



Isle of Wight Council
GRIEVANCE PROCEDURE
March 2014

1 Document Information

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3 Introduction

3.1 The Purpose of the Procedure

The purpose of the Grievance Procedure is to provide a fair and transparent process for individual employees to raise problems relating to their employment and to try to resolve these with their manager, or within their Service or School. Examples of issues that can be raised under this procedure include problems or concerns about working conditions, working relationships with colleagues, discrimination, organisational change, health and safety or new working practices.

Employees should exhaust the informal resolution procedure (see 5 below) before resorting to the formal process. The formal procedure (see 6 below) is to be used where the informal process has failed to achieve a satisfactory resolution of the problem, or where the issue is of a serious nature where the informal process would be inappropriate. If there is any doubt, advice regarding the procedure should be sought from your trade union representative, the relevant HR Business Partner (or School Business Manager).

3.2 Definition of a Grievance

A grievance is an employee's genuine belief that they have experienced some form of detriment within their work environment or employment. It is for the employee to show that a detriment has occurred. A grievance is not applicable where an employee simply disagrees with a Management, Service, Council or School decision.

3.3 The Scope of the Procedure

This procedure applies to all employees and is non-contractual. This also includes:

- All employees of the Isle of Wight Fire and Rescue Service who are covered by Grey or Gold book conditions;
- All School employees, including Support Staff, Teachers and the Headteacher;
- Chief Officers;
- Governors of Schools;

It does not apply to contractors or agency workers.

This procedure does not apply to issues where separate rights of appeal are given under a different procedure (e.g. redundancy, disciplinary, capability, job evaluation). Where the Council, Service, School and a recognised trade union representative determines that the matter is a collective issue (i.e. from two or more employees, or related to a collectively negotiated issue), the grievance will be referred to local negotiation to be dealt with.

In all cases, employees who wish to raise a grievance should take action as soon as possible after the issue has occurred and preferably within 20 working days of the incident or the last incident. Grievances about issues that occurred more than two months ago will not normally be accepted as undue delay is inappropriate.

Where a grievance repeats a specific allegation or issue that has already been addressed under this procedure, the employee will be advised that the new grievance will not be

accepted and no further action will be taken in respect of it. However, where the employee alleges that incidents of bullying or harassment have occurred which are similar in nature to previous allegations, these will be investigated to establish as far as is reasonably practicable whether the alleged incidents took place.

Employees who have left employment do not have any statutory right to raise a post-employment grievance. However, in exceptional circumstances a modified procedure, in consultation with the individual, may be allowed (See Appendix C).

3.4 Where a Grievance Relates to Another Employee

Where a grievance raised relates to another employee the manager has a responsibility to inform that employee that a grievance has been raised against them. They will be provided with a copy of the written grievance, or a summary of the allegations made against them if the grievance also raises other matters that do not affect them. The manager will meet with that employee informing them of:

- The nature of the grievance (providing them with a copy of the grievance resolution form if applicable);
- Whether it is being handled under the informal / formal procedure (whichever applies);
- Their right to be accompanied at any meeting conducted under this procedure.

Where it is necessary to conduct an investigation the employee will be invited to an investigatory interview and will be given an opportunity to fully respond to the allegations.

The investigation report will usually be disclosed to the complainant and those against whom allegations have been made. In cases where it is not deemed in the best interests of the council / school or its staff to disclose the report, it may be withheld but the involved parties will receive information about the outcome of the investigation and decision in a sensitive manner appropriate to the situation.

3.5 Protection and Support for Those Involved

Whether or not a complaint is upheld, the manager will consider how best to manage the ongoing working relationship between employees. It may be appropriate to arrange some form of mediation and / or counselling, or to change the duties, working location or reporting lines of one or both parties.

Staff who submit grievances or who participate in good faith in any investigation conducted under this policy must not suffer any form of retaliation or victimisation as a result.

If staff involved have suffered any such treatment they should inform the Human Resources Advisory Service. If the matter is not remedied they should raise it formally using the Grievance Procedure.

