

 Grievance Procedure

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**GRIEVANCE PROCEDURE**

**1. GENERAL PRINCIPLES**

**1.1** The Trust’s Policy is to encourage free communication between employees and their managers to ensure that questions and problems arising during the course of employment can be aired and, where possible, resolved quickly and to the satisfaction of all concerned. The Grievance Procedure complies with current employment legislation and the ACAS Code of Practice on Grievance Procedures.

**1.2** The aims of the Grievance Procedure are to settle grievances fairly and to operate simply and rapidly. Every effort will be made to resolve the issue at the earliest possible stage and at each stage efforts will be made in order to avoid proceeding to the next stage and to settle the issue amicably.

**1.3** All complaints on any matter, excluding those issues outlined in Paragraph 3, submitted by employees will be treated as grievances to be dealt with under this procedure. The procedure has been specifically designed to be used by employees, either on an individual or group basis to ensure that issues relating to employment within the Trust are dealt with and settled fairly, speedily and as near to the point of origin as possible. Every effort will be made to hear any grievances at the earliest opportunity.

**1.4** At all stages of the Procedure, the individual submitting the grievance must provide sufficient and relevant information to allow it to be properly considered.

**1.5** The Trust recognises the right of individual employees to use the procedure to settle individual grievances. They can be represented in the process by a Trade Union representative or work colleague if they so wish.

**1.6** Where a group of employees, acting collectively, raise a grievance, they must do so through a recognised Trade Union. Collective issues must be pursued by a recognised Trade Union in accordance with the Trust’s recognition of the Trade Unions as the appropriate bodies for consultation and negotiation purposes.

**1.7** Employees should aim to settle most of their grievances informally by using Stage 1 of the procedure. It is recognised that depending on the nature of the issue all stages in the procedure need not be used. However, failure to reply by management within the timescale on an issue can lead to the next stage of the procedure being invoked. Where appropriate both parties may agree that the matter has been resolved. Only if the matter cannot be settled informally should the employee resort to the formal grievance procedure.

**1.8** Where the grievance is raised against an employee’s supervisor/line manager then either at Stage 1 or Stage 2 level, it will be heard by another suitable management representative.

**1.9** Where the grievance is raised against a Development Manager it will be heard by the Chief Officer. Where the grievance is raised against the Chief Officer it will be heard by the Trust’s Appeal Panel or specially constituted subcommittee of Trustees.

**1.10** Any employee whose grievance has been rejected under the Trust’s Grievance Procedure cannot submit a second grievance on the same or substantially the same issue at a later date.

**1.11** Every reasonable effort will be made to adhere to the timescales in the procedure. Where there is agreement between both parties the timescales may be altered e.g. where Trade Union(s) need time to consult their members; an employee is unable to arrange for a representative to attend the Grievance Hearing or relevant management representative is not available due to annual leave.

**1.12** The Grievance Procedure will be carried out in confidence, unless otherwise agreed with the parties involved and will not prejudice the aggrieved employee’s current employment or future career prospects.

**1.13** There may be occasions by agreement between the Chief Officer and the employee or Trade Union concerned, where it is appropriate, for a grievance to be heard for the first time at Stage 3 level due to the issue or complexity involved.

**1.14** The Grievance Procedure applies to all employees of the Trust.

**2. DEFINITION**

**2.1** For policy purposes, a ‘grievance’ is defined as a complaint by an employee about action which the Trust has taken or is contemplating taking, or any perceived lack of action by the Trust in relation to a particular matter.

**2.2** Grievances can also be raised about matters not entirely within the Trust’s control such as client or customer relationships e.g. where an employee is working on another employer’s site. These will be treated in the same way as grievances within the Trust with the relevant Manager investigating as far as possible and taking action if required. Third parties should be informed that grievances are taken seriously and action will be taken to protect Trust employees.

**3. EXCEPTIONS**

**3.1** The outcome of any Disciplinary Hearing will be excluded from the Grievance Procedures as the Trust’s Disciplinary Policy and Procedures provides for the right of appeal against any disciplinary action.

**3.2** Where an employee, in the course of a disciplinary case, raises a grievance about the Disciplinary Officer, Investigating Team or Appeal Chair dealing with their case, depending on the circumstances, it may be appropriate to suspend the disciplinary procedure for a short period to enable the grievance to be considered. If the grievance is upheld the Disciplinary Officer should consult the Chief Officer in the first instance and agree the appropriate action to be taken e.g. another Disciplinary Officer will deal with the disciplinary case.

**3.3** Any complaint about whistleblowing will be excluded from the Trust’s Grievance Procedure as they will be dealt with under the Trust’s Whistleblowing Policy.

**3.4** Any complaint about harassment and bullying will be excluded from the Trust’s Grievance Procedure as they will be dealt with under the Trust’s Harassment and Bullying Policy.

**3.5** Any complaint about Job Evaluation will be excluded from the Trust’s Grievance Procedure as they will be dealt with under the Trust’s Job Evaluation Policy unless it is in relation to a breach of the Job Evaluation Policy.

**3.6** Any complaint raised by employees against a work colleague will be excluded from the Trust’s Grievance Procedure and should be raised with their Line Manager who will investigate the complaint.

**3.7** Complaints relating to an employee’s individual tiered pension contribution rate in terms of the Local Government Pension Scheme will be excluded from the Grievance Procedure as there is a separate process under the Local Government Pension Scheme (Scotland) Regulations established for dealing with these complaints.

**Employees can appeal to the Chief Officer under Stage 1 of the process.**

**3.8** The Trust adopts all Council employment related policies. When any new employment-related policies, or amendments to existing policies are proposed, the Council will consult Trade Unions prior to implementation by The Trust. Trade Union have the right to request a Stage 4 Grievance Hearing heard by the Council where they disagree with management’s proposals. Accordingly, grievances relating to the application by management of a Council Policy where there is no management discretion exercised in the application of that Policy will be excluded from the Grievance Procedure.

**3.9** This procedure should not be used for any matter which is covered by a procedure internally or externally which affords an employee the right of appeal under that policy.

**4. STATUS QUO**

In the event of an issue being pursued by an employee, a group of employees or Management through the procedure the following will apply: -

**(a)** Where Management wish to implement a decision which would mean departing from an existing agreement or established practice and the employee(s) concerned object(s) to that decision and lodge a grievance, Management shall be obliged to reach agreement or exhaust the grievance procedure before implementing the decision. This gives the employee(s) the right to maintain the status quo. However, Management also reserves the right to maintain the status quo in appropriate circumstances.

**(b)** Where Management takes a decision which is within the framework of an existing agreement or an established practice, there shall be no obligation upon Management to postpone the implementation of the decision until agreement has been reached or the Grievance Procedure has been exhausted.

**(c)** Both parties accept that the Status Quo clause imposes obligations on both Management and Trade Unions to take no precipitative action while the issue is still under consideration and the procedure has not been exhausted.

**(d)** If both parties agree, the status quo may be extended to operate while an issue is being considered by outside parties e.g. the Joint Secretaries of the Scottish Local Authorities Negotiating Bodies.

**(e)** In exceptional circumstances, the status quo may be set aside with the agreement of both parties, or where its continuation would result in breach of statutory or other mandatory regulations.

**(f)** The status quo will not apply where the grievance concerns the operational requirements of an external organisation.

**5. GRIEVANCE PROCESS**

**5.1 Stage 1 Level - Informal Approach**

Any employee feeling aggrieved on any matter relating to their employment with the Trust should raise the issue informally with their designated supervisor/line manager.

The supervisor/line manager shall discuss the nature of the grievance with the employee concerned. If unable to accept the legitimacy of the grievance or a remedy cannot be provided the supervisor/line manager will reply verbally to the aggrieved employee, within **2 working days** and advise the employee of the next stage in the procedure. The supervisor/line manager should note the outcome of the discussion for any future reference if necessary.

**5.2 Stage 2 Level – Chief Officer**

If the employee is dissatisfied with the reply received from the designated supervisor/line manager and wishes to formally pursue their grievance, the employee or, in the case of a collective grievance, the employee's Trade Union representative, shall, within **10 working days** of receipt of the reply at Stage 1, submit the grievance in writing, using Form LTGP/1, to the Chief Officer, clearly outlining the elements of the Stage 1 outcome that have not been satisfactorily resolved. Matters upheld at Stage 1 should not be included.

**If an employee proceeds directly to Stage 2 of the Grievance Procedure then they must detail their reasons for not raising their grievance at Stage 1 of the procedure.**

The Chief Officer may nominate another senior officer to hear the grievance on their behalf. A copy of Form LTGP /1 is attached as Appendix 1.

This form LTGP/1 must contain comprehensive information to allow the matter to be fully considered.

If the Chief Officer (or nominated senior officer) does not consider the information contained on Form LTGP/1 to be sufficient then it will be returned to the employee for additional information to be provided.

The Chief Officer (or the nominated senior officer) shall acknowledge receipt of the employee’s submission and convene a Grievance Hearing at a reasonable time and place to hear the grievance in the presence of the employee and if appropriate their Trade Union representative or work colleague and relevant management representatives if appropriate.

The purpose of the Grievance Hearing is for the Chief Officer (or nominated senior officer) to gather all relevant facts. It will therefore be the decision of the Chief Officer (or nominated senior officer) to decide who requires to be present at the Grievance Hearing.

The Hearing shall normally be arranged within **10 working days** of the notification to the Chief Officer (or the nominated senior officer). The Chief Officer (or nominated senior officer) will be accompanied at