will be treated as a serious disciplinary offence under the Council's [Disciplinary Policy](#) and following any separate due process, appropriate sanctions, up to and including gross misconduct may be applied.

## Mediation

Mediation as a means of informal resolution may also be a beneficial tool, at this stage or later in the process, to resolve misunderstandings and disagreements at work which affect working relationships. Mediation is a facilitated discussion or restorative conversation through a line manager or through a trained mediator. Further information on Mediation can be found in the supporting User Guide.

# 2. Roles and Responsibilities

Managers and colleagues must give high priority to both informal and formal aspects of this policy to ensure that they are completed as quickly as possible.

### All colleagues should:

- read and understand the grievance procedure;
- raise your grievance informally in the first instance; and
- state your intended resolution and outcome clearly.

### All managers should:

- read and understand the grievance procedure;
- address, wherever possible, any complaints informally in the first instance;
- ensure the colleague is aware of and understands the process for hearing the grievance;
- provide any colleagues involved in any grievance with clearly communicated guidelines on expected timescales and keeping them updated on any potential delays to resolving the grievance;
- have regular wellbeing conversations with colleagues involved in any stage of the process to ensure that the appropriate support is in place;
- seek advice and guidance from askHR at any stage of the process, where you feel you need support; and
- ensure implementation of any recommendations from the informal, formal or appeal stages.

### All Nominated Officers should:

- understand fully the grievance procedure and ensuring all stages are adhered to and correctly applied;
- complete the Declaration of Independence form to ensure you have no conflicts of interest in the case;
- handle the grievance with sensitivity and confidentiality as well as managing such case fairly and objectively;
- meet set timescales, and colleagues are provided with regular updates on their grievance;
- provide an outcome to the grievance based on the evidence presented; and
- satisfy yourself that any outcome or recommendations have been implemented.

## 3. Informal Complaint Resolution – Stage 1

A grievance procedure is a way for an employee to raise a complaint to their employer.

If an employee has a problem at work it's usually a good idea to raise it informally first.

Any complaint should be addressed as soon as it's raised, and this does not necessarily have to be in writing - it can be raised verbally through regular meetings with a manager or by contacting the person directly.

In many circumstances, a confidential conversation is all that's necessary to resolve an issue. All conversations should be outcome focussed and aim to resolve things fully and quickly.

However, in some cases a line manager may be required to gather additional information.

All colleagues should receive a response within seven calendar days of raising their complaint. Your manager will inform you of the outcome verbally and in writing, outlining any action that will be taken. Where recommendations or action are made, line managers should, where possible, provide timescales for implementation.

In some cases where the concerns are more complex, and additional time is required the line manager must provide the colleague with regular updates on the process and expected timeframe.

If the complaint is not resolved following this informal stage, or if the informal stage is not appropriate due to the nature of the complaint, you should raise a formal grievance.

## 4. Formal Procedure – Stage 2

### Raising a Formal Grievance

If your grievance cannot be resolved informally, you should raise it as a formal complaint.

You must escalate your concerns within 14 calendar days of receiving the informal outcome. Where the outcome contains recommendations that have the potential to resolve the grievance, but need more time to

show if they will be effective, you can agree to extend this timescale with the manager dealing with the grievance.

In all cases, the complaint should be made in writing to your line manager, or if your complaint is about your line manager you should speak to an alternative appropriate manager, your Head of Service or [askHR](#).

Where the Chief Executive wishes to raise a grievance, this should be done through the Council Leader.

Your grievance should clearly outline:

- The details of your grievance or complaint (including any relevant facts, dates and names of individuals involved);
- Any accompanying information or evidence;
- Any details of any informal action taken to resolve the matter; and
- Your preferred outcome.

In some situations, you may be asked to provide further information.

### **Appointment of a Nominated Officer**

Upon receiving the formal grievance and any supporting documents, a Nominated Officer will be appointed by the manager in consultation with HR.

The Nominated Officer (and if applicable the Investigating Officer) must complete a Declaration of Independence form prior to the commencement of a formal process to ensure that there are no potential conflicts of interest arising from their involvement in the case. Where a conflict is identified, the Nominated Officer (or Investigating Officer) will decline to act, and another officer will be appointed. Further details can be found in the User Guide.

Where a false declaration is made, it will be treated as a serious disciplinary offence under the Council's Disciplinary Policy and following any separate due process, appropriate sanctions, up to and including gross misconduct may be applied.

Please refer to the supporting user guide which provides more details on roles and responsibilities.

### **Acknowledging the grievance**

In all cases, the Nominated Officer hearing the grievance will contact you within seven calendar days of receiving the grievance to confirm receipt of your grievance and, where possible, set a date for the grievance meeting.

### **The Grievance Meeting**

The purpose of a grievance meeting is to enable you to explain your grievance and how you think it should be resolved, and to assist the Nominated Officer to reach an outcome based on the available evidence and the representations you have made.

You and your companion (if any) should make every effort to attend grievance meetings. If you or your companion cannot attend at the time specified, you should inform the Nominated Officer immediately and they will try, within reason, to agree an alternative time.

