



**ONCHAN
DISTRICT
COMMISSIONERS**

**GRIEVANCE
POLICY &
PROCEDURE**

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Policy Review - History:

Acknowledgement to the Isle of Man Government who have shared their policy.

Those to whom this policy applies are responsible for familiarising themselves periodically with the latest version and for complying with policy requirements at all times.

History or Most Recent Policy Changes – MUST BE COMPLETED		
Version:	Date:	Change:
1	2006	New Document
2	April 2020	Updated
3	May 2021	Updated
4	July 2023	Updated

1. INTRODUCTION

- 1.1** Grievances are concerns, problems or complaints that employees or group of employees may raise with their employers, regarding their employment.
- 1.2** The aim of the procedure is to settle any grievance quickly and as near to its point of origin as possible, in a fair, structured and non-confrontational manner. Therefore, early informal discussions to resolve any grievances are encouraged.

2. SCOPE

- 2.1** The Grievance Procedure applies to individuals employed under the following terms and conditions:-
 - a) NJC Employees
 - b) Public Services Commission Manual and Craft Workers.
- 2.2** This Grievance Procedure applies to all employees including those on probation, seasonal and zero based contracts.
- 2.3** Exclusions:-
 - a) Complaints that fall under other policies or procedures e.g. Capability, Disciplinary and Whistleblowing;
 - b) Appeals arising from appeal procedures contained in other agreed schemes and procedures for example, Disciplinary/Capability;
- 2.4** The Grievance procedure cannot be used to deal with disciplinary or capability matters, which should be dealt with in accordance with the relevant Disciplinary or Capability Procedures.

3. PURPOSE

- 3.1** The purpose of the Grievance Procedure is to:
 - 3.1.1** Provide a clear framework and guidance so that employees know how to raise concerns about their work or the actions of their employers, or fellow employees that affect them;
 - 3.1.2** Provide Line Managers with a framework and guidance for resolving grievances at the lowest possible level.

4. PRINCIPLES

The following principles will apply to the application of the procedure:

- 4.1** The Grievance Procedure is intended to provide a means of resolving issues when other means could have failed. It is not intended to be a vehicle for criticism or complaint against another individual or group of employees.
- 4.2** If an employee feels that they cannot raise their grievance directly with their immediate Line Manager then they should consult a Senior Manager, HR or a trade union/staff association-representative e.g. this maybe where the Line Manager is the subject of the grievance.
- 4.3** In grievance proceedings the evidence need only be sufficient to provide reasonable grounds, with decisions being based on the balance of probability (this is different in a court of law, where matters must be proved beyond reasonable doubt).
- 4.4** Human Resources ("HR") is available to provide advice and support and may also be invited to attend meetings to advise on procedural matters and employment legislation. Line Managers and employees may seek advice from HR at any stage in the procedure. All parties involved in the procedure must ensure that they maintain, as appropriate, the confidentiality of the process within and outside of the Authority.
- 4.5** Once a grievance is concluded, and in accordance with Data Protection Principles, documentation relating to matters reviewed under this procedure should be retained in accordance with the Authority's Document Retention Policy and Procedure.
- 4.6** Information generated and collated during the application of these procedures maybe disclosed (appropriately redacted) as part of a Subject Access Request.
- 4.7** Courts and Tribunals may order disclosure of documents, irrespective of whether or not they are confidential. These will be redacted where permitted.
- 4.8** These procedures will be reviewed every three years.

5. RIGHT TO BE ACCOMPANIED

- 5.1** At each stage of the formal process the employee should be advised of their statutory right to be accompanied by a work colleague or trade union/staff association-representative when invited by their employer to any formal meetings or hearings, and when they make a reasonable request to be accompanied. This right is additional to any contractual rights.
- 5.2** Employees who require special assistance, for example, disabled employees or those whom English is not their first language, may also be accompanied by a suitable companion. There is no right to be accompanied by a legal representative.
- 5.3** It is the employee's responsibility to arrange for a work colleague or trade union/staff association-representative, McKenzie friend or a person of their choosing to attend with them and to ensure that the person they choose to accompany them is available to attend meetings. Line Managers should provide sufficient time for an employee to make these arrangements.
- 5.4** Colleagues or trade union officials do not have to accept a request to accompany a worker, and they should not be pressurised to do so.
- 5.5** The person accompanying the employee has the right to address the hearing but no right to answer questions on the employee's behalf. They should be allowed to address the hearing in order to:
- Present the employee's case;
 - Sum up the employee's case;
 - Respond on the employees behalf to any view expressed at the hearing; and
 - Confer with the employee during the hearing.
- 5.6** The person accompanying the employee may not address the hearing if the employee does not wish it and must not prevent other parties from presenting their cases.

