



GRIEVANCE POLICY

POLICY STATEMENT

1. PHSO aims to create a working environment in which all employees can freely raise concerns relating to their employment and seek a resolution promptly, fairly and informally wherever possible. Where informal resolution is not possible, the grievance procedure exists to provide a means to achieve formal resolution. The emphasis of this policy is on problem solving and mediation rather than confrontation or an adversarial process.
2. Feedback from grievances is used to promote learning and continuous improvement in accordance with PHSO's values of Excellence, Leadership, Integrity and Diversity.

PURPOSE AND SCOPE

3. This policy and procedure applies to complaints connected to the individual's employment by PHSO.
4. The policy is for PHSO employees. It does not cover self-employed contractors and temporary agency workers. If agency workers have a complaint connected to their work within PHSO this should be raised with HR, People & Talent and their agency.
5. This policy and procedure applies to a complaint connected to the individual's employment with PHSO and may include, but is not restricted to:
 - application of terms and conditions of employment;
 - health and safety;
 - data protection;
 - professional relationships at work;
 - new working practices/organisational changes; and
 - equal opportunities/diversity issues.
6. The policy does NOT apply to a complaint which is covered by a specific process in another employment policy or procedure such as:
 - harassment and bullying;
 - recruitment;
 - appeals procedures in other policies such as Performance Development & Review System, Flexible Working and Disciplinary.
7. The policy should NOT be used to:
 - raise a complaint on behalf of another employee;

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- deal with issues which may be raised under the Whistleblowing Policy;
- make a complaint that relates to collective terms and conditions such as pay awards (the individual application of collective terms and conditions is covered by this policy).

PRINCIPLES

8. The following principles apply:

- managers will try to resolve problems informally and deal with them at the earliest opportunity;
- confidentiality will be maintained at all times by everyone involved;
- the intention of this policy is not to apportion blame but to resolve grievances objectively, sensitively, consistently and fairly. This takes into account the fact that employment issues are not necessarily clear cut and responsibility cannot always be decisively established;
- managers will make decisions based on the 'balance of probabilities', meaning they will consider, having weighed up the evidence, whether it is more likely than not that the complaint has been substantiated;
- PHSO will assume that all grievances are raised in good faith. In the unlikely event that a complaint is frivolous, malicious or vexatious, the employee raising the grievance may be subject to disciplinary action;
- as a general rule, employees may not raise a grievance anonymously as this hampers consideration of the case. In exceptional circumstances where an employee has a genuine fear of the consequences of being identified as the complainant, they should contact HR, People & Talent for advice.

OUTCOMES

9. The outcomes of this policy are that:

- managers are aware of the procedure to deal with work related complaints and do so effectively;
- employees are aware how to formally raise a work related complaint and there is trust that they will be dealt with appropriately; and
- work related complaints are resolved without recourse to the formal procedures, wherever possible.

MONITORING AND REVIEW

10. HR, People & Talent will monitor the implementation of the formal stages of this policy for compliance and consistency and to identify any learning points.
11. A formal review of this policy will take place if there is a significant change in relevant legislation or business need which triggers a review.

Grievance procedure

1. Grievance stages

1.1 The Grievance procedure has the following stages:

- Informal Stage
- Formal
 - Raising a Grievance
 - Investigation
 - Decision
 - Appeal, as appropriate

1.2 PHSO reserves the right not to pursue grievances that are frivolous or vexatious, or that merely repeat complaints that have already been considered.

2. Roles in the Grievance Policy

2.1 As a general rule, the individuals involved in a Grievance procedure are as follows.

| Stage in procedure | Manager taking action | HR, People & Talent role |
|---|--|--|
| Informal Stage | Discussion usually involving the line manager, or where the grievance relates to the line manager then the countersigning manager. | Available for advice and guidance to line management. |
| Formal Meeting(s)/ Investigation | A manager who is unconnected with the case will be appointed as the Grievance Manager. | HR, People & Talent will provide advice and guidance to the Grievance Manager. HR, People & Talent will ensure procedural regularity. |
| Appeal | Conducted by a manager at the same Pay Band, or above, as the Grievance Manager and who was not involved with a previous stage of the procedure. | To ensure procedural regularity. |

2.2 All employees taking part in the formal stages of a Grievance procedure (including investigation meetings) may be accompanied to a meeting by a PHSO colleague or Trade Union representative. For further information on the right to be accompanied please see section 9.