Depending upon the nature of your complaint, the Nominated Officer may appoint an Investigating Officer to carry out further investigations and the grievance meeting will be reconvened once the investigation has been concluded. Such meetings will be arranged without unreasonable delay.

### **Investigation**

Where further investigation may be required, and the Nominated Officer will appoint an Investigating Officer. The amount of any investigation required will depend on the nature of the grievance and will vary from case to case. The investigation will involve gathering additional evidence as well as taking statements from you and any witnesses.

Where an investigation is required, the Nominated Officer will advise you of this, and keep you updated in writing on timelines and any delays. All meetings and investigations will be completed within a reasonable timeframe without impacting the quality of the investigation.

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.

Once concluded, the Investigating Officer's Report will be shared with the Nominated Officer and the employee in advance of any reconvened Grievance meeting.

## 5. Grievance outcomes

Once the grievance has been heard you will be advised of the decision by the Nominated Officer, in writing, within 14 calendar days. There are 3 possible outcomes to a grievance:

1. Grievance upheld;
2. Grievance partially upheld; or
3. Grievance not upheld.

### **Grievance upheld**

If your grievance has been upheld, the Nominated Officer who heard the grievance will outline any action that will be taken to resolve the complaint you raised and who is responsible for taking these actions forward. Please note that due to confidentiality and data protection obligations you may not be advised of specific actions (for example if they relate to a formal process being initiated against colleague(s)).

### **Grievance partially upheld**

In the case that your grievance is partially upheld, the Nominated Officer may decide that some of your concerns require action. This will be explained to you along with the action taken to resolve them and the reasons as to why some elements have been upheld. The Nominated Officer will also explain why part(s) of your grievance have not been upheld.

### **Grievance not upheld**

It may be decided that there is not sufficient evidence to uphold the issues which you have raised, or that the concerns raised were not justified. The Nominated Officer will outline the reasons for this decision.

If the Nominated Officer finds your grievance to be vexatious or malicious, they will decide if further action under the Disciplinary Policy should be taken against you.

## 6. Appeals – Stage 3

We appreciate that not everyone will agree with the outcome of their grievance, and there may be occasions where a colleague wants to appeal the outcome.

Appeals are heard by the Personnel Appeals Committee. This is a board of three elected members.

The purpose of an appeal is to review the decision that was made by the Nominated Officer to ensure that it was fair and reasonable in the circumstances. The Personnel Appeals Committee will not re-hear the original grievance, review any new evidence or consider any new issues. Any new issues should be addressed as a new grievance under this Policy.

### **Submitting an appeal**

Any colleague who wishes to appeal must do so by submitting the Grievance Appeal Form within 14 calendar days of receiving the outcome of the grievance.

Where the Stage 2 outcome contains recommendations that have the potential to resolve the grievance, but need time to show if they will be effective, you can agree to extend this timescale with the Nominated Officer.

Within your appeal, you should demonstrate one of the following:

- The grievance did not follow a fair process and/or the process was not followed correctly;
- Information provided and/or gathered during the process was not considered;
- The conclusion reached was incorrect given the evidence presented i.e., not consistent or supported by the information provided;
- Where applicable, the behaviour complained about has not stopped.

You should include details of the following points in the Grievance Appeal Form:

- details of why you are making an appeal;
- whether you believe a fair process was carried out;
- whether you believe that any relevant evidence was not considered;
- whether you believe that the evidence presented was misinterpreted;
- whether you believe the outcome reached was incorrect based on this evidence that was gathered; and the outcome that you are seeking.

All appeals will be sent to the Service Director – Legal & Assurance and the Service Director - HR.

### **Assessing an appeal**

All appeals will be assessed by HR who will determine if the Grievance Appeal Form has been correctly completed and if the appeal is competent. You may be asked to provide additional information to your Grievance Appeal Form.

An appeal may not be heard by the Personnel Appeals Committee if:

- the outcome you have requested is unable to be granted e.g., in relation to an operational matter which is devolved to certain officers under the scheme of delegation or a legislative issue. Where the outcome cannot be granted, HR can provide clarity on the scope of the Committee for your consideration;
- all outcomes of your grievance are upheld, and the Nominated Officer has given a commitment to deal with your complaints within a specific timescale but has not done so. In this instance you should speak with the Nominated Officer to seek an explanation;

- all outcomes of your grievance are upheld, and the Nominated Officer has arranged for a further investigation to take place. A reasonable time period should be allowed for this to happen.

Where no reasonable attempts have been made to deal with your complaints or undertake further investigations, your appeal may be considered by the Personnel Appeals Committee as the process has not been followed.

Services will write to you to confirm if your appeal is competent and arrange for the hearing to be held.

Further information on the appeals process and where to submit appeals, can be found in the supporting User Guide.