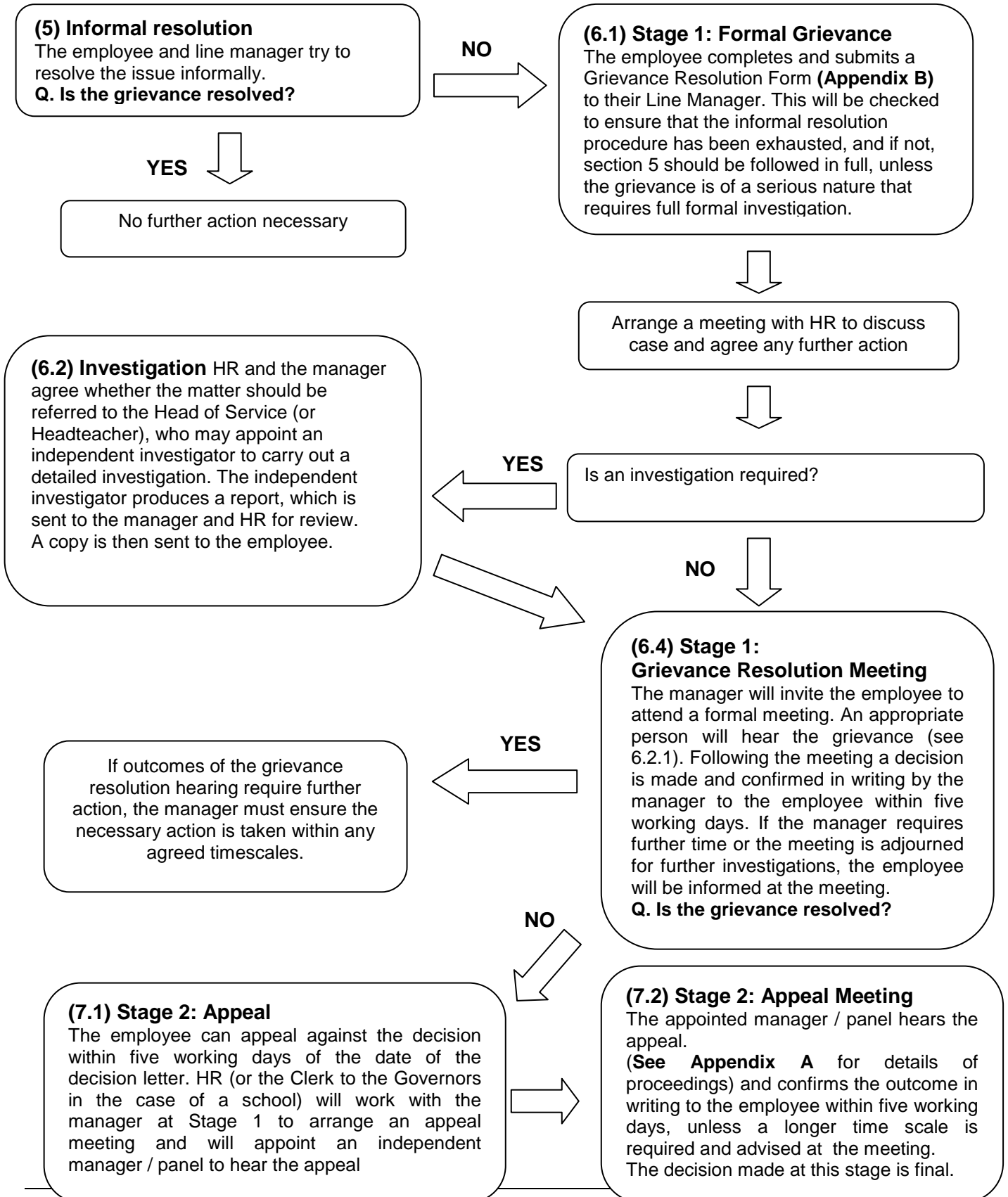
Anyone found to have retaliated against or victimised someone for raising a grievance or assisting in good faith with an investigation under this procedure will be subject to disciplinary action under our Disciplinary Policy and Procedure.

The Council offer access to confidential counselling, which is available on request for anyone affected by, or accused of, bullying or harassment. The details are set out at the following link:

http://wightnet2000.iow.gov.uk/staff/staff_benefits/Employee_Assistance_Programme/

4 Flowchart of the Procedure

The numbers shown in brackets against each heading refer to the relevant section of the procedure



5 Informal Resolution

Employees should make every effort to resolve issues with their line manager or the next most relevant manager wherever possible, without recourse to the formal grievance procedure. Many problems can be raised and settled during the course of everyday working relationships; this also allows for problems to be settled quickly and is advised that employees attempt to resolve any issues through regular communication with their line manager and normal working relations to resume.