3. Informal stage

3.1 In the first instance employees should raise any issues with the individual(s) concerned and try to reach a resolution. However, if the employee does not feel able to do this they should discuss the issue/concern with their line manager, with a view to working towards an informal resolution. Where the concerns relate to their line manager, it may be appropriate to approach the

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countersigning manager or another relevant manager informally, or to seek advice from HR, People & Talent regarding the informal approach.

- 3.2 At the informal stage every effort should be made by all parties involved, including the employee who raised the concern, to resolve matters without recourse to the formal procedures. Informal resolution may include: mediation (see section 11), a facilitated meeting or a change in procedure/process. The priority is to resolve the complaint promptly and in a fair and consistent manner.
- 3.3 It is useful for those involved in the informal stages to keep a note of the actions/discussions in case they are needed to inform any subsequent formal stages. If any specific actions are agreed at the informal stage these should be noted and agreed by the parties.
- 3.4 In exceptional circumstances, if the employee believes that they have good reasons why it is not possible, or appropriate, to raise their complaint informally, they may proceed directly to the formal stages of this procedure.
- 3.5 Line managers must seek advice from HR, People & Talent at an early stage when they become aware of a grievance or a potential grievance.

4. Formal stages - raising a grievance

- 4.1 To initiate the formal procedure, the employee must submit their grievance, in writing, to their line manager with a copy to HR, People & Talent. If the subject of the complaint is the employee's line manager or a decision made by that manager, the grievance should be submitted to their countersigning manager with a copy to HR, People & Talent.
- 4.2 Where it is inappropriate for either the line manager or the counter-signing manager to receive the grievance, an employee may submit a written grievance direct to HR, People & Talent who will determine the best way to manage the grievance. In such situations, the employee should provide written justification as to why they are departing from the normal procedure.
- 4.3 The written complaint should provide as much information as possible, as it is on this information that the grievance will be considered. It should include:
 - the details of the grievance, including a chronology of dates and events/incidents etc. where applicable;
 - the details of attempts to resolve the matter informally - where applicable; and
 - what outcome is sought.
- 4.4 On receipt of a formal complaint PHSO reserves the right to make an initial assessment as to whether the grievance raises a genuine concern about the way in which the employee has been treated. An initial assessment may involve the manager (or countersigning manager) and/or HR, People & Talent reviewing the details of the grievance raised and considering whether, based

on the information available, there is a legitimate concern which informal action may be able to resolve.

5. Formal stages - appointment of a Grievance Manager

- 5.1 On receipt of a formal written complaint HR, People & Talent, in conjunction with relevant managers, will appoint a Grievance Manager. Both the employee who raised the grievance and any person grieved against will be notified and provided with information about the grievance; this may be a copy of the grievance. Once appointed the Grievance Manager is responsible for ensuring the prompt progress of the grievance and for keeping all relevant parties informed as to progress.
- 5.2 The Grievance Manager will initiate an investigation to establish the facts and gather information. Depending on the particulars of the grievance the Grievance Manager may decide to investigate themselves but more likely they will appoint an investigator to carry out the investigation on their behalf. In complex cases it may be appropriate for more than one person to investigate the complaint, but this is the exception. The employee who raised the grievance and those grieved against should be notified in writing of the estimated timescales by the Grievance Manager.

6. Formal stages - investigation

- 6.1 The Investigator (this may be the Grievance Manager but for clarity through the investigation stages of this procedure this person will be called the Investigator) will work with HR, People & Talent to carry out the investigation which will typically involve:
- examining the detail of the grievance;
 - gathering and reviewing relevant documentation;
 - speaking to the person who has complained;
 - speaking to the person complained about (if that is the nature of the grievance);
 - speaking to others (witnesses) who may have information about the complaint.
- 6.2 Investigation meetings are formal meetings which will be noted.
- 6.3 On completion of the investigation a report must be prepared. This report should detail the thorough investigation which has taken place and set out the facts of the investigation. The report is expected to identify: key pieces of evidence; areas where evidence is not available or cannot be substantiated; and conflicting evidence. If the Investigator is not the Grievance Manager, the report will be submitted by the Investigator to the Grievance Manager. See Grievance and Dignity at Work Investigation Guidance for further information.
- 6.4 All evidence which is likely to be relied upon in the decision making should be referred to in the report, identifying areas of inconsistency or disagreement. Where a piece of evidence is unsubstantiated or is hearsay this may still be

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included if the investigator considers it important but its status should be noted.