## 7. Outline of timelines

Stage	Timescale for colleague submission	Council response
Stage 1 – Informal grievance		7 calendar days of receiving the grievance
Stage – 2 Formal grievance	14 calendar days from receiving the informal outcome if applicable	Nominated Officer will make contact within 7 calendar days of receiving formal grievance to arrange a grievance meeting.
Stage 2 – Outcome		Issued within 7 calendar days from the grievance meeting.
Stage 3 – Appeal	14 calendar days of receiving stage 2 outcome	Hearing set up within a month of receiving grievance appeal.
Outcome of appeal		Issued within 10 calendar days of hearing the appeal.

# Grievance Policy (Teaching Staff)

The Council recognises the importance of maintaining good working relationships between colleagues and seeks to promote an environment where any problems that arise can be discussed and dealt with easily and at an early stage.

The Council believes that most cases can be resolved informally through honest and open discussion, however in some cases, this may not be possible or appropriate and a formal grievance may need to be raised.

Our Behaviours of Respect, Integrity & Flexibility should be demonstrated throughout every stage of this process.

This policy outlines the grievance process, informally and formally and highlights the roles and responsibilities of those involved and the support that is available.

## Author

Employee Relations, Human Resources,  
Corporate Services Directorate.

## Scope

This policy applies to all teaching staff whose terms and conditions of employment are regulated by the SNCT.

This policy does not apply to those who have left the Council. In these circumstances, a Modified Grievance Procedure can be used as outlined in by Scottish Negotiating Committee for Teachers (SNCT).

## Purpose

The purpose of this policy is to provide guidance to colleagues on how to raise and resolve any issues which may arise within the workplace

## Review

The policy will be reviewed as and when a change to the existing policy deems this necessary, primarily as a result of: changes to legislation or statute; agreement of new national terms and conditions of service or Government Policy; organisational change; or resulting from changes agreed through Trade Union Consultation.

## Local Agreement

This policy is a local collective agreement between the Council and our recognised Trade Unions. We will make every effort to ensure that it is maintained as a local collective agreement. Any changes will be made by agreement. If we cannot agree, either party can end the local collective agreement by giving four months' notice in writing, with the policy ceasing to apply to staff at the end of that period.

Grievance Policy (Teaching Staff).....	1
1. Policy Aims.....	2
2. Roles and Responsibilities .....	4
3. Informal Resolution .....	4
4. Formal Procedure - Stage 1.....	5
5. Grievance outcomes .....	7
6. Appeals .....	8

# 1. Policy Aims

The aim of this policy is to ensure any issues which may be raised by colleagues are dealt with in a fair and timely manner. This policy also aims to ensure that a consistent approach is applied when seeking a resolution to any workplace issues, raised formally and informally.

This policy is designed to:

- provide a framework outlining the grievance procedure, explaining how to raise issues and what happens when you do;
- encourage issues to be raised and resolved at the lowest appropriate level;
- provide a safe and timely process in ensuring issues are resolved; and
- support colleagues who are faced with workplace issues.

This policy and the supporting user guide will be applicable when you have a workplace issue regarding:

- terms and conditions of employment;
- health and safety at work;
- workplace relations;
- new working practices;
- the working environment;
- organisational change;
- discrimination on the grounds of race, sex, sexual orientation, religion, disability, age, gender reassignment, marital status, or ethnic origin; and/or
- bullying and harassment.

We operate a separate Whistleblowing Policy to enable employees to report illegal activities, wrongdoing or malpractice.

This policy seeks to promote a culture where colleagues can raise concerns without fear of victimisation or recrimination and provides a procedure where a complaint or concern will be addressed quickly.

Whilst the Council is confident that most of the cases raised by staff are genuine and made in good faith, if a grievance is found to be deliberately vexatious or malicious it will be treated as a serious disciplinary offence under the Council's Disciplinary Policy and, following any separate due process, appropriate sanctions, up to and including gross misconduct, may be applied.

## **What does not fall under this Policy?**

In some instances, a concern or issue you wish to raise may not amount to a grievance or may not be within the scope of this policy and therefore the issue may be better to be raised under one of the other Council policies. If you are unsure, please seek advice from the askHR team.

Please find some (non-exhaustive) examples of matters which are unlikely to fall under this policy below:

- **Effective Management:** we expect our managers to lead and manage colleagues who report into them. This involves setting performance standards and making sure that these are understood. It also involves dealing with colleagues in a respectful and constructive way if they fall below the expected standards. Grievances submitted in response to formal procedures being undertaken (including the Performance Management Policy) are unlikely to be considered to be competent except where performance standards can be objectively shown to be discriminatory, unfair or unachievable as this may constitute bullying or harassment, or where the correct procedures to support colleagues with performance issues have not been followed, and it is evident policies are not being followed correctly.
- **Dismissal or disciplinary action:** this policy should not be used in response to dismissal or disciplinary action. If you are dissatisfied with any disciplinary action, you should submit an appeal under the Disciplinary Policy.
- **Grading appeals:** this policy should not be used to challenge a job evaluation outcome following a grading review. If you are dissatisfied with the outcome of a job sizing review, you should submit an appeal under the Grading Appeals Process.

