



Grievance

Policy Statement and Procedure

Grievance Policy Statement

All employees should be treated fairly and with dignity and respect. We have a clear Employee Code of Conduct (CC01) and behavioural framework (OD12 How We Work Matters) and we all must take responsibility to behave appropriately.

Managers have additional responsibility to address any inappropriate behaviour, recognising that this is never a joke or harmless fun. Managers must also deal with employee's concerns fairly and reasonably.

If you have concerns about how you have been treated or other aspects of your work these are often best resolved informally. The first step is to discuss concerns with your manager. If you don't feel comfortable approaching your own line manager, you can contact another manager. Or you can get advice from HR Online or your Trade Union.

If your concerns are not resolved informally, or if your concern is particularly complex or sensitive such as bullying or harassment, you may wish to raise a grievance using this procedure.

This Grievance Procedure complies with the relevant ACAS Code of Practice. We'll review the procedure as required to ensure we are following best practice and any changes to legislation.

Core Principles

If you raise a Grievance, we will follow these principles:

- Your grievance will be treated seriously, with sensitivity and discretion.
- If your concerns are about bullying and/or harassment we understand that these may need to be treated with greater sensitivity.
- We'll work to get a fair and timely resolution which will help maintain effective working relationships.
- You must tell us what you want to happen to resolve your issue(s) - this must be reasonable and achievable.
- We'll gather information relating to your grievance – undertaking a thorough investigation where necessary and appropriate.
- You'll have the right to be accompanied by a companion (who may be either your Trade Union representative or a work colleague) at all formal meetings.
- If appropriate, we might explore mediation as a potential resolution.
- We'll maintain confidentiality as far as possible, however sometimes we'll need to balance this with the need for informed discussion.

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- We'll keep a confidential record of the grievance, meeting, hearings and the outcome in your personal file (see CC55 Contents of Personnel Files).
- If we identify misconduct issues, we'll manage these through our Disciplinary Policy (see DI02 Disciplinary Policy and Procedure).
- If we find that your allegations are knowingly false or malicious, these claims may be dealt with under the disciplinary policy. We won't tolerate victimisation (where someone is treated unfairly because they raised a grievance or assisted in an investigation).

Scope

This policy applies to Single Status and Craft employees and Chief Officers. There are separate procedures for the Chief Executive and for Teachers. There is also a modified grievance procedure for addressing employment concerns in relation to casual and supply work.

Grievance Procedure

When does the Grievance Procedure apply?

Whilst it is always preferable to resolve issues informally, we must accept that this may not always be possible. Where it is not possible, employees may raise a grievance at the first formal stage.

Grievances can be about a range of issues that can't be resolved informally. They relate to how employees feel they have been treated by the Council, their manager or their colleagues.

General concerns may include:

- the allocation of work;
- working environment;
- terms and conditions;
- health and safety;
- working relationships;
- new working practices;
- opportunities for career development and;
- the way employees are managed.

More complex or sensitive concerns can include bullying or harassment, unlawful discrimination or victimisation and there's further guidance about these types of complaints on the intranet.

When the Grievance Procedure does not apply

Most grievances are genuine and made in good faith. However sometimes it's not appropriate to apply the grievance procedure. Examples include where:

- The issue can be dealt with more appropriately through another procedure, such as Disciplinary Appeal, Managing Change Appeal or Job Evaluation Appeal.
- The concerns are about the implementation of a national agreement or collective JNCF agreement.
- The issues affect wider employee groups or the whole Council – this will need collective negotiation or consultation with our Trade Unions.
- The grievance repeats a grievance that has already been made.
- The grievance relates to issues which are not a legitimate concern.
- The grievance is found to be malicious or vexatious (knowingly false).
- The grievance relates to constructive or fair criticism of an employee's performance or behaviour at work.
- The concerns raised constitute whistleblowing (see CC50 Whistleblowing Policy).
- The concerns raised relate to the administration of pension regulations.

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- The concerns are about a councillor (these should be raised with the Head of Service).

If one or more of the above circumstances apply, the manager will write to the employee to tell them why the concern will not be pursued through the Grievance Procedure. (See DI88 Grievance – Manager Supplementary Guidance).

Raising a Grievance

If an employee is unable to resolve their complaint informally, they may wish to raise a formal grievance under this procedure. There are two stages:

1. **Grievance** – The employee submits their complaint formally, a hearing is held, and an outcome determined.
2. **Grievance Appeal** – If they don't feel their complaint has been addressed sufficiently at the Grievance Stage they may wish to appeal.