6.5 Key points arising from witness statements should be included in the report but should not be attributed to individually named witnesses unless it is essential for the investigation that this is the case. Where there are a number of witnesses it may be necessary to identify them as witness A, witness B, for clarity purposes. However, PHSO cannot guarantee complete confidentiality to witnesses as statements may be required to be made public if the grievance progresses. See the Grievance and Dignity at Work Investigation Guidance for further information on the investigation report.

6.6 The Grievance Manager will consider the investigation report and reach a decision.

7. Formal stages - decision meeting

7.1 The Grievance Manager will invite the employee who raised a grievance to a decision meeting, giving sufficient notice and advising them of their right to be accompanied. The purpose of the meeting is to reiterate the grievance process, confirm the investigation is complete and deliver the decision, in person.

7.2 At the meeting the Grievance Manager will advise the employee of what the investigation has found and the decision he/she has reached on their grievance. A note should be made of the meeting.

7.3 Following the meeting the Grievance Manager will send a letter confirming the decision and including the following:

- the decision on the grievance, where possible stating whether it is fully, partly or not upheld (but also see 7.4 below);
- the reasons for the decision;
- any further action; and
- how to appeal against the decision (if appropriate).

7.4 PHSO recognises that it is not always possible to arrive at a decisive finding of 'upheld' or 'not upheld' since employment situations are not necessarily clear-cut. Sometimes the outcome may include an acknowledgement of the complainant's concerns and/or an agreed action plan (including mediation or conciliation, if appropriate) to address them.

7.5 There is no right for the employee who raised the grievance (or any person grieved about) to see the report. However, in general, a summary report will be provided following the meeting with the Grievance Manager. See the Grievance and Dignity at Work Investigation Guidance for further information.

7.6 If, following the decision, the employee wishes to raise further issues or disagrees with the outcome, this will need to be raised via the appeal process.

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7.7 The Grievance Manager should also write to any person(s) grieved against, setting out the findings in relation to the allegations made about them. If the outcome of the complaint is that some form of action (disciplinary or otherwise) should be considered against another person, the detail of this will not be discussed with the employee who raised the complaint.

7.8 Where the matter is to be considered under the Disciplinary policy, as the investigation has already taken place it is likely that the disciplinary process will move directly to Formal Stage 2, Disciplinary Hearing. Any relevant details from the investigation will be provided to both the individual concerned and each of the Hearing panel members, one of whom will normally be the Grievance Manager.

8. Formal stages - appeal

8.1 The employee who raised the complaint may submit an appeal, in writing, within 10 working days of the date of the decision letter.

8.2 The letter should set out the full grounds of appeal as the content of this letter will be the basis on which the appeal is considered. All documentary evidence which the employee considers relevant to the appeal should accompany the appeal letter or be submitted within 5 working days of the appeal being lodged.

8.3 An Appeal Manager will be appointed by HR, People & Talent in consultation with relevant managers. The Appeal Manager will consider the content of the appeal. In some cases it may be possible to carry out a paper based appeal but where they consider it necessary, the Appeal Manager will invite the employee to an appeal meeting.

8.4 The Appeal Manager will consider the representations made by the employee. The purpose of the appeal is not to re-hear the case. The Appeal Manager will consider:

- whether the procedure has been followed;
- any new evidence that was not previously available;
- whether the decision was reasonable in the circumstances.

8.5 The Appeal Manager will be supported through the appeal process by a member of HR, People & Talent. The Appeal Manager will consider whether there is a need to call for further evidence or, if the complaint is about another employee, interviewing that employee, before reaching a decision.

8.6 Following consideration of the evidence, the Appeal Manager will communicate their decision to the employee in writing. The letter will include:

- the outcome of the appeal and the reasons for the decision;
- any actions agreed to resolve the situation if the appeal is upheld;
- a reminder that there is no further appeal.

8.7 The outcome of the appeal may be one of three options:

- the appeal is fully upheld and no further action to be taken;
- the appeal is partially upheld and further action may be taken;
- the appeal is dismissed and the outcome stands.

9. Right to be accompanied

9.1 All employees taking part in the formal stages of a Grievance procedure (including investigation meetings) can be accompanied to a meeting by a PHSO colleague or Trade Union representative. This applies to an employee:

- who has raised the grievance;
- who is the subject of the grievance;
- who is a witness during the investigation.