In some cases outside help such as an independent mediator can help resolve problems, especially those involving working relationships. This is an option that could be explored by the line manager with the aim of resolving the problem at source as quickly as possible before the situation deteriorates. As part of this process the line manager should have a quiet word with the subject of the grievance as this may resolve the situation immediately.

The manager's role is to:

- Meet promptly with the employee to allow them to explain the problem and to discuss it in more detail. This should include asking the employee for their ideas on how the problem could be resolved;
- Explore the issue further as necessary, which may include speaking to other members of staff, and / or seeking advice (e.g. from HR);
- Speak confidentially to the employee whom the grievance is raised against to allow them to present their side of the events;
- Meet with the employee afterwards to explain the findings;
- Seek to resolve the problem through support, problem solving and active employee involvement;
- Try to agree any appropriate future action with the employee;
- Keep notes of meetings and any relevant documentation.

The employee will need to be reasonable in their expectations and be willing to compromise to enable any proposed solutions time to work. If this does not resolve the problem; the employee may wish to raise the grievance under the formal grievance procedure without unreasonable delay.

Notes:

1. If the complaint is against the line manager the employee should raise the matter with the line manager's manager or next relevant manager.
2. In the case of schools, if the complaint is against the Headteacher or a member of the School Governing Body, the matter should be raised with the Chair of Governors. If the grievance is against the Chair of Governors then the matter should be raised via HR.

6 Formal Resolution Stage 1

6.1 Submitting a Formal Grievance

(Please also refer to Grievance Procedure: Additional Guidance on iwight.com/Wightnet: Documents)

If it has not been possible to resolve the grievance informally, the employee should raise the matter promptly by submitting it in writing to their line manager using the Grievance Resolution Form at **Appendix B**. The line manager will check at this stage to ensure that the informal resolution procedure has been exhausted, and if not, Section 5 will be followed in full, unless the grievance is of a serious nature that requires formal investigation.

If the formal procedure is to be followed, the line manager should contact their HR Business Partner at this stage.

It is important that the employee sticks to the facts and avoids language that could be construed as insulting or abusive in the written grievance.

If the complaint is against the line manager the employee should raise the matter with the line manager's manager in the same way.

In some cases before proceeding to a formal grievance resolution meeting it may be necessary to carry out investigations into any of the allegations made by the employee and the confidentiality of the grievance procedure must be respected (refer to section 6.2 – Investigation). If it at the meeting it becomes clear that further investigation is necessary the meeting should be adjourned until this has been done.

6.2 Investigation

The purpose of an investigation is to establish the facts of the case as far as possible.

The manager must contact their HR Business Partner at this stage if they haven't already, to discuss the concerns and to agree who would be appropriate to undertake an investigation.

Where the manager and the HR Business Partner believe a full investigation is required they should refer the matter to the relevant Head of Service, or in the case of schools, to the Headteacher or Chair of Governors if the Headteacher is the subject of the grievance. The person the matter is referred to may then nominate an appropriate independent person to conduct a formal investigation into the case. The appointment of an investigator will be based upon an assessment of whether the appropriate skills are held but with the level of seniority also being a factor in the consideration of suitability. Within schools this will normally be a Deputy Headteacher. Within the Fire Service this will normally be a member of the Service of at least Station Manager level or above. Where an allegation is made against a manager in relation to management style or the treatment of staff the investigator must have the relevant managerial experience within the Council. If the grievance is raised by a Chief Officer, the matter should be referred to a more senior officer (e.g. Managing Director) to nominate an appropriate person to conduct the investigation. However, The Council, Service or School reserves the right to nominate any appropriate person (who has undertaken the Council's investigation training) to conduct the investigation without referral to the employee or their trade union representative or work colleague. The employee must be informed as soon as possible that the investigation is to be undertaken and who will be conducting it.

