
SFC Grievance Procedure

Introduction and scope of procedures

1. The Scottish Funding Council (SFC) is committed to treating all staff fairly and with respect and maintaining good working relationships between members of staff. Where difficulties or disagreements arise between members of staff, we expect the parties concerned to try and resolve matters speedily and amicably through informal discussion and consultation. When informal discussion is not successful or in circumstances where it is not appropriate (such as alleged harassment), these grievance procedures can be used as the formal route to address problems.
2. The grievance procedures exist to enable staff to raise problems or concerns about their work, the working environment or working relationships and ensure a resolution of concerns is achieved in an effective manner and thereby reduces the adverse impact upon individuals. We have based these procedures on the ACAS Code of Practice 1 (Disciplinary and grievance procedures).
3. This document outlines two procedures that differ slightly depending upon whether an individual or group of staff raise the grievance. [Link to flow chart in Annex A.](#)
4. Wherever possible grievances should be dealt with while staff are still in SFC employment. However, a modified grievance procedure will apply where: staff commence the grievance procedure after leaving the SFC; or where staff leave SFC before the procedure is complete. This modified procedure is set out in Appendix 2.

General principles

5. A grievance should be heard in as fair and impartial a manner as possible.
6. All parties are expected to approach the raising of a complaint or issue and its resolution in good faith. Making deliberate false or malicious allegations will be treated as misconduct under the Disciplinary Policy and Procedure.
7. All parties must recognise the importance of dealing with issues confidentially. Anyone directly or indirectly involved in the grievance process must not discuss the matter outside of any relevant grievance hearings.
8. No one should be victimised for raising a grievance. Neither should those against whom the grievance has been raised. All parties involved should ensure that normal working arrangements will, as far as is practicable, apply whilst the grievance is being heard.
9. We recognise that being involved in a grievance process can be a stressful and upsetting experience for all parties involved. Staff can seek support at every stage of the process from HR, Occupational Health and Employee Assistance Programme (EAP). Trade union members can seek support from their union representative.

-
10. Both parties need to deal with grievances as promptly as possible. To ensure this happens we have set time limits in the formal procedures. If there is a delay to the smooth running of the procedure (for example, the absence of a witness or the unavailability of staff) both parties should discuss the delay and agree an extended timescale.
 11. If SFC fails to observe the specified time limits, unless modified by agreement, the grievance will proceed to the next level automatically.
 12. If the member of staff raising the grievance fails to observe the specified time limits, unless modified by agreement, the grievance will be ineligible for further consideration.
 13. At any stage of an informal or formal process, staff may seek the advice of and be accompanied by a companion, this can be a work colleague, a Trade Union representative (a work colleague who is a Trade Union representative certified as being competent to accompany a worker), or a full-time Trade Union official.
 14. The person hearing the grievance, for example the line manager), may also be accompanied by a colleague at any stage of an informal or formal process.
 15. Direct involvement of a manager in an earlier stage of the formal process will normally preclude him or her from acting as hearing or investigating manager at the subsequent stage of the grievance.
 16. HR may nominate a substitute manager in the event of a specific level of management being unavailable to participate in the procedure.
 17. HR staff have a responsibility to:
 - Try and facilitate resolution of the matter.
 - Advise either party as necessary.
 - Ensure the correct procedure is being followed.
 18. At each stage of the formal process the statement of grievance and the subsequent response must be in writing. All documentation relating to a grievance should be copied to HR for record purposes and, where agreed, to any nominated union representative(s).
 19. Guidance on the conduct of a grievance hearing is given in Annex C. Whilst not procedurally binding, parties would normally be expected to follow this guidance.
 20. In exceptional circumstances Annex D will apply. This might be in circumstances where a grievance is particularly sensitive or confidential or relates to all members of Senior Management.
 21. At any stage of the grievance procedure, reasonable adjustments will be made for staff members with a disability. This might include providing additional time or interpreter. For specific advice please contact HR who will seek further guidance if necessary.
 22. Where a grievance is raised during a disciplinary hearing it may be appropriate to suspend the disciplinary hearing until the grievance is resolved. Where the grievance

and disciplinary cases are related it may be appropriate for them to be heard concurrently.