6. THE PROCEDURE

- 6.1** The responsibility for progressing a grievance through the procedure lies with the employee in conjunction with the employer. The employee, should indicate their intention to commence the Grievance Procedure and proceed to the next stage by completing the relevant section of the grievance form GP1 at Annex A, providing the reasons for the continued dissatisfaction.
- 6.2** Line Managers should, unless there are extenuating circumstances, seek to adhere to the prescribed timeframes.

6.3 Unless there are extenuating circumstances, if any party fails to attend an arranged meeting or hearing without giving notice or arranging a revised date with all parties concerned, then a decision will be made based on the evidence available and communicated to all relevant parties following the meeting/hearing.

6.4 All stages in the handling of a grievance should be recorded on the form GP1 – Grievance Record, provided at Annex A. It should be noted that the Grievance Record is the only paperwork which will be produced at each stage of the process and it should therefore be fully completed at each stage. All parties, including HR who should be given copies of all documentation. HR will keep a copy of the Grievance Record and any supplementary written information. An employee is entitled to access copies of the written record and should they disagree with the contents may indicate this, with reasons, on the Grievance Record.

6.5 Matters pertaining to timescales:-

- i) Whilst every endeavour will be made to comply with timescales within the document, due to the complexity and or specific circumstances of cases, timescales may be extended. In such circumstances the employee should be advised in a timely manner of the reasons for any delay and expected resolution.
- ii) Promptness in resolving the grievance can help minimise the discontent and frustration that may come from delay. Thus, it is good practice to incorporate time limits between the stages to expedite prompt resolution of the issue(s) and early return to an improved working relationship.
- iii) An employee who wishes to pursue a grievance must be allowed reasonable time off work to seek the advice of their trade union association-representative subject to obtaining permission from their Line Manager and the operational needs of the service.
- iv) In each case there should be some flexibility to extend the time limit where, for example, the person who has authority to deal with the situation is on leave or absent through illness. Where the Line Manager is absent through sickness, a determination must be made as to whether the grievance should be dealt with immediately or upon the Line Manager's return to work. This must be done in consultation with the employee.
- v) All parties must be kept informed if it is not possible to adhere to prescribed timescales.
- vi) If an employee, their relevant work colleague or trade union/staff association-representative, is unable to attend a meeting on the date specified due to illness or any other extenuating circumstance, an alternative date will be arranged. The employee concerned must propose another date and time no more than 5 working days after the original proposed meeting, having regard to the availability of the other parties involved. The Line Manager will make the necessary

arrangements once the revised date is agreed.

- 6.6** Depending upon the nature of the issue, the initial stage of the procedure may not be an appropriate place to start. With the agreement of both parties the procedure may be initiated at Stage 2.
- 6.7** Similarly, with the agreement of both parties, an issue may be referred back to any previous stage of the procedure if there is a reasonable expectation of a more expedient or acceptable solution.

STAGE ONE

- 6.8** The purpose of Stage 1 is to enable an employee to raise a grievance with their Line Manager or with the person whose decision has allegedly caused the issue. This is important because it allows the decision maker opportunity to review any decision(s) made which caused the dissatisfaction potentially enabling the grievance to be resolved directly.
- 6.9** Senior Management must permit Line Managers some degree of delegated responsibility to deal with routine matters to avoid the temptation of aggrieved individuals by-passing their Line Manager, thus undermining their legitimate role.
- 6.10** Where it is inappropriate for the employees Line Manager to deal with the grievance at the first stage, a member of management of equivalent status to that of the employee's line manager may hear the grievance. In some cases, the employee may feel that an informal approach is not possible or appropriate and may opt to proceed immediately to Stage 2.
- 6.11** In the first instance, the employee must define and record the grievance using Part A of the form GP1 and submit it to their Line Manager with any supporting documentation that they wish to be considered.
- 6.12** The Line Manager will arrange a meeting with the employee, who may be accompanied by a trade union/staff association representative or work colleague, McKenzie friend or a person of their choosing. After discussion an adjournment may take place. Dependent on the nature and complexity of the grievance at this point, or at any subsequent stage, the manager may decide to undertake an investigation.
- 6.13** The main points of the discussion and the outcome of the meeting should be recorded on Part A of the form GP1. A copy must be provided to both parties and the HR for their records.

- 6.14** Unless there are exceptional circumstances, Stage 1 of the procedure should be completed within 7 working days of receipt of the grievance by the person hearing the grievance.
- 6.15** If the grievance has been resolved satisfactorily at this stage no further action needs to be taken. If the grievance has not been resolved satisfactorily the employee can proceed to Stage 2 of the process.

