



Arolygiaeth Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru  
Her Majesty's Inspectorate for Education and Training in Wales

# Grievance policy and procedures

**Information sheet**

For further advice contact: Human Resources

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**Version control**

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**Impact Assessment**

A business rationale assessment has been carried out and this policy contributes to Estyn's strategic objectives and delivery principles.

An equality impact assessment has been carried out and this policy is not deemed to adversely impact on any people on the grounds of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation or language.

**Policy agreement**

This policy and its associated procedures are agreed by Estyn's management and Trade Unions.

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## Policy principles

This procedure aims to promote good employee relations and deliver fair and equal treatment of all employees. Grievance procedures will be followed where there is a complaint relating to the treatment of an employee. This will include complaints of bullying, harassment and discrimination.

The emphasis will be on the use of an informal and/or a mediation approach to resolve the complaint, wherever possible. Employees are expected to try to resolve work-related problems and issues themselves initially or informally with their line manager first.

Complaints must be raised without unreasonable delay and within **three months** of the issue or incident which forms the basis of the complaint.

An employee leaving Estyn, must make every effort to raise their complaint at the earliest opportunity. Failure to do so may result in Estyn not being able to deal with their issue fully.

All complaints should be dealt with promptly, transparently, fairly and consistently.

Everyone involved in the grievance process is expected to:

- try to resolve the issue informally before raising a formal grievance
- show respect for others
- work together to resolve the complaint
- maintain confidentiality

This policy is not to be used to deal with complaints arising from the application of other policies and procedures that include an appeal mechanism, for example, discipline, poor performance and attendance.

## Scope of policy

This policy and its related procedures apply to all employees, including those on probation and fixed-term appointments. Staff on secondment or loan to Estyn can use this policy and procedures in respect of issues relating to the secondment/loan agreement. This policy does not apply to temporary workers, however we would look to address any concerns raised by temporary staff on an informal basis. Staff on secondment/loan or on a temporary contract may be asked to participate in grievance procedures (e.g. as a witness).

If a member of the SCS has a grievance which cannot be resolved informally, they should direct their written statement to Her Majesty's Chief Inspector (HMCI), who will determine the most appropriate person to deal with the grievance. The formal procedure outlined below will then be followed.

## **Policy summary**

Many complaints and disagreements at work can be resolved informally through discussions with a colleague and/or a line manager. When necessary and appropriate they will be resolved by using the formal grievance procedure.