9.2 The colleague or Trade Union representative, may:

- address the meeting but not answer questions on behalf of the employee;
- confer with the employee during the meeting, requesting an adjournment, if necessary.

9.3 Managers arranging formal meetings should advise employees that they may be accompanied. Every effort will be made to accommodate the availability of the colleague/trade union representative accompanying the employee. However, where this causes the process to be unduly delayed, the employee may be requested to seek an alternative.

10. Timescales

10.1 In the best interests of both the employee who has raised a grievance and any person grieved against it is important that the investigation and resolution of the grievance are completed as promptly as possible.

10.2 All those involved in the grievance process must give appropriate priority to the grievance to enable expedition of the process.

11. Mediation

11.1 Mediation can provide a constructive way of resolving disputes and difficult situations. However, in order to work successfully it requires agreement from both parties involved before the mediation process can begin.

11.2 Mediation will generally be carried out by independent, trained mediators from an external organisation, such as the Employee Assistance Provider. The process is flexible to meet individual needs but will usually involve discussions with the individuals with the aim of bringing both parties together to talk the matter through.

11.3 Mediation is most appropriate when both parties:

- are genuinely willing to communicate and agree a course of action;
- feel able to communicate openly and without fear of victimisation or reprisal;
- are prepared to focus on the future;
- are prepared to seek a constructive solution and do not wish for a punitive outcome.

11.4 To initiate the mediation process, please contact HR, People & Talent in the first instance. If mediation is not successful, the employee who has raised the grievance retains the right to revert back to the grievance procedure.

12. Other sources of support and information

12.1 Support and information are available from:

- the line manager;
- HR, People & Talent;
- the Employee Assistance Programme (EAP) which offers a telephone helpline and face to face counselling services.

13. Confidentiality

13.1 All participants in a Grievance procedure, including those accompanying employees, are required to observe the strictest confidentiality. All papers relating to the grievance should be marked 'Restricted' as appropriate.

14. Grievance during other employment procedures

14.1 If a formal grievance is raised during a Disciplinary or Capability procedure, the aim will be to avoid unnecessary duplication and to ensure that the matter is dealt with speedily and without unduly delaying the Disciplinary/Capability procedure.

14.2 Depending on the circumstances it may be appropriate to deal with both matters at the same hearing/meeting. For example if a grievance is raised before a disciplinary hearing but it relates to the substance of the hearing, it may be appropriate to deal with the matter during the disciplinary investigation and any subsequent hearing. However, each case will be considered on its merits.

14.3 In exceptional cases, where a complaint is made during a Disciplinary or Capability process and it impacts directly on the conduct of that Disciplinary/Capability process, consideration will be given to halting the Disciplinary/Capability process while the grievance is considered independently. The decision to halt the Disciplinary or Capability process will be taken by the Director/Head of function or above, in conjunction with the Director of HR, People & Talent.

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- 14.4 Employees should be aware that if such a grievance is found to be vexatious or raised with the intention of disrupting the disciplinary/capability process, disciplinary action will be considered.
- 15. Sickness absence during the formal grievance procedure**
- 15.1 Brief periods of sickness absence may delay the grievance process but if there are repeated or long absences then alternative arrangements may need to be made which may include continuing in the person's absence.
- 15.2 HR, People & Talent will be informed and involved at an early stage by the line manager and the absent employee will be kept notified of the progress of the case. If the sickness absence appears to be directly related to the process then professional medical advice may be sought on whether the employee is well enough to participate in the process. If necessary, with medical advice and the employee's agreement, a grievance meeting may be held away from the workplace.
- 16. Grievance procedure after employment with PHSO has ended**
- 16.1 Whilst there is no legal requirement for PHSO to follow a grievance procedure in relation to an individual who is no longer employed with the organisation PHSO will consider a formal grievance raised within 3 months of the last day of service. However, former employees will not have a right of appeal against the grievance decision.
- 16.2 The former employee should write to the Director of HR, People & Talent providing as much detail as possible (see 4.3 above). The Director of HR, People & Talent will acknowledge receipt of the grievance letter. Following relevant enquiries, the Director of HR, People & Talent will communicate their decision to the former employee in writing.

Annex 1 - Grievance Flowchart