Procedure exclusions

23. Staff should not use the grievance procedure to deal with:
 - Matters relating to appeals against disciplinary action.
 - The performance improvement procedure.
 - The results of the staff appraisal system.
24. In these cases staff should voice their concerns through the relevant appeals system or through the participative discussion process within the appraisal system.
25. Following guidance within the ACAS Code of Practice, a grievance procedure should not deal with concerns on pay issues (unless they relate to a contractual pay rise or discrimination) or other non-contractual issues (for example access to a car parking space). Staff should raise concerns about impropriety (for example misuse of funds) through our code of conduct.
26. Staff should not repeatedly invoke the procedures to address the same grievance. The grievance procedures should only be used again to address the same grievance if there is a material change in circumstances. For example if the outcome actions of the original grievance hearing have not been implemented or they have failed to resolve the issue they were intended to address.
27. Staff should not use the grievance procedures to change policies negotiated between the Council and the SFC Unite Group. This should be done through the Joint Negotiating and Consultation Forum (JNCF).

Mediation

28. Depending on the nature of the issue, it may be appropriate for the matter to be dealt with by way of mediation. Mediation can provide an alternative way of resolving conflict or disputes quickly causing less stress to individuals, preserving the working relationship and offering a better chance of reaching a mutually agreed outcome. External mediation can be accessed through Human Resources and can be applicable at both informal and formal stages.
29. Mediation involves the appointment of an impartial third-party qualified workplace mediator, who will discuss the issues raised with those involved and seek to facilitate a resolution. The use of the service is voluntary and must be agreed to by both parties. This will not prevent you from raising a formal grievance but the process is suspended during mediation. More information on mediation is at Annex E.

Individual grievance procedure

Informal process

30. In the first instance, staff should informally raise their concerns with their line manager. If their line manager is the subject of the grievance, the matter should be raised with the next level of management. Where the grievance is about the actions of a person (or persons) who has (have) a different line manager, the grievance should be raised with their line manager. In cases where the grievance is about the application of an organisation-wide policy this should be raised with a member of HR.
31. In the event that the issue is too sensitive to raise directly with the relevant person (as outlined in the above paragraph) either informally or formally (e.g. personal reasons, bullying, discrimination, harassment) this matter can be raised with HR. Staff can also approach a manager (at an appropriate level) from another directorate. Our policy on dignity at work provides further guidance on such matters.
32. The relevant person should discuss the matter with the member of staff and try to resolve it in an informal manner.
33. If informal discussion and external mediation (where appropriate) have failed to resolve the grievance, staff can use the formal grievance process.

Formal process

34. There are two stages to the formal individual grievance process.

Stage one

35. The member of staff should write to the relevant person (see paragraph 30 and 31), setting out the nature of the grievance and stating that a grievance is being raised through the formal process. This relevant person should be responsible for hearing the case at stage one. The member of staff should copy their grievance to HR.
36. The relevant person should acknowledge receipt of the grievance in writing and confirm the process within five working days.
37. HR will arrange for the grievance to be fully investigated. This may involve appointing an investigator who has not been involved in the process who may need to interview and take statements from other staff.
38. The person appointed to hear the case should hold a grievance hearing at which the member of staff or their representative can present the case. This hearing should take place within ten working days of receiving the grievance.
39. The person conducting the grievance hearing should communicate their findings via a written report to the member of staff within ten working days of the hearing, recognising that it may take more than one grievance hearing meeting if additional

information is tabled or further investigation is necessary to allow a full and fair consideration of all relevant facts. The hearing report should indicate whether the grievance is upheld in full or in part, or not upheld, and the reasons for that finding. Where appropriate, the report should include the course of actions to address the grievance and the means of monitoring its effectiveness. Where appropriate, the hearing manager may describe measures that can be taken to avoid similar situations in the future. The report must also outline the right of appeal and to whom any appeal should be addressed.

