



Service Instruction 0867

Grievance Procedure

Document Control

Description and Purpose

This document is intended to give guidance to all employees regarding the processes to use to resolve employee relations matters. It includes sections on individual and collective grievances.

Active date	Review date	Author	Editor	Publisher
12.01.16	10.05.19	Amanda Cross	Philomena Dwyer	Sue Coker
Permanent		Temporary		If temporary, review date must be 3 months or less.

Amendment History

Version	Date	Reasons for Change	Amended by
1.1	10.01.16	Minor amend from MFRS to MFRA page 3	Amanda Cross
1.2	10.05.18	General Data Protection Regulation update	Amanda Cross

Risk Assessment (if applicable)

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Equalities Impact Assessment

Date	Reviewed by	Document location
26.11.2015		E&DPortal/EIAs/POD/EIA284

Civil Contingencies Impact Assessment (if applicable)

Date	Assessed by	Document location

Related Documents

Doc. Type	Ref. No.	Title	Document location
SI	SI 0854	Conduct	Portal
Policy	PODPOL09	Bullying and Harassment	Portal

Contact

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Professional Standards	professionalstandards@merseyfire.gov.uk	0151 296 4607

Target audience

All MFRS	X	Ops Crews		Fire Protection		Fire Prevention	
Principal officers		Senior officers		Non uniformed			

Relevant legislation (if any)

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GRIEVANCE PROCEDURE

Purpose

Merseyside Fire and Rescue Authority is committed to being an Employer of Choice. This means treating people fairly, openly with respect and with dignity. The purpose of the grievance procedure is to ensure that employees who feel aggrieved about the way they believe they have been treated, either by the Authority, Management or by colleagues, have a means to raise those issues and are given every opportunity to have their grievances resolved internally in a confidential and just matter.

Grievances are concerns, problems or complaints that employees raise with their employers. These may include (but are not limited to) issues relating to:

- Terms and conditions of employment
- Health and safety
- Working relationships
- New working practices
- The working environment
- Bullying and Harassment
- Discrimination

All parties have a personal responsibility to make every effort to resolve issues raised under the grievance procedure expeditiously, in good faith, and where possible as close to the source of the grievance. The procedure is not to apportion blame or to apply punishment but to find appropriate and positive resolutions.

This procedure has been written to comply with the ACAS guidelines and the National Conditions of Service (grey, green and red books).

Scope of the Procedure

The procedure covers all employees. Employees might raise concerns about matters that are not within the control of the Authority, for example, in a member of the public's home or on a secondment. These issues should be treated in the same way as grievances within the Authority and investigation and action will be undertaken as far as practicably possible. The Authority will make it very clear to all parties that grievances will be taken seriously and action will be taken to protect their employees.

Employees who leave during the course of a grievance should note that the grievance procedure will continue to the end of the grievance procedure and a written response will be provided to the ex-employee.

Grievances should be raised within 3 months of the source of the issue unless otherwise agreed.

This procedure covers individual grievances and collective grievances (2 or more people or Service wide implications). However, grievances arising from Collective Agreements relating to issues which are the subject of negotiation and consultation with the Representative bodies will be discussed via the Joint Secretaries processes.

This procedure should not be used for:

- Complaints that an employee may have about any formal disciplinary action taken against them, these should be dealt with as an appeal under the conduct procedure.
- Issues dealing with a medical matter for example, an IQMP outcome.
- Where it relates to an employee's pay grade in which case the Job Evaluation process should be followed.
- Where the grievance relates to pay or terms and conditions which MFRA cannot exercise discretion, for example, National pay increases.
- Any matter which relates to collective disputes whether local or national.

Where an employee raises a grievance during a conduct process the disciplinary may be temporarily suspended in order to deal with the process, however the Service is not obligated to stop the conduct process and instigate the grievance process. Insofar as a grievance has any bearing on the conduct proceedings, it can be raised as a relevant issue in the course of those proceedings. It may be appropriate to deal with both cases concurrently.

