

THE MORAY COUNCIL

GRIEVANCE POLICY AND PROCEDURE

1.0 STATEMENT OF POLICY

- 1.1 The Moray Council recognises that grievances can arise between employees and the Council during the course of employment and the operation of the Council's affairs.
- 1.2 The following procedure has been established to ensure that any grievance which you, as an individual employee of the Council or, as part of a group of employees, may have that relates to your employment with The Moray Council, is dealt with in a fair and consistent manner and within a reasonable timescale.
- 1.3 The procedure has been prepared and issued in consultation and agreement with the appropriate Trade Unions.

2.0 RESPONSIBILITIES

- 2.1 Heads of Departments are responsible for the management of their Departments and have therefore ultimate responsibility for resolving Grievances raised by employees in accordance with the procedure.
- 2.2 The Head of Human Resources shall advise Heads of Department on the operation of the procedure both generally and in specific cases, in order to achieve a fair and consistent approach in resolving grievances.
- 2.3 Heads of Department and the Head of Human Resources & ICT will be responsible for arranging appropriate training and briefing on the use of the procedure and the maintenance and updating of appropriate records as detailed under 4.1(d).
- 2.4 Head of Human Resources & ICT will be responsible for preparing the papers for the Appeals Committee giving a summary of the facts of the case and highlighting the area(s) of dispute. In addition, the Head of Human Resources & ICT will act as adviser to the Committee, on the operation of the policy and procedure and the implications of any decision.

3.0 SCOPE

- 3.1 The procedure will apply to all employees of the Council covered by the following National Scheme of Conditions of Service.

JNC for Chief Officials of Local Authorities (Scotland)
SJC for Local Government employees
- 3.2 In agreeing to this procedure both the Council and the Trade Unions have taken account of the provisions of the relevant National Schemes of Conditions of Service, which would take precedence over this procedure, if and insofar as they might be amended so as to make those conditions more favourable for the employee.
- 3.3 Grievances should be lodged as soon as possible but, unless in exceptional circumstances, within a maximum of 3 months of the date of any change or incident or action, which is the subject of the grievance, having taken place.

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Grievances relating to matters out with this time period will be inadmissible.

The decision as to whether a grievance is admissible under this part of the procedure will rest with the Head of Department in consultation with the Head of Human Resources & ICT

There will be no right of appeal against the decision based on timescales.

4.0 GENERAL PRINCIPLES

4.1 The operation of the procedure in a satisfactory manner will depend on the adoption of certain general principles, which are in accordance with recognised good personnel practice.

- (a) The principal purpose of the grievance procedure is to achieve a satisfactory resolution to a particular problem.
- (b) A thorough investigation of the circumstances leading to the grievance being raised.
- (c) At all stages of the procedure the employee(s) should be given a fair hearing and ample opportunity to explain their case.
- (d) At all stages, the proceedings and any records made should be kept confidential. Records should detail the nature of the grievance raised, the employer's response, any action taken and the reasons for it. Copies of grievance meeting records should be given to the individual and trade union representative concerned. In certain circumstances it may be appropriate for certain information to be retained, for example, where a witness has requested that their evidence is not passed on and there are reasonable grounds for this request to be upheld. The decision as to what information to pass on or not will rest with the Head of Department in consultation with Human Resources.
- (e) Each step of the procedure will, wherever possible, adhere to the time scales laid down.
- (f) For the purposes of the Policy, the definition of a "grievance" is one which concerns the performance of a duty by the Moray Council in relation to an employee. This may include issues such as terms and conditions of employment; health and safety; relationships at work; new working practices; organisational change and equal opportunities. Care should be taken by line managers to separate minor gripes from grievances.

The procedure set out in paragraph 5 will not apply to the following.

- (i) any matter relating to the grading of an employee's job.
- (ii) any matter dealt with under the disciplinary procedure.
- (iii) administration of the superannuation regulations, Income Tax or NI regulations.
- (iv) any issues arising during the process of formal consultation. Such issues may only be raised once the formal consultation process has been exhausted.
- (g) The grievance procedure may apply to employees who are the subject of disciplinary procedures, so long as the grievance raised is in no way related to the disciplinary proceedings. For clarification on this matter, advice should always be sought from Human Resources before initiating the grievance procedure.
- (h) In the event of an issue being pursued by an employee(s), it may be requested that the Status Quo be maintained.

Status Quo Ante – In the event of a formal Grievance being lodged in response to a proposed change to terms and conditions of employment and when practicable, where a Grievance has been lodged in response to changes to working practices or organisational structures, no change shall be made to the relevant terms and conditions of employment until the agreed Grievance procedures have been exhausted.

Management can continue to implement their decision where the decision is within the framework of an existing agreement or established practice (e.g. an office move). In this situation there shall be no obligation on management to postpone the implementation of the decision until agreement has been reached or the grievance procedure has been exhausted.

