



GRIEVANCE POLICY

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CONTENTS

VERSION CONTROL SHEET	3
1. POLICY STATEMENT	4
2. SCOPE	4
3. THE LAW.....	4
4. ROLES AND RESPONSIBILITIES.....	5
5. GRIEVANCE PROCEDURES.....	6
6. MEDIATION.....	10
7. FALSE, VEXATIOUS OR MALICIOUS COMPLAINTS.....	10
8. SUPPORT, ADVICE AND INTERPRETATION	10

VERSION CONTROL SHEET

Version	Author	Review date	Changes	Approved by	Approval date
V1	Human Resources	February 2021	Introduction of a specific Grievance Policy to provide clarity on roles and responsibilities, and further detail on the stages within the existing process (detailed in the Staff Handbook).	Principal	June 2021

1. POLICY STATEMENT

The FRA believes in a culture of open communication and feedback, encouraging staff to discuss and settle any issues they may have as a matter of course. However, it is recognised that employees may, from time to time, have concerns, problems or complaints that need to be discussed and resolved in a more formal manner. The purpose of this policy is to ensure that all employees have a supportive avenue to raise such concerns and that issues raised are dealt with promptly, fairly and consistently.

2. SCOPE

This policy incorporates the FRA's informal and formal grievance procedures. It is designed to deal with a wide range of potential employment issues, such as an aspect of an employee's work, working environment or conditions, and challenging working relationships. It is also designed to manage complaints of bullying and/or harassment should staff wish to make a formal complaint, although employees should refer to the FRA's Harassment & Bullying Policy in the first instance.

It is not designed for complaints regarding outcomes of the following formal processes:

- Disciplinary
- Redundancy
- Performance management
- Probation

All of the above have appeal processes, separate to the Grievance Policy.

If misconduct is suspected during or following a grievance investigation, the Disciplinary Policy will apply.

If a grievance is raised by a member of staff who is subject to a disciplinary process, the disciplinary will usually be concluded before the grievance is heard. If a grievance has the potential to have a bearing on the disciplinary outcome, it can be raised as an issue to be considered as part of the disciplinary proceedings. Alternatively, at the absolute discretion of the FRA, the disciplinary process may be temporarily suspended in order to deal with the grievance first.

This policy applies to employees only and does not apply to contractors, consultants, agency workers or any self-employed individuals working for the organisation. If individuals in these categories wish to raise a complaint, they should speak to the manager of their contract, or the Human Resources department of the organisation they are contracted to who should be able to advise on the appropriate process to follow.

This policy does not form part of employees' terms and conditions of employment and may be subject to change at the discretion of the FRA.

3. THE LAW

The Employment Relations Act 1999 details that an employee is entitled to be accompanied to a grievance hearing. The employee's companion should be chosen by them and can be a colleague or a recognised trade union official. This policy ensures employees are aware of their right to be accompanied to formal grievance meetings and explains the role of an employee's representative at such meetings.

Employment Rights Act 1996 details that an employee's contract of employment must specify how an employee should raise a grievance. All of the FRA's employment contracts reference the FRA's grievance procedure and where this can be found.

The Acas Statutory Code of Practice for Disciplinary and Grievance Procedures, issued under the Trade Union and Labour Relations (Consolidation) Act 1992, sets out the basic requirements of fairness that are applicable to most grievance processes, ensuring the standards of reasonable behaviour are maintained.

The FRA's policy has been written in line with the Code, emphasising the importance of seeking an informal resolution to a grievance (when appropriate), and where formal action is required:

- Undertaking suitable investigation;
- Holding a formal grievance meeting;
- Providing a right of appeal;
- Ensuring an employee is aware of their right to be accompanied during the process.

The General Data Protection Regulation 2016 and Data Protection Act 2018 requires employers to comply with the principles detailed in the Regulation/Act for processing data, including informing employees on how their personal data is held and used. Data collected during a grievance process is treated as highly confidential and it will only be shared where necessary to ensure the appropriate investigation and resolution of an employee's grievance. All data obtained during a grievance process is processed and stored in line with the FRA's Data Protection Policy and the Employee Privacy Notice.