In very certain circumstances, and only where there has been a fundamental breach of this procedure, an employee can raise a further appeal.

The Grievance Stage

During the grievance, the employee will present their complaint formally. It will be heard in a hearing and the chair of that hearing will decide the outcome and any recommendations.

1. Making the Complaint

An employee will normally raise their grievance (make their formal complaint) to their line manager. If their concerns are about their manager, they may wish to raise it with a more senior manager. The manager dealing with the grievance and chairing the hearing will be referred to as the 'Grievance Chair'.

The grievance must be made in writing. This can be done by completing the Grievance Notification Form (see DI76 Employee Grievance Forms), or by sending a letter or email. It should include:

- full details of the nature of the grievance and specific complaints;
- any relevant supporting documents or details of steps which have been taken to resolve the complaint informally;
- why the employee is not satisfied with any steps that have been taken to resolve the complaint;
- what the employee hopes to happen to resolve their grievance.

2. Acknowledgement

The Grievance Chair will review the employee's complaint and confirm that the complaint should be heard under the Grievance Procedure.

If the manager does not think the complaint should be heard under the Grievance Procedure (see 'When the Grievance Procedure doesn't apply' above), they will tell the employee why this is and confirm in writing. They will also tell the employee how they can try to resolve the complaint.

3. Inform Relevant Parties

If the complaint is about another employee, the manager will give them a summary of the complaint. They won't reveal the identity of the employee making the complaint (if they have said they don't want them to) however this may make it more difficult to resolve the issues.

See DI88 Grievance – Manager Supplementary Guidance.

4. Gather Information Related to the Grievance

The manager dealing with the grievance, may need to gather more information before the grievance hearing. Depending on the nature and the content of the grievance, there may need to be a more thorough investigation.

The manager will conduct an initial information gathering exercise. They will gather all the relevant information to be able to respond to the employee's concern. This may include:

- verifying the information provided by speaking to other individuals.
- checking relevant documents, HR policies and procedures or Terms and Conditions.

The manager will then decide if they have all the information they need or if a more detailed investigation is needed. If an investigation is necessary, they will tell the employee and any others involved. They will also let the employee know likely timescales.

In more complex cases, the manager may assign an Investigating Officer. The Investigating Officer will:

- investigate all relevant information
- gather witness statements
- produce a report which will be available to all relevant parties.

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You can find further guidance on investigations in DI85 – Investigating Officer How To Guide. Investigations should normally be completed by the Investigating Officer within 20 working days. However, this will depend on the nature and complexity of the complaint. The manager will tell the employee and any other person involved if there is any delay to timescales.

Once they have all the information and/or the investigation is finished, the Grievance Chair will arrange a grievance hearing.

5. Grievance Hearing

The manager will arrange a hearing as soon as possible after all the information has been gathered. They will consider if they wish to call any witnesses to the hearing.

They will:

- write to the employee to invite them to attend the hearing;
- write to the employee who is subject of the grievance to invite them to attend the hearing;
- give at least 5 working days' notice of the date of the hearing;
- provide all parties with all relevant information;
- provide all parties a copy of the investigation report (if applicable);
- provide all parties the witness statements (if applicable) and;
- ask if the employee (and the employee who is the subject of the grievance) if they wish any witnesses to attend the hearing (employees must arrange for their own witnesses to attend).

The manager will consider the circumstances and sensitivities of the employee's complaint. The hearing may have all parties present. Or, there may be separate hearings - one with the employee making the complaint and another with the person who is subject of the grievance. The manager will confirm the outcome after both hearings have concluded.

The manager may need to adjourn (pause) the hearing to allow for further investigation. If this is the case, they will keep all parties informed. They will give at least 5 working days' notice of the reconvened hearing.

If an employee does not attend the Grievance Hearing it will be re-arranged on one occasion. But, if the employee does not attend a re-arranged hearing, the Chair may decide to go ahead with the hearing in their absence and make a decision on the evidence available.

Please see DI88 Grievance – Manager Supplementary Guidance for further information about holding a hearing.

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6. Determine the Outcome and Recommendations

The possible outcomes from the hearing are:

- The grievance is **fully upheld** with recommendations for actions to be taken.
- The grievance is **partially upheld** with recommendations for actions to be taken.
- The grievance is **not upheld** with recommendations for actions to be taken.