Stage two

40. If the member of staff is not satisfied that their grievance has been addressed at stage one, or where the time limits are exceeded without prior agreement, or if actions recommended at stage one of the process have not been implemented, stage two should be invoked.
41. Under stage two the member of staff should:
 - Raise the matter in writing with the named person (as notified in hearing report, see paragraph 39), with a copy to HR for information within ten working days of receiving the report from stage one.
 - Include a statement explaining why they wish to appeal/move to stage two.
42. The named person should acknowledge in writing receipt of the appeal and confirm the appeal process within five working days of the appeal being lodged.
43. HR will convene an appeal hearing within 15 working days of the appeal being lodged.
44. The appeal hearing will be heard by a panel of three members (none of whom should have been directly involved in the grievance). The panel should consist of:
 - The manager next in seniority to the stage one manager. This manager should be of at least E3 level. If they have already been involved in the case, management should nominate a replacement; and
 - Two other members of staff (normally of at least E3 level) at least one of whom should come from a different directorate. In exceptional circumstances, a panel member from outside the Council may replace one of the staff members.
45. The panel should nominate a chair from their membership.
46. The panel should investigate the case fully. This may involve interviewing and taking statements from staff including the person conducting the stage one hearing, who should respond in writing to the points raised in the appeal. A copy of the stage one hearing conductor's response should be sent to the appellant prior to the hearing.
47. The panel should hold a grievance hearing at which the appellant or their representative can present the case.
48. The panel chair should send a written report to the appellant within ten working days of

the hearing concluding. The report should indicate whether the grievance is upheld, either in full or in part, or not upheld, and the reasons for that finding. Where appropriate, the report should also include the course of actions to address the grievance and the means of monitoring its effectiveness. Where appropriate, the panel may describe measures that can be taken to avoid similar situations in the future.

49. The panel decision will be final.

Collective grievance procedure

50. It may be that certain grievances are of such a nature that they apply to more than one person, or have implications for groups of staff. When this occurs, the following collective grievance procedure will apply. We recognise that collective grievances have a wider impact upon staff and the effective running of the organisation, so it is important that we address such concerns as promptly as possible and at the appropriate level.
51. If individual staff raise grievances about the same issue, we may, with agreement from the individuals, join the cases together, in the interest of hearing them more effectively.
52. Staff should not use the collective grievance procedure to deal with changes to negotiated terms and conditions of employment as this is done through the JNCF.

Informal process

53. Staff should first raise the matter with an appropriate manager, who should try to resolve the matter through informal discussion. The manager should inform the Head of HR of the informal grievance and the nature of it.
54. Where the group of staff includes SFC Unite Group members, they can approach their union representative(s). As a first step to resolving the matter the union members, their representative(s) and the relevant management should informally discuss the issue. Staff who are not members of the SFC Unite Group may wish to discuss the matter with a fellow employee and then meet management informally to discuss the issue.
55. Where informal discussions do not resolve the matter staff can use the formal process to voice their grievance.

Formal process

56. There are two stages in the formal collective grievance process.

Stage one

57. Staff should raise their formal grievance in writing with the Head of HR.
58. Upon receipt the Head of HR should:
- Acknowledge in writing the lodging of the grievance within five working days.

-
- Confirm the process to be followed.
 - Pass the grievance to the relevant level of management.
 - Arrange a formal hearing within 15 working days.
59. It is important that the manager hearing the grievance has the authority to recommend appropriate action and thus will normally be responsible for the area where the issue has occurred and be of at least Assistant Director level.
60. The manager conducting the grievance hearing should investigate the grievance fully. This may involve appointing a separate investigating officer who will interview and take statements from other staff.
61. The manager should hold a grievance hearing at which the staff who raised the grievance or their representative(s) can present their case. Previously involved manager(s) will also be asked to respond.
62. The manager conducting the grievance hearing should send a written report to the staff who have raised the grievance and any agreed representative(s) within ten working days of the hearing. The report should indicate whether the grievance is upheld, either in full or in part, or not upheld, and the reasons for that finding. Where appropriate, the report should also include the course of actions to address the grievance and the means of monitoring its effectiveness. Where appropriate, the grievance hearing manager may describe measures that can be taken to avoid similar situations in the future. The report must also outline the right of appeal to the staff and to whom they should address their appeal.

