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Derbyshire Constabulary

DISPUTE RESOLUTION PROCEDURE

FOR ALL MEMBERS OF DERBYSHIRE CONSTABULARY

POLICY REFERENCE ABA/AIA

This Policy is Suitable for Public Disclosure

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DISPUTE RESOLUTION POLICY**1.0 INTRODUCTION, AIMS AND PURPOSE**

- 1.1 Derbyshire Constabulary recognises the importance of maintaining good staff relations and promoting fairness at work. It also recognises that workplace disputes provide opportunities for the organisation to learn and improve. It is essential to the running of an effective police service that workplace disputes are resolved effectively, efficiently and in a timely manner. The Force is required by law and by Police Negotiating Board agreement to have a procedure for staff to raise grievances and resolve disputes. The policy is in line with the ACAS Code of Practice on grievance procedures.
- 1.2 The purpose of this policy is to provide a channel for staff to raise issues of concern and to access methods of resolution that are constructive and fair. This policy communicates what is expected of all parties involved and provides guidance to managers, in particular, on how to deal with workplace disputes and what sources of support are available to all parties.
- 1.3 This Policy applies to all people who work for the Constabulary (Police Officers, Police Staff, Special Constabulary, trainees, Agency Staff and volunteers). It does not apply to Suppliers or Contractors.
- 1.4 The Dispute Resolution Procedure is not a method for seeking punishment or making an allegation under the Police Discipline Code or Police Staff Discipline Procedure. If it is thought that there is a matter of misconduct, criminal offence or other disciplinary issue see advice at Appendix Two.
- 1.5 Dispute Resolution Form 51 and 'Dispute Resolution – Guidance for Managers' are available on the Force Intranet. Further guidance on this policy is available from local HR Managers/Caseworkers, the Employee Relations Manager, HR, from UNISON and the Police Federation.

2.0 LEGAL BASIS

- 2.1 Employment Act 2008
- 2.2 Health & Safety legislation, particularly relating to the effects of bullying and harassment in the workplace -
- Health & Safety at Work Act 1974
 - Management of Health & Safety Regulations 1992
 - Health & Safety Executive (HSE) guidance on stress
- 2.3 Anti-discrimination legislation -
- The Disability Discrimination Act 1995 (as amended)
 - The Sex Discrimination Act 1976 (as amended)
 - The Sex Discrimination (Gender Reassignment) Regulations 1999
 - The Race Relations Act 1976 (as amended)
 - The Employment Equality (Religion or belief) Regulations 2003
 - The Employment Equality (Sexual Orientation) Regulations 2003
 - The Fixed Term Employees (Less favourable Treatment) Regulations 2002
 - The Part-time Workers (Less favourable Treatment) Regulations 2000

3.0 SCOPE OF THE POLICY

3.1 Issues that may cause disputes include:-

Terms and conditions of employment
Health and safety
Work relations
Bullying and harassment
New working practices
Working environment
Organisational changes
Discrimination

Disputes relating to policy will not be taken through this procedure where there is an in-built appeal route within the relevant policy i.e. Job Evaluation, Flexible Working Policy, Business Interests, Recruitment and Selection, Private Medical Intervention Policy, Attendance Management etc

3.2 Staff are encouraged to raise matters of concern as they arise so that they can be resolved swiftly. Once a resolution to a grievance has been agreed, staff cannot resurrect the same grievance again at a future date. However, if a resolution agreement has been broken, the relevant Stage Manager should review the case and take action as appropriate.

3.3 The complainant should identify how the matter could be resolved to their satisfaction, although this will not necessarily be the determining factor in the way the matter is resolved.

4.0 GUIDING PRINCIPLES

4.1 Confidentiality

The dispute resolution procedure is a highly confidential process. Those responsible for dealing with grievance enquiries and resolution must not discuss the matter with anyone else (except to seek guidance from HR Managers/Caseworkers/Specialists) without the consent of the individual's involved.

Any papers and reports generated from the dispute resolution procedure must be stored in a secure place under confidential cover until the matter is resolved. Completed dispute resolution files must be sent to the Employee Relations Manager, HR for filing. Additional copies, whether manual or electronic, are not to be retained by the manager.

