

## GRIEVANCE POLICY & PROCEDURE

### DOCUMENT VERSION CONTROL

Date	Author	Version	Status	Reason for Change
Oct 2006	SEStran	1.0	FINAL	Policy Adopted
Jun 2009	SEStran	1.1	FINAL	Adapted to comply with the repeal of statutory disciplinary and grievance procedures, April 2009
Oct 2017	SEStran	1.2	FINAL	Adoption of version control
Nov 2018	SEStran	1.3	FINAL	Minor changes to representation
Sept 2019	SEStran	1.4	FINAL	Updated to include procedures relating to chief officers and investigation process.

## **Introduction**

This procedure sets out the stages to be followed and the timeframe involved. The policy and procedure aims to ensure the successful resolution of an employee's grievance.

The key objectives of the policy are:

- To provide employees with a course of action should they have a complaint
- To provide points of contact and timescales
- To ensure all employees to receive the same fair treatment
- To comply with employment legislation and the ACAS Code of Practice on Disciplinary & Grievance Procedures.

## **Definition**

A formal grievance can be concerned with how the employee considers they have been treated by SEStran or managers acting on its behalf. It can also be concerned with a complaint an employee has in accordance with SEStran's Equal Opportunities & Dignity at Work Policy.

SEStran's Public Interest Disclosure Policy has been designed to enable concerned employees and individuals to indicate their concerns about malpractice related to its governance and management.

Matters of a personal grievance that are not in the public interest should be raised using the Grievance Policy.

## **Informal Resolution**

Employees can raise any issues with their line manager on an informal basis, either orally or in writing. Open communication can often be the quickest and best way of resolving grievances, depending on the issues involved. However, if any employee feels that their grievance has not been resolved to their satisfaction through the informal approach then they can proceed to the formal procedure as detailed below.

## **Formal Procedure**

The following procedure should be followed by an employee submitting a formal grievance:

### Step 1 - The Statement of Grievance

The employee should inform their line manager or, for chief officers, the Chair of the Partnership Board of their grievance in writing. This will be acknowledged where possible, within 5 working days. If the grievance is in respect of action taken by their line manager then the grievance may be submitted to the Partnership Director or, for chief officers, the Chair of the Performance and Audit Committee who, respectively, will determine the appropriate officer, or persons (in the form of a sub-committee drawn from

members of the Performance and Audit Committee, supported by a nominated officer) to take the matter forward.

#### Step 2 – Assessment of Magnitude

Depending on the magnitude of the grievance, it may be necessary to carry out an investigation. This will be decided by the appropriate person or persons who will, if required, instruct an officer to appoint an investigator.

#### Step 3 - The Grievance Hearing

For matters not requiring an investigation, the employee will be written to where possible, within 5 working days of receipt of the letter to invite them to a meeting to discuss the grievance, and will be advised of their right to be accompanied. All workers have the right to be accompanied at a grievance hearing by either a fellow worker or a Trade Union Official. The employee must take all reasonable steps to attend this meeting.

After the meeting the chair person will notify the employee in writing where possible, within 5 working days of the outcome of this meeting.

In circumstances where an investigation is deemed necessary the employee will, where possible, within 5 days, be advised accordingly and also informed of the estimated timescale for the investigation to be concluded. Where possible, 5 working days after the completion of the investigation, the employee will be advised of a date for a hearing to discuss the outcome. After the meeting the chairperson will notify the employee in writing where possible, within 5 working days of the outcome of this meeting.

#### Step 4 - The Appeal

The employee has the right to request an appeal meeting, within 10 working days of receipt of the outcome of the Grievance Hearing, if they consider the grievance has not been satisfactorily resolved. Where possible, the appeal will be held by a more senior manager than the person who heard the initial grievance or the Chair of the Performance and Audit Committee. Again the employee has the right to be accompanied. They will be notified in writing of the final decision where possible, within 5 working days.

### **Record Keeping**

Written records will be kept for future reference. These will be treated as confidential and kept in accordance with the Data Protection Act 2018.

### **Guidance Notes**

Attached are guidelines on the witnesses, timescales and format of hearings. Please see Appendix 1.

## **Review of Procedures**

SEStran will undertake a review of this document as appropriate. However, either the employer or trades unions may propose amendments at any time, by giving notice in writing to the Partnership Director.

This Policy & Procedure has been equality impact assessed and no adverse impact has been identified.

## **APPENDIX 1**

### **GUIDANCE – FOR MANAGERS and EMPLOYEES**

#### **Role of Advisers**

To ensure a consistency of approach, fairness throughout and to comply with the principles of natural justice it is important that suitable advice and guidance is available as required during the grievance handling process.

With these objectives in mind, a Human Resources Adviser may be in attendance to provide advice to the Chairperson of the Grievance/Appeal Panel on the correct procedures to be adopted and any implications arising from the grievance itself.

#### **Employee Representation**

Employees have the right to be represented during a formal grievance hearing by either a fellow worker or a Trade Union Official. Employees must be given the right to have a representative present. If the employee attends the hearing without a representative, it must be confirmed first of all that he/she has been advised of the right to be accompanied. If the employee advises that he/she has not, the Chairperson should ask if he/she wants representation. If the employee advises that he/she does not want to be accompanied, this should be recorded prior to the meeting starting. Should the employee confirm that he/she does want to be accompanied, agreement should be made to adjourn in order that representation can be arranged.

Should the employee attend the meeting having not been able to arrange representation in time, again an adjournment should be made in order that the employee can organise suitable representation. Should the employee be unable to arrange for the representative of their choice to be available, it is reasonable to suggest that arrangements are made for a substitute.