The independent investigator must:

- Review any informal action already taken;
- Meet with the employee to allow them to explain the problem and discuss it in further detail. This should include asking the employee for their ideas on how the problem could be resolved and what arrangements might be preferable if they need to access information as part of the investigation;
- Tape record each interview that is undertaken unless any objection is received and provide a copy of the recording to the interviewee and a written summary of the key points being provided for the purposes of the investigation
- Explore the issue further as necessary. This may include speaking to other members of staff and other witnesses (see Additional Guidance), looking at written evidence (e.g. emails, records etc) and / or seeking advice (e.g. from HR);
- Produce an investigation report with any recommendations listed.

Any investigation must be completed as speedily as possible (see Additional Guidance for an example of a typical timescale). The manager or independent investigator will agree with the employee a timescale within which the investigation will be completed.

6.3 Investigation Report

On completion of the investigation the manager or independent investigator will produce a report of their findings with recommendations for resolution. The report will be reviewed by HR with the line manager, or School Business Manager and Headteacher (in the case of schools), or the Governing Body where the grievance is against the Headteacher.

The report will be sent to the employee in advance of the grievance resolution meeting. If the grievance raises allegations against another employee the report, in most cases, will be disclosed to that employee also and afforded the opportunity to comment on its contents and for them to be included in the final report together with any reasons for changes to the report or its recommendations as a result. See also Section 3.4.

6.4 Formal Grievance Resolution Meeting

The manager will:

- arrange a meeting date and venue, ensuring that the appropriate people are available to attend (i.e. their administrative support for note taking, and an HR Business Partner);
- invite the employee to the meeting in writing;
- If applicable, where an investigation has been carried out, provide any evidence gathered during the course of the investigation in advance of the meeting.

The meeting will be held as soon as is reasonably practicable and timescales will be subject to the need to carry out prior investigations. It will be conducted by the line manager (or a senior manager if the grievance is against the line manager) and normally be attended by an HR representative and a note taker. At the meeting the employee will be asked to explain the nature of the complaint and what action they feel should be taken to resolve the matter. Where appropriate the meeting may be adjourned to allow for further investigations and the employee will be informed of the period of any adjournment.

The employee has a right to be accompanied by their trade union representative or a work colleague at the resolution meeting. The work colleague must not be directly involved in the grievance. The employee must take all reasonable steps to attend the meeting. Account will be taken of any reasonable adjustments required under the Equality Act 2010.

Where either the employee and / or their companion / representative is unable to attend the resolution meeting and provides a good reason for failing to attend, the meeting will be reconvened within five working days of the original meeting date or on another date which is mutually agreed by the parties. If the employee fails to attend without explanation, or if it appears that they have not made sufficient attempts to attend, the meeting may take place in their absence. The meeting will consider any written representations from the employee and / or their representative. The employee must be given the opportunity to provide any supporting evidence to the person(s) hearing the case at least three working days prior to the grievance meeting date.

During the meeting the employee should be given every opportunity to explain their case fully and should confine their explanation to matters that are directly relevant to their complaint. The manager conducting the meeting may intervene if he / she thinks that the discussion is straying too far from the key issue.

The purpose of the meeting will be to seek a resolution to the issues raised by the employee if at all possible.

The manager will write to the employee to inform them of the conclusions of the meeting within five working days, and where appropriate the decision should set out what action the manager intends to take to resolve the grievance. The employee will also be informed of their right of appeal to a named relevant person and the time period in which they must make the appeal.

6.4.1 Appropriate Person(s) to Hear the Grievance

The Line Manager will normally hear the grievance, however where a Line Manager has been directly involved, the matter will be referred to the Line Manager's Manager. In schools, the Headteacher will normally hear the grievance; however, where a Headteacher has been directly involved in the grievance in some way, the matter will be referred to the Governors. Where the grievance involves a Headteacher, the Chair of Governors will conduct the meeting.

If a grievance has been raised by a Chief Officer, a Panel of Members will conduct the meeting. The Panel should include no fewer than three elected Members and should not include any Member or officer with direct involvement in the matter, or who participated in any preliminary investigation.

7 Formal Resolution Stage 2

7.1 Making an Appeal

An employee has the right to make an appeal if they are unsatisfied with the outcome of the grievance resolution meeting. The request for an appeal must be made in writing to HR or the Clerk to the Governors in the case of schools.