## **Collective Grievance**

In cases where more than one colleague wishes to raise an issue or complaint in relation to the same matter, the grievance should be heard as one grievance - this is known as a collective grievance.

Colleagues raising a collective grievance should appoint a maximum of 3 spokespeople to act as representatives for their group and, where a case cannot be resolved informally, they should submit a formal grievance form which all members of the group must sign. The statement must clearly outline that the grievance should be heard 'collectively' and should follow the same process outlined in this policy for both informal and formal complaints.

Where collective grievances are in relation to bullying and harassment, one Nominated Officer will be appointed but meetings may take place separately.

Further detailed information on the informal and formal processes and how to submit complaints can be found in the supporting User Guide.

## **Status Quo Ante**

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

## 2. Roles and Responsibilities

Managers and colleagues must give high priority to both informal and formal aspects of this policy to ensure that they are completed as quickly as possible.

### **All colleagues are responsible for:**

- Ensuring that you understand the grievance procedure;
- Clearly stating your intended resolution and outcome; and
- Ensuring that, wherever possible, attempts to resolve the complaint informally are made before raising a formal grievance.

### **All managers are responsible for:**

- Understanding the grievance procedure;
- Ensuring that, wherever possible, you address any complaints informally in the first instance;
- Ensuring the colleague is aware of and understands the process for hearing the grievance;
- Providing any colleagues involved in any grievance with clearly communicated guidelines on expected timescales and keeping them updated on any potential delays to resolving the grievance;
- Having regular wellbeing conversations with colleagues involved in any stage of the process to ensure that the appropriate support is in place; and
- Seeking advice and guidance from askHR at any stage of the process, where you feel you need support.

### **Nominated Officers are responsible for:**

- Understanding fully the grievance procedure and ensuring all stages are adhered to and correctly applied;
- Completing the Declaration of Independence form to ensure you have no conflicts of interest in the case;
- Ensuring the grievance is handled with sensitivity and confidentiality as well as managing such case fairly and objectively;
- Ensuring that set timescales are met, and colleagues are provided with regular updates on their grievance;
- Providing an outcome to the grievance based on the evidence presented; and
- Satisfying yourself that any outcome or recommendations have been implemented.

## 3. Informal Resolution

Any concern, complaint or grievance should be addressed as soon as it's raised, and this does not necessarily have to be in writing - it can be raised verbally through regular meetings with a manager or by contacting the person directly. Managers should be alert to any issues being raised by colleagues and aim to resolve things fully and quickly without having to go through a formal procedure. Colleagues should be supported in addressing your concerns and all discussions to resolve the concerns should be outcome focussed.

In many circumstances, a confidential conversation with the line manager or the individual concerned is all that's necessary to resolve an issue. On other occasions, it may be appropriate to hold a series of conversations, which could form part of regular one-to-one meetings, to ensure the necessary support and

review is in place. All attempts should be made to resolve the matter within a reasonable timeframe. In cases where you are unable to discuss the matter with your immediate line manager or the complaint is about your immediate manager, you should speak to an alternative appropriate manager.

Mediation as a means of informal resolution may also be a beneficial tool, at this stage or later in the process, to resolve misunderstandings and disagreements at work which affect working relationships. Mediation is a facilitated discussion or restorative conversation through a line manager or through a trained mediator. Further information on Mediation can be found in the supporting User Guide.

Where things can't be resolved through taking simple steps (such as a conversation with the relevant colleagues) or where additional information is required, the line manager should ensure they meet with the colleague within five working days of the concern being raised to provide an outcome. In some cases where the concerns are more complex, and additional time is required the line manager must provide the colleague with regular updates on the process and expected timeframe. In some cases, the nature of the complaint may warrant a full investigation and, in such cases the formal procedure may be started from the outset.

#### **Bullying and Harassment**

In some cases of bullying and harassment, individuals may not be aware of the impact their behaviour is having. Often cases can be resolved informally by having a conversation.

If the matter is of a serious nature, it may be the complaint is managed formally following this policy or another Council Policy.

Once the complaint has been considered, your manager will inform you of the outcome verbally and in writing, outlining any action that will be taken. Where recommendations or action are made, line managers should, where possible, provide timescales for implementation.

If the grievance is not suitable for informal resolution or informal resolution has been attempted and has not been successful, the matter can be dealt with under the formal procedure.

## **4. Formal Procedure - Stage 1**

If your grievance cannot be resolved informally, you should raise it as a formal complaint. Where no recommendations have been made as part of the informal stage, you must escalate your concerns within 10 working days of the informal outcome. Where actions or recommendations have been made, you must allow reasonable time for these to be implemented before raising your concerns to the next stage. This should be in line with the timescales outlined in the informal outcome.

There may be some cases whereby the nature of the complaint is so serious the grievance bypasses the informal stage and is heard formally from the outset.

