

# Grievance Policy

1.2

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## **1. INTRODUCTION**

This policy outlines actions to be taken by the manager or a member of staff when a concern arises in relation to staffing issues.

Please refer to Appendix 2 – Policy Route Guidance Flowchart.

These procedures have been agreed with our staff side colleagues.

This policy does not form part of the employee contract of employment, however outcomes following a formal process may then become relevant to an employee's terms and conditions of employment.

This policy may be amended from time to time. SHPCA may also vary any parts of this procedure, including time limits, as appropriate, depending on the circumstances of particular cases.

## **2. SCOPE**

This policy is applicable to all employed staff working within SHPCA, interim (off payroll) workers and volunteers.

## **3. ROLES AND RESPONSIBILITIES**

### **Line manager's Responsibilities**

- To ensure that they themselves and employees are aware of this policy
- To ensure that the policy and its supporting standards and guidelines are built into local processes and that there is on-going compliance
- To adhere to the timescales within the policy to ensure that matters are dealt with quickly, reasonably and as fairly as possible
- To ensure that the informal stage is used wherever possible prior to any formal action being taken
- To involve SCW HR for advice and support when an issue has been raised
- To respond to any concerns raised by employees, consider them fully, sympathetically and fairly in accordance with this policy.
- To treat all employees fairly by applying the policy consistently and ensuring that any personal information is kept in complete confidence in line with the information governance requirements
- To adopt the SHPCA Code of Conduct

### **Employee's Responsibilities**

- To ensure they read, understand and comply with this policy
- To contact SCW HR, their trade union representative or appropriate professional body for advice and guidance
- To try and deal with matters at the nearest point of origin and where appropriate first approach the manager in order to discuss the problem informally
- To attend meetings as required
- To maintain confidentiality.

### **SCW HR's Responsibilities**

- To assist managers and employees in the fair and consistent application of the policy.
- To provide advice to employees and managers concerning individual issues, including advice on the range of options or courses of action that may be taken
- To facilitate informal meetings on request
- To provide coaching and training to managers on the application of this policy
- To provide support at formal meetings
- To provide template letters/documents to managers
- To maintain confidentiality.

## **4. OVERVIEW**

However successful the relationship is between employees and SHPCA, it is possible that from time to time, a problem relating to their employment may arise. When this happens, SHPCA encourage open and honest communication between the employee and their manager to ensure that questions and problems arising in the course of employment can be aired and where possible, resolved quickly and to everyone's satisfaction.

Where matters are not able to be resolved informally, this Grievance Procedure should be followed.

SHPCAs aim is to deal with grievances sensitively and with due respect for the privacy of any individuals involved. All employees must treat as confidential any information communicated to them in connection with an investigation or grievance matter. Employees are free to raise grievances without fear of redress or action of any kind being taken against them

None of the parties present (including witnesses) may make electronic recordings of any meetings conducted under this Grievance Policy unless permission is given by all parties involved.

SHPCA will take false or vexatious grievances very seriously. The Disciplinary Policy will be invoked where it is clear that an employee has made a false, vexatious or malicious claim against SHPCA or another employee.

## 5. WHAT IS A GRIEVANCE?

For the purposes of this procedure a grievance shall be interpreted as a concern, problem or complaint that the employee raises with their employer. This can include (but not limited to):

- The nature or range of duties
- Working practices
- Organisational change within SHPCA
- Contractual terms and conditions of employment
- Working environment
- Management decisions
- Working relationships
- The operation of jointly agreed policies / procedures
- Handling of sickness absence management
- Appeal against outcome of a harassment investigation.

The following items are specifically **excluded from this procedure**:

- Disciplinary / performance management matters
- Nationally mandated changes and regulations such as:
- Conditions relating to the any Pension Scheme
- Nationally imposed agreement.
- An attempt within six months of the completion of action under the grievance procedure to restart the procedure in respect of the same or similar grievance, unless action decided upon by management to redress that grievance has not been implemented.

### Mediation

At any stage in this procedure, the parties to the grievance may request that the matter be referred for mediation. Mediation is likely to be most appropriate in cases involving interpersonal relationships. There may, however, be circumstances in which alternative non-adversarial discussions may be undertaken with the aim of promoting a speedy resolution.

Mediation is voluntary and will take place only if all parties agree. It is, however, hoped that employees will recognise the benefits of seeking to resolve issues via mediation and will be amenable to and cooperate with this approach.

## 6. GRIEVANCE PROCESS

### Informal Procedure

If possible, employees should try to resolve any potential grievance informally with their manager. The manager should make discreet investigations in order to resolve the matter promptly and fairly. Where the grievance is about another employee, that employee will be given the opportunity to answer the grievance and put their side of the case to the manager.

If the grievance is with the immediate manager, the employee may raise the grievance with the next level of management or alternatively with SCW HR.

If the matter remains unresolved, or if the employee does not wish to raise the matter informally first, the employee should follow the formal part of this Grievance Procedure. Each step and action under the Grievance Procedure should be taken without unreasonable delay.

