

DERBYSHIRE FIRE & RESCUE SERVICE



EMPLOYMENT POLICY

GRIEVANCE POLICY & PROCEDURE

**NOVEMBER 2018
VERSION 2.2
STATUS: LIVE**

CONTENTS

SECTION 1	POLICY STATEMENT
SECTION 2	EXCEPTIONS TO THIS POLICY
SECTION 3	PROCEDURE
SECTION 4	GENERAL
SECTION 5	MEDIATION
SECTION 6	INFORMAL STAGE
SECTION 7	FORMAL STAGE
SECTION 8	APPEAL STAGE
SECTION 9	SUPPORTING INFORMATION / WITNESSES
SECTION 10	COLLECTIVE ISSUE
SECTION 11	GRIEVANCE DURING A DISCIPLINE INVESTIGATION
SECTION 12	RECORDS
SECTION 13	MONITORING AND REVIEW
SECTION 14	RELEVANT FORMS
SECTION 15	RELEVANT DOCUMENTS

Employment Policy: Grievance Policy & Procedure, Version no. 2.2

This Employment Policy is uncontrolled when printed. Please ensure you have the most up-to-date version.

SECTION 16 RELEVANT LEGISLATION

1. POLICY STATEMENT

1.1 The Grievance Policy and Procedure is intended to cover a range of concerns, problems and issues which individual employees may raise with their employer. Its aim is to resolve grievance issues consistently and fairly and as quickly as possible at the lowest appropriate level. It is the responsibility of the Service's managers, Trade Union Representatives and HR Services to promote the effective application of the Grievance Policy and Procedure.

1.2 The Service will achieve this through

- Making the Grievance Policy and Procedure available to all employees via FireView.
- Ensuring managers are appropriately supported in handling grievances.
- Ensuring managers are trained or supported to undertake investigations and chair hearings.
- Implementing an effective Grievance Policy and Procedure to manage employee concerns, problems and issues.
- Making the Grievance toolkit available on FireView to support managers in dealing with grievances. Support is also available from HR Services.

1.3 The following principles will apply

- Where it is not possible to resolve a grievance informally, employees should raise the matter formally and without unreasonable delay with the manager who heard the grievance at the informal stage. This should be done in writing and should set out the nature of the grievance.
- Information and facts will be gathered as quickly as possible.
- Grievances will only be raised in line with the Grievance Policy and Procedure. Derbyshire Fire and Rescue Service (DFRS) managers are responsible for ensuring that grievances are heard fairly, consistently, speedily and at the appropriate level across the Service. DFRS will make reasonable adjustments, which may include assisting employees to formulate a written grievance, in line with the Equality Act. Employees can also seek support from an accredited Trade Union Representative or a DFRS work colleague.
- Grievance investigations and hearings will be conducted with respect for confidentiality and in accordance with the requirements of the Data Protection Act. A breach in confidentiality may result in disciplinary action.
- At all formal stages of the procedure employees have the right to be accompanied by an accredited Trade Union Representative or a DFRS work colleague.
- At the formal stage of the procedure employees have the right of appeal.
- The Grievance Policy and Procedure will be monitored and reviewed to ensure that it continues to meet the Service's objectives and complies with these principles. The involvement of employees and Trade Union Representatives will be encouraged in this process.

Employment Policy: Grievance Policy & Procedure, Version no. 2.2

This Employment Policy is uncontrolled when printed. Please ensure you have the most up-to-date version.

2 EXCEPTIONS TO THIS POLICY

2.1 The Grievance Policy and Procedure cannot be used for the following issues, for which separate guidance, policies and procedures exist:

- Outcomes/discrimination claims relating to recruitment and selection.
- Changes to NJC terms and conditions unless the grievance relates to the Service's interpretation of such changes (i.e. not a condition per se but for example how it has been applied if NJC do not specify). In these circumstances, the Grey Book Model Consultation Procedure (unless superseded by a local disputes policy) may be a more appropriate procedure for employees to follow.
- The outcome of a hearing (e.g. discipline, capability, attendance) where the decision was to issue a formal warning or dismiss the employee. (Please refer to the appropriate Policy and Procedure).
- Appeals against the rejection of applications under the Flexible Employment Policy.
- Any other policy decision for which the policy itself has a right of appeal.