The recommendations will be reasonable and within the remit of the manager to grant. Depending on the nature of the grievance, recommendations may include:

- Trying to stop the unacceptable behaviour;
- Formal mediation (see DI88 Grievance - Manager Supplementary Guidance for how to access);
- Training and development;
- Counselling for one or both parties - this refers to the discussion between a manager and an employee about improving behaviour, not access to the employee counselling service (although this is available to both parties at any time);
- Preparing a plan of action for change, with review periods;
- Referring the matter for consideration under DI02 Disciplinary Policy and Procedure and;
- Moving an employee or employees to another workplace, post or Service.

The manager will decide the outcome based on balanced consideration of the information presented relating to the employee's concern. But sometimes it may not be the outcome the employee hoped for.

All allegations of misconduct will be investigated and dealt with under DI02 Disciplinary Policy and Procedure.

7. Confirm Outcome and Recommendations in Writing

After the hearing, the manager will notify all relevant parties of the outcome. They will do this in writing within 5 working days. This will include any action they propose to take.

This letter will also give information about the employees right of appeal and how they lodge their appeal.

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The Grievance Appeal Stage

If the employee feels that their grievance has not been resolved, they have a right to appeal the decision. A more senior manager, who has had no earlier involvement will hear the Grievance Appeal.

The employee has the right to be accompanied by a Trade Union representative or a work colleague at all formal meetings.

The employee should write to the manager detailed on the Grievance Outcome Letter. This should be within 10 working days after they receive the written outcome of the Grievance Stage. It should include:

- the grounds of the employee appeal;
- any relevant supporting documents and;
- why the employee is not satisfied with any steps that have been taken to resolve their complaint.

If the employee does not request an appeal within 10 working days after they receive the Grievance Outcome Letter, it will be assumed that the grievance is resolved.

1 Acknowledgement of Grievance Appeal

The manager will acknowledge that they have received a Grievance Appeal. This should be as soon as possible, but no later than 5 working days after it has been received. If any information is unclear, the manager may contact the employee for further information.

2 Inform Relevant Parties

If another employee is the subject of the grievance, the manager hearing the appeal, should inform them. Depending on the circumstances, this does not mean disclosing the identity of the person who raised the Grievance. (see DI88 Grievance – Manager Supplementary Guidance).

3 Investigate the Employee's Concerns

If the manager hearing the appeal is not satisfied with the initial investigation, they should inform all parties. For example, where further investigation is needed based on new evidence. The manager hearing the appeal should tell all parties about the likely timescales for the investigation to be completed. The timescale will depend on the nature and complexity of the investigation. It would normally be completed within

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20 working days. The manager hearing the appeal should notify all parties of any delays.

You can find further information about conducting the investigation in DI85 Investigating Officer How To Guide.

4 Hold an Appeal Hearing

The appeal hearing is the chance to state your case and ask for the outcome to be reviewed. The manager hearing the appeal should arrange a Grievance Appeal Hearing as soon as possible. They will give at least 5 working days' notice of the hearing to all relevant parties.

You can find further information in DI88 Grievance – Manager Supplementary Guidance.

If the manager hearing the appeal needs any further investigation to be undertaken, they may adjourn the hearing. This is to allow for further investigation. The manager hearing the appeal will inform all parties and give at least 5 working days' notice of the reconvened hearing date.

5 Determine the Outcome and Recommendations

The possible outcomes from the appeal hearing are:

- The grievance is **fully upheld** with recommendations for actions to be taken.
- The grievance is **partially upheld** with recommendations for actions to be taken.
- The grievance is **not upheld** perhaps with recommendations for actions to be taken.

Recommendations for resolution will be reasonable and within the remit of the Council to grant.

The manager hearing the appeal will decide the outcome based on balanced consideration of the information relating to the employee's concern. But, it may not be the outcome the employee had hoped for.

6 Confirm in Writing and Access to Further Appeal

Under specific circumstances, the employee may raise a further appeal. The chair of the further appeal will be a manager who has not been previously involved in the grievance and will be the same level or higher than the manager hearing the initial grievance appeal.

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A further appeal will only be held where there has been a fundamental breach of the Grievance Procedure. This is where:

- The procedure followed was not a fair process or not followed correctly;
- Evidence was not considered; or
- Evidence was considered but was misinterpreted.

The employee should write to their Executive Director. This should be within 10 days of receiving the written outcome of the Grievance Appeal.

The employee should state why they feel there has been a fundamental breach of the procedure.

An independent senior manager, who will normally be from out-with the Directorate, will check the grounds of the further appeal. This is to ensure there has been a fundamental breach of the procedure as set out above.

