



The Scottish Parliament
Pàrlamaid na h-Alba

Appeals and Grievances

Ath-thagraidhean agus
Cùisean-gearain

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Introduction

This grievance procedure will enable you to raise an issue with an appropriate manager and ensure that your grievance is dealt with fairly, consistently and within a reasonable timescale. The procedure reflects the [ACAS Code of Practice on Discipline and Grievance](#).

Further guidance on the application of this procedure is available:

- [Guidance for staff raising a grievance](#)
- [General grievance guidance](#)
- [Guidance for appeal managers](#)
- [Grievance guidance for staff against whom a complaint has been made](#)

Definition of a grievance

A grievance is a complaint that you may have in relation to your work; terms and conditions of employment; working conditions; or working relationships and which affects you personally.

Collective grievances

Where a decision affects more than one individual, you may raise the grievance collectively through your trade union. If you are not a member of a trade union, you should contact the [Human Resources Office](#) for advice on how you should proceed. A collective grievance may be appropriate where a decision is not in the gift of the manager hearing the grievance, for example a change to working hours that affects the whole business area which would need an agreement between the TUS and the Leadership Group.

Individual grievances

If the issue causing you concern is personal, your grievance should specify how any decision affects you.

Raising a Complaint on an Informal Basis

You should consider raising any concerns or complaints you have about your work initially on an informal basis with your manager or where appropriate directly with the individual who has caused you to feel concerned. Informal action may resolve the problem quickly and preserve working relationships.

Formal Grievance Procedure

If you consider that an informal approach is not appropriate or you feel that your informal grievance has not been resolved, you may wish to raise your grievance formally, in writing.

The formal grievance procedure is in three stages.

Stage 1 – statement of grievance

- You must set out your grievance in writing, making clear the nature of your complaint and, where applicable, detailing any attempts you have made to try to resolve the issue on an informal basis. You should also provide an indication of what outcome you wish to be achieved. Your written grievance should normally be submitted to your manager. If the grievance relates to your manager, you may wish to raise your concern with the next manager in the chain. If you are unsure of the appropriate person to raise your grievance with, please contact the [Human Resources Office](#).

Stage 2 – the meeting

- The manager hearing the grievance (Hearing Manager) will invite you to attend a meeting to discuss the grievance and to try to come to a solution.
- This meeting will be held within 5 working days of you making a complaint unless otherwise agreed where they may be necessary delays.
- You have the right to be assisted at this meeting by a trade union representative or work colleague. Assisted means that the person who attends with you may:
 - ◇ put forward your case;
 - ◇ sum up your case;
 - ◇ respond on your behalf to any view expressed at the hearing.
- The Hearing Manager will inform you of his or her decision in writing within 5 working days of the meeting unless otherwise agreed where they may be necessary delays.
- The Hearing Manager will also inform you of your right of appeal if you are not satisfied with the decision.

Stage 3 – appeal, if necessary

- If you do not consider that your grievance has been resolved satisfactorily, you have the right to appeal.

Formal Grievance Procedure

Stage 3 – appeal, if necessary (continued)

- If you wish to appeal, you should set out the grounds for your appeal in writing and submit it to the appropriate Appeal Manager (who will be identified in the grievance outcome letter) within 5 days of the date you were notified of the outcome of the formal grievance hearing unless otherwise agreed where they may be necessary delays. Your appeal must cover all the relevant issues including, if appropriate, the process followed by the Hearing Manager at the first stage of the procedure. The Appeal Manager will invite you to attend a meeting to consider the grounds of your appeal.
- This meeting will be held within 5 working days of receiving your written statement of appeal unless otherwise agreed where they may be necessary delays. Again, however, the meeting may be delayed and / or a second meeting held with you, if the appeal manager requires to carry out any investigation into your complaint in order to make a reasonable response to it.
- You have the right to be assisted at this meeting by a trade union representative or work colleague.
- Following the appeal meeting, the appeal manager may notify you verbally of his or her decision, which will be final. The appeal manager will confirm his or her decision in writing within 5 working days of the meeting unless otherwise agreed where they may be necessary delays.
- The grievance procedure is complete at this stage and there is no further right of appeal.

Grievance procedures for Assistant Chief Executives and the Clerk/Chief Executive are set out in their contracts of employment.

Enquiries

If you have any enquiries about the grievance or any other appeals procedures, you should contact the Human Resources Office.

Legal Representation at Public Expense

1. You may be involved in legal proceedings or formal enquiries as a consequence of your employment. Unless the circumstances are covered by the rules set out in paragraphs 5 and 6 below, the SPCB has discretion to grant you some or all of your legal representation or pay for some or all of your legal costs. In deciding whether to exercise this discretion, the SPCB will take into account the following considerations:

- whether or not it is in its interest to grant assistance;
- whether the act in question was committed or suffered within the scope of your employment.

2. The SPCB will provide legal representation if you are sued for damages as a result of actions carried out in the course of your employment. This representation will be by the solicitor acting for the SPCB. Any damages and/or liability for the other sides' costs will also be met from public funds. This right does not apply if:

- the SPCB considers that you were acting outside the scope of your employment; or
- you refuse to instruct the solicitor in terms required by the solicitor.

3. The SPCB will also:

- provide legal advice if you are assaulted in the course of your official duty and give assistance with any subsequent proceedings; and
- allow you to be represented by the SPCB's legal representatives if you are involved in an inquest or fatal accident enquiry as a result of your official duty, provided there is no conflict of interest; and
- when a formal enquiry might lead to you being blamed, consider with its legal adviser whether you should be given legal representation at public expense; tell the relevant trade union of its provisional decision and give sympathetic consideration to the trade union views; and
- provide legal representation if you are sued as a result of the findings of the enquiry for actions carried out in the course of your official duty, unless you appear to have been guilty of wilful or gross negligence.

Right of appeal

4. If you are refused legal representation or assistance with legal expenses, you may appeal to the Chief Executive to have this decision reviewed.

Liability of Assistant Clerk/Chief Executives

5. Subject to paragraph 6, the SPCB will accept responsibility for the civil liabilities, including costs, incurred by in connection with the performance of the functions of an Assistant Clerk/Chief Executive (or any similar position, however described), provided that the SPCB has given written confirmation that the appointment is one to which this paragraph applies.

6. Paragraph 5 will not apply if:

- the liability arises from any wilful default or bad faith on the part of the Assistant Clerk/Chief Executive; or
- the Assistant Clerk/Chief Executive is otherwise indemnified against the liability.

Appeals and Grievances (English only)

For further information contact:

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