



**DEVON COUNTY COUNCIL**

**CORPORATE  
GRIEVANCE POLICY AND PROCEDURE  
AND  
MODEL GRIEVANCE POLICY AND PROCEDURE  
FOR SCHOOL BASED STAFF**

## **TABLE OF CONTENTS**

1. INTRODUCTION
2. WHY HAVE A GRIEVANCE PROCEDURE
3. THE RIGHT TO BE ACCOMPANIED
4. EQUAL OPPORTUNITIES
5. HUMAN RESOURCES ADVICE
6. TIMING OF MEETINGS
7. TIME LIMITS
8. PLACE AND TIME OF FORMAL HEARINGS
9. ADVISORY/SUPPORT SERVICES
10. EXCLUSIONS
11. THE PROCEDURE FOR HANDLING GRIEVANCES
- 11a INFORMAL STAGE
- 11b FORMAL - FIRST STAGE
- 11c FORMAL - SECOND STAGE
12. APPEAL
13. RECORDS
14. NOTES
15. MODIFIED GRIEVANCE PROCEDURE

### **APPENDIX A          ADVISORY/SUPPORT SERVICES**

Acceptable Behaviour Service  
Counselling Service  
Occupational Health Service (OHS)  
Devon County Council Equality and Diversity Officer  
Employment Service Disability Employment Advisors (DEAs)  
St Loyes Foundation Exeter  
Royal National Institute for the Blind (RNIB)  
Royal National Institute for the Deaf (RNID)  
Disability Living Foundation

### **APPENDIX B          FLOWCHART - PROCESS FOR GRIEVANCE AND APPEAL HEARINGS, Corporate Service Directorates**

### **APPENDIX C          FLOWCHART - PROCESS FOR GRIEVANCE AND APPEAL HEARINGS, Schools**

## 1. INTRODUCTION

It is the policy of Devon County Council to ensure a fair, effective and consistent means for a grievance to be raised. This policy aims to embrace both Corporate and Schools based staff, however, where schools are concerned, all processes have to be considered by the school management including the Governing Body.

## 2. WHY HAVE A GRIEVANCE PROCEDURE

The grievance procedure provides a means for an employee, who may have problems or concerns about their work, working environment or working relationships to raise a grievance.

A grievance is defined in regulation 2(1) of the Dispute Resolution Regulations 2004 as 'a complaint by an employee about action which his employer has taken or is contemplating taking in relation to him'.

This procedure should be taken seriously and provides a mechanism for grievances to be dealt with fairly and speedily, before they develop into major problems.

In circumstances where a grievance may apply to more than one person and where a trade union is recognised it would be appropriate for the problem to be resolved through collective agreements between the trade union(s) and the employer.

**If a grievance is raised after an employee has left DCC employment the modified grievance procedure, at paragraph 15, may apply.**

## 3. THE RIGHT TO BE ACCOMPANIED

At any stage in this procedure, the member of staff may seek support from a representative of his/her trade union or professional association.

The member of staff has the right to be accompanied at any meetings by a companion who is a work colleague or trade union/professional association representative.

### **Role of the Representative**

At any stage of the grievance procedure the member of staff has the right to be accompanied by either a trade union representative or a fellow work colleague.

If the employee wants, the representative should be allowed to address the hearing in order to:

- Put the employee's case
- Sum up the employee's case
- Respond on the employee's behalf to any view expressed at the hearing

The representative has no right to answer questions on the employees

behalf,  
or to address the meeting if the employee does not wish it, or to prevent the employer from stating their case.

It is good practice, if the employee wants them to, to allow the representative to participate as fully as possible in the meeting, including asking witnesses and/or the investigating officer questions.

The representative should be allowed to request reasonable adjournments at any time during the hearing if there is a need to speak to the employee.

#### **4. EQUAL OPPORTUNITIES**

This procedure is based on best practice and is designed to promote a consistent and effective approach. Managers have a particular responsibility to ensure that they manage the processes set out below fairly, equitably, objectively and must not discriminate either directly or indirectly on the grounds of a person's race, colour, ethnic origin, nationality, sex, sexual orientation, religion, marital status, disability or age.

#### **5. HUMAN RESOURCES ADVICE**

Employee Relations may be consulted and can provide advice to any party at any stage of this procedure and may seek legal advice when / if appropriate.