Where there is a counterclaim/allegation it will be dealt with, as will all related issues, as part of the one resolution procedure. After discussion consideration will be made as to whether this counter claim is vexatious or malicious and it may be dealt with via the conduct procedure if there are reasonable grounds and a reasonable belief for doing so.

Making the complaint

Formal complaints must be set out in writing. This forms the basis of the subsequent hearing and any investigations, so it is important that it explains clearly the nature of the grievance and indicates the outcome that employee is seeking. If the grievance is unclear, the employee may be asked to clarify the complaint before any meeting takes place.

The complaint should be headed "Grievance" and sent to the line manager and copied to Professional Standards for recording purposes. If the complaint relates to the way in which a line manager is treating an employee, the complaint may be sent to the "grandparent" Manager, i.e. their Line Manager's Manager or Professional Standards who will appoint an appropriate person to deal with it.

Attempts may be made to resolve the matter informally, depending on the nature of the complaint. However, if the employee is not satisfied with the outcome, they may request the matter proceeding to a full grievance hearing.

Following the receipt of the written grievance, Professional Standards will identify whether similar grievances have been raised before and if so, how these have been resolved, and any follow up actions taken. This ensures that every best effort is made by the Authority to apply consistent decisions/ resolutions where circumstances or issues are raised are of a similar nature.

Stages in the grievance

Informal stage

In the first instance, where appropriate, every effort should be made to resolve the matter on an informal basis before resorting to the formal stages of the Grievance Procedure. Most issues can be resolved in this way.

Grievances often arise through misunderstandings and issues can be resolved swiftly and without escalation with open and constructive discussion with the Manager (or other appropriate person if raising it with the Manager causes local difficulty, for example a Trade Union Representative).

Managers have a personal responsibility to manage effectively and appropriately. They should be allowed to exercise their right to manage and where a grievance concerns the Line Manager the employee should be aware that part of a Managers role is to:

- Set targets and objectives for employees and monitor their performance
- Set standards at work and to address conduct and capability matters to ensure employees understand what is expected of them
- Issue instructions to employees and to ensure they are observed
- To review how work is carried out and alter working methods to ensure there is the best use of resources

If an employee has a concern regarding any of these circumstances it is recommended that they seek clarification and understanding with their line Manager to resolve problems before they develop into difficulties for all concerned.

During the discussion with the employee it may be appropriate to take a note of the meeting and a copy will be provided to the employee. If employees are not satisfied with the outcome

of this initial stage, and after informal discussions, the matter is not resolved, they may move to the next stage of a formal hearing.

It may be appropriate for the matter to be dealt with by way of mediation depending on the nature of the grievance. This involves the appointment of a third party mediator who will facilitate a structured dialogue between the parties to the grievance to allow them to resolve the problem/issues that have given rise to the grievance. Mediation will only be used where all parties involved, including the mediator agree. Please see the Mediation policy for further information.

Some issues, however, are considered to be so sensitive, for example, bullying cases due to a protected characteristic, victimisation and/or harassment cases that it may be appropriate to progress directly to the formal stage.

Formal Stage

This must be in writing providing sufficient information to allow the grievance to be fully investigated. It should include why attempts to resolve it informally have been unsuccessful, providing evidence where appropriate.

If in exceptional circumstances if there is a difficulty in raising the grievance in writing, for instance due to disability or language issues, then appropriate support will be offered to the employee.

The notification should also indicate what form of redress the employee is seeking. If the employee is not able to provide this information the grievance may not be progressed or there may be delays in the process. Both parties are expected to work towards seeking mutually acceptable resolutions where possible and understanding the aggrieved employee's expectation is a critical part of this process.

The grievance will be thoroughly investigated and the employee will be given the opportunity to put forward their case at any hearing where they have the right to be accompanied by a companion.

Conducting the grievance procedure

The Service recognises that a formal grievance procedure can be a stressful and upsetting experience for all parties involved. Everyone involved in the process is entitled to be treated calmly and with respect. These rights extend to external and internal trade union representatives, elected representatives and any other employee representatives who act on behalf of employees and witnesses. The Service will not tolerate abusive or insulting behaviour from anyone taking part in or conducting grievance procedures and will treat any such behaviour as misconduct under the conduct procedure.