There may be circumstances where the manager views an informal concern as sufficiently serious or far-reaching to require investigation under the formal Grievance Policy, even if the person raising the concern does not wish the matter to be treated formally. In these circumstances, the matter will be discussed with the person raising the concern, in conjunction with SCW HR, and they will decide on the appropriate course of action.

In some cases, we will offer mediation as a way of resolving issues (please refer section above).

### **Formal Procedure**

If it is not possible to resolve the grievance informally, the employee should raise the matter formally in writing to their line manager setting out the nature of their grievance and the resolution they seek to achieve.

If a grievance is raised in line with this policy the status quo will normally apply until the procedure has been completed or the grievance resolved. The status quo is defined as the working and management arrangements which applied prior to the grievance.

A grievance hearing will need to be set up normally within 14 calendar days of receipt of the grievance, unless an investigation is needed and a longer timescale is mutually agreed.

At all formal stages of this procedure, employees have the right to be accompanied by a work colleague or an appropriate trade union representative.

### **Investigation**

If the grievance is about another employee, evidence should be provided by the individual raising the grievance to the investigating officer within five working days of the individual being informed of the appointed investigating officer. An extension to this date may be agreed by the investigating officer.

Some circumstances will warrant a pre-meeting to hear the grievance which may be followed by an investigation and then a grievance hearing. In this case, extended time frames will be mutually agreed by both parties.

If an investigation is required, refer the Investigation Policy.

## **Grievance Hearing Procedure**

The grievance hearing panel will include the line manager (or other appropriate manager depending on the grievance being raised) or another appropriate person who will act as chair and a human resources representative.

Employees have the right to be accompanied by a work colleague or an appropriate trade union representative.

It is the responsibility of the parties concerned to arrange for the attendance of their witnesses. In the case of witnesses who are employees of SHPCA, time off work with pay will be granted for them to attend. Witnesses will only be present at the hearing whilst giving evidence.

SHPCA will look to provide a maximum of two alternative dates/times in the event of the employee and/or representative being unable to attend the first date set, as long as it is reasonable and not more than five working days after the date proposed by SHPCA, unless mutually agreed between SHPCA and the employee. If the employee does not attend the second alternative date, their grievance would normally be treated as withdrawn. If in these circumstances a pre-hearing investigation has occurred a decision may be made to conclude the grievance based on the available evidence.

Please refer to Appendix 1 Proceedings of a Grievance Hearing.

## **Outcome of Grievance**

Following the hearing, the panel will decide on what action, if any, to take. This could be immediately after an adjournment of the hearing or be communicated in writing if the outcome takes longer to decide. A decision in writing will normally be given to the employee within a reasonable period after the meeting. Where appropriate, the decision will set out what action SHPCA intends to take to resolve the grievance.

The employee may, at the discretion of the chair of the panel, be invited to a meeting to discuss the outcome of their grievance.

The employee will be notified of their right to appeal against the decision if the employee is not satisfied with it.

If the grievance is found to be malicious, frivolous, or vexatious the individual raising the grievance may be subject to disciplinary action.



## Appeal

The employee has the right to appeal against action under this policy.

If the employee feels that a decision under this procedure is wrong or unjust they should appeal in writing, stating their full grounds of appeal, to SCW HR within one week of the date on which they were informed in writing of the decision.

They must stipulate their full grounds of appeal in writing, which should be one or more of the following:

- New evidence that was not previously obtainable
- Failure to follow the procedure
- The level of sanction received.

It is not sufficient merely to disagree with the decision made.

If they raise any new matters in their appeal, SHPCA may need to carry out further investigation. If any new information comes to light SHPCA will provide the employee with a summary including, where appropriate, copies of additional relevant documents and witness statements. The employee will have a reasonable opportunity to consider this information before the hearing.

The employee will be given written notice of the date, time and place of the appeal hearing. The appeal hearing will be held as soon as reasonably practicable, but the employee will be given a reasonable amount of time to prepare their case.

At all formal stages of this procedure, employees have the right to be accompanied by a trade union representative or work.

The appeal hearing will normally take the form of a review of the formal stage and not a complete re-hearing.

Where possible, the appeal hearing will be conducted by another manager at a more senior level, who has not been previously involved in the case. A member of the SCW HR team will also be present, and if appropriate along with the presence of a lay member of the organisation. The employee may bring a trade union representative or a workplace colleague with them to the appeal hearing.

A hearing may be adjourned if there is a need for SHPCA gather any further information or give consideration to matters discussed at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

**Following the appeal hearing SHPCA may :**

1. Confirm the original decision
2. Revoke the original decision or
3. Substitute a different penalty.

SHPCA will inform the employee in writing of the final decision as soon as possible, usually within seven days of the appeal hearing. Where possible this will also be explained in person. There will be no further right of appeal.

## **7. COLLECTIVE DISPUTES**

Where a grievance is raised by a group of employees and is not resolved within the informal stages of this procedure, a representative for the group needs to be nominated to state the complaint.

The formal grievance procedure will be followed with the employee's representative involved in the hearing and feeding back to the other employee's involved as appropriate.