#### **6. TIMING OF MEETINGS**

Whilst recognising that unnecessary delay is not in the interest of any party, management will ensure that proper arrangements are made to allow effective representation and consideration of issues as well as taking account of the balance between the employee's working life and other external factors.

#### **7. TIME LIMITS**

The time limits referred to in this procedure should normally be adhered to unless they are varied by mutual agreement .

#### **8. PLACE AND TIME OF FORMAL HEARINGS**

Any hearing should be held in a confidential environment, free from interruptions and as far as possible, within the working day (see para.14.3). If the employee's chosen representative is not available on the date set by the manager for the hearing, the employer should offer an alternative time and date, this should be within five working days of the original date for the hearing whenever possible. This 5 day time limit may be extended by mutual agreement.

## **9. ADVISORY/SUPPORT SERVICES**

It may be possible to use one of the advisory/support services to solve or assist in a resolution to a grievance. Please refer to Appendix A - Services available

## **10. EXCLUSIONS**

This agreement cannot override the individual's rights in employment law and through equal opportunities legislation and policy however, a grievance may be raised about any matter concerning work or conditions of service although the following matters will be excluded.

- Discipline and dismissal, where a separate procedure exists
- Collective disputes
- Grading appeals, where a separate procedure exists
- Complaints, through the formal complaints procedure
- Whistle-blowing, where a separate procedure exists

N.B Employees need to be aware that a grievance cannot be taken for statutory deductions from pay e.g income tax and national insurance. Grievances regarding pensions should be raised through the statutory independent dispute resolution procedure (IDRP) pursuant to pensions legislation.

If the issues are connected with discrimination, harassment or bullying, it is strongly recommend that the individuals refer to the County Council or School's Acceptable Behaviour policy in the first instance. Issues connected with requests for flexible working should be dealt with through the Flexible Working policy in the first instance. The grievance policy and procedure is a route that staff may subsequently use if these appropriate policies leave the matter unresolved.

## **11. THE PROCEDURE FOR HANDLING GRIEVANCES**

### **11a. INFORMAL STAGE**

- 11a.1 All employees should, in the first instance, raise a grievance with their line manager. If the complaint is against the person with whom the grievance would normally be raised the employee can approach that person's manager or another manager in the Directorate. The employee has the right to involve their Trade Union/Professional Association or a fellow worker at this stage if they consider this is appropriate. Notes should be kept by the immediate manager and employee of the issues, any action taken and any decisions made.
- 11a.2 The employee can get advice and support for issues concerning discrimination, harassment or bullying by contacting an Acceptable Behaviour Advisor as shown in Appendix A.
- 11a.3 Managers should make every effort to seek to resolve the grievance informally, taking advice from their designated Personnel Officer as appropriate . In cases where there is conflict, services such as mediation,

available through the Acceptable Behaviour Policy, provided by the Counselling Service, could be considered as a means of resolution.

11a.4 The manager must reply verbally to the concerns of the employee as soon as possible and in any case within 5 consecutive days of receipt of the grievance.

STAFF RESPONSIBILITIES		IMMEDIATE MANAGER RESPONSIBILITIES	
A	To prepare by making detailed records of the reason he/she feels aggrieved	A	Prepare by making prompt and adequate arrangements to meet the member of staff in a calm uninterrupted setting and by finding out as much about the problem and its background beforehand. It may be appropriate at this stage to take advice from the designated Personnel Officer.
B	Explain to his/her immediate manager that he/she wishes to lodge a grievance within this procedure, the reason for feeling aggrieved and the remedy required	B	Explain the informal procedure and the employee's recourse if he/she is dissatisfied with the response
C	Record all meetings or correspondence entered into during the course of raising this grievance	C	Listen carefully and clarify facts including the resolution or remedy the employee seeks.
		D	Consider a response, adjourning if necessary, telling the employee when a reply will be given.
		E	Investigate the issue further if necessary and seek advice from the <u>designated Personnel Officer</u> . <u>Be mindful of the need to maintain confidentiality.</u>
		F	Respond as promptly as possible, either verbally or in writing, within 5 consecutive days of receipt of the grievance, detailing the reason for the decision.
		G	Record issues discussed and remedy required. Detail the reason for the decision reached and the way in which it has been communicated to the employee.

11a.5 Where the grievance cannot be resolved informally it should be dealt with under the formal grievance procedure.