5.0 PROCEDURE

Informal Stages

General

Most routine complaints and grievances are best resolved informally in discussion with the employee(s)' immediate supervisor. Dealing with grievances in this way can often lead to speedy resolution of problems as many of these problems are able to be resolved directly by the immediate supervisor. Where it is thought help an informal meeting may be of benefit, both the supervisor and the employee may find it helpful to keep a note of the meeting.

To this end, supervisors should develop trusting relationships with their employees to encourage them to discuss freely any problems that arise and should endeavour to keep discussions and meetings open and transparent. Wherever possible, problems should be resolved without recourse to the formal procedure.

No rights of accompaniment or representation are specified at this stage.

Formal Stages

General

Stage 1

- (a) If you, as an individual, or as part of a group are aggrieved on any matter which does not fall within the terms excluded at Para 4(f), and if the grievance has failed to be resolved at the informal stage as detailed above, you should raise the matter initially with your immediate supervisor, either orally or in writing, making it clear that the Grievance is now formal. Please see the Grievance Form in Appendix 1 which employees are encouraged to use.
- (b) The immediate supervisor should reply, either orally or in writing as soon as possible but in any case within 2 working days. The response from the Supervisor should be in the form used by the employee to raise the grievance, i.e.; if the employee raises it orally, the response should be oral, if the employee raises it in writing, the response should be in writing. If it is not possible to respond to the grievance within 2 working days, the grievance should be acknowledged within this time and the employee should be given an explanation for the delay and told when a response can be expected.
- (c) Where a grievance has been lodged in writing, the immediate supervisor may respond to this solely on the basis of the written submission without the requirement to hold a meeting with the employee to discuss the matter. However, where the matter is not

straightforward or further information is required, then the supervisor and employee should meet to try to resolve the matter.

- (d) If the matter is of a highly confidential nature or particularly sensitive, (e.g.: involves your immediate supervisor) the matter can be raised directly with Human Resources and after any necessary consultation with the employing department, a reply will be given within the above timescale, either by a nominated representative of the department or by Human Resources, whichever is more appropriate in the circumstances.

Stage 2

- (a) If you, as an individual, or as part of a group feel that the matter has not been resolved to your satisfaction, you should report the matter, preferably in writing, using the Grievance Appeal Form in Appendix 2 which employees are encouraged to use, to the representative of the appropriate Trade Union(s) of which you are in membership. The representative shall then raise the matter in writing with the Head of Service or other nominated Senior Officer.

If you are not a member of a trade union you shall be allowed to submit the matter, in writing, to the Head of Service or other nominated Senior Officer.

The Head of Service or nominated Senior Officer shall reply to the grievance as soon as possible, in writing, and in any case within 5 working days. If it is not possible to respond to the grievance within 5 working days, the grievance should be acknowledged within this time and the employee should be given an explanation for the delay and told when a response can be expected.

- (b) The Head of Service or nominated Senior Officer shall arrange a hearing normally within 21 days with the parties and if desired, the nominated official of the appropriate Trade Union. Such a hearing shall be arranged after consultation with the Head of Human Resources & ICT or nominated representative who shall also be in attendance. The hearing shall be arranged (but not necessarily take place) within 5 working days. The outcome of the hearing will be confirmed in writing within 5 working days of the hearing taking place.

Stage 3

If the grievance is not satisfactorily resolved at Stage 2 or no decision is reached within the time specified, the matter may be referred by you or your representative to the Appeals Committee of the Council for consideration. A referral to the Appeals Committee should be submitted in writing to the Chief Legal Officer within 14 days of confirmation of the decision at Stage 2, specifying the grounds of appeal.

The Chief Legal Officer will notify both the Head of Service concerned and the Head of Human Resources & ICT of any appeal lodged, immediately upon receipt of the notification to appeal. The Head of Human Resources & ICT will then contact both parties involved, i.e.; the employee(s) or nominated TU Representative and the Head of Service concerned to request the submission of the details of their case, in order to prepare the necessary papers for the Appeals Committee Meeting. With the agreement of both parties, the Head of Human Resources & ICT shall arrange for mediation to take place with a view to resolving the Grievance without recourse to committee.

The Appeals Committee will hear the appeal in accordance with the agreed procedure.

Stage 4

The grievance procedure shall be exhausted after Stage 3 unless it is agreed by the Committee and yourself and your Trade Union that the matter be referred to the Scottish Council.

Formal Disputes

Definition

In the event of an issue being pursued by an employee(s), it may be requested that the Status Quo be maintained.

Where notice has been given of the action or proposal which is the cause of the dispute, the status quo before the dispute will be maintained (i.e. the working arrangements or practices before the formal dispute is declared will not be altered) until the procedure has been followed and exhausted, although agreement need not necessarily have been reached; where no notice of the action or proposal which is the cause of the dispute has been given, the status quo before the dispute will be maintained (i.e. the working arrangements or practices before the action was taken or the proposal implemented will not be altered) until the procedure has been followed and exhausted, although agreement need not necessarily have been reached.