The appeal must be made within five working days of the date of the decision letter and must state clearly the reasons why the employee remains unhappy with the decision reached at the grievance resolution meeting. Save in exceptional circumstances, the employee may only make an appeal on the following grounds:

- the decision: the evidence did not support the conclusion of the manager; and / or
- new evidence: evidence has come to light since the grievance resolution meeting and was not reasonably available at the time of that meeting; and / or
- it is considered that the grievance procedure was not followed correctly.

The appeal will normally take place within fifteen working days of receipt of the employee's written notice of appeal, or on a date which is mutually agreed by the parties but without unreasonable delay.

HR will work with the person who conducted the previous Grievance Resolution meeting to arrange the appeal meeting. The appeal will be heard by a more senior manager than the person who conducted the grievance resolution meeting at Stage 1.

In the case of schools, the appeal will be heard by an Appeals Committee consisting of three Governors, who will not have been involved in any part of the proceedings to date. Staff, governors and others who participated in previous proceedings may attend to give evidence, but must be excluded during the consideration of the decision by the Committee.

Where the grievance has been raised by a Chief Officer, the right of appeal will be to another panel of members. Members who participated in previous proceedings may attend to give evidence, but must be excluded during the consideration of the decision by the Committee.

HR or the Clerk to the Governors will write to the employee to invite them to attend an appeal meeting. The employee will have the right to be accompanied by a trade union representative or work colleague. They must take all reasonable steps to attend. Account will be taken of any reasonable adjustments required under the Equality Act 2010.

Where either the employee and / or their companion / representative is unable to attend the appeal meeting and provides a good reason for failing to attend, the meeting will be reconvened within five working days of the original meeting date or on another date which is mutually agreed by the parties but without unreasonable delay.

The appeal meeting will consider any representations from the employee and / or their representative. The employee must provide any supporting evidence for the basis of their appeal to HR or the School's Clerk to the Governors, at least seven working days prior to the appeal meeting date. The employee must also provide the names of any witnesses they wish to call.

The manager who made the decision at Stage 1 will be required to attend the appeal meeting to respond to the grounds of the appeal.

All parties will receive copies of the evidence to be presented at the appeal meeting at least two clear working days prior to the meeting.

The procedure for the appeal meeting will normally follow the procedure outlined at **Appendix A**.

7.2 At the Appeal Meeting

The appeal manager or committee (e.g. the School's Governing Body's Appeals Committee or Panel of Members) will consider all the evidence, including any new evidence presented, and determine whether the decision at Stage 1 should be upheld or not.

The chairperson conducting the meeting may adjourn proceedings if this is considered to be necessary and the employee (and their work colleague or representative) will be informed of the period of the adjournment. If further information is to be gathered, the employee will be allowed a reasonable period of time, together with their companion or representative, to consider the new information prior to the reconvening of proceedings.

As soon as possible after the conclusion of the appeal meeting, the person chairing the meeting will convey the decision verbally to the employee and the manager who presented the case for their decision at Stage 1 at the meeting.

The decision will be confirmed in writing within five working days of the hearing; the employee will be informed of the reasons for the decision and that the decision is final.

7.3 Keeping Written Records

HR will keep a written record of the grievance case, which will include:

- The nature of the grievance;
- What was decided and actions taken;
- The reason for the actions;
- Whether an appeal was lodged;
- The outcome of the appeal;
- Any relevant subsequent developments.

Records will be kept no longer than necessary in accordance with the Data Protection Act 1998.

Where applicable, copies of meeting records will also be given to the employee during the procedure. However, in certain exceptional circumstances some information may need to be withheld.

8 Appendix A – Order of Events at a Grievance Appeal Meeting

The purpose of an Appeal meeting will be to establish whether any of the grounds for the appeal should be upheld or not and if upheld, what action is to be taken.