## 11b. FORMAL - FIRST STAGE

***N.B A manager may be a line manager, senior manager or the Head of Department within a Directorate or a Headteacher or appropriate senior manager in a school (this may include the Chair of Governors in certain circumstances, see 11b1)***

- 11b.1 Within 10 consecutive days of the response given at the informal stage, the employee must set out their grievance in writing to the relevant manager either personally or through a trade union/Professional Association representative. Where the grievance is against the line manager, the matter should be raised with a more senior manager. The employee's letter should give the full particulars and state what remedy the employee seeks. The employee should keep at least one copy of the written notification of grievance. If the grievance is against the Headteacher then the grievance should be forwarded to the Chair of Governors.
- 11b.2 In some circumstances, the manager may determine that it is necessary to use an independent person to investigate the background to the grievance and it's outcome at the informal stage before meeting with the employee.
- 11b.3 The manager should, within ten consecutive days of receiving this notification, arrange for a meeting to take place and write to inform the employee of their right to representation. The manager should consult with their designated Personnel Officer for advice.
- 11b.4 The identified manager should seek to resolve the grievance personally but may need to consult with other members of staff, if appropriate, being mindful of the need to maintain confidentiality.
- 11b.5 The manager should respond to the grievance in writing within five consecutive days of the meeting, detailing the facts and the reason for the decision, and state the employee's right of recourse to the second stage of the formal procedure, if he/she is dissatisfied with the outcome at this stage.
- 11b.6 If it is not possible to respond within the specified time period, the employee should be given an explanation for the delay and told when a response can be expected

STAFF RESPONSIBILITIES		MANAGER RESPONSIBILITIES	
A	To prepare by making detailed records of the reason he/she still feels aggrieved, brief a representative if necessary or appropriate.	A	Investigate the background to the grievance and its outcome at the informal stage, being mindful of the need to maintain confidentiality. In some circumstances it may be necessary to use an independent person to undertake this before meeting with the employee.

B	Explain in writing the reason why he/she continues to feel aggrieved, why the decision of the immediate manager was not acceptable and the remedy he/she continues to seek.	B	Arrange to meet the member of staff and his/her representative if appropriate, within 10 consecutive days of receiving written notification of the grievance.
C	Record all meetings and correspondence entered into during the course of raising this grievance, including dates.	C	Prepare by making prompt and adequate arrangements to meet the member of staff and his/her representative, if accompanied, in a calm uninterrupted setting.
		D	Explain role within the procedure and the employee's recourse if he/she is dissatisfied with the response.
		E	Listen carefully and clarify facts. Clarify the resolution or remedy the employee now seeks. This may involve the questioning of witnesses where appropriate
		F	Consider all the facts carefully. If necessary seek advice from the <a href="#">designated Personnel Officer</a> before responding
		G	Respond in writing within 5 consecutive days detailing the facts and the reason for the decision. Reiterate in the letter the employee's recourse if he/she is dissatisfied with the response.
		H	Record all meetings and correspondence entered into in the course of dealing with the grievance, including dates.

11b7 Where the grievance cannot be resolved at the first formal stage, the employee or their representative will have recourse through the second formal stage of the procedure.

### 11c FORMAL - SECOND STAGE

***N.B An example of the Unit Head/Panel would be a Group Manager , a Head or Deputy of a Directorate or a Committee of Governors at the school ( excluding CoG if previously involved at stage 1 )***

- 11c.1 Where the matter cannot be resolved at Stage 1, the employee or their representative will be able to raise their grievance in writing with the Unit Head/Panel, within ten consecutive days of receipt of the letter of response in Stage 1.
- 11c.2 The Unit Head/Panel should arrange a meeting within fifteen consecutive days of receipt of the written grievance and write informing the employee of their right to representation. The Unit Head/Panel should involve their designated Personnel Officer and in the case of VA Schools, also a Diocesan representative will be invited to attend.
- 11c.3 All relevant documents should be provided to all parties at least 3 working days in advance of the meeting.
- 11c.4 The Unit Head/Panel should seek to resolve the grievance personally or in consultation with other members of staff, if appropriate, being mindful of the need to maintain confidentiality.
- 11c.5 The employee or their representative, and other parties concerned, will make their submissions to the Unit Head / Panel and will be given an opportunity to make closing statements, although no new matter should be introduced at this stage.
- 11c.6 Those not part of the Unit Head / Panel, other than the designated Personnel Officer and/or Diocesan representative, will withdraw to enable a decision to be reached.
- 11c.7 The Unit Head / Panel ,if possible, will announce the decision to both parties orally. This decision will be confirmed in writing within five consecutive days of the meeting and state the employee's right of appeal. This response should clearly state the key factors considered by the panel and the details of the outcome . If there are two parties to a grievance, then the outcome must be communicated to both sides. If it is not possible to respond within the specified time period, the employee should be given an explanation for the delay and told when a response can be expected.