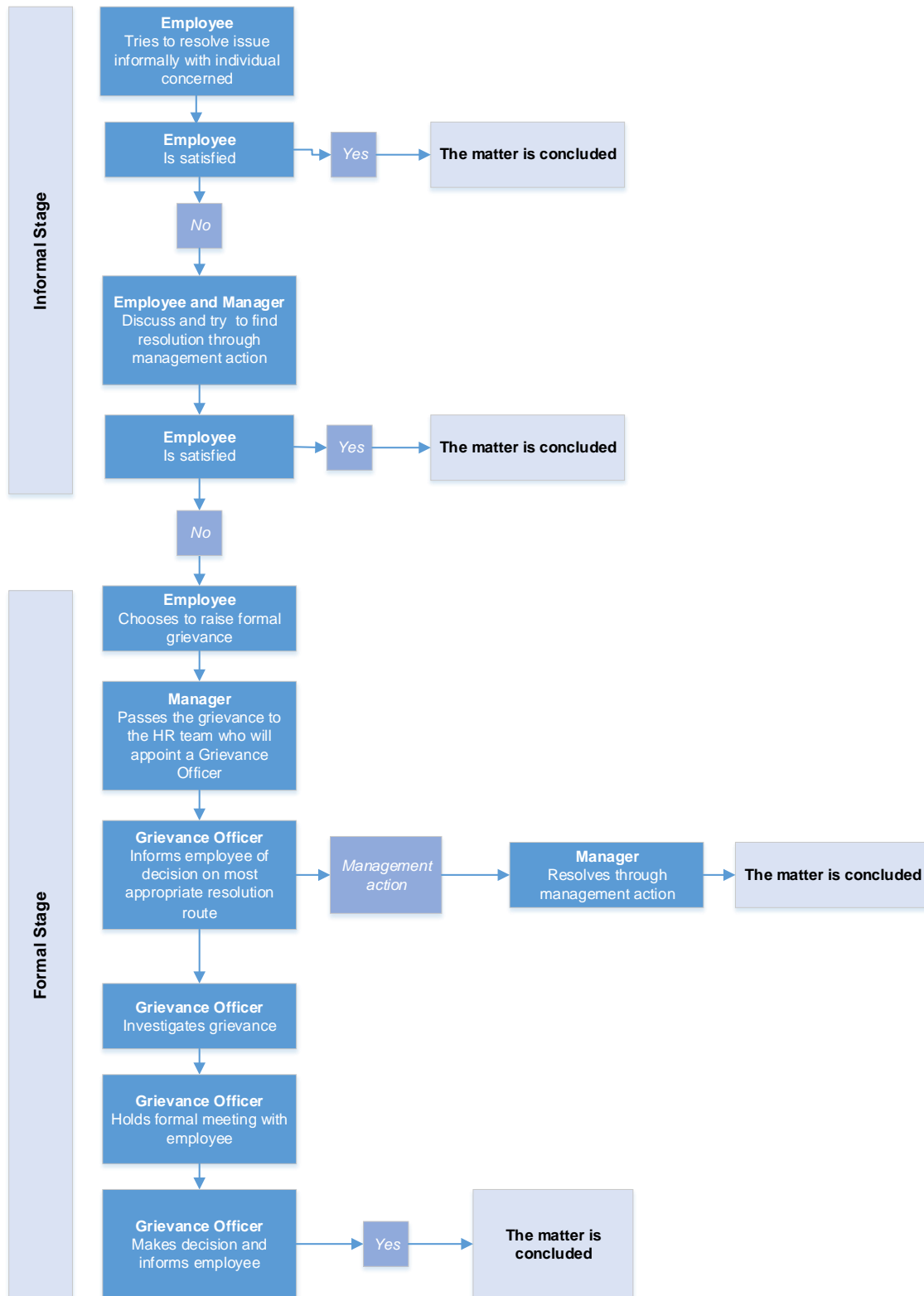
The formal grievance procedure consists of three stages:

- raising a formal complaint
- resolving a formal complaint
- appeals

## **Welsh language**

Staff can pursue any grievance in Welsh or English. Similarly, if a member of staff is subject to a grievance they may respond to the grievance in their language of choice.

**Process overview**



**Note:** an appeal is available to the employee after the formal stage is concluded

## Introduction

- 1 This procedure must be followed to ensure that the statutory code of practice laid down by the Advisory, Conciliation and Arbitration Service (ACAS) is adhered to.
- 2 The '*Grievance Advice*' contains tips and templates for use throughout the process, including a Grievance Officer's checklist. Additional support is available through the following '*How to*' guides:
  - Resolve complaints informally
  - Consider a formal grievance
  - Recognise and deal with vexatious and malicious grievances
  - Recognise and deal with bullying, harassment and discrimination
  - Investigate discipline and grievance cases
  - Hold a formal discipline or grievance meeting
- 3 Managing Discipline and Grievance Cases e-learning is also available on Civil Service Learning, [here](#).
- 4 Where necessary, managers should also consult HR for advice. Further support can also be sought from Estyn's Employee Assistance Programme.
- 5 All actions in this procedure should normally be taken within the set times. However it is recognised that this is not always possible due to the complexity of the case or circumstances such as working patterns, annual leave, public holidays and/or employee absence or disability, in which case all actions should be done as soon as reasonably possible. The reasons for any delay should be recorded.
- 6 If the employee requires any reasonable adjustments to be put in place to enable them to attend meetings or deal with correspondence, they should inform the manager accordingly. Managers will need to put adjustments in place before taking action.
- 7 A summary of the procedure is in the flowchart: '[Process overview](#)'.
- 8 If a complaint has been made against an employee, the employee will be informed and could be invited to a meeting to discuss the complaint. This could be part of an informal or formal complaint.
- 9 All employees have a right to be accompanied by a companion at formal grievance meetings. Further detail on companions can be found in the '*Grievance Advice*.'