- (i) No Trade Union involved in a dispute will cause, or take part in, or authorise its members to take part in any form of industrial action against the authority unless and until the procedure has been followed and exhausted, although agreement need not necessarily have been reached; and similarly no action will be taken by the authority against the employees or Trade Union(s) concerned.

Both parties to any dispute should, wherever possible, reach agreement on interim arrangements to allow work to continue while the procedure is being followed.

6.0 RIGHTS OF REPRESENTATION

- 6.1 The Grievance Procedure provides for the right of employees to be accompanied/represented by a trade union representative or any other person other than an Elected Member of the Council at the formal stages of the Procedure. In addition, the Council would not normally allow for representation by a solicitor. There is no requirement for an employee to make a request for this. It is as given within the procedure.
- 6.2 This satisfies the statutory right provided for by the Employment Relations Act 1999 to be accompanied at grievance hearings.
- 6.3 An employee and/or trade union officer who has been requested to accompany/represent a colleague, should be permitted to take a reasonable amount of paid time off to fulfil this responsibility. This time off should not only cover the hearing but should also allow a reasonable amount of time off for the accompanying person to familiarise themselves with the case and confer with the employee before and after the hearing.
- 6.4 The representative should be allowed to participate as fully as possible in any grievance hearing and should be allowed to address the hearing and ask any questions. However, care should be taken that the representative is putting forward the employee's view of events and that the employee is given the opportunity to answer for themselves whenever possible.
- 6.5 Where a chosen companion is not available to attend on the date proposed for the hearing, the employee can offer an alternative time and date so long as it is reasonable and falls before the end of the period of five working days beginning with the first working day after the day proposed by the employer. Regard should also be had for the availability of the

relevant manager(s) and any alternative date and time must be convenient to both employee and employer.

7.0 TIMESCALES

7.1 In the interests of fairness to all parties involved in any grievance matter and in order to ensure a speedy resolution to the issues raised, it is important that the timescales outlined in the procedures are adhered to.

7.2 However, it is accepted that there may be occasions when, due to sickness absence of any of the parties involved in the grievance matter, that this may not always be possible.

7.3 Therefore the following arrangements will apply in these circumstances:

Any meetings and/or the grievance hearing itself must be held within six weeks of the date on which the grievance was first lodged within the formal stages of the procedure.

In the event of the sickness absence of the employee who has raised the grievance, their chosen representative shall represent them at any meeting and/or hearing unless the employee is fit to attend for the purpose of trying to resolve the matter albeit not fit to attend normal duties. Where an employee chooses not to be represented, they will have the opportunity to submit any information in writing to the person responsible for holding the meeting/ hearing.

In the event of the sickness absence of the relevant manager, another manager within the department who is familiar with the issues involved in the grievance shall attend the meeting/ hearing on their behalf.

In the event of the sickness absence of any witness involved in the grievance, a decision will be made by the person responsible for holding the meeting/hearing as to whether the witness is material to the case. This decision will be taken in consultation with Human Resources. If so, then, their evidence / information should be presented by their chosen representative, or submitted in writing to be considered at the meeting / hearing. If not, then the meeting / hearing should proceed in their absence.

7.4

Stage	Heard By	Time Limits

1	Line Manager	2 working days to respond. Where matter is not straightforward or further information is required, then the supervisor and employee should meet to discuss.
2	Head of Service or nominated Senior Officer	5 working days to respond. 5 working days to arrange a hearing and to be held within 21 days. 5 working days to issue a written response regarding the outcome.
3	Appeals Committee of the Council	Should be submitted within 14 days of the confirmation of the decision at Stage 2.
4*	Scottish Council	

*Generally the grievance procedure will be exhausted after Stage 3 unless it is agreed by the Committee and the employee that the matter be referred to the Scottish Council.



**THE MORAY COUNCIL
GRIEVANCE PROCEDURE FORM**

Employee's Name: _____

Address: _____

Telephone number: _____

Job Title: _____

Payroll Number: _____

Department: _____

Name and address of representative (if any): _____

Statement of grievance, continue overleaf if necessary:

(Please note that at least one copy of this statement should be retained).

Signed (employee): _____ Date: _____

Signed _____ Date: _____

(representative): _____



THE MORAY COUNCIL GRIEVANCE APPEAL PROCEDURE FORM

Employee's Name: _____

Address: _____

_____Telephone number: _____

Job Title: _____

Payroll Number: _____

Department: _____

Name and address of representative (if any): _____

Grievance Heard By on

Statement of continuing dissatisfaction, continue overleaf if necessary:
(Please note that at least one copy of this statement should be retained).

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Attached: Grievance Procedure Form ☐Grievance Response ☐

Signed (employee): _____ Date: _____

Signed (representative): _____ Date: _____

signed Denise Whitworth date
on behalf of the Moray Council

signed Ken Matthews date
on behalf of Unison, TGWU, GMB, Amicus