If there has been a fundamental breach, arrangements will be made for the further appeal to progress. The further appeal will follow the same process as the appeal outlined in the section above and additional information is available in the guidance.

Employees have the right to be accompanied by a companion at all formal meetings relating to the further appeal. This may be a Trade Union representative or a work colleague.

If the appeal does not meet one of the grounds, the reviewing manager will write to the employee. This letter will explain why it does not meet the grounds. The reviewing manager's decision is final, and this will be the conclusion of the Grievance.

Occasionally there may be situations where matters cannot be resolved during the further appeal. Employees can ask for a review by the Head of HR and if appropriate and exceptionally there may be recourse to the DI04 Sub Committee Appeal Procedure.

Key Points to Note

Representation

All employees have the right to be accompanied by a companion throughout the formal stages of this procedure. This can be their trade union representative or work colleague. It is the employee's responsibility to arrange this. They are also entitled to be accompanied during investigation interviews.

Employees who are asked to attend as a colleague's companion do not have to agree that they will attend. If they do agree, companions will be given appropriate paid time off to allow them to attend a grievance hearing or appeal hearing.

If an employee's preferred companion is unavailable on the scheduled day of the meeting or hearing, the meeting will be re-arranged. If the employee does not attend the re-arranged hearing, it will be held in their absence. A decision will be made based on the information available.

In exceptional circumstances, where an employee needs additional support, they may bring a family member/partner. This should be agreed with the chair in advance and they will attend only to provide emotional support.

Employees will not normally be accompanied during informal discussions about their concerns. The aim of the informal stage is to encourage discussion between the employee and the manager. This is to find ways to resolve the issue informally to avoid the formal stage.

Timescales

Employee's concerns must be dealt with as soon as practical.

There are timescales detailed at each stage of the procedure. As far as possible, these timescales will be adhered to. These timescales may be extended in certain situations such as:

- sickness absence on the part of the employee, employee's representative, manager or a critical witness
- due to the complexity of the investigation required or;
- due to the number of witnesses to interviewed.

Where the timescales cannot be met, the individuals concerned will be advised of the reasons for any delay.

An employee or their representative may request a meeting to be postponed. This could be due to sickness absence or other enforced absence (such as Jury Service or attendance at Employment Tribunal).

If there is a request to postpone the meeting for any other reason, the manager may consult with HR. The manager will have the discretion to continue with the hearing in the employee's absence and make a decision based on the written statements available.

Complaints about Bullying and Harassment

Fife Council will not tolerate any form of discrimination, harassment, bullying or victimisation. This includes any unwanted behaviour related to gender, gender reassignment, race, religion, sexual orientation, disability, nationality, age or any other reason.

Managers should be vigilant of the behaviour of employees within their teams. They are responsible for addressing actions which might cause offence. They should encourage working practices where everyone is treated fairly and with respect.

Managers should be proactive, rather than wait for a complaint to be submitted. If a Line Manager/Supervisor, is aware of harassment and/or bullying, but does not address it, this could be considered as misconduct and managed through DI02 Disciplinary Policy and Procedure.

Managers will deal with all concerns relating to bullying and harassment promptly and with sensitivity.

Concerns of bullying and harassment will be dealt with under the Grievance Procedure. However, concerns of this nature are often complex and sensitive. There is additional guidance on the intranet for cases involving allegations of bullying and harassment, which highlights other things for the manager to consider.

Overlapping Grievance and Disciplinary Cases

An employee may raise a grievance during a disciplinary process. When this happens, the disciplinary process should normally be temporarily suspended. This will allow the grievance procedure to be completed first.

But, if the grievance relates to the disciplinary case, and there is an overlap in the investigations, it may be appropriate to deal with both issues at the same time. HR should be contacted for advice.

See DI88 Grievance - Manager's Supplementary Guidance for further advice on overlapping cases.

Witnesses

The employee may suggest witnesses to provide evidence as part of the investigation or to attend the hearing itself. An employee who has been the subject of the grievance may also suggest witnesses.

A witness is anyone who may have information that is important for the investigation. The investigating officer will contact witnesses and ask them to provide an honest and objective account of the events.

The information provided by the witness will be recorded in a summarised format and referred to as their 'statement'. The witness will be asked to sign a copy of their

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statement to confirm that it is a true reflection of what was said and return it within 5 working days.

The investigating officer should explain to witnesses that their statement (or elements of their statement) may be referred to in the investigation report and any later formal hearings. Statements will be available to both the employee raising the grievance and the person the grievance was raised against.