STAFF RESPONSIBILITIES		UNIT HEAD/PANEL RESPONSIBILITIES	
A	Write to the Unit Head/Panel, either directly or through a representative, explaining the full reasons for the continuing grievance, why the decision of the manager was not acceptable and the outcome being sought	A	Obtain background information from manager(s) and/or others directly involved with the grievance.
B	This must be done within 10 days of notification of the decision reached in the Formal Stage 1.	B	Arrange a meeting with the employee and/or representative, Manager etc, within 15 consecutive days of receipt of the written grievance to investigate the issue further.

C	Keep a copy of all correspondence	C	Record issues discussed and the decision you reach.
		D	Advise employee of decision (in person if possible). Confirmation of the decision should be conveyed to the employee and his/her representative in writing within 5 consecutive days of this meeting. This letter should address all the issues raised by the grievance and advise the employee of their right of appeal if he/she is dissatisfied with the response at this second stage.

## 12 APPEAL

- 12.1** If an employee wishes to appeal against the decision of the Unit Head/Panel, the employee or their representative must do so in writing within 10 consecutive days of receiving the written response from stage 2, to the Director of Personnel & Performance or Clerk of Governors of a school. They will then contact the committee secretariat in Chief Execs Directorate or in the case of schools, the Chair of Governors to arrange for the appeal hearing to take place through its appropriate committee or sub-committee (Personnel panel of the County Council or the Governors Appeal Committee in a school). The Governors Appeal Committee should exclude the CoG if he/she has had involvement with an earlier panel within this procedure.
- 12.2** The appeal hearing by the committee will normally take place within six weeks of the written appeal being received, but best practice would preferably be within two weeks. A minimum of five working days will be allowed for preparation.
- 12.3** An employee is entitled to appear at the hearing in person and may be accompanied by a union representative or fellow worker.
- 12.4** If the grievance concerns an alteration in working arrangements affecting the aggrieved employee, he/she will continue with current arrangements until this procedure has been completed, except when agreed otherwise for needs relating to the service.
- 12.5** The decision will be given orally to all parties at the end of the appeal and will be conveyed in writing to the employee within five consecutive days.

- 12.6** Within Service Directorates of the County Council, the grievance process will end with the member appeal process. Within Schools, the decision of the Governors Appeal Committee will be final. Conciliation may be considered if either party considers that an important issue of principle has arisen.

STAFF RESPONSIBILITIES		DIRECTOR OF PERSONNEL & PERFORMANCE OR CLERK OF GOVERNORS OF A SCHOOL RESPONSIBILITIES	
A	If still aggrieved in respect of the original complaint, put grievance in writing to the Director of Personnel & Performance or Clerk of Governors of a school, within 10 consecutive days of receipt of a letter confirming the final decision made by the Unit Head/Panel.	A	On receipt of the written grievance, inform the committee secretariat in Chief Execs Directorate or the Chair of Governors, so the matter can be considered through the appropriate committee or sub-committee (Personnel panel of the County Council/Governors Appeal Committee in Schools).

### **13 RECORDS**

- 13.1** Records should be kept detailing the nature of the grievance raised, the employer's response, any action taken and the reasons for the action taken, whether there was an appeal or not and if so, the outcome and subsequent developments. These records will be kept confidential and retained in accordance with the Data Protection Act 1998, which requires the release of certain data to individuals, to whom the records relate, upon their request. Copies of any meeting records will be given to the individual concerned although in certain circumstances, taking into account Data Protection and Human Rights legislation and case law, some information may be withheld, for example to protect a witness.

### **14 NOTES**

- 14.1** An individual may follow the grievance procedure without a representative if they wish.
- 14.2** The parties may resolve a grievance by means other than this procedure if they so wish by mutual agreement. This must be put in writing and does not exclude the employee from invoking this formal procedure at a later stage.
- 14.3** Within Schools, Management will hold meetings outside of term-time only in exceptional circumstances.

### **15 Modified Grievance Procedure**

**15.1** Wherever possible a grievance should be dealt with before an employee leaves employment. However, where an employee has already left employment or the procedure detailed in paras. 11 & 12 of the Corporate / Model Grievance procedure have not been commenced or completed before the employee left DCC employment, the following procedure may apply.