At no time will any person pursuing or participating in a grievance be challenged on related matters by management as a result of the grievance, unless there is evidence that their action is malicious or intended to harm another employee. In these circumstances consideration will be given to invoking the conduct procedures.

The grievance hearing

The hearing will be held as soon as is reasonably practicable and, subject to any need to carry out prior investigations, from the receipt of the written complaint. It will be conducted by an appropriate manager and if required an HR representative. At this formal meeting the employee has the right to be accompanied by a companion which may be a colleague or trade union representative. At the meeting, the employee will be asked to explain the nature of the complaint and what action the employee feels should be taken to resolve the matter. Where appropriate, the meeting may be adjourned to allow further investigations to take place.

Employees should ensure their attendance at the meeting at the specified time. If any party is unable to attend because of circumstances beyond their control, they should inform the Hearing Manager as soon as possible. If the employee fails to attend without explanation, or if it appears that they have not made sufficient attempts to attend, the hearing may take place in their absence.

Following the meeting, the employee will be informed in writing of the outcome within seven working days and told of any action that the Service proposes to take as a result of the grievance. The employee may discuss this outcome informally with either their manager or Representative body.

If they are dissatisfied with the outcome, they may make a formal appeal.

Appeal

The appeal should be made in writing to Professional Standards. It should clearly state the grounds of the appeal, i.e. the basis on which it is believed that the result of the grievance was wrong or that the action taken as a result was inappropriate. This should be done within seven days of the written notification of the outcome of the grievance. An appeal meeting will be arranged to take place within “good time” and the employee will be notified of the date of the meeting within 7 working days.

The Appeal hearing will be conducted by a Manager appointed by Professional Standards who has not previously been involved in the case and is in a more senior role who has the authority to review and change the original decision. The Appeal Manager will consider the grounds put forward and assess whether or not the conclusion reached in the original grievance hearing was appropriate.

The appeal is not intended to be a rerun of the original grievance hearing, but rather a consideration of the specific areas detailed in the appeal. The Appeal Manager conducting the appeal may therefore confine discussion to those specific areas detailed in the appeal rather than reconsider the whole matter afresh. The grounds of the appeal must be specific to assist the Appeal Manager or it will be returned to the individual.

Following the appeal meeting, the employee will be informed of the outcome within ten days. The outcome of this meeting will be final.

Cases of an exceptionally serious nature only, (such as allegations of bullying, harassment, racism or other unlawful discrimination which implies major problems in relation to culture or management style that remain unresolved), may be referred by the Appeal Manager for further

consideration to the Joint Secretaries, (or their nominee) The local joint secretaries will decide whether a grievance heard at the appeals stage, but where the complainant remains dissatisfied, is one of a serious nature and may allow further appeals to be considered . The decision will be final at this stage. There is no further right of appeal.

The right to be accompanied

Employees have the right to be accompanied by a companion at formal meetings. This may be a fellow worker or a Local or Regional Trade union representative at any grievance meeting or subsequent appeal. A trade union official need not be an employee of the Service, but if he/she is not a fellow worker or an employee of his/her union, MFRS may insist on him/her being certified by the union as being experienced or trained in accompanying employees at grievance hearings. This is usually achieved by the production of certification card.

The choice of companion is a matter for the employee, however companions are not obligated to accompany colleagues. Companions will be given appropriate paid time off to allow them to accompany colleagues at a grievance hearing or appeal hearing.

At any hearing or appeal hearing, the chosen companion will be allowed to address the meeting, respond on the employee's behalf to any view expressed in the hearing, and sum up the case on the employee's behalf. However, both the hearing and appeal hearing are essentially meetings between the employer and the employee, so any questions put directly to the employee should be dealt with by the employee and not the companion.