4. ROLES AND RESPONSIBILITIES

4.1 Employees

Employees are responsible for reporting concerns in line with the FRA's Grievance Policy. Additionally, staff are encouraged to:

- Explore informal resolutions in the first instance, as well as being open and contributing to a mutually agreeable outcome (where appropriate);
- Be open with their manager about any concerns so these can be addressed promptly, rather than building up;
- Embrace the FRA's culture of feedback; all employees benefit from feedback and from time to time, this may need to be delivered in a candid fashion;
- Respect the confidentiality of the grievance process for all involved.

4.2 Managers

Managers are responsible for acting in line with the FRA's Grievance Policy, ensuring employees' concerns are acted upon promptly and sensitively, identifying where both informal and formal action is needed, seeking advice from Human Resources as appropriate. Additionally, managers are encouraged to be open to feedback on their own management style, especially where this is an aspect of a concern being raised.

4.3 Human Resources

Human Resources are responsible for advising employees and managers on informal and formal grievance processes, providing guidance on their application and updating the FRA's Grievance Policy where required to ensure compliance with changes to legislation and FRA policy.

4.4 Employee Representatives

Employees are entitled to bring a companion to all formal meetings detailed in this policy and they should notify Human Resources in advance of the meeting if they are bringing someone with them along with their details.

Employee companions should be either a colleague or a recognised Trade Union official. No other type of companion is allowed unless there are exceptional circumstances in which case permission must be sought from Human Resources in advance. The FRA reserves the right to decline permission. If the FRA deems there to be a conflict of interest with the employee's chosen representative, the employee will be asked to select an alternative. Human Resources will verify the identity of a trade union official prior to attending any meetings and reserves the right to decline their attendance if they are unable or unwilling to provide suitable evidence of their identity and status.

The role of the employee companion:

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<p>They may:</p> <ul style="list-style-type: none">• Address the meeting and make representations on the employee's behalf;• Request documentation relevant to the matters being discussed;• Request breaks to confer with the employee;• Summarise the employee's case and make final representations.	<p>They may not:</p> <ul style="list-style-type: none">• Answer questions directed to the employee i.e. they should not put words into the mouth of the employee;• Disrupt the meeting.

4.5 Witnesses

When investigating a grievance, it may be necessary to conduct meetings with colleagues or other individuals who may be able to provide additional clarity on aspects of the complaint. This includes employees who may be the subject of the complaint. Staff who fall into this category should ensure they provide an honest and accurate account on any matters being investigated, as well as ensuring the process is kept strictly confidential.

5. GRIEVANCE PROCEDURES

If an employee's grievance cites harassment and/or bullying, all parties should refer to section 4 of the FRA's Harassment and Bullying Policy for the procedure when dealing with this type of allegation. The Harassment and Bullying Policy should be applied alongside the Grievance Policy, ensuring any requirements set out in the former are incorporated into the grievance process. If there is any conflict between policies, the Harassment and Bullying Policy will prevail.

Where the complaint of harassment and/or bullying is sufficiently serious or there is found to be sufficient evidence, the FRA reserves the right to bypass the Grievance Policy and instigate a formal disciplinary process in relation to the conduct of the accused.

5.1 Informal Grievance Procedure

A discreet conversation is often all that is required to resolve an issue. Therefore, subject to the seriousness of the concerns raised, it is recommended that an informal resolution is explored in the first instance.

If a member of staff is unhappy with any aspect of their work, including relationships with colleagues/managers, they should raise it with their line manager, who will attempt to resolve the situation informally. If an employee feels unable to approach their line manager or their concerns are regarding their line manager, they should either approach their next senior manager or the Human Resources department.

If an employee's concerns relate to another member of staff and the exploration of an informal resolution is deemed appropriate, that other member of staff should be advised of the complaint to enable them the opportunity to make changes to their behaviour and where appropriate, there should be discussion between both parties to agree steps on how the matter can be resolved. Care should be taken when advising the fellow employee of the concerns about their behaviour, ensuring any informal discussion remains non-judgemental.