## Informal stage

### Employee action

- 10 Employees are expected to try to resolve work-related problems and issues themselves or informally with their line manager first. Common problems which cause employees to raise grievances include relationships with colleagues, or the way employees are affected by organisational or management decisions.
- 11 Where an employee is uncomfortable with someone's behaviour, they should try to have an honest and open discussion with the colleague concerned. If it is not possible to talk directly with the colleague, the employee's line manager may act as a facilitator and/or may suggest other informal ways in which to resolve the issue, for example, through mediation. Further information on mediation can be found in '*How to: Resolve complaints informally*'
- 12 Brief notes of any agreed informal action should be kept for reference, and progress should be reviewed over specified periods as appropriate. Details could be included in an employee's CPM form.
- 13 If an employee is unhappy about a management or organisational decision, they should raise the issue with their line manager as soon as they become aware of its impact. If the individual would prefer not to raise it directly with that line manager she/he should discuss with the next person in the line management chain. The formal grievance procedure should be used only if it is not possible to resolve the grievance informally.
- 14 Employees still have a right to raise a formal complaint at any time during or after the informal stage.
- 15 If a line manager considers that the grievance should proceed straight to the formal procedure, he/she should prepare the case to the Director of Corporate Services who will decide whether there are exceptional reasons why the case should proceed directly to the formal stage.

### Management action

- 16 Managers should offer support to employees to try to resolve issues informally at the earliest suitable opportunity.
- 17 For more information, managers should read the '*How to: Resolve complaints informally*' guide.



## Formal stage

### Raising a formal grievance

- 18 Whenever possible, employees should try to resolve their grievances informally. When raising a formal grievance, employees must provide a written statement (using Model letter 1 – Formal Grievance letter):
- raise the complaint without unreasonable delay and within three months of the event or issue taking place
  - be clear about the grounds for the grievance
  - describe what they have done so far to resolve the complaint themselves through informal action. If the employee has not taken informal action they should explain why
  - stick to the facts
  - avoid using language which might be considered insulting or abusive
  - state what outcome is being sought
- 19 If the grievance concerns the line manager, it should be sent to the next manager in the line management chain.
- 20 Employees can get advice and support from a trade union representative or a work colleague.

### Resolving a formal grievance

- 21 The manager receiving the grievance must inform the HR team that a grievance has been received, who will inform the relevant Strategic Director and the Director of Corporate Services. The manager in liaison with the HR team should consider and decide whether the complaint can be dealt with by management action. Ultimately, an aggrieved employee is seeking resolution as quickly as possible and this may be best achieved by an early discussion with the employee.
- 22 Where consideration indicates that the complaint is more appropriate for management action, the manager should meet with the employee, discuss the complaint and make a decision. This action normally concludes the matter. The manager should write to the employee giving their final decision. For more information, managers should refer to the '*How to: Resolve complaints informally*' guide.
- 23 If informal management action is not appropriate, the HR team will consider the grievance and decide who is the most appropriate person to deal with the grievance (the Grievance Officer), the Grievance Officer should start the formal process, and consider the following *How to* guides:

- How to hold a discipline or grievance decision meeting
  - How to Investigate discipline and grievance cases
- 24 The Grievance Officer must be a HEO or above and would normally be at least one management level higher than the person who raises the grievance.
- 25 The Grievance Officer should invite the employee to a meeting to discuss the grievance normally within **five working days** of its receipt, using Model letter 2 – Grievance acknowledgment. If an investigation is needed, the investigation must be done before the meeting takes place, this may include interviewing witnesses and/or other employees. Further advice on witnesses can be found in the Grievance Advice. The Grievance Officer will give the employee at least **five working days'** notice of the meeting following completion of the investigation. The Grievance Officer must inform the employee of any delay.
- 26 The meeting invitation should:
- give the employee at least **five working days'** notice of the meeting
  - tell the employee they have the right to be accompanied by a trade union representative or work colleague. If the employee or their companion cannot reasonably attend the meeting, they should propose new dates to allow the meeting to take place within **five working days** of the original meeting date. If they do not do this, or fail to attend the re-arranged meeting, consideration of the grievance will go ahead in their absence based on the available information
  - ask the employee if any specific requirements or adjustments need to be made to enable them to attend the meeting
  - enclose the investigation report if it is available at this time
- 27 Further advice on the role of a companion can found in the Grievance Advice.
- 28 A note-taker should be present at the meeting, and will tend to be a member of the HR team who can also advise on procedures.
- 29 The note of meeting will need to be checked and signed, as a fair and factual accurate record of proceedings by the employee, and will need to be returned to the Grievance Officer. If the employee is unable to agree the record, effort should be made to include any reasonable amendments and to resolve any remaining points of difference. If areas of disagreement about the record remain, the note will be marked as not agreed and the proposed amendments will be attached to it, so that they can be taken into account before any decision is made.
- 30 At the meeting, the Grievance Officer will assess the complaint and, if appropriate, take time out for reflection before giving a same-day decision to the employee. The decision will normally be confirmed in writing within **five working days** by letter which will include a note of meeting and a grievance report, using Model letter 5 – Grievance decision letter. Further detail on what the Grievance Office should include