Where the chosen companion is unavailable on the day scheduled for the meeting or appeal, the meeting will be rescheduled, provided the employee proposes an alternative dates within five working days of the scheduled date.

Withdrawal of grievances

Where a grievance is withdrawn prior to the grievance meeting, the Line Manager will ensure that the person concerned confirms this in writing. Where a grievance is withdrawn, the Line

Manager should ensure that there are no unresolved issues that require further action. The Line Manager will advise all involved parties, if previously notified, of the withdrawal.

Collective grievances

If more than two employees have identical grievances and all employees wish them to be addressed in the same grievance process, the colleagues can raise a grievance via the collective grievance procedure. Employees who are not in a trade union or representative body may elect a spokesperson to act on their behalf. Where employees are in a Trade union or Representative body it is recommended that the employees seek advice from the Trade Union or collective body in advance as representations may have already been raised on the issue at hand.

All colleagues raising the collective grievance must agree to do this. The participating colleagues will be entitled to only one grievance hearing and (if applicable) one appeal hearing.

The participating colleagues will be notified individually of the outcome at each stage of the process. If the colleagues do not all voluntarily agree to this arrangement or if the grievances are not identical, the Service will arrange to hear the grievances using the procedure for individual grievances detailed above.

If the colleagues are all members of the same trade union or representative body, their representative can present the grievance on the employees' behalf. If the colleagues wish to be represented by their trade union representatives on an individual basis, the organisation will arrange to hear those grievances under the organisation's normal grievance procedure. If employees are not in a representative body they can agree to nominate one of the group to act on behalf of the group.

Making the complaint

Where practically possible all grievances should be heard at the informal stage to allow problems and concerns to be raised and settled as a matter of course. This allows for most issues to be resolved during the course of everyday working relations in a quick and low key manner.

If it is not possible to resolve a grievance informally, or where a grievance is serious or an employee has attempted to raise a problem informally without success, the employee should raise it formally with management in writing.

The grievance should be headed "Formal collective grievance" and sent to the line manager and copied to Professional Standards. It can be submitted on one document, but it must:

- Identify each employee who wishes to raise the grievance;
- Identify the nominated trade union or companion to represent the aggrieved colleagues;
- State that all aggrieved colleagues have all consented to use the collective grievance procedure; and
- Confirm that the colleagues understand that the grievance will give each employee the right to only one collective grievance meeting, one identical outcome and (if applicable) one appeal meeting and one identical appeal outcome.
- If the group wish to submit individual grievance letters, each of the letters must contain the information set out above and they must all be sent to the same manager and copied to professional standards.

The process will then follow that outlined above.

Where an issue relates to a local or nationally agreed decision which has progressed through agreed Consultation or Negotiation protocols, employees may raise their complaint via their Trade union or Representative body who can discuss the issue as part of the structured employee relations process via the local or National Joint Secretaries. This will comply with the National and local Schemes of Conditions of Service.

Equality and Diversity Monitoring

To identify trends and to maintain compliance with current legislation, and in keeping with good practice, all cases will be monitored in terms of equality and diversity.

Recording of Grievance Matters

At the conclusion of the formal stages of the grievances all papers will be sent to the Professional Standards team and securely filed. No papers are allowed to be retained by Managers, officers, employees or witnesses to the case.

All grievance and mediation documentation, other papers or accounts connected with a grievance will at all times be treated in confidence. It must be accepted that in the process of resolving grievances, disclosure, may be made to suitably qualified personnel on a need to know basis to ensure appropriate solutions, monitoring for training, development and policy issues are implemented.

Where any person involved in this procedure willfully fails to maintain reasonable confidentiality, or seeks to unduly influence any party to the grievance, such action may be interpreted as harassment, particularly if victimization results as a consequence and will be subject to the conduct procedure.

Failure to maintain confidentiality by any parties involved may be considered as Gross Misconduct and may result in formal action under the conduct procedure.

The Authority treats personal data collected in accordance with its data protection policy and related service instructions. Information about how data is used and the basis for processing data is provided in the Authority's employee privacy notice