In all cases, the complaint should be made in writing to the Headteacher or senior manager, or if your complaint is about the Headteacher or senior manager, you should speak to an alternative appropriate manager who will appoint a Nominated Officer to deal with the grievance. Where you are unsure who would be the next appropriate manager, you can speak to your union (if you are a member) or askHR who can advise. In circumstances where it would not be appropriate for the Headteacher or senior manager to hear the grievance at Stage 1, the grievance should be submitted directly to the Service Director.

Please refer to the supporting user guide which provides more details on roles and responsibilities.

Your grievance should clearly outline:

- The details of your grievance or complaint (including any relevant facts, dates and names of individuals involved);
- any accompanying information or evidence;
- any details of any informal action taken to resolve the matter; and

- your preferred resolution(s)

In some situations, you may be asked to provide further information.

### **Appointment of a Nominated Officer**

Upon receiving the formal grievance and any supporting documents, a Nominated Officer will be appointed.

The Nominated Officer (and, if applicable, the Investigating Officer) will be required to complete a Declaration of Independence form prior to the commencement of a formal process. This will ensure that potential conflicts of interest arising from personal/work relationships with those subject to the investigation, or witnesses as well as any previous involvement in decision making in the impacted area are identified and that appropriate steps are taken to avoid that conflict. In most cases where a conflict is identified, the Nominated Officer (or Investigating Officer) will decline to act, and another officer will be appointed. Further details can be found in the User Guide.

In all cases, the Nominated Officer hearing the grievance will make contact you within five working days of receiving the grievance to confirm receipt of your grievance and, where possible, set a date for an initial grievance meeting.

### **Investigation**

In some cases, further investigation may be required, and the Nominated Officer will appoint an Investigating Officer. The amount of any investigation required will depend on the nature of the grievance and will vary from case to case. The investigation may involve gathering additional evidence as well as taking statements from you and any witnesses. Where an investigation is required, the Nominated Officer will advise you of this, and keep you updated on timelines and any delays. All meetings and investigations will be completed within a reasonable timeframe without impacting the quality of the investigation.

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. An Investigating Officer will not be required in each and every case and this will be a matter for the Nominated Officer to determine.

### **Right to be accompanied**

You have the right to be accompanied to any grievance meeting by a colleague or a trade union representative. Please note that your companion cannot be anyone who is involved, conflicted or who has been interviewed as part of the grievance.

At the meeting, your companion should not answer questions on your behalf. You may talk privately with them at any time during the meeting.

Acting as a companion is voluntary and your colleagues are under no obligation to do so. If they agree to do so they will be allowed reasonable time off from duties without loss of pay to act as a companion.

If your chosen companion is unavailable at the time a meeting is scheduled and will not be available for more than five working days afterwards, we may ask you to choose someone else. In cases where your chosen companion fails to attend the meeting without explanation, then it may proceed in their absence.

### **The Grievance Meeting**

You and your companion (if any) should make every effort to attend grievance meetings. If you or your companion cannot attend at the time specified, you should inform the Nominated Officer immediately and they will try, within reason, to agree an alternative time.

The purpose of a grievance meeting is to enable you to explain your grievance and how you think it should be resolved, and to assist the Nominated Officer to reach a decision based on the available evidence and the representations you have made.

The Nominated Officer hearing the grievance will assess whether witness evidence is required at the meeting and, if so, what witnesses should be called to attend the meeting.

After an initial grievance meeting the Nominated Officer may carry out further investigations (or instruct the Investigating Officer to do so) and hold further grievance meetings as they consider appropriate. Such meetings will be arranged without unreasonable delay.

## 5. Grievance outcomes

Once the grievance has been fully investigated, and all necessary meetings held, you will be advised of the decision by the Nominated Officer in writing within five working days. There are 3 possible outcomes to a grievance:

1. Grievance upheld;
2. Grievance partially upheld; or
3. Grievance not upheld.

### **Grievance upheld**

If your grievance has been upheld, the Nominated Officer who heard the grievance will outline any action that will be taken to resolve the complaint you raised and will explain who is responsible for taking these actions forward. Please note that due to confidentiality and data protection obligations you may not be advised of specific actions that are recommended or taken (for example if they relate to a formal process being initiated against colleague(s)).

### **Grievance partially upheld**

In the case that your grievance is partially upheld, the Nominated Officer may decide that some of your concerns require action. This will be explained to you along with the action taken to resolve them and the reasons as to why some elements have been upheld. The Nominated Officer will also explain why part(s) of your grievance have not been upheld.

### **Grievance not upheld**

It may be decided that there is not sufficient evidence to uphold the issues which you have raised, or that the concerns raised were not justified. The Nominated Officer will outline the reasons for this decision.

If the Nominated Officer finds your grievance to be vexatious or malicious, they will decide if further action under the Disciplinary Policy should be taken against you.

# 6. Appeals

## Stage 2

We appreciate that not everyone will agree with the outcome of their grievance under Stage 1, and you may decide that you want to appeal the outcome.

Any colleague who wishes to appeal must do so by submitting the Grievance Appeal Form (Stage 2) within 10 working days of receiving the outcome of the grievance.