Dispute resolution files are not kept on personal files; they are stored in a separate confidential filing system maintained by the Employee Relations Manager for a period of five years and in accordance with the Data Protection and Freedom of Information legislation.

A breach of confidentiality will be seen as a serious issue of misconduct, which may lead to disciplinary action.

In cases where potential serious criminal conduct emerges at any stage of the procedure, please refer to Appendix Two for guidance on confidentiality.

4.2 Representation

The aggrieved person and all other parties to a grievance have the right at any stage, except at Mediation, to consult with and be accompanied by an independent representative of a Staff Association, a recognised Trade Union, staff network, or a colleague or friend who work for the Derbyshire Constabulary. Police staff may request an official from any trade union to accompany them, regardless of whether the union is recognised. The individual must be informed of their right to representation in any invitation to resolution meetings.

Efforts will be made to provide an individual with a supporter from a particular under represented group on request.

If a representative cannot attend on the proposed date, the worker can suggest another date that must suit everyone involved. The new date must not be more than five days after the date originally proposed by the manager. This is a legal requirement insofar as Police Staff are concerned.

The representative is able to address any meeting to:-

- put the member of staffs case
- sum up the case
- respond on the workers behalf
- confer with the worker during the meeting

- The representative does not have the right to
- Answer questions on the workers behalf
- Address the meeting if the worker does not want it
- Prevent the employer from explaining the case

All parties also have access to support and counselling services through Care First.

Details of sources of support are provided at Appendix Three. The Stage Managers responsible for handling disputes should make all parties aware of these sources of support.

4.3 Fairness, objectivity & protection from victimisation

It is important that stage managers responsible for resolving grievances are objective and fair. Meetings should be controlled to ensure that all parties are treated with respect and dignity.

It should be noted that the parties involved in dispute resolution must not be treated less favourably because of their involvement in this procedure; such treatment is regarded as victimisation. Victimisation of a person who invokes the grievance procedure, or who provides any form of assistance to someone who is invoking it, may amount to a breach of discipline and in discrimination or harassment cases may constitute unlawful conduct under the anti-discrimination laws.

The transfer of an aggrieved member of staff could be regarded as an act of victimisation and this course of action must never be resorted to simply to resolve a grievance. In some cases it may be necessary to arrange a temporary transfer, or one party may ask to be moved however, in any such cases the reasons for the request to move must be thoroughly investigated and recorded.

If a person who has invoked this procedure, or given evidence or information in connection with proceedings feels that he or she is being victimised in any way, that person should at once consult the Employee Relations Manager, HR for advice. This can be done via a staff association if preferred. The Employee Relations Manager will review the matter and may re-allocate the grievance enquiry, provide feedback or take other action as appropriate in order to prevent further victimisation.

4.4 Counter grievances

If, at any point during the process, another party submits a counter grievance, this must be reviewed by the same stage manager at the same stage as the existing grievance with a view to resolving the whole workplace dispute. A counter grievance should extend the stage by no longer than 14 days; the grounds for any further extension must be approved by the Employee Relations Manager

4.5 Timescales

The time limit for each stage is 21 working days. The Employee Relations Manager can approve an extension if necessary. However, it is important that Stage Managers give priority to resolving workplace disputes in a timely manner to minimise the potential impact on welfare, morale, performance and service delivery.

Timescale extensions greater than one month will only be granted in exceptional circumstances and must be approved by the Employee Relations Manager.

Proposed resolutions/responses to grievances following a resolution meeting must be set out in writing and provided to the parties within a reasonable time, normally 5 working days.

4.6 Flexibility

It is recognised that special circumstances may warrant an adaptation to the procedure. In the case of grievances from senior managers, for example, it may be necessary to identify alternative levels of appeal so that the procedure is workable and objective

4.7 Bullying & harassment

Please refer to the Bullying and Harassment Guidance.