in the report can be found in the following How to Investigate discipline and grievance cases guide (which includes a note template).

- 31 If the decision is not to be made on the same day or within **five working days** of the meeting, for example, because further investigation is needed, the employee must be given a reason for the delay and told when they can expect a decision.
- 32 If the grievance case is not resolved after 40 working days it is advisable for the case to be reviewed by the HR team. The purpose of the review is to ensure that everything is being done to progress the case, that the correct process is being followed and that there are no unnecessary delays.

## Appeals

- 33 There is one right of appeal in this procedure. Appeals can be made against:
  - procedural errors; and/or
  - decisions, including cases where new evidence has been raised that may change the outcome of the original decision
- 34 Appeals on grievance matters must be heard, where possible, by someone senior to the person who made the decision that is being appealed. If this is not possible, due to operational circumstances or some other reason, a manager at the same level as the Grievance Officer may hear the appeal. The Appeal Manager should be impartial and independent of the original case wherever possible.

## Employee action

- 35 Employees have **five working days** from the date of receipt of the written decision in which to send their written appeal to the HR team. The employee must:
  - make clear whether the appeal is against a procedural error and/or the decision
  - provide new information or evidence if this is the reason for the appeal
  - clearly state their desired outcome.

## Appeal Officer's action

- 36 The HR team will consider the reason for appeal and if legitimate will appoint an Appeal Officer to consider the appeal. This person will be at least an HEO, will be a manager who has not previously been involved with the case and is, where possible, someone senior to the person who last dealt with the grievance.
- 37 Once appointed the Appeal Manager should consider the following *how to* guide:
  - How to hold a discipline or grievance meeting

- How to Investigate discipline and grievance cases
- 38 The Appeal Manager should normally invite the employee to a meeting within **five working days** of receiving the appeal, using Model letter 6 – Invitation to appeal meeting. They should:
- give the employee at least **five working days'** notice of the meeting
  - inform the employee they have the right to be accompanied by a trade union representative or work colleague.
  - ask the employee if any specific requirements or adjustments need to be made to enable them to attend the meeting
- 39 At the meeting, the Appeal Manager should examine the decision making process which will include evidence provided by the Grievance Office and the proposed solution and decide whether these were reasonable. They should not reconsider the grievance in detail or consider any new complaints.
- 40 A note-taker should be present at the meeting, and will tend to be a member of the HR team who can also advise on procedures. The note will need to be signed as detailed in paragraph 27.
- 41 If new evidence is made available, the Appeal Manager should consider the impact this may have on the final decision.
- 42 The Appeal Manager should inform the employee of the outcome of their appeal in writing and normally within **five working days** of the appeal meeting, using Model letter 7 – Grievance appeal decision letter.
- 43 The Appeal Manager's decision is final.

### Collective grievances

- 44 The collective grievance process will be used where:
- a grievance is brought, with trade union support, by two or more employees
  - a grievance is brought by two or more employees who appoint one of them or another individual to represent them; or
  - two or more employees independently raise separate grievances on the same issue.
- 45 The process is as follows:
- where there is no trade union representation, employees must elect a spokesperson to deal with all aspects of the grievance for the group

- if appropriate, a meeting may be arranged between the spokesperson or a trade union representative and the responsible manager to discuss the way forward
  - a single written appeal is allowed and should be sent by the spokesperson or trade union representative to the Appeal Manager who will always be impartial and not previously involved in the grievance.
- 46 Where a collective grievance is brought, or supported by a trade union or other appropriate workplace representative, there is no right for an individual employee to opt out of the grievance being heard collectively.
- 47 Where a number of employees have raised similar grievances independently, it will be the department's decision whether to deal with them individually or collectively.
- 48 If an employee has raised a grievance as part of a collective grievance, they cannot then raise the same issues as an individual grievance.