All appeals should be sent to the Service Director – Education and must be submitted within 10 working days from the day you received the outcome of your grievance.

To submit an appeal, you must use a Grievance Appeal Form (Stage 2). You should include details of the following points in this form:

- details of why you are making an appeal;
- whether you believe a fair process was carried out;
- whether you believe that any relevant evidence was not considered;
- whether you believe that the evidence presented was misrepresented;
- whether you believe the outcome reached was incorrect based on this evidence that was gathered; and
- the outcome that you are seeking.

It is important to note you cannot raise new concerns or issues at this stage, any new concerns or issues will be disregarded during the appeal.

All appeals will be assessed by the Service Director - Education who will determine if the Grievance Appeal Form (Stage 2) has been completed correctly. You may be asked to provide additional information to your Grievance Appeal Form.

## The appeal hearing

The appeal hearing will be conducted by a Director or their nominee (known as the Appeal Hearing Manager). Where practicable, the officer hearing the appeal will not have been previously involved in the case and will be senior to the individual who conducted the previous meeting.

The purpose of the appeal hearing is to review the decision that was made at Stage 1 to ensure that it was fair and reasonable in the circumstances. The Appeal Hearing Manager will not re-hear the original grievance, review any new evidence or consider any new issues. Any new issues should be addressed as a new grievance under this policy.

Once it has been confirmed that your Grievance Appeal Form has been completed correctly, your appeal will be heard by the Appeal Hearing Manager within ten working days of receipt of your Grievance Appeal Form, or as soon as is reasonably possible thereafter.

You will have the right to be accompanied at all appeal hearings by an accredited trade union representative, a work colleague or an official employed by a trade union. Please note that your companion cannot be anyone who is involved or who has been interviewed as part of the grievance.

Following the appeal hearing, the Appeal Hearing Manager will write to you to confirm their decision and the reasons for it. Where possible, this will be within five working days from the date of the hearing. Should more time to consider the appeal be required, you will be advised of this along with the anticipated timeframe for a decision.

### Stage 3

If you remain dissatisfied with the response from the Appeal Hearing Manager, there is a further right of appeal to the Personnel Appeals Committee. To submit an appeal, you must use a Grievance Appeal Form (Stage 3). This should be sent along with any documents relevant to the appeal within 14 calendar days of receiving the outcome of your Stage 2 grievance appeal.

Within your appeal, we are looking for you to demonstrate one of the following:

- The grievance did not follow a fair process and/or the process was not followed correctly;
- Information provided and/or gathered during the process was not considered;
- The conclusion reached was incorrect given the evidence presented i.e., not consistent or supported by the information provided;
- Where applicable, the behaviour complained about has not stopped.

All appeals will be sent to the Service Director – Legal & Assurance and the Service Director - HR.

All appeals will be assessed by HR who will determine if the Grievance Appeal Form (Stage 3) has been completed correctly. You may be asked to provide additional information to your Grievance Appeal Form.

Arrangements will be made for the appeal to be heard within a month or as soon as reasonably possible if that timescale cannot be met. Committee Services will issue the agenda and papers for the meeting of the Personnel Appeals Committee no less than five calendar days in advance of the appeal hearing.

An appeal may not be heard by the Personnel Appeals Committee if:

- the outcome you have requested is unable to be granted e.g., in relation to an operational matter which is devolved to certain officers under the scheme of delegation or a legislative issue. Where the outcome cannot be granted, HR can provide clarity on the scope of the Committee for your consideration;
- all or some outcomes of your grievance are upheld, and the Nominated Officer has given a commitment to deal with your complaints within a specific timescale but has not done so. In this instance you should speak with the Nominated Officer to seek an explanation;
- all or some outcomes of your grievance are upheld, and the Nominated Officer has arranged for a further investigation to take place. A reasonable time period should be allowed for this to happen.

Where no reasonable attempts have been made to deal with your complaints or undertake further investigations, your appeal may be considered by the Committee.

### Stage 4

In the event that you continue to be dissatisfied, and only where the original grievance related to the interpretation or implementation of a national agreement promulgated by the Scottish Negotiating Committee for Teachers (SNCT), recourse may be had to their Joint Secretaries through their appeals process.

Further information on the appeals processes and where to submit appeals to can be found in the supporting User Guide.

# Personnel Appeals Committee

We hope that the agreed policies and procedures in place within the Council will ensure that colleagues feel that they are valued and that they will be treated fairly. However, there may be occasions where colleagues are unhappy with decisions taken by the Council or a failure of the Council to reach a decision. When this occurs, colleagues have the right to appeal to the Personnel Appeals Committee.

The Personnel Appeals Committee will hear an appeal in relation to:

- A decision taken in respect of a complaint raised under the Council's Grievance Policy;
- A decision to dismiss or take action short of dismissal under the Council's Disciplinary Policy; or
- A decision to dismiss under the Council's Performance Management or Sickness Absence policies.

The Personnel Appeals Committee will have delegated power from the Council to decide such appeals and will be the Council's final arbiter on such matters.