4.8 Monitoring

The Diversity Advisor will undertake the independent monitoring of the procedure through dip testing and quarterly reviews. The HR Committee and Staff Associations/UNISON are provided with information on a quarterly basis

5.0 INFORMAL RESOLUTION

5.1 Before commencing the formal dispute resolution procedure, individuals are encouraged to attempt to resolve the dispute informally. This would normally involve raising the issue, either verbally, or in writing, with a line manager, HR Manager or staff association so that the matter may be resolved. All parties, including managers, can benefit from consulting with and involving the staff associations

5.2 Informal resolutions may involve the line manager and/or HR Manager/Caseworker meeting with each party separately, or a meeting of all the parties, to discuss the matter. Resolutions may include, for example, one or more of the following:-

- Clarification of a misunderstanding
- Exchange and acceptance of differing perspectives/feelings
- Agreement to disagree
- Agreement to provide feedback to someone on their behaviour
- Acceptance of an explanation or apology
- Agreement to implement a development plan or action plan
- Agreement to modify a practice or behaviour

This list is not exhaustive and other resolutions may be identified.

The relevant Line Manager and/or HR Manager/Caseworker should make a brief note (jointly agreed with the aggrieved party) of the resolution(s) agreed/implemented and forward this to the Employee Relations Manager. This will be used to monitor general trends in workforce employee relations.

If the matter is not successfully resolved at this stage the individual can raise a grievance through the formal procedure.

6.0 FORMAL PROCEDURE

Subject to the formal procedure outlined below, the Stage Managers at each Stage would normally be as follows:-

Stage 1 – Immediate Line Manager

Stage 2 – HR Manager

Stage 3 – Senior Line Manager

6.1 STAGE ONE

In order to invoke Stage One, the aggrieved person must complete the Dispute Resolution Form (Force Form 51). The individual may either complete this form and hand it to their line manager, or arrange a meeting to complete the form together. The staff associations can also offer assistance in completing this form. If the grievance relates to the line manager, the form must be completed and given to the next senior manager. Where it is unclear who to send the grievance to, or the grievance involves the managers, staff must consult the Employee Relations Manager, who can advise or allocate an alternative stage manager to handle the grievance if necessary.

The Stage manager has 21 calendar days from the date received to resolve the grievance at Stage One. The local HR Manager will provide advice to the stage manager and monitor the progress of the grievance so that the timescales are met.

The absence from work of any party should not necessarily delay progress, as managers should conduct home welfare visits in accordance with the Attendance Management Policy, which provides an opportunity, with the individual's consent, to discuss the grievance. It is recognised that a swift, effective resolution is likely to assist the individual's in their return to work. Managers can seek guidance on these matters from the local HR Manager/Caseworker.

The manager will organise a meeting with the aggrieved person within 7 days of receipt to talk through the Dispute Resolution Form; to clarify the key points of the grievance, establish their expectations of resolution and inform the individual of the support services available. The timescale for resolution will also be discussed.

The manager must also meet with the other party/parties within 7 days of receipt of the Dispute Resolution Form to inform them of the key points of the grievance, to inform them of the support services available and to discuss their expectations of resolution within the agreed timescales.

A meeting of all the parties will then take place, with a view to reaching agreement on a way forward. The Stage manager will aim to review the key points of the grievance and suggest a resolution, confirming this in writing for the parties to consider. There may be occasions where a face to face meeting is difficult, however it is necessary for the parties to meet in order to restore a working relationship. A series of separate meetings with each party may be required initially, with a view to working towards a meeting of all the parties.

If the resolution is agreed, this should be recorded on the Dispute Resolution Form and signed by the aggrieved member of staff. The manager will update and send the form with any supporting papers to the Employee Relations Manager. The stage manager is responsible for following up any agreed actions and monitoring performance or behaviour as necessary to fulfil the requirements of the agreed resolution. This may include utilising the PDR system for recording and implementing any developmental and/or remedial actions.

If the grievance remains unresolved at Stage One (whether or not the maximum timescale has been used), and the aggrieved person wishes to progress to Stage Two, the Dispute Resolution Form will be updated, signed and sent to the local HR Manager with any supporting papers.

6.2 STAGE TWO

The HR Manager/Caseworker will record the date they receive the form. The parties have 21 calendar days from this date to resolve the matter at Stage Two, which may include attempts through one, or both of the options available at this stage.

The options at Stage Two are:-

- Joint Problem Solving or Mediation (See Appendix 6)

If any party does not agree to mediation, joint problem solving must be taken.

If one option is unsuccessful, the remaining option can also be tried within the stage two timescale.

The HR Manager/Caseworker will arrange for a trained mediator to assist; this should be someone who is not involved in the grievance and where possible geographically remote from the parties involved.