3. PROCEDURE

3.1 The following procedure applies to all staff including temporary and casual / zero hours employees but not agency workers. The grievance procedure applies to current employees only. The procedure has been written using the ACAS Statutory Code of Practice on Discipline and Grievance and the National Joint Council for Local Authority Fire and Rescue Services Scheme of Conditions of Service 6th Edition (the Grey Book).

3.2 For the purpose of this document wherever the term "line manager" is used this refers to the immediate line manager.

4. GENERAL

4.1 Grievances may be defined as concerns, problems and issues that employees raise with their employer.

4.2 Any employee may, at some time, have problems or concerns about their work, working conditions or relationships with colleagues that they may wish to talk about with their line manager.

4.3 Grievances may occur at all levels and this procedure along with the ACAS Code of practice, applies equally to management and employees.

4.4 Employees are expected to act in a responsible manner in that cases raised should be genuine, and likewise managers will ensure that they deal with grievances seriously.

Employment Policy: Grievance Policy & Procedure, Version no. 2.2

This Employment Policy is uncontrolled when printed. Please ensure you have the most up-to-date version.

- 4.5 Employees who raise grievances which are found to be vexatious and malicious will be dealt with under the Discipline Policy and Procedure.
- 4.6 Grievances should be raised within 3 months of the management decision causing the grievance, unless otherwise agreed. Extension to this time limit would only be in exceptional circumstances, for example, if an employee is off sick for an extended period due to events/circumstances causing the grievance.

5. MEDIATION

- 5.1 HR Services can signpost managers and employees to available mediators both within and external to the Service. Voluntary mediation can prove useful in assisting the parties to come up with their own mutually acceptable solutions to improve the working relationship in the future. This service is voluntary and both parties must agree to its use.
- 5.2 Mediation may prove helpful in avoiding a formal grievance in the first instance or supporting the implementation of the decision/action agreed by the Grievance Hearing panel.
- 5.3 Mediation is used as a support to the grievance process rather than a substitute and agreement to use this does not affect the employee's rights under this procedure. Time limits detailed in this procedure will be extended accordingly if all parties agree to mediation being used.

6. INFORMAL STAGE

- 6.1 Employees should aim to settle a grievance informally with their line manager in the first instance. Many problems can be raised and settled during every day working relationships. This also allows for problems to be settled quickly. Where the grievance is a complaint against the line manager's decision, the employee should initially approach that line manager for informal resolution.
- 6.2 If it is not possible to resolve the issue at the informal stage, the employee may wish to progress to the formal stage. Grievances must at all times be heard at the lowest possible level of manager who has the power to make a decision and employees should consider who this might be. This might include the line manager, the next level of management or a relevant decision maker at a higher level.

7. FORMAL STAGE

- 7.1 If it is not possible to resolve a grievance informally, employees should raise the matter formally and without unreasonable delay with an appropriate manager. This is generally the manager who heard the grievance at the informal stage (see section 6 above). Where this is the next level (i.e. the manager of the line

manager), they may, where appropriate, direct this back down to another manager of equivalent grade to the manager who heard the grievance informally.