Stage two

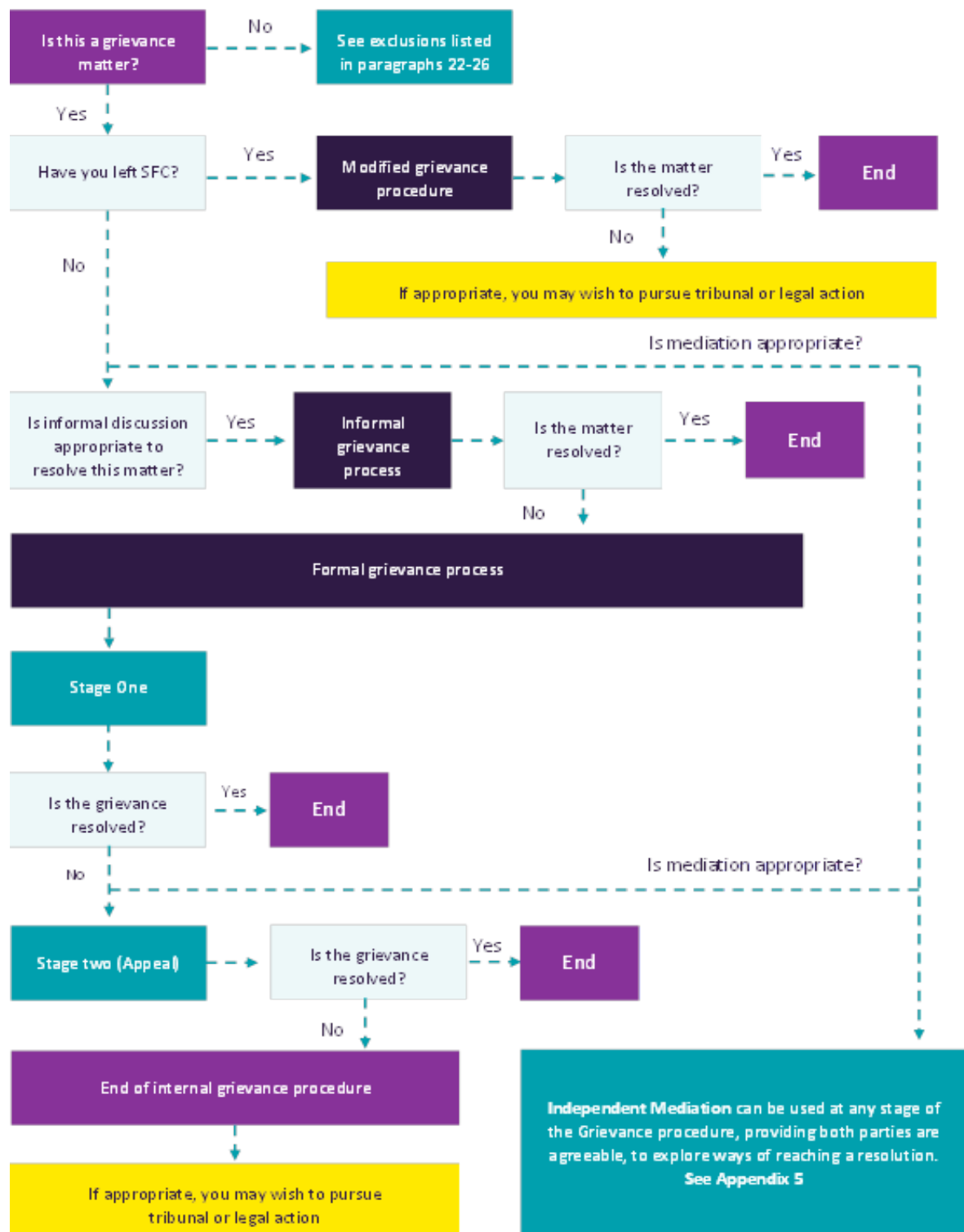
63. Should staff wish to appeal a stage one decision this must be lodged with the Head of HR within 15 working days of receipt of the stage one report and we will move to stage two of the process.
64. If staff are not satisfied that their grievance has been addressed at stage one, or where the time limits are exceeded without prior agreement, or if actions recommended at stage one of the process have not been implemented, stage two should be invoked.
65. Upon receiving the appeal/ request to move to stage two, the Head of HR should:
- Acknowledge in writing the lodging of the appeal within five working days.
 - Confirm the appeal process to be followed.
 - Pass the appeal to the relevant level of management.
 - Arrange an appeal hearing within 20 working days.
66. The appeal hearing will be heard by a panel of three members (none of whom should have been directly involved in the grievance). The panel should consist of:

-
- The Deputy Director of People and Transformation (or if they have been involved in an earlier stage, the Chief Executive) or their nominee; and
 - Two senior members of staff of at least Assistant Director level (however in exceptional circumstances and by agreement of both parties, one external nominee may replace one of the senior staff).
67. The panel should nominate a chair from their membership.
68. The panel should investigate the case fully. This should involve interviewing and taking statements from other employees, including the stage one hearing manager who should respond in writing to the points raised by the staff in their appeal. A copy of the stage one hearing manager's response should be sent to the staff who have lodged the appeal prior to the hearing.
69. The panel should hold an appeal hearing at which the staff raising the appeal or their representative(s) can present their case.
70. The panel chair should send a written report to the staff and any agreed representative(s) within ten working days of the hearing. The report should indicate whether the grievance is upheld, either in full or in part, or not upheld and the reasons for that finding. Where appropriate, the report should also include the course of actions to address the grievance and the means of monitoring its effectiveness.
71. The panel decision will be final.

Further information

72. For further information please contact Human Resources or refer to the following policies in the [staff handbook](#):
- Code of Conduct.
 - Equality and Diversity.
 - Dignity and Respect at Work.

Annex A: Grievance process Flowchart



Annex B: Modified Grievance procedure

1. Wherever possible a grievance should be dealt with while all relevant staff are still employed at SFC. However, should a member of staff leave SFC once a grievance has been raised but not commenced or should they wish to raise a grievance after leaving SFC then a modified grievance procedure will apply.
73. Under the modified procedure the grievance should be set out in writing and sent to SFC as soon as possible. We must write back setting out our response.

Step one - Statement of grievance

74. A statement of grievance should be sent to the Head of HR at SFC, setting out:
 - The nature of the grievance.
 - The basis for it.

Step two - SFC response

75. Our aim will be to acknowledge receipt of the grievance within 5 working days. Ideally we will send our written response to the grievance statement to the person who raised the grievance within 20 working days.

Annex C: Guidance on the conduct of Grievance hearings

Introduction

1. We have prepared the following guidance, which is not contractually binding but is provided to ensure grievance hearings are conducted in a fair and effective manner.

Prior to the hearing

2. The date and time of the hearing must be clearly stated in writing to all parties involved at least five working days before it is due to take place.

Roles

3. The role of the manager or panel conducting the hearing is to:
 - Conduct the hearing in accordance with the procedures.
 - Ensure that the case is investigated fully.
 - Ensure that the relevant facts are discussed.
 - On the basis of evidence presented determine whether or not, on the balance of probabilities, the grievance is upheld and how it is to be resolved.
4. If a member of HR is to attend the hearing their identity should be made known to all parties five working days prior to the hearing. They will attend only in an advisory capacity and their role is solely to advise the conducting manager (or panel) on procedural matters and, where applicable, matters relating to fairness and consistency. HR staff should not be involved in the decision-making process. Where appropriate, staff from HR may act as a hearing manager or sit as a member of an appeal panel.
5. A member of staff may act as a note-taker for the hearing. Their role will be to assist the manager or panel in the preparation of the written report by taking notes during the hearing. If a note-taker is to be used, their identity should be made known to all parties five working days prior to the hearing.
6. The member/s of staff submitting the grievance has/have the right to be accompanied by a work colleague, workplace trade union representative or official employed by a trade union.
7. This representative should be allowed to address the meeting, respond on behalf of the member/s of staff to any views expressed at the meeting or confer with the staff member/s during the hearing.
8. This representative does not have right to answer on behalf of the member/s of staff.