## Author

Employee Relations & Policy, Human Resources, Corporate Services.

## Scope

This policy applies to all Council colleagues and former council employees.

## Purpose

This policy outlines the process for colleagues to follow when lodging an appeal and how the Personnel Appeals Committee will consider these appeals.

## Review

The policy will be reviewed as and when a change to the existing policy deems this necessary, primarily because of changes to legislation or statute; agreement of new national terms and conditions of service or Government Policy; organisational change; or resulting from changes agreed through Trade Union Consultation.

Personnel Appeals Committee – Appeals.....	1
1. Personnel Appeals Committee Membership .....	2
2. Lodging an appeal.....	2
3. Procedure before the appeal hearing.....	2
4. Representation and attendance at an appeal.....	3
5. Procedure at the appeal hearing.....	3
6. Possible outcomes in disciplinary appeals .....	4
7. Possible outcomes in grievance appeals .....	5
8. Possible outcomes in capability dismissal appeals.....	5

# 1. Personnel Appeals Committee Membership

The Personnel Appeals Committee will comprise of nine members of the City of Edinburgh Council who have been trained in the relevant policies and procedures. In relation to the hearing of any appeal the following provisions will apply: -

- Where the Convener or Vice-Convener of any Standing Committee or Sub-Committee who has a service responsibility for the decision which is subject to appeal is also a member of the Personnel Appeals Committee, they will be excluded from hearing that appeal;
- Where a vacancy exists at any meeting of the Personnel Appeals Committee, that vacancy may be filled for that meeting by another member of the Council from within the same political group who has undergone the relevant training;
- Where a meeting of the Personnel Appeals Committee is adjourned for any reason only those members in attendance at the original hearing will be eligible to attend the re-convened hearing, other than in exceptional circumstances:
- Three members will form a quorum at meetings of the Personnel Appeals Committee.

## 2. Lodging an appeal

Appeals must be submitted **within 14 calendar days** of the appellant receiving written confirmation of the decision.

The appeal must be submitted on the **Appeal Form** and may be lodged by the appellant, or their representative as outlined in the relevant Policy. Any additional documents relevant to the appeal should be sent with this form.

The Appeal Form, and any associated papers, must be sent to the Service Director – Legal and Assurance who will then send on to the Service Director – HR for assessment.

The appellant should also provide the name of any witness they wish to attend the hearing. Only witnesses who were present at the previous hearing will be allowed to attend the appeal.

No new issues or concerns can be added at this stage. The issues must be the same as those originally raised within the earlier stages of the process.

Where any reasonable adjustments are required to support your attendance at the appeal hearing, these should be requested on the Appeal Form for consideration.

## 3. Procedure before the appeal hearing

Following notification of an appeal, the Service Director – Legal and Assurance will acknowledge receipt of the appeal. The Service Director – HR will arrange for an assessment to be carried out on whether the appeal meets the requirements for competency, in accordance with the relevant Policy.

The Service Director – HR will advise the Service Director – Legal and Assurance of the outcome within 7 calendar days of receiving the appeal form. If it is not clear whether the appeal meets the criteria, further information or clarification will be requested so that an assessment can be made.

Within 2 calendar days of receiving the assessment outcome from the Service Director – HR, the Service Director – Legal and Assurance will:

- advise the appellant and their representative if they meet the requirements for appeal; and
- notify the relevant Nominated Officer/Senior Manager of the appeal and send them the appellant's appeal papers.

Within 14 calendar days of receiving this notification, the Nominated Officer/Senior Manager of the appeal must provide a written response to the appeal which should be sent to the Service Director – Legal and Assurance using the Appeal Response Form.

Any documents relevant to the appeal response should be sent with the Appeal Response Form. The Nominated Officer/Senior Manager should also provide the name of any witness they wish to attend the hearing. Only witnesses who were present at the previous hearing will be allowed to attend the appeal.

On behalf of the Service Director – Legal and Assurance, Committee Services will make arrangements for an appeal to be heard **within a month** of receiving notification of the appeal, or as soon as possible if that timescale cannot be met, however all parties will be informed of any delays and the reasons. They will issue the agenda and papers for the meeting of the Personnel Appeals Committee a maximum of 10, and not less than 5, calendar days in advance of the appeal hearing.

The timescales in this policy may be varied by mutual agreement.

## 4. Representation and attendance at an appeal

The appellant will have the right to be represented at the appeal hearing by:

- an accredited workplace trade union representative;
- another Council employee; or
- an official employed by a trade union.

The Nominated Officer or other appropriate senior officer will act as the Council's representative at the appeal hearing and may be accompanied by an HR Consultant.

A representative(s) from Committee Services will act as Clerk to the Personnel Appeals Committee on behalf of the Service Director – Legal and Assurance.

A representative(s) from HR will act as Adviser to the Personnel Appeals Committee on behalf of the Service Director – HR.

Witnesses will be excluded until called unless it is agreed by the committee that they should be present from the start of the hearing.