5.2 Formal Grievance Procedure

If attempts to resolve the concerns are unsuccessful, the employee may raise a formal grievance under this policy. This should be done in writing, without unreasonable delay.

5.2.1 Submitting the Grievance

The employee should submit a written statement of grievance to the Human Resources Manager. This statement of grievance will form the basis of the grievance hearing and any investigations; therefore, it is important that each element of the grievance is clearly laid out, and that it also indicates the preferred outcome being sought.

If an employee has difficulty expressing their grievance in writing because of language or other difficulties, they may seek help from a trade union official or colleague.

Depending on the nature of the grievance, further attempts may be made to resolve the matter informally, however, if the member of staff remains dissatisfied with the resolution, they reserve the right to proceed with a formal process.

5.2.2 Appointing a Hearing Officer

Following receipt of a formal statement of grievance, a manager or a member of the Human Resources department will be appointed to hear the grievance, and where appropriate, undertake an investigation into the concerns raised. To ensure impartiality, when appointing somebody to this role, consideration will be given to the subject of the grievance i.e. the seriousness of the allegation and who/what it is about, as well as the seniority of the aggrieved and their role within the FRA i.e. a manager would not be asked to investigate a grievance of their manager.

The FRA reserves the right to appoint an external Hearing Officer if deemed more appropriate.

5.2.3 Grievance Investigation

It may be necessary to undertake an investigation into the matters raised before proceeding to a grievance hearing. This may include meeting with the employee who raised the grievance to ensure there is clarity around the complaint, as well as meeting with colleagues or relevant individuals who may be able to provide further information

around the concerns raised. When considering who to meet with as part of a grievance investigation, due regard will be given to the potential value a meeting may add, the need to ensure the investigation retains focus, and the importance of keeping the details confidential. Before the hearing takes place, any evidence gathered as part of the investigation will be provided to the employee who raised the grievance to enable them to give it consideration beforehand. Where appropriate, this may be provided in summary form and/or with elements redacted e.g. if there is a need to keep certain aspects of statements confidential.

5.2.4 Notifying the Accused

If the formal statement of grievance is directed at a fellow employee, the individual mentioned will be advised as soon as appropriate. Care should be taken when informing the member of staff, giving consideration to how unsettling a grievance process can be for all parties involved, and taking into account that no allegations have been substantiated at that stage. Where possible, the fellow employee should be kept informed of when to expect an outcome, and should be provided with support where necessary.

The member of staff will have the opportunity to respond to the allegations raised, as part of the grievance investigation. This will usually involve an investigation meeting with the accused. Where there is alleged misconduct, the FRA affords the accused the right to be accompanied by a colleague or trade union official due to the potential for it to lead into a disciplinary process. However, it should be emphasised that this would be a separate process; the grievance investigation meeting should not become a disciplinary hearing.

5.2.5 The Grievance Hearing

Following a member of staff submitting a formal statement of grievance, a hearing will be conducted. This will be held as soon as is reasonably practicable and within two weeks of the receipt of a written complaint, subject to any need to carry out prior investigations.

The hearing will usually be attended by the employee, their representative (if applicable), the Hearing Officer, a member of Human Resources, and a note taker. If a separate note taker is not able to be arranged, this role will be absorbed by somebody else in the meeting (usually Human Resources).

The grievance hearing is an opportunity for the employee to explain their grievance and preferred course of action for the FRA in resolving this matter. Every effort should be made to keep the explanation relevant to the grievance raised. If it is deemed that further investigation is required in order to decide on an appropriate outcome, the hearing will be adjourned and reconvened at a later date.

Summary notes of the hearing will be taken and provided to the employee as soon as possible after the hearing.

5.2.6 Outcome

Following the hearing, an outcome will be communicated to the employee in writing and where appropriate, it will set out what action, if any, the FRA intends to take to resolve the grievance. The outcome will be communicated as soon as practicable and subject to any further investigation required, it will be sent to the employee within a week of the hearing. In the outcome letter, the member of staff will be advised of how they can appeal the decision.