The HR Manager/Caseworker will book suitable accommodation and catering for the mediation/joint problem solving to take place and inform all parties of these arrangements .

The individuals attending the Stage Two resolution meetings must inform their line manager of their absence from the workplace; this will be counted as working time.

If the dispute is successfully resolved at Stage Two, the HR Manager will update and send the Dispute Resolution Form to the Employee Relations Manager. The HR Manager is responsible for following up any agreed actions and monitoring as necessary. This may include utilising the PDR system for recording and implementing any developmental and/or remedial actions.

If one or both options within Stage Two have been unsuccessful in resolving the matter and the aggrieved person wishes to commence the final appeal stage, they must inform the HR Manager and complete & sign the Dispute Resolution Form to this effect. The grievance should then be progressed immediately to Stage Three, whether the maximum timescale has been used or not.

After consultation with the Employee Relations Manager, the HR Manager will update and send the Dispute Resolution Form to the next senior line manager of the aggrieved person to commence Stage Three.

6.3 STAGE THREE – APPEAL PANEL

The appeal at Stage Three can be used where the original grievance issue remains unresolved and/or there is evidence that the grievance procedure has not been adhered to.

The stage manager will record the date they receive the Dispute Resolution Form. Stage Three should be completed within 21 days from this date.

The stage manager should liaise with the Employee Relations Manager to arrange a meeting of an appeal panel to include:-

- The stage manager as chairperson (normally the relevant Senior Manager who has not been involved in previous stages of the process.)
- An independent HR Manager
- Independent staff association representatives to reflect the parties involved in the grievance. i.e. if an officer has a grievance with a police staff employee, then both Unison and Federation representatives should be invited to sit on the panel unless the aggrieved party objects

It should be noted that the staff association representatives form part of the panel and must not have been involved in the dispute resolution process for the case they are hearing.

The parties to the grievance can also be accompanied by staff association representatives at the panel hearing.

The aim of the panel is to:-

- Establish whether the procedure has been followed correctly, if this is disputed
- Agree a framework for addressing the outstanding grievance issues between the parties
- Confirm the conclusions/recommendations of the panel with each party

The panel will convene to review the grievance papers within 7 days of Stage Three commencing. The panel will be provided with copies of all the papers generated by the process thus far

The chairperson will make arrangements for a meeting of the panel to which the parties are then invited. If the aggrieved party is unable to attend, one alternative date for the appeal hearing will be given.

The aggrieved person can either make representations in person, via a representative or may elect to submit a written report .The other parties involved must also be invited to discuss the matter with the panel. All parties may be accompanied by a staff association representative or other colleague.

The panel will adjourn to reflect on the issues raised by all parties and seek to reach a consensus on their conclusions. If a consensus cannot be reached, then a vote will be taken. Each member of the panel will have a vote and the chairperson will have the casting vote. It is not the role of the panel to establish guilt or provide punishment but to bring the matter to a constructive and workable conclusion.