- 7.2 The employee should complete the 'Grievance Form' which is available on FireView and submit this to the appropriate line manager. The form should include:
- the specific reason for the grievance e.g. interpretation of policy, implementation of change etc. including any background information.
 - any documentary evidence or witnesses;
 - the suggested outcome e.g. constructive suggestions on adjustment to the changes, future changes to prevent re-occurrence etc.
- 7.3 On receiving a formal grievance, the line manager will invite the employee to a hearing which should be held in good time. Throughout this procedure "in good time" means as soon as possible and in any case within 7 calendar days unless otherwise agreed.
- 7.4 The line manager should inform the employee that they have the right to be accompanied to the hearing by a Trade Union Representative or DFRS work colleague.
- 7.5 Detailed information on the format of the hearing can be found in the Grievance Toolkit available on FireView or from HR Services.
- 7.6 If the employee cannot attend the hearing (e.g. due to illness) or cannot arrange for a Trade Union Representative or DFRS work colleague to attend on the proposed date, the employee can suggest another date so long as it is reasonable and is not more than 7 calendar days after the date originally proposed by the line manager. This 7 calendar day time limit may be extended by mutual agreement.
- 7.7 The line manager should consult with an HR Partner on any particularly complex issue and/or matters relating to an employment policy. The HR Partner will assess whether it is appropriate for them to be involved in supporting managers in any preparatory research/investigation in order to establish the facts of the case and where appropriate this HR Partner may attend the grievance hearing to provide advice.
- 7.8 The employee will be given full opportunity to explain their grievance at the hearing. Following the hearing, further investigations may be necessary to resolve the grievance and the employee will be advised of how long this will take.
- 7.9 The Trade Union Representative or DFRS work colleague should be allowed to address the hearing to put forward and sum up the employee's case, respond on behalf of the employee to any views expressed at the hearing and confer with the employee during the hearing. However the Trade Union Representative / DFRS work colleague should not be answering questions that are directed to the employee.

- 7.10 In a particularly complex case at the hearing an additional Trade Union Representative may support the official Trade Union Representative. They will only be allowed to support the official Trade Union Representative and the employee. They will not be allowed to address the hearing or witnesses, or take part in the actual proceedings. They must not disrupt the hearing in any way. Agreement must be sought through the line manager.
- 7.11 With the prior agreement of the line manager, the employee and the Trade Union Representative, no more than one internal observer from the union and one internal observer from management may be allowed to attend the hearing. This is to allow relevant managers, HR Partners and Trade Union Representatives the opportunity for development. They will take no part in the hearing and are bound by the same rules of confidentiality.
- 7.12 Where the line manager who would normally deal with the grievance is not available, another manager should be appointed to hear the grievance.
- 7.13 The line manager should respond in writing to the employee's grievance in good time explaining the reason for their decision. They should let the employee know that they have the right of appeal against the decision made if they are not satisfied with it.

8. APPEAL STAGE

- 8.1 Employees have the right to appeal the decision made at formal grievance stage. Employees will be allowed to appeal no later than seven calendar days after they have been informed of the decision in writing. The appeal must be made using the Grievance Appeal Form, which is available on FireView or from HR Services.
- 8.2 The manager should arrange for an Appeal hearing to be conducted in good time. The manager who will Chair the appeal will be a manager at a more senior level, who has the authority to review and change the original decision. This level of authority may depend on the nature of the decision e.g. whether it simply involved the application of existing policy or was a decision introducing or changing policy.
- 8.3 HR will allocate an appropriate HR Partner to assist and advise the Chair of the appeal hearing. The HR Partner will ensure that the appropriate procedures are followed.
- 8.4 As with the previous stage, the employee should be given a written decision and explanation as soon as possible and in good time.
- 8.5 The decision of the Chair of the appeal hearing will be final and there is no further right of appeal.

9. SUPPORTING INFORMATION / WITNESSES

- 9.1 The employee and the line manager can invite witnesses to give evidence and/or provide documentary evidence in support of their case at grievance hearings. Each party must give reasonable notice of their intention to call a witness and any documents must be copied to all parties at least 4 working days prior to the hearing.
- 9.2 In the event of there being a disproportionate number of witnesses, all saying the same thing, the Chair has the discretion to set a reasonable maximum number of witnesses, the rest of the evidence may be provided as written statements.
- 9.3 At the hearing/appeal hearing, the panel and/or both parties will be given the opportunity to speak to witnesses and discuss any documents previously submitted by either party, in order to seek clarification and determine the facts.
- 9.4 Reference to documents submitted late may be allowed subject to the agreement of the Chair.

10. COLLECTIVE ISSUE

- 10.1 Where either the Fire and Rescue Authority or an accredited Trade Union determine that the matter is a collective issue, it may, at any stage, be transferred to the Grey Book Model Consultation Procedure (unless superseded by a local disputes policy).
- 10.2 In the case of a collective grievance, all parties may be seen together or one may be heard as a test case, depending on the decision of the Trade Union, or where a Trade Union is not involved the employee representative and management.