## **8. OVERLAPPING GRIEVANCE AND DISCIPLINARY CASES**

If the employee raises a grievance during a disciplinary process, the disciplinary process may be temporarily suspended in order to deal with the grievance. Where the grievance and disciplinary cases are related, it may be appropriate to deal with both issues concurrently. This Grievance Policy should not be used to complain about dismissal or disciplinary action. If the employee is dissatisfied with any disciplinary action, the employee should submit an appeal under that procedure. If their issue relates to performance management or flexible working policy decisions, the employee should follow the procedure set out in the relevant policy.

## **9. EX-EMPLOYEES**

Where an individual has left SHPCA but wishes to raise a grievance, a modified procedure will apply. The ex-employee must set out the basis of the grievance in writing within six weeks of leaving SHPCA and send it to their line manager. The manager will then respond to the grievance in writing (with support from SCW HR) and offer the ex-employee the opportunity to meet.

## **APPENDIX 1 - PROCEEDINGS OF A FORMAL GRIEVANCE HEARING**

The checklist below is for guidance purposes only, as it is recognised that the Chair will need to determine how best to manage any hearing given the individual circumstances of the case.

### **INTRODUCTIONS**

- Welcome attendees.
- Request that all attendees turn off any electronic devices to avoid unnecessary interruptions during the meeting.
- Introduce those present and their roles, this may include: panel members, HR member supporting the panel, note taker if applicable, etc. If the employee is not accompanied explain that they were offered the right to be accompanied
- Representation of Employee – If accompanied confirm the role of the companion, i.e. that they will be able to address the hearing in order to: put the employee's case forward; sum up the case; respond on the employee's behalf to any view expressed at the hearing; and confer with the employee. However, the representative will not usually answer questions on behalf of the employee, but may do so with the agreement of the panel. If not accompanied note that the employee has been advised of their right to be accompanied but has chosen to attend unaccompanied.
- Confirm with the employee that they have received the letter notifying them of the meeting and any associated documentation.
- Confirm with the employee that they understand that it is a formal grievance meeting which will be conducted in line with the relevant SHPCAs' Grievance procedure.

### **OUTLINE PROCEDURE**

- Advise of the procedure or if appropriate invite a HR representative to outline the procedure.
- Confirm documentation provided – Identifying, if appropriate, any other documentation the panel has at their disposal for reference purposes.
- Adjournments - Advise that any party can request an adjournment, via the chair. Identify the location of any separate rooms available to provide the parties with private space during these adjournments.
- Taking of Notes – Advise that the note-taker will take summary notes to support the panel's consideration. Should the employee want a summary of these notes these can be provided on request. Advise that both the employee and their representative would be welcome to make their own notes.
- Respond to any procedural concerns/queries that may arise.

### **EXPLORE THE ISSUE**

1. Invite the employee to explain his/her complaint/concern and what remedy/resolution they are seeking (this may be done by their representative if they so wish).

2. The panel to seek to gain a full understanding of the case, raising any questions with the employee (and management representative/respondent) as necessary, to clarify any points in relation to the information or evidence submitted or gained via investigation if applicable. **NOTE:** If applicable and where previously agreed with the Chair, witnesses may be called. Also depending upon the circumstances of the case, if applicable, a Management representative/respondent will be given an opportunity to respond to each of the points raised by the employee and make representation to the Panel.
3. Employee (and any respondent) to be provided with the opportunity to sum up their case.

### **CLOSE AND CONCLUDE**

- After the case(s) have been explained and the main questioning completed, the Chair may consider whether to briefly adjourn the meeting to give all the opportunity to review what has been said and consider whether there is anything they wish to clarify or to add in closing remarks to enable the panel to review what they have heard and seek clarification on any issues before bringing the meeting to a close.
- If the panel is unable to make a decision as further information/time is required, inform the employee as to when they can expect written notification of the decision (or if further action was deemed necessary what this would entail)
- When closing the meeting, ensure that everyone understands what is going to happen.
- Depending upon whether the panel has been able to make a decision during any adjournment, explain that the staff member will receive confirmation/notification of its decision in writing usually within 7 days of the meeting.
- The Chair will prepare a report summarising the nature of the grievance, the investigation (where applicable), and the panel's decision, including reasons for this, and any recommendations, and notify the employee in writing as to the outcome of the meeting, usually within 7 days after the meeting.

**NOTE:** Where it is identified that further essential information or clarification is required, the Panel may decide to adjourn the meeting to enable further investigation. In such a case, an indication of the timeframe for this should be provided. Once completed the panel should be reconvened.

### **RECORD**

- Record summary of the discussions, (including any pertinent points, agreed actions, outcomes and recommendations).
- Ensure that the records are factual, unambiguous and constructive (assume that the staff member may see these).
- Write to employee summarising the outcome of meeting and any next steps.
- Store records securely, as these may be subsequently required within later procedural stages and shared with all relevant parties.

- If requested by the employee, a summary of the meeting notes should be provided for their information.

## APPENDIX 2 - POLICY ROUTE GUIDANCE FLOWCHART