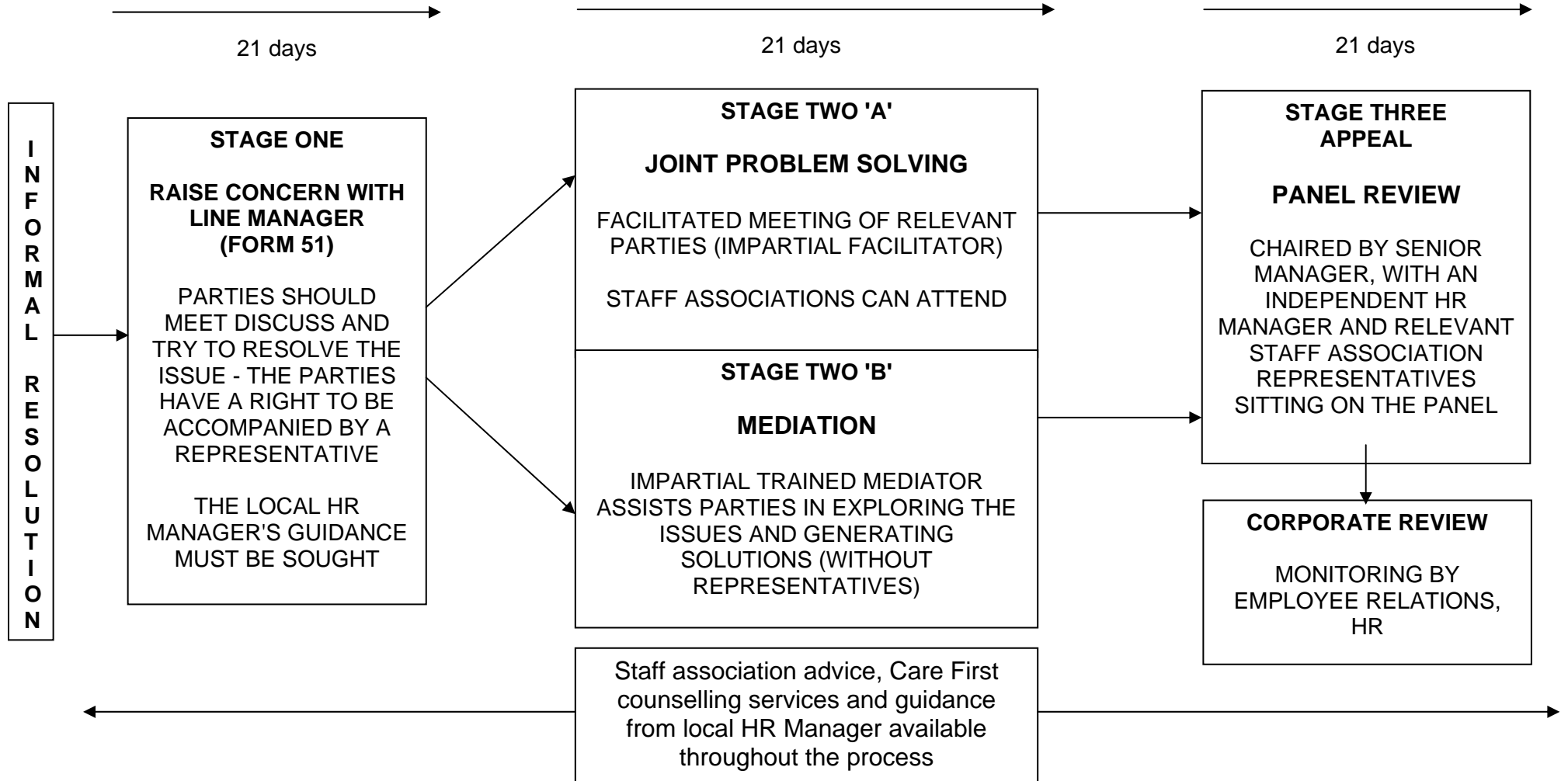
The panel will then reconvene to inform the parties of their conclusions. The chairperson should then confirm this in writing to all parties and forward all paperwork to the Employee Relations Manager. Any recommendations outside the authority of the panel should be passed to the appropriate senior officer/manager for consideration. The chairperson must ensure that any remedial actions are recorded through the PDR system and that any other actions are followed up.

The decision of the appeal panel is final and there is no further route of internal appeal. Grievances that have exhausted the Dispute Resolution Procedure cannot be passed to the disciplinary process; it must be identified at the start of the process whether the issue should be resolved through the Dispute Resolution or the Disciplinary procedure. See Appendix Two for more detail.

7.0 CERTIFICATE OF COMPLIANCE

- 7.1 This document was audited in June 2009 by the HR Department, within the guidelines of the Human Rights Act 1998. The audit was carried out on the assumption that the guiding legislation is itself compliant with the Human Rights Act 1998.
- 7.2 Where there are areas of potential interference with an individual's rights under the Act, due regard has been given to the issues of legality, legitimate aim, proportionality and fairness.
- 7.3 Subject to any new legislation or changes in case law, which require immediate amendment, this document next requires reviewing in June 2011 by the Head of Department, HR.