#### **Witnesses**

Employees have the right to call witnesses in support of their grievance. Any request must be addressed to the chairperson of the hearing and be made as soon as possible but at least one day before the grievance hearing. Employees called as witnesses will receive full pay and on the production of appropriate receipts, reasonable travelling expenses, if the time off is agreed in advance with their line manager.

All witnesses should be offered the right to be accompanied. Witnesses should be asked not to discuss the matter with any other colleagues. The employee or representative requesting the attendance of the witness should ensure that the witness is made fully aware of their role and the procedures which are being followed.

## **Timescale**

Where it is not possible to handle the grievance within the specified time period, it may be necessary, by mutual consent, to extend the timescales. This should be confirmed in writing by the manager handling the case, stating the reasons for the delay and the agreed extension to the timescale. In the event that there is no prior agreement, or a manager fails to meet the extended timescale, the employee may register a “failure to agree” and opt to proceed to the next stage in the grievance procedure.

## **Natural Justice & Equity**

If, in exceptional circumstances, due to the nature of the grievance, it is decided that the line manager is not the most appropriate person to deal with the matter, discussions should take place with the Partnership Director to determine a suitable alternative. The employee will be notified in writing of this decision not later than 5 working days after the formal submission of the grievance. Thereafter, the grievance will be heard in accordance with Stage 2 of the procedure in the first instance.

In the event that the grievance is considered to be about or to involve the immediate line manager then the grievance should be addressed to the Partnership Director. If however the grievance relates to the Partnership Director, the matter should be referred to the SEStran Human Resources Adviser who will advise as to how the matter should be progressed.

No manager who has been party to an earlier decision will take part in any further stages in the grievance/appeal procedure.

## **Arranging a Grievance Hearing/Appeal**

Following formal confirmation being received that an employee wishes to pursue a grievance/appeal it is essential that the hearing runs smoothly and to do so requires a number of considerations:

- It must be established that there is a genuine basis for the employee’s grievance/appeal and a mutual understanding of the reasons why it has arisen.
- It falls within the terms of the Grievance Policy and Procedure.
- It is being heard at the correct management level.
- Witness statements, as appropriate, have been received.
- Once it has been confirmed that there are grounds for a grievance/appeal the employee must be formally advised at each stage:
  - The date, time and location of the hearing.
  - The name, designation of the Chairperson.
  - Where appropriate, who will be presenting the management case

- Who will be present as an adviser(s) to the chairperson.

It is also important to clearly establish:

- Who will represent the employee
- If there are any witnesses to be called and if so who they are and what their locus is.

The Chairperson is responsible for writing to the employee. All parties should be made aware that they are personally responsible for contacting any witnesses they may wish to call during the hearing.

In advance of the date of the hearing, the Chairperson should make sure that a room is available which is large enough to accommodate everyone in comfort and without interruption. Separate rooms should be available for each party to use prior to the hearing and during any possible adjournments.

### **Format of the Hearing**

It is important that the hearing should be conducted in as relaxed a manner as possible as it can be a stressful experience for all participants.

The Chairperson will open the hearing, introduce the parties and be as welcoming and friendly as possible.

The Chairperson will explain the format of the proceedings and advise that it is only points raised in connection with the grievance/appeal that will be relevant and any other issues will be excluded.

#### **1. Presenting the case**

The Chairperson asks the employee or his/her representative, to present his/her case outlining specifically the reasons giving rise to the grievance/appeal.

At this point the opportunity is given to call witnesses to support the employee's evidence.

Thereafter, the Chairperson invites questions from the management representative, following on from which he/she may seek any point(s) of clarification.

Once satisfied that there are no further matters to be raised the Chairperson invites the management representative to put forward his/her case.

At this point the opportunity is given to call witnesses to support management's case.

The employee or his/her representative will have the right to question the management representative, after which again, the Chairperson can seek any point(s) of clarification.

The Hearing can be adjourned, where necessary, to clarify any point of detail of the grievance. If this happens, the Chairperson must state the period of adjournment.

Following completion of the submissions the Chairperson will invite the management representative in the first instance, to summarise his/her case. Followed thereafter by the employee or his/her representative.

## **2. Conclusion**

The Chairperson then summarises the hearing and the main points of both presentations. The employee should be asked if he/she has been given a fair and reasonable opportunity to present their case. If the response is 'no' then the Chairperson must ask for a further explanation and take the stated concern into account when giving the decision. If the procedures have been followed this is highly unlikely to happen.

The hearing is then adjourned to allow the Chairperson to come to the decision. Even if during the course of the hearing the Chairperson has an idea of what the decision may be, it is advisable that the adjournment is used to allow the opportunity to consider the facts and seek advice from any Advisers present. It should be remembered that if a decision cannot be made during an adjournment, it can be put in writing within the agreed timescales.

## **3. Making the decision**

All the facts of the case should be reviewed as they have been presented and consideration given to precedent with regard to the issues being considered as well as potential legal and human resources implications, with advice in this regard being sought as appropriate.

## **4. Reconvening the hearing**

If the decision is being made immediately, the employee should be clearly advised of the decision and the reasons why it has been reached. This should be confirmed in writing where possible, within 5 working days. If more time is required a decision should be confirmed in writing where possible, within 5 working days once it has been reached. In the case of a Stage 2 meeting the employee must be made aware of their right to appeal against the decision and this must be done where possible, within 10 working days of receiving the written confirmation of the decision. There is no right of further appeal against the decision made at an appeal hearing.

## **5. Review**

This document will be reviewed annually by SEStran.