**15.2** Both parties must agree in writing, that they wish to follow this procedure and deal with the matter purely by way of an exchange of letters. Otherwise, the procedure detailed in sections 11 & 12 of the Corporate or Model Grievance procedure must be followed and the employer must invite the employee to a meeting to discuss the matter.

### **15.3 Step 1**

#### **Statement of Grievance**

- The employee must set out in writing:
  1. the grievance; and
  2. the basis for it.
- The employee must send the statement or a copy of it to Head of ER (for previous Corporate based staff) or the Chair of Governors, (for previous school based staff) as soon as possible, but in any case, within 3 months of leaving DCC .

### **15.4 Step 2**

#### **Response**

- Head of ER or Chair of Governors, if necessary, will seek advice from the designated Personnel Officer before responding.
- Head of ER or Chair of Governors must set out their response in writing and send the statement or a copy of it to the employee, as soon as possible and not later than 28 days of receipt of the written statement.

## APPENDIX A

### Acceptable Behaviour Service

This service provides confidential advice and support and mediation to those employees who believe they are experiencing Harassment, Bullying and Discrimination and are suffering from the debilitating effects of such behaviour. Advisors can be contacted to request a copy of the Acceptable Behaviour Policy and/or to seek guidance and assistance. For further details telephone 01392 382828 or see: -

<http://www4.devon.gov.uk/private/corporate/policy/hr/health/accbehav/>

### Counselling Service

Counselling gives an opportunity to work in confidence with a trained counsellor to explore ways of dealing with difficult situations. This confidential service is available to help with issues of both a personal or work related nature. Referrals may be made by line managers or other staff within the organisation e.g Trade Union Representative, Human Resources staff, after consultation with the individual concerned. However, self-referrals are also accepted. For further details or referral, telephone: 01392 383277 (office hours), 01392 382549 (answer phone out of office hours) or see: -

<http://www4.devon.gov.uk/private/resources/hr/emprel/hsw/counselling2.shtml>

### Occupational Health Service (OHS)

The OHS provides advice and support to managers and employees on a range of issues affecting health in the workplace. This includes assessment by trained occupational health staff on necessary adjustments to the workplace to promote well-being, safe working practices and a safe environment at work, to enable staff to remain at work, and to help staff return to work after ill-health absences, together with advice on staff fitness to work. Referrals are made via DCC's HR Service.

<http://www4.devon.gov.uk/private/resources/hr/emprel/hsw/ohu.shtml>

### Devon County Council Equality and Diversity Officer

Employees are encouraged to seek support and advice on workplace issues relating to disability from the County's Equality and Diversity Officer, Ms Sue Kelly, on 01752 785890 or her assistant 01752 703652 (Afternoons only)

### Employment Service Disability Employment Advisors (DEAs)

DEAs are members of the Disability Service Team who work closely with employers and employees giving advice and assistance regarding employment and any associated issues of disability (This includes information regarding both practical and financial help available). For

further details or referral, contact the local job centre, where most DEAs are based.

### **St Loyes Foundation Exeter**

Provides a range of services through private referrals, including assessment, advice on workplace adaptation, support and retraining services for employees who through ill health or disability are experiencing difficulties in their new work role. For further details telephone, Frank Sealey (01392) 286205 or Diane Burch (01392) 286282.

<http://www.stloyes.co.uk/>

### **Royal National Institute for the Blind (RNIB)**

Provides information and advice for people with visual impairments. For further information telephone the helpline on 0845 766 9999, textphone 0800 51 51 52. Contact the Regional Employment Officer on 0117 953 7750.

<http://www.rnib.org.uk/xpedio/groups/public/documents/code/InternetHome.hcsp>

### **Royal National Institute for the Deaf (RNID)**

Provides information and advice for people with hearing impairments. For further information telephone the helpline 0808 808 0123, textphone 0808 808 9000.

<http://www.rnid.org.uk/>

### **Disability Living Foundation**

Provides advice and information on equipment, new technologies and training, and is particularly focussed at enhancing the independence of people with disabilities. The Internet site has a comprehensive list of, and links with, other UK disability organisations, charities and equipment suppliers, who are able to provide information and advice on a wide range of disability issues. For further information telephone the helpline 0845 130 9177, textphone 0870 603 9176.

<http://www.dlf.org.uk/>