DISPUTE RESOLUTION FLOW CHART



APPENDIX TWO**RELATIONSHIP WITH DISCIPLINE PROCEDURES**

It should be determined when an aggrieved member of staff raises an issue, whether the most appropriate channel for resolution is the grievance or discipline process. However, there may be occasions where an issue that initially appears to be suitable for the dispute resolution process later leads to the emergence of potential disciplinary issues. In such cases the stage manager must consult the Head of Professional Standards/Employee Relations Manager

It would not be appropriate for the Stage Manager/Line Manager to make a report to the Head of Professional Standards, if the aggrieved person does not wish to make disciplinary allegations. The reluctance of the aggrieved person would be likely to render any discipline investigation untenable. Under normal circumstances an aggrieved person should not be required to give evidence nor should any action be taken against that person as a consequence of a refusal to give evidence.

The exception to the above will be cases of alleged gross misconduct, criminal conduct or where action is required by the Police Reform Act 2002, which will be dealt with immediately. The discipline procedure, will in these circumstances run alongside the grievance/dispute resolution process. Members of staff who are suspended may still be able to participate in the dispute resolution process depending upon the circumstances of the case.

Serious criminal conduct must be reported to the Head of Professional Standards. It must be explained to the aggrieved person that the nature of the allegation makes this necessary. It may be possible to continue to use the grievance procedure to resolve the original cause of the grievance but this would depend on the circumstances of each case. In such cases the person referring the matter must record the reason for the action bearing in mind that there may be a need to explain the decision at some later date before an Employment Tribunal.

There may be exceptional circumstances, however, where, despite the aggrieved person's unwillingness, the Stage Manager/Line Manager believes that a case should be reported to the Head of Professional Standards. Examples include -

- Where the allegation is very serious or there are compelling issues of public or organisational interest.
- The matter has worsened since the original report was made
- The matter is only one of a series of incidents
- The matter is subject to investigation under the Police Reform Act 2002

When deciding whether to refer a matter to the Head of Professional Standards, the stage manager must first consult the aggrieved person and then take into account all the circumstances of the case including the following points: -

- The need to maintain confidentiality.
- The effect on the aggrieved person who may then be put into the position of being a complainant in disciplinary proceedings against a colleague.
- That any documents concerned with the grievance procedure and statements made by staff in the course of a grievance procedure will normally not serve as evidence in disciplinary proceedings.

Attempts to find a resolution to the original grievance should not be deferred pending the outcome of the discipline enquiry. The grievance procedure should be run concurrently with, though separate from, the discipline enquiry.

Police Staff – Grievance Raised as a Result of Disciplinary Action

A member of police staff may raise a grievance after disciplinary procedures have begun against them on the grounds that either the action amounts to unlawful discrimination or has not been taken on the grounds of their capability or conduct.

If the grievance is raised before any stages of appeal, the grievance will be heard as part of the disciplinary procedure and the employee will be treated as having complied with statutory requirements and will not be barred from bringing a claim to an employment tribunal.

If the member of staff raises the grievance at the appeal stage of the discipline procedure, or after the discipline procedure has been finalised, the dispute resolution procedure must be applied in full.

SOURCES OF SUPPORT

Police Federation

Derbyshire Branch Office
790 1821 (Also see site on Force Intranet)

Unison

Derbyshire Constabulary Branch
700 2030 (Also see site on Force Intranet)

Superintendents Association

See DELIA for current contact details

Derbyshire Black Police Association

700 2812 (Also see site on Force Intranet)

Gender Agenda Professional Support Network

700 2795 (Also see site on Force Intranet)

LGBT (Lesbian, Gay, Bisexual & Transgender) Group

Confidential hotlines:
Male colleague - 07956 061115
Female colleague - 079856 07516
(Also see site on Force Intranet)

Disability Forum

(See site on Force Intranet)

Care First, Colleague Supporters and independent Chaplains

See Force Intranet for details

National groups:

British Association of Women in Policing

www.bawp.org Tel & Fax 01706 216331

National Black Police Association

www.nationalbpa.com Tel 020 7035 5153 Fax 020 7035 5155

Gay Police Association

www.gay.police.uk Action line (24 hrs) 07092 700 000 Fax 07092 700 100

The Constabulary is also affiliated to the National Disabled Police Association.

APPENDIX FOUR

DISCRIMINATION TERMS AND DEFINITIONS

Direct Discrimination is defined as treating someone less favourably on the grounds of their gender or race or disability or sexual orientation or religion or belief. Direct discrimination cannot be justified.