STAGE TWO

- 6.16** The employee, or their trade union/staff association-representative, must submit the completed GP1 form, Part A to a more Senior Manager with any supporting documentation that they wish to be considered, within 5 working days of the Stage 1 meeting. The employee must be advised which Senior Manager will deal with the second stage of the procedure.
- 6.17** The Senior Manager assigned to hear Stage 2 of the grievance will arrange to meet with both parties. The employee and Line Manager, who conducted the Stage 1 meeting, shall be advised in writing of the date of the Stage 2 hearing and invited to submit any further relevant documentation which should be copied to all parties at least 5 working days in advance of the Stage 2 meeting. A representative from HR may be present to advise on procedural matters. The employee may be accompanied by their trade union/staff association representative or colleague, McKenzie friend or a person of their choosing.
- 6.18** The meeting will be arranged within 5 working days of receiving the grievance form and take place within a further 10 working days (allowing for the submission of relevant documentation 5 working days before the meeting is due to take place) or as soon as is practicable thereafter.
- 6.19** The decision reached at Stage 2 will be communicated in writing to the employee and their representative, and the manager who dealt with the grievance at Stage 1, as soon as possible following the meeting, but no later than 5 working days after the Stage 2 meeting. The Senior Manager holding the Stage 2 meeting must also complete the first part of Part B of the form GP1 and return this to the employee.
- 6.20** If the grievance has been resolved satisfactorily at this stage no further action needs to be taken.
- 6.21** Employees have the right of appeal to a more Senior Manager/Chief Executive/Clerk against a decision made by their immediate Supervisor or Line Manager (Stage 3). The employee should complete the second part of the form GP1, Part B.

STAGE THREE

- 6.22** If formal resolution has been unsuccessful then an employee may appeal. This will be heard by a designated Senior Manager, who may be the Chief Executive/Clerk who may hear the appeal alone or convene a panel of three senior officers. The appeal body will be able to confirm or modify the decision taken at the formal resolution stage. If a Senior Manager has raised the grievance, it may be appropriate for the appeal to be heard by a body chaired by an independent person, who may be an officer from HR.
- 6.23** The employee must set out the reasons for the appeal in writing within 5 working days of the notification of the decision of the Stage 2 meeting. The employee or their trade union/staff representative must complete Part B of the form GP1 and submit it to the Senior Manager/Chief Executive/Clerk or other appropriate delegated officer.
- 6.24** The Chief Executive/Clerk, nominated Senior Manager or panel should arrange a date for a grievance hearing within 5 working days of receipt of the appeal giving 15 working days' notice of the hearing.
- 6.25** The following persons are required for the hearing meeting:
- i) The employee, who can be accompanied by a trade union/staff association representative, colleague, McKenzie friend or a person of their choosing;
 - ii) The Senior Manager from the Stage 2 meeting, accompanied by the HR representative who provided support at the previous stage;
 - iii) The Line Manager or the Senior Manager that dealt with the grievance at Stage1, as witness.
- 6.26** The individual/panel members hearing the appeal should have no previous direct involvement in the matter, although they may have been aware of its existence.
- 6.27** The decision reached at Stage 3 will be communicated in writing to the employee and their representative as soon as possible, but no later than 5 working days after the appeal hearing. The Chief Executive/Clerk or Senior Manager/Panel Chair should complete the outcome/action section at Part C of the form GP1 and return this to the employee. The decision at the appeal stage is final and binding on all parties.

7. GRIEVANCE REMAINS UNRESOLVED

- 7.1** In exceptional circumstances there is a possibility that an issue which remains, unresolved after the Grievance Procedure has been exhausted could be referred to any established mechanism for conciliation, such as via Manx Industrial Relations Services ("MIRS"), or mediation, or if the grievance is a collective one, as a dispute under the Trade Disputes Act.

8. GRIEVANCE AGAINST THE CHIEF EXECUTIVE/CLERK

- 8.1** Where an employee has a grievance against a the Chief Executive/Clerk , it should be put in writing on form GP1 and forwarded to the Chairman
- 8.2** The Chairman may meet with the employee concerned before deciding whether it is a matter which should be investigated.
- 8.3** The panel in this instance will comprise of 3 nominated people.

9. RELATIONSHIP WITH GRIEVANCE PROCEDURE WITH OTHER PROCEDURES

- 9.1** In exceptional circumstances, an employee may raise a grievance about a manager during the course of a Disciplinary or Capability Procedure. Depending on the circumstances, it may be appropriate to suspend the Disciplinary or Capability Procedure until the grievance can be considered. Such a delay should only be considered where there is a strong indication that an employee has been mistreated and consideration should be given to bringing in another manager to deal with the grievance. This should only be relevant if there is a direct link between the grievance and other complaint (Disciplinary/Capability). Any records must be passed to the new manager and if appropriate the case should continue under the same timetable.
- 9.2** The Grievance Procedure relates only to an employee or group of employees and their employment position (s) and has no public interest dimension. The Whistleblowing Policy and Guidance provides for employees to be protected when making disclosures in the public interest regarding serious wrongdoing on the part of work colleagues.