If a fellow employee was the subject of the grievance, they should also be advised of any aspects of the outcome that impact them and the reasons for the decision. If the grievance outcome finds allegations of misconduct against a member of staff to be substantiated, the individual will be informed in writing that the Disciplinary Policy is being invoked. It should

be emphasised that no disciplinary action will be taken under the Grievance Policy; a separate disciplinary process will be undertaken, although documentation from a grievance process is likely to form part of a disciplinary investigation.

5.2.7 Appeal

If an employee is dissatisfied with the outcome of their grievance hearing, they have the right to appeal the decision. An appeal should be submitted in writing to the Head of Human Resources, within a week of the member of staff receiving the outcome that they are appealing. The appeal must be clearly laid out, including specifically what is being appealed, the grounds for this, and any documentary evidence to substantiate their claims.

The appeal will be heard by a manager who has not been involved in deciding the outcome.

At the appeal hearing, consideration will be given to the representations of the employee, the representations of the manager who decided the outcome being appealed, and any new facts that may have come to light. Subject to the employee submitting all the relevant documentation, appeal meetings will normally take place within two weeks of receipt of the employee's written notice of appeal, with the outcome of the appeal being issued within two weeks of the meeting. These timeframes may be extended where there is a need for further investigation. There is no further right to appeal after this meeting; the decision is final.

Where the outcome being appealed is about a fellow employee, where appropriate, they should be informed that the initial decision has been appealed, as well as the anticipated timeframe for the appeal decision. Once a decision on the appeal has been made, the individual should then be informed of any aspect of the decision that impacts them and the reasons for it.

There is no right of appeal for a member of staff who was the subject of a grievance. If a grievance leads to a disciplinary process for another employee, they will have the opportunity to make further representations under the Disciplinary Policy.

5.2.8 Conducting virtual meetings

Where it is not possible to hold a face-to-face meeting, grievance hearings/appeal hearings will be conducted remotely. All attendees will be provided with the necessary access ahead of the meeting to ensure the opportunity for full participation in the process.

5.2.9 Delays and non-attendance to meetings

Grievance processes should always be undertaken without unreasonable delay and where the FRA is unable to adopt the suggested timeframes for meetings laid out in this policy e.g. because further investigation is required to ensure a thorough process, the employee who raised the formal grievance, will be notified of a delay and where appropriate, they will be provided with the reason for this and when they can next expect to be updated.

If the employee who raised the grievance or their representative is unable to attend the date scheduled for a formal meeting, they should advise the Hearing Officer or relevant Human Resources representative as soon as possible, including the reason why they are unable to attend. When providing this notification, the employee must provide a reasonable alternative which must not be more than a week after the date originally proposed. If the employee fails to notify the FRA of their non-attendance or they fail to provide an acceptable explanation for this, the FRA reserves the right to hold the meeting in the member of staff's absence, and any outcome decided in this instance will be binding.

5.2.10 Retention of grievance records

It is necessary for the FRA to retain accurate records of any formal grievance process, so that the issues and any outcomes decided are clearly documented. Records retained include the outcome and supplementary evidence to support this, as well as formal communication sent as part of the process. These records will form part of an individual's personnel records stored in accordance with the FRA's Data Protection and Record Retention Policies. They are only held on the personnel file of another member of staff if the records have formed part of a separate formal process e.g., under the Disciplinary Policy.

6. MEDIATION

Depending on the nature of the grievance, the FRA may deem it appropriate for the matter to be dealt with via mediation. Mediation could be considered an option at any stage of the grievance process (informal or formal), subject to all parties agreeing to the approach. Mediation will usually involve the appointment of an external mediator who will seek to facilitate a discussion and resolution of the issues raised.

7. FALSE, VEXATIOUS OR MALICIOUS COMPLAINTS

The FRA will regard making a false, vexatious or malicious complaint under this policy as a disciplinary matter and therefore, it will be addressed under the Disciplinary Policy.

8. SUPPORT, ADVICE AND INTERPRETATION

The Human Resources department will provide support and advice in the interpretation and application of this policy and procedure.