Indirect Discrimination occurs when an organisation imposes an apparently neutral provision, condition or practice as a condition of employment, that would put persons of one group at a particular disadvantage compared to persons of another group (in respect of their sex, race, disability, sexual orientation or religion or belief), unless the employer could show that the provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary. An example of indirect discrimination would be a set of selection criteria which apply equally to everyone but are less attainable by a particular group, putting members of that group at a disadvantage.

Victimisation is defined as treating a person less favourably because they have brought proceedings against the discriminator or any other person under the law, given evidence or information or anything else in relation to their or another's proceedings, or made an allegation of discrimination in good faith.

Harassment a person subjects another to harassment where, on the grounds of another's sex, race, disability, sexual orientation, religion or belief, she/he engages in unwanted conduct which has the purpose or effect of (a) violating the other's dignity, or (b) creating an intimidating, hostile, degrading, humiliating or offensive environment for that other.

Conduct shall be regarded as having the effect specified in paragraphs (a) and (b) if, and only if, having regard to all the circumstances, including, in particular, the perception of the other, it should be reasonably considered as having that effect.

Bullying is less well defined in law than harassment, but whilst there are similarities between the two, bullying usually involves a *series* of incidents where the perpetrator's treatment is *intended* to humiliate or undermine someone's trust and confidence, whereas harassment could be a single incident and could be unwitting. Health and Safety legislation requires employers to take reasonable steps to prevent causes of stress at work including bullying. Further guidance is available from ACAS at www.acas.org.uk

Equal Pay is the concept of paying men and women the same money for:-

- work that is the same or broadly similar ("like work")
- work rated as equivalent under a job evaluation scheme
- work which is different but which is of equal value in terms of the demands of the job.

Where there is disproportionate pay between a woman and a man, or groups of men and women, an organisation must show that the difference is genuinely due to a material factor unconnected with gender. He or she would need to demonstrate that the practice represents a real need on the part of the organisation and is appropriate and necessary for achieving that need.

Disability is defined by the DDA as: "a physical or mental impairment that affects a person's ability to carry out normal day to day activities, which are substantial, adverse and long term". The DDA requires employers to make reasonable adjustments where working arrangements or physical features place a disabled employee or job applicant at a substantial disadvantage compared to persons who are non-disabled. The organisation must show that any failure to make reasonable adjustments is justifiable. Reasonable adjustments may be required to enable a disabled member of staff to participate in the Dispute Resolution Procedure.

ROLES AND RESPONSIBILITIES

The Role of Stage Managers

Consider any adjustments/support required for the members of staff involved

Put care and thought into resolving disputes. They are not normally issues for quick decisions and the member of staff may have been considering the issue for a long time.

- To consult the local HR Manager for specialist advice and guidance on all grievances, particularly regarding legal responsibilities.
- To advise aggrieved staff on the correct channel for their specific dispute (i.e. grievance or discipline) .Invite the member of staff to re-state their dispute and how they would like to see it resolved
- To notify the Employee Relations Manager when a grievance is lodged by sending a copy of the Dispute Resolution Form Find out before if similar disputes have been raised, how they have been resolved and any follow up action. This allows for consistency of treatment
- To ensure adherence to this policy, including managing grievances at each stage within the given timescales .Consider adjourning any meetings if necessary to make further investigations into new points which arise
- To keep all parties informed of progress, maintaining confidentiality and keeping records and paperwork secure. All paperwork must be sent to the Employee Relations Manager on conclusion of the matter
- To ensure that any actions are followed through and monitored as agreed. This is essential to the on-going working relationship and longevity of resolution between the parties
- To inform the aggrieved person of the actions that are to be taken in response to their grievance. This should be done in person and confirmed in writing

The Role of HR Managers/Caseworkers/Employee Relations

- To provide staff and Stage Managers with guidance on this policy and advice on the relevant legal and practical HR issues
- To monitor the progress of dispute resolution, ensuring that timescales are met and that Stage Managers adhere to this policy
- To attend or facilitate resolution meetings and to sit on appeal panels as required
- To undertake role of Stage Manager in Stage Two
- To monitor and address grievance trends within their portfolio.
- To maintain confidentiality
- To promote and monitor compliance with the policy
- To review concluded grievances within a month of completion to identify organisational learning points
- To review each case after six months to ensure that the agreed resolution has been implemented