11. GRIEVANCE DURING A DISCIPLINE INVESTIGATION

- 11.1 An employee may raise a grievance during the course of a discipline process. If this happens, the manager **may** consider suspending this for a short period while the grievance is dealt with. However, where the grievance and discipline cases are related, it may be appropriate to deal with both issues concurrently. To provide consistency, this decision should be taken in consultation with an HR Partner. In submitting and dealing with grievances in these circumstances, it is important that disciplinary processes are not unnecessarily delayed.

12. RECORDS

- 12.1 Where the complaint is informal and resolved at this stage, no record will be kept on the employee's personal record file unless a Note for File is issued.
- 12.2 Where a complaint is substantiated or partially substantiated but does not proceed to discipline, the grievance outcome letter will be retained on the employee's personal record file. The supporting documentation will be retained in a separate file for a period of 12 months, after which they will be destroyed.

Employment Policy: Grievance Policy & Procedure, Version no. 2.2

This Employment Policy is uncontrolled when printed. Please ensure you have the most up-to-date version.

- 12.3 Where the matter proceeds to a discipline hearing, then the storage of records should be in accordance with the Discipline Policy and Procedure.

13. **MONITORING AND REVIEW**

- 13.1 Statistics on completed cases will be held by HR Services.
- 13.2 Formal review of trends in non-identifiable data will be monitored and reported to the appropriate forums on a quarterly basis. Other analysis at year end and year on year will be reported to the appropriate forums, which may include the Fire and Rescue Authority.
- 13.3 If any trends are apparent, a decision will be made as to how any issues are to be addressed, for example change in practice, revised policy etc. These reports will be submitted as part of a portfolio of evidence for future HR Services, Prevention and Inclusion and Corporate Governance audits.

14. **RELEVANT FORMS**

Grievance Form
Grievance Appeal Form

15. **RELEVANT DOCUMENTS**

Discipline Policy and Procedure
Dignity at Work Policy and Procedure
ACAS Statutory Code of Practice on Discipline and Grievance

16. **RELEVANT LEGISLATION**

The Equality Act 2010
The Data Protection Act 1998

DOCUMENT HISTORY	
Version no.	2.2
Replaces	Employment Policy Grievance Policy and Procedure November 2016 Version 2.1 which has been removed from the Intranet. All hard copies should be destroyed.
Summary of changes	This Employment Policy has been reviewed and minor changes have been made as follows: <ul style="list-style-type: none">• General update of language and terminology• Grievance form updated• Grievance Appeal form updated
Author	Annette Barrett, HR Partner and Paula Chand, HR Partner
Department	HR Services
Approved by	Area Manager Judi Beresford

Employment Policy: Grievance Policy & Procedure, Version no. 2.2

This Employment Policy is uncontrolled when printed. Please ensure you have the most up-to-date version.

Revision history

Version	Date	Author	Changes
2.1	November 2016	Emma Stevenson	<ul style="list-style-type: none">• The separate policy and procedure documents have been integrated into one document• Update of job titles and roles in line with current organisational structure• General update of language and terminology• Grievance form updated• Appeal form updated
2.0	June 2011	Ann Hooper	<ul style="list-style-type: none">• Updated in line with the ACAS Statutory Code of Practice on Discipline & Grievance. (Employment Tribunal take the Code into account and can adjust any awards by 25% for unreasonable failure to comply with the provisions of the Code by either Employer or Employees).• Emphasis in the Code, also reflected in this Policy on resolving employee Grievances in the workplace:<ul style="list-style-type: none">- at the lowest level- using an independent third party wherever possible. This could be an internal mediator.- importance of keeping written records throughout.• Code sets out the basic requirements of fairness that will be applicable in most cases, setting out standards of reasonable behavior, which have been reflected in this Policy
1.0	January 2005		New Employment Policy & Procedure

Review Period

This Employment Policy will be reviewed November 2023

Distribution

Employment Policies are published on the intranet in the month of issue. No hard copies are distributed.

Index

Keywords: Grievance Policy, Grievance Procedure, Grievance Form, Appeal, Dignity at Work