If an appeal hearing is adjourned, all parties involved will ensure that, other than in exceptional circumstances, the original representatives attend the re-convened hearing for continuity purposes.

## 5. Procedure at the appeal hearing

### Presentation of Appeal

The appellant or their representative will put forward their case and may call witnesses.

The Nominated Officer or other appropriate Senior Manager will have the opportunity to ask questions of the appellant, their representative(s) and their witnesses.

The members of the Personnel Appeals Committee will have the opportunity to ask questions of the appellant, their representative(s) and their witnesses.

The appellant or their representative(s) will have the opportunity to re-examine their witnesses on any matters referred to in their questioning by the members of the Personnel Appeals Committee, or The Nominated Officer or other appropriate Senior Manager.

### **Presentation of Response**

The Nominated Officer or other appropriate Senior Manager will put forward the case, in the presence of the appellant and their representative, and may call witnesses.

The appellant or their representative will have the opportunity to ask questions of the Council's representative(s) and their witnesses.

The members of the Personnel Appeals Committee will have the opportunity to ask questions of the Nominated Officer or other appropriate Senior Manager and their witnesses.

The Nominated Officer or other appropriate Senior Manager will have the opportunity to re-examine their witnesses on any matter referred to in their questioning by members of the Personnel Appeals Committee, the appellant or their representative.

### **Summing Up**

Firstly, the appellant or their representative and then the Nominated Officer or other appropriate Senior Manager will have the opportunity to sum up their cases if they so wish. The summing up will not introduce any new matters.

### **Decision**

If at any stage new facts are alleged or new evidence produced, the Personnel Appeals Committee, either at the request of one or both parties, or of its own volition, may adjourn the hearing for such period as it may deem reasonable.

At the conclusion of the evidence the Committee Services representative will advise the appellant and their representative that the decision of the Committee will be provided in writing **within 10 calendar days**. The Nominated Officer or other appropriate Senior Manager, their HR Consultant, the appellant and their representative and any witnesses will then withdraw.

The Personnel Appeals Committee, together with their Adviser(s), will deliberate in private.

Committee Services will write to both parties to advise them of the Personnel Appeals Committee decision, and the reason(s) for their decision, **within 10 calendar days** of the date of the hearing.

There is no further internal right of appeal.

## **6. Possible outcomes in disciplinary appeals**

The decision of the Personnel Appeals Committee will be one of the following, as appropriate:-

- that the disciplinary decision was fair, and the appeal is not upheld; or
- that the disciplinary decision was unfair, and the appeal is upheld.

### **Disciplinary Decision was Fair**

If the disciplinary decision was fair and the appeal is not upheld, then the disciplinary action will remain in place.

## Disciplinary Decision was Unfair

If the disciplinary decision was unfair and the appeal is upheld, the Personnel Appeals Committee can decide to withdraw the disciplinary action completely or to replace it with a lesser sanction as follows:

- (a) appeal against dismissal -
- reinstatement to former post, or
  - reinstatement to another similar post on terms and conditions no less favourable than those applying to the post formerly held by the appellant, or
  - a lesser penalty may also be given in accordance with the Council's disciplinary policy e.g., a final written warning.

Any salary/wages due to the appellant will be repaid in full.

- (b) appeal against action short of dismissal -
- replace with lesser penalty in accordance with the Council's disciplinary policy e.g., a final written warning.

## 7. Possible outcomes in grievance appeals

The decision of the Personnel Appeals Committee will normally be one of the following, as appropriate:

- that the decision of the original grievance was reasonable, and the appeal is not upheld; or
- that the decision of the original grievance was not reasonable, and the appeal is upheld; or
- that the decision of the original grievance is partially upheld.

Where the Personnel Appeals Committee decide that an appeal is successful, they will consider the resolution requested by the appellant and make appropriate recommendations to the service area.

The Committee can also ask the Service Director to:

- arrange to hear your grievance again; or
- to make further investigations into your issues or concerns. If further investigation is required, the Committee will provide reasons for this in writing.

If the Personnel Appeals Committee decides that either of these is required, you will have an additional right of appeal.

## 8. Possible outcomes in capability dismissal appeals

The decision of the Personnel Appeals Committee will be one of the following, as appropriate:-

- that the decision was fair, and the appeal is not upheld; or
- that the decision was unfair, and the appeal is upheld.

### Decision was Fair

If the decision was fair and the appeal is not upheld, then the original decision will remain in place.

### **Decision was Unfair**

If the decision was unfair and the appeal is upheld, the Personnel Appeals Committee can decide to withdraw the any action completely or to replace it with a lesser sanction as follows:

- (a) appeal against capability dismissal -
  - reinstatement to former post, or
  - reinstatement to another similar post on terms and conditions no less favourable than those applying to the post formerly held by the appellant, or
  - a lesser penalty may also be given in accordance with the Council's performance management policy e.g., a final written warning.

Any salary/wages due to the appellant will be repaid in full.

- (b) appeal against action short of dismissal -
  - replace with lesser penalty in accordance with the Council's performance management policy e.g., a final written warning.