- To review corporate, departmental and causation grievance trends, reporting analysis to the relevant meetings and senior managers/officers
- To maintain confidential storage of grievance files for a period of five years

The Role of Mediators/Facilitators

- To undertake all necessary training to successfully fulfil the role
- To disclose anything which may hinder their ability to be objective in a specific mediation/facilitation scenario
- To establish ground rules and clarify roles
- For mediations, to gain agreement to participate from all parties at the start of the first session and to conduct mediation sessions in line with training and legal responsibilities
- To facilitate the generation of solutions
- To write up agreements and update the Dispute Resolution Form on completion
- To maintain confidentiality
- To attend de-briefs and refresher training as necessary

The Role of the Aggrieved Party

- To complete the Dispute Resolution Form
- To identify hopes for resolution
- To enter into the process genuinely seeking resolution ,not blame and to adhere to the policy and co-operate with Stage Managers and HR Managers to resolve the dispute in a timely manner
- To participate in open, fair, constructive discussion and to be receptive to the views of other parties, with a view to resolving the dispute
- To attend meetings, joint problem solving, mediation, etc as agreed in order to resolve the dispute (sickness absence does not necessarily prevent this - the advice of the Health Management Unit should be sought)
- To maintain confidentiality of the process

The Role of Other Parties to the Grievance

Managers and staff who are the subject/witness of a grievance are required:-

- To attend meetings/interviews as required
- To adhere to the policy and co-operate with Stage Managers and HR Managers to resolve the dispute
- To participate in open, fair, constructive discussion and to be receptive to the views of other parties, with a view to resolving the dispute
- To attend meetings, joint problem solving, mediation, etc as agreed in order to resolve the dispute (sickness absence does not necessarily prevent this - the advice of the Health Management Unit should be sought)
- To maintain confidentiality of the process

The Role of Staff Association Representatives

- To provide impartial advice and support to members who are involved in dispute resolution
- To provide assistance to staff in completing Dispute Resolution Form 51 if requested
- To attend meetings, joint problem solving, appeal panels etc as agreed and to co-operate with Stage Managers in order to resolve the dispute
- To assist all parties in resolving the dispute through open, fair and constructive discussion and to be receptive to the views of other parties, with a view to resolving the dispute
- To maintain confidentiality

JOINT PROBLEM SOLVING AND MEDIATION

The difference between mediation and Joint Problem Solving (JPS) is whether it is about a relationship and perceived issues between the disputants (mediation) or a point of fact/differing point of view about facts (JPS).

JPS is best used when the dispute is more around procedural issues, terms and conditions and facts and less to do with relationships. In JPS all parties involved jointly come up with solutions – the disputants, staff associations and facilitators – even the mediators can assist in the options/solutions put forward which would not be the case in formal mediation.

In JPS the staff associations can assist with solutions which is why best to limit to facts rather than the issues of the disputants.

Mediation is about the relationship between the parties and mediation can facilitate them to agree their own solutions to the issues.

To identify whether mediation or JPS is the best route consideration should be given to the following –

What needs to be addressed?

Does the member of staff want to involve a representative?

How private do the disputants want to keep it?

Is the issue about relationships or points of fact?

What is the proposed resolution hoping to be achieved?

Joint Problem Solving

This involves a meeting of all the parties, and their staff association representatives (if preferred) with an impartial person trained in facilitating skills. The aim is to allow all the parties to discuss the matter in a controlled environment with the facilitation of an agreement on a way forward.

Ideally, this should involve a meeting of all the parties together, however, the process could start with meeting each party separately initially with a view to bringing the parties together to conclude the matter.

Mediation

This involves an impartial person who is trained in nationally accredited mediation practice. The mediator can meet the parties together or meet each separately to assist the parties in bringing the matter to an agreeable conclusion. Whilst staff association representatives can provide support to individuals during the process they cannot attend the mediation sessions as mediation is about dealing directly with the parties involved so that they can take ownership of their own solutions. It should be noted that all parties have to agree to participate in mediation to proceed. Mediation is a highly confidential process which is 'legally privileged'; this means that any issues disclosed during mediation cannot be used in other proceedings such as an Employment Tribunal, providing a safe environment for open discussion and resolution of the dispute.