The grievance hearing

9. The hearing should normally begin with the staff and/or their representative(s) presenting their grievance and where appropriate why they feel it has not been addressed by earlier stages of the procedure. This can be in writing and/or in person.
10. In response to this the relevant line manager(s) who have previously been involved in the case should state why they feel that the grievance has been addressed. This should be done both in writing and in person.
11. The manager (or panel) conducting the hearing may question either or both parties and any witnesses, and review any documentation and other sources of information they feel are necessary to allow a full investigation of the case.
12. The hearing may be adjourned at any point by the conducting manager or panel chair if there are valid reasons for doing so. Valid reasons for the adjournment may include to obtain specific information, to interview witnesses in the light of new evidence, for comfort breaks or to deal with any interruption to the proceedings. The conducting manager or panel chair should state the reason for the adjournment and indicate the anticipated length of the recess. Either party may request an adjournment and this will not be unreasonably refused.
13. Once the hearing is completed, the manager or panel chair should send a written report to the aggrieved party and any agreed representative(s) within ten working days. This report should indicate whether the grievance has been either upheld in full, or in part, or not upheld, and the reasons for that finding. Where appropriate the report should also include the course of actions to address the grievance and the means of monitoring its effectiveness. Where appropriate, the right of appeal to the next stage should be explained within the report.
14. The manager (or panel chair) should send appropriate details and any recommended actions to the relevant named individuals and managers.

Annex D: Variation to the formal stage in exceptional circumstances

1. In certain exceptional circumstances, the process for assigning a manager to hear a grievance, or a panel to hear an appeal, will not apply. This might be in circumstances where a grievance is particularly sensitive or confidential or relates to all members of the Senior Management.
2. Staff who wish to raise a grievance in these circumstances should notify Human Resources.
3. Where a grievance is particularly sensitive or confidential, Human Resources will notify the Chief Executive, who will nominate a suitable individual or panel of individuals, with sufficient independence, to hear the grievance. Such individuals may comprise, for example:
 - Members of SMT.
 - Board members.
 - External parties – for example, representatives from Scottish Government or another public body.
4. The final decision on who is nominated rests with the Chief Executive as advised by Human Resources.
5. Where a grievance relates to a member of the Senior Management, HR will notify the Chief Executive and this would normally be heard by the Chief Executive. In the event that a grievance relates to the Chief Executive themselves, or in the event that a grievance against a member of the Senior Management cannot be heard by the Chief Executive or their nominee, or proceeds to Stage 2 [appeal], Human Resources will notify the Chair, who will nominate a suitable individual or panel of individuals, with sufficient independence, to hear the grievance. Such individuals may comprise, for example:
 - Members of SLG/SMT (if appropriate).
 - Board members.
 - External parties – for example, representatives from Scottish Government or another public body.
6. In the circumstances described above, the grievance will otherwise follow the approach and principles for the Grievance Procedure set out in this document, except where it may be necessary to revise the timescales to accommodate the availability of Board or external members. In such cases the member of staff, or group of staff, will be notified in writing.

Annex E: Mediation in more detail

7. It is in everyone's best interest to try to resolve problems before they escalate into major issues. The first step is normally to try to resolve matters informally. Depending on the nature of the grievance, it may be appropriate for the matter to be dealt with by way of mediation.
8. Mediation is an informal process whereby a neutral third party trained mediator intervenes in a workplace conflict or dispute to assist the parties in reaching a satisfactory outcome. It is a structured process which is carefully managed creating a safe environment where all parties can talk freely and work towards the restoration of an effective working relationship.
9. Principles of mediation:
 - **Confidentiality** – mediators and participants should not disclose any information obtained in the course of mediation to anyone without the express consent of each participant. Any notes (whether in electronic or hand-written format) taken during the mediation process by all participants will be disposed of at the end.
 - **Impartiality** – mediators should not favour or disfavour one party over another or take sides for any reason. Mediation should be conducted in a fair, non-judgemental and even-handed way. To avoid any kind of bias, the mediation meeting should take place in neutral space if possible; mediators will not mediate with people with whom they have had substantial previous contact; parties will not be able to choose their mediator.
 - **Voluntary** – participation in mediation must always be voluntary. Participants should enter mediation of their own free will and, having done so, they and indeed the mediators are free to withdraw at any time. You cannot make people mediate.
 - **Self-determination** – parties are responsible for the content of their dispute and decide the outcome, and hopefully reach a mutually agreed solution. The parties to the dispute, not the mediator, decide the terms of the agreement. Mediators' role in the process is to help participants to identify and explore the options and, where appropriate, offer information, guidance and support but not advice.
10. When mediation might be appropriate?
 - You are being affected by a work situation in some way.
 - The conflict/dispute is at an early stage.
 - There are strong emotions and there is a need for support in resolving the problem.
 - All parties recognise that there is an issue and are willing to attempt to resolve the situation.
11. Mediation may not be appropriate if:

-
- There is a significant power imbalance between the parties which cannot be bridged.
 - External rules need to be applied (i.e. if criminal activity is involved).
 - Behaviour between the parties makes one or the other (or both) feel unsafe to negotiate.
 - Conflict or complaint involves behaviour which requires action against one of the parties (i.e. serious misconduct).

12. When can mediation be put in place?

- Anytime during the conflict resolution process, however mediation is especially effective when used at the outset of any conflict before people get entrenched in their own positions.
- It can be used during the formal grievance process; the process is suspended and if successful that is the end. If not, parties can return to the formal process as before.
- It can be used at the end of a formal grievance when the outcome is not proven, and both parties have to find a way to restore the working relationship.

13. Mediation ground rules:

- Listen to what each person has to say and speak one at a time.
- Speak and behave in a non-threatening and respectful way; think how you would like to be treated.
- Be honest and as open as you can about what your feelings, concerns and needs.
- Be as specific as possible about what you want to happen, what you can do and what you'd like others to do.
- The mediator may pause the mediation or end it if he/she feels it necessary.
- Anything that is said in mediation cannot be used in court or in any later internal procedures.

The stages of mediation

14. **A preliminary meeting**, usually a phone call, with the mediator will be arranged so that the parties can:

- Describe the situation from their point of view.
- Think about ways of moving the situation forward.
- Get to know more about how mediation works and the benefits of using the process to find a mutually agreed solution.

15. **A face-to-face meeting** will be held which has five stages:

-
- Meeting the parties individually so that they can describe the problem from their perspective, vent their emotions and concerns, explore issues and impact that they have on them. Participants are encouraged to be open about how they feel and what they consider needs to happen to resolve the situation and to move forward.
 - Meeting the parties together so that they can present their side of the story in front of each other and then talk to each other by exploring the issues, checking facts, comparing views of the problem, identifying similarities/common themes and differences, exploring what participants want and what can be done about the situation. Summarising key issues discussed and build consensus on issues to take forward to problem solving stage.
 - Problem solving – this stage of the mediation process is for the parties to generate ideas on how to solve the problems identified in order to reach a constructive resolution to the current conflict and work out solutions themselves. That includes testing likely outcomes (reality-check them), describing in detail what will happen next in terms of future arrangements including a contingency plan (i.e. what if something goes wrong?).
 - Making agreements – transfer the mutually acceptable terms into a written and signed SMART agreement.
 - Closure and follow-up – evaluating and ending the session, agreeing plans for future contact between the mediator and the parties concerned, if needed. The parties decide if they agree to any feedback to line management and/or HR.

16. Benefits of mediation:

- Providing an alternative way of resolving a grievance or dispute through mediation can help by offering a quicker resolution, causing less stress to individuals, preserving the working relationship and offering a better chance of reaching a mutually successful outcome.
- It can help rebuild relationships and restore broken communication and trust because it does not seek to apportion blame.
- It is a viable way to tackle disputes as it brings people together to talk about the situation and can foster a joint problem-solving attitude, both of which are essential if working relationships are to be maintained or improved.

Document history

This Policy and Procedure is a contractual document. It is negotiated between Management and Unite collectively on behalf of staff.

Version number	Changes	Date approved
1.0	Revised policy issued following full review by JNCF. Changes to reflect revised organisation and addition of mediation.	1 February 2024 Ratified by JNCF