The format for appeal meetings will normally be as follows:

1. The Chairperson leading the meeting will introduce the parties and explain the purpose of the meeting and how it will be conducted. The Chairperson will state that the meeting is being conducted as part of the Council's formal grievance procedure and confirm that a written record of the meeting is being made.
2. The Chairperson will invite the employee to state their case. With the employee's approval, or in the absence of the employee, the employee's representative may do this on their behalf. As part of the employee's presentation any witnesses may be called into the hearing one at a time. The Chairperson, Committee or Panel members and other parties (e.g. the manager, case investigator and / or any other appropriate parties named in the grievance) may ask any questions about the circumstances of the case to each witness in turn.
3. When the employee or their representative has completed their presentation, the Chairperson and the other parties may ask any questions about the circumstances of the grievance in order to establish all the relevant facts, background and surrounding circumstances.
4. The Chairperson will then invite the manager and / or investigator to present their case, following the same procedure above. As part of the presentation any witnesses may be called into the meeting one at a time. The Chairperson, Committee or Panel members, and the employee and / or their representative may ask any questions about the circumstances of the case to each witness in turn.
5. When the manager and / or investigator has completed their presentation, the Chairperson, Committee or Panel members, and the employee and / or employee's representative may ask any questions about the circumstances of the case.
6. At any point during the meeting, the Chairperson may adjourn the proceedings if it appears necessary or desirable to do so, including for the purpose of gathering further information or investigating any allegations made. Any party may also make a request to the Chairperson for an adjournment at any time during the grievance meeting.
7. Once all the evidence has been heard, the Chairperson may wish to sum up the key points of the meeting, or ask the parties to do so, allowing the employee to have the final word after which there should be an adjournment for the panel to consider all the information.
8. The Chairperson will try to reach a decision on the day of the appeal meeting. If this is not possible, the Chairperson will inform the employee of their decision within five working days. The Chairperson will confirm their decision in writing to the employee.
9. The decision will be final and there will be no further right of appeal.

9 Appendix B – Grievance Resolution Form

| | | |
|---|--|--|
| Name of Employee: | | |
| Job Title: | | |
| Section: | | |
| Department / Station: | | |
| 1. Please outline the nature of your grievance. Give examples and background details, such as names of witnesses, dates and places and any other relevant information which may be helpful. | | |
| | | |
| <i>Please continue on additional sheet(s) if required.</i> | | |
| 2. Have you previously discussed your grievance informally with your manager? | | Yes / No Circle as appropriate |
| 3. If yes, please state when you did this and why you remain dissatisfied with the outcome. If no, please return to the informal stage of the grievance procedure. | | |
| | | |
| 4. Please state how and why the grievance affects you. | | |
| | | |
| 5. What would you like to happen now as a result of your grievance and what is your proposed resolution? | | |
| | | |

Signed:

Date:

Print Name:

10 Appendix C – Modified Procedure for Post Employment Grievances

Statement of grievance:

The employee must set out in writing within 28 days of their employment ending stating:

- i) the grievance; and
- ii) the basis for it.

The employee must send the statement or a copy of it to the Head of Human Resources.

Response:

The Head of Human Resources must set out their response in writing and send the statement or a copy of it to the employee within 28 days of receipt of the grievance.

There is no right of appeal under the modified procedure.

11 Appendix D - Glossary of Terms

| | |
|--|--|
| <ul style="list-style-type: none">• Collective Issues | Where an issue is raised by two or more employees this becomes “collective”. |
| <ul style="list-style-type: none">• Non-contractual | The procedure does not form part of employees’ contracts of employment. |
| <ul style="list-style-type: none">• HR | Human Resources |
| <ul style="list-style-type: none">• Occupational Health | An external agency which provides a medical and health advisory service to the Council and its employees. |
| <ul style="list-style-type: none">• Employee Assistance Programme | An external agency which provides impartial and confidential advice and support to employees and their family members. |

12 Related Documents

- Sustainable Community Strategy - *Eco-Island* www.eco-island.org.uk
- Corporate Plan www.iwight.com/council/documents
- Safeguarding Adults Policy and Procedures Sections 1, 2, and 3 <http://wightnet.iow.gov.uk/documentlibrary/view/safeguarding-adults-policy-and-procedures-section-1-of-3>
<http://wightnet.iow.gov.uk/documentlibrary/view/safeguarding-adults-policy-and-procedures-section-2-of-3>
<http://wightnet.iow.gov.uk/documentlibrary/view/safeguarding-adults-policy-and-procedures-section-3-of-3>
- Local Safeguarding Children Boards www.4lscb.org.uk