10. WITNESSES

- 10.1** Where appropriate, witnesses can attend the meeting at Stage 2 and Stage 3 of the Grievance Procedure.

11. DECISIONS

- 11.1** It should be remembered that the results of grievance decisions may have an impact on other work areas. It is important therefore; that any solutions proposed are in line with any established policies and procedures and do not set precedents for other employees or employment groups.

6.	Have you discussed this grievance with your Line Manager/or Head of Department	Y	N
	If yes please state:-		
a)	Line Manager's Name:		
b)	Date discussion took place:		
(c)	What the outcome of the discussion was:		
NOW PASS THE FORM TO YOUR LINE MANAGER WITH WHOM YOU DISCUSSED THE GRIEVANCE			

TO BE COMPLETED BY THE LINE MANAGER/HEAD OF DEPARTMENT

7.	Do you agree that the information given in 1 to 6 above is correct?	Y	N
If no, please state why:			
8.	Please give your comments on the Grievance:		

15.	Has the Grievance been resolved satisfactorily	Y	N
16.	Will you be submitting a written request for an Appeal Hearing under Stage 3 of these procedures?	Y	N
17.	Details of why you are proceeding to Stage 3 of these procedures and any supporting information to be considered:		
If you answered "Y" to question 16, send the form to the Accounting Officer/Nominated Senior Manager who will be hearing the Appeal.			

STAGE 3

PART C – Appeal Hearing:

To be completed by the Chief Executive/Clerk or other delegated Senior Manager or Panel Chairman hearing the appeal.

18.	Name of Chief Executive/Clerk or Senior Manager or panel chair:	
19.	Date of Appeal Hearing:	
20.	Please provide details of the final outcome and any actions to be taken:	

Now send the form back to the Employee(s) who raised the grievance. A copy should be forwarded to HR for retention on file and should be destroyed 12 months after the conclusion of the process.

ANNEX B – ADDITIONAL GUIDANCE FOR LINE MANAGERS

GRIEVANCE AT WORK

It is very important that Line Managers are aware of the difference between a grievance issue, a bullying issue, and a harassment issue. Bullying is “repeated” inappropriate behaviour, physical, verbal or otherwise. A grievance is generally a complaint about rights/entitlements although a “one-off” incident of “bullying” can come under this definition as it is not repeated. Harassment is essentially bullying that involves an element of “discrimination” (i.e. a bullying between a man and a woman, an Irish person and a non-national etc.). As such, harassment is potentially a discriminatory act and for that reason it doesn’t need to be “repeated” and a one-off incident is sufficient to consider the matter as “harassment”.

RIGHT TO BE ACCOMPANIED

Employees have a statutory right to be accompanied where they are required or invited by their employer to attend grievance meetings. The chosen companion may be a fellow employee, a trade union representative, or an official employed by a trade union, a McKenzie friend or a person of their choosing. A trade union representative who is not an employed official must have been certified by their union as being competent to accompany an employee. Employees must make a reasonable request to their employer to be accompanied.

When choosing a companion, employees should bear in mind that it would not be reasonable to insist on being accompanied by a colleague whose presence would prejudice the hearing or who might have a conflict of interests.

WHAT IS A REASONABLE REQUEST?

Whether a request for a companion is reasonable will depend on the circumstances of the individual case and, ultimately, it is a matter for the hearing officer or panel to decide if disputed. However, an employee should provide enough time for the Line Manager to deal with the companion’s attendance at the meeting.

Employees should also consider how they make their request so that it is clearly understood, for instance by letting the Line Manager know in advance the name of the companion where possible and whether they are a fellow employee or trade union official or representative, or a McKenzie friend or a person of their choosing.

APPLYING THE RIGHT

Management should allow a companion to have a say about the date and time of a hearing. If the companion cannot attend on the proposed date, the law on the right of accompaniment provides that the employee has a right to suggest an alternative time and date so long as it is reasonable and it is not more than five working days after the original date.

However, a Line Manager must always act fairly when dealing with a grievance. Where there is a request to postpone a hearing for more than five days because a trade union representative or other companion is not available. It may be fair to allow the postponement if it does not cause, unreasonable delay. The employer should consider the facts and decide when is fair and reasonable in the circumstances¹.

¹ Talon Engineering Ltd v Mrs V Smith UKEAT/0236/17/BA