### **Grievances overlapping with other procedures**

- 49 Where an employee raises a grievance during another procedure, such as poor performance, attendance or discipline, the ongoing process will continue. Where the ongoing process and the grievance are related, it may be appropriate to deal with both issues at the same time. Wherever possible, the grievance should be dealt with at the appeal stage of the relevant process. This would include complaints of bullying, harassment and discrimination.
- 50 Exceptionally, it may be better to delay an ongoing process to hear the complaint first.

### **Grievances raised by former employees**

- 51 If an employee leaves Estyn part way through the formal grievance procedure, a written response will be given where the investigation has been completed or where it is possible to complete it.
- 52 A former employee should raise their grievance without unreasonable delay and within three months of the incident which caused it.
- 53 The following modified approach will apply and contains two steps:
- the former employee sends a written statement of grievance to their former manager or directly to Estyn
  - Estyn would normally write to the former employee within twenty working days of receiving the grievance informing them of the decision.
- 54 Estyn's decision is final.

## Record keeping

- 55 It is important that a written record is kept at all stages of the process. Following conclusion of the process the Grievance Officer and/or Appeals Managers should send copies of **all** the documents to the HR team.
- 56 Records must be protectively marked 'OFFICIAL: STAFF', and will be kept securely and handled in line with departmental record management policy. All records will be destroyed six years after the last action on the file.
- 57 At all stages, documentation should be managed in compliance with the requirements of the Data Protection Act 1998, and Estyn's [Information Assurance Policy](#) and [Record Retention Policy](#).

## Bullying, harassment and discrimination complaints

- 58 Estyn has a zero tolerance approach towards bullying, harassment and discrimination.
- 59 Bullying, harassment and discrimination complaints will normally be sent to the employee's line manager who should inform the HR team that a complaint has been received. If the grievance is against the line manager, it should be sent to the next manager in the line management chain. If the employee believes this manager is implicated, they should send the grievance to the Director of Corporate Services who will appoint an independent manager to deal with the case.
- 60 The HR team will appoint an appropriate grievance officer to deal with the grievance.
- 61 Zero tolerance does not mean that such behaviour will automatically be considered gross misconduct or result in dismissal. However, if an employee complains about bullying, harassment and discrimination, the Grievance Officer should follow the formal grievance procedure, making sure that they:
- always treat allegations seriously
  - always investigate; this may include interviewing witnesses
  - inform the employee who is the subject of the grievance.
- 62 The discipline procedure may need to be started if the grievance investigation confirms the bullying, harassment or discrimination allegations.
- 63 If the grievance procedure investigation has established that there **is a discipline case to answer**, there is no need to start the discipline procedure investigation from the beginning. However, further investigation as part of the discipline procedure may be necessary.

## Process overview – text version

Problem or issue occurs

### **Informal stage**

Step 1. Employee tries to resolve issue informally with the individual concerned

Step 2. Employee is satisfied.

Step 3. Employee and Manager discuss and try to find resolution through management action.

Step 4. Employee is satisfied.

**Yes: go to step 4**

**No: go to step 5**

Step 5. The matter is concluded.

Step 6. Employee chooses to raise a formal grievance.

Step 7. Manager passes the grievance to the HR team who will appoint a Grievance Officer.

Step 8. Grievance Officer informs employee of decision on most appropriate resolution route.

**Informal management action route: Go to step 8**

**Formal Grievance route: Go to step 10**

Step 9. Manager resolves through management action.

Step 10. The matter is concluded

### **Formal Grievance**

Step 11. Grievance Officer investigates grievance.

Step 12. Grievance Officer holds formal meeting with employee

Step 13. Grievance Officer makes decision and informs employee.

Step 14. The matter is concluded.

An appeal is available to the employee after the formal stage is concluded.