The investigating officer or hearing chair will make arrangements for witnesses they wish to attend the hearing. If an employee wishes to call their own witnesses to the hearing they must arrange this themselves and inform the grievance chair.

If a witness is sick, and if they are fit enough to provide a statement they should do so, even if they may not be able to attend work. In this case the investigation should continue. This is particularly important where concluding the grievance will help an employee to return to work.

Sickness

If an employee is absent due to sickness during the grievance procedure, this should be managed in the normal way. This will be under AM10 Attendance Management Procedure.

If the employee is well enough, the investigation and/or hearing should continue, even though the employee may not be able to attend work. This is particularly important when concluding the grievance will help bring about their return to work. This relates to both the employee who has raised a grievance and the employee who has had the grievance raised against them.

Advice from Occupational Health can be requested if necessary, to establish if an employee is fit enough to continue through the grievance process.

Support

Managers should provide proper support to any employee involved in a grievance. The Council's Employee Counselling Service also provides a useful service to those involved in any aspect of the process. It gives the opportunity to talk through the grievance with someone who is not involved. If an employee wishes to access the Employee Counselling Service, they should refer to OH11 Employee Counselling Guidelines for Employees for further details.

Accessibility

Employees should raise any accessibility issues with their manager.

This may be due to:

- an employee's disability
- the employee needing help because English is not their first language.

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The manager will make appropriate arrangements. Under the Equality Act 2010 employers must make reasonable adjustments which may include assisting employees to put together a written grievance if they are unable to do so themselves because of a disability.

Similar consideration should be given to the needs of young employees (i.e. under 24), who are likely to be involved in a formal process for the first time.

Casual Workers / Supply Staff

This Grievance Procedure does not apply to casual and supply workers. For this group of staff there is a modified procedure (Appendix 1). They are however entitled to receive fair treatment and not to be subjected to harassment, bullying or victimisation.

There will be circumstances where an employee of Fife Council who has a temporary or permanent post also undertakes casual work. Where such an employee has a grievance related to their casual work, the modified procedure will be followed.

Further information

- OH02 Employee Counselling Policy
- OH11 Employee Counselling Guidelines – For Employees
- OH12 Employee Counselling Guidelines – For Managers
- CC01 Employee Code of Conduct
- OD12 How We Work Matters Framework
- E001 Equality of Opportunity Policy
- Unwritten Ground Rules
- DI88 Grievance – Managers Supplementary Guidance
- D102 Disciplinary Policy and Procedure
- D104 Appeals Policy and Procedure
- CC50 Whistleblowing Policy
- CC02 Gender-Based Violence Policy

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Appendix 1



Modified Grievance

Procedure

Scope

The Modified Grievance Procedure should be used to address any concerns raised by casual or supply workers.

These are workers who are used on an ad-hoc basis, where there is no mutuality of obligation between the Council and the worker. There is therefore no requirement for the Council to offer employment to these workers or for them to accept an offer of employment.

There may be occasions where an employee, who has a temporary or permanent post with the Council, also undertakes casual or supply work. Where such an employee wants to raise a concern related to their casual/supply work, the Modified Procedure should be followed.

Procedure

Step 1

Grievances are best resolved informally and as close to the point of origin as possible. The individual should raise any concerns with their manager in the first instance to reach an informal resolution of their complaint. If the concern is related to their manager, they should then raise their concerns with a more senior manager.

Step 2

Where appropriate, the manager will consider the complaint. They will consider any documentation or information provided. The manager will consider the appropriate action to resolve the complaint. This decision will be confirmed to the individual in writing.

Step 3

The manager will consider the individual's grievance. They will consider any documentation or information they provide.

Step 4

The manager will arrange a hearing with the individual and, where appropriate, the person the grievance is against.

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Step 5

The manager will listen to the views of all those concerned and will reach a conclusion. This will be based on the merits of the grievance.

Step 6

The manager, where possible, will advise those in attendance of the outcome.

Step 7

The manager will confirm the outcome of the hearing in writing to all parties concerned.

Step 8

If the individual feels that their grievance has not been adequately addressed, they can request an appeal of the outcome. This will be to a more senior manager.

Key Points

- Both parties have the right to be accompanied at the hearing by a colleague or a trade union representative.
- A written outcome of the hearing should be taken and issued to the concerned parties.
- The timescales given throughout the Grievance Procedure should be followed.
- The Further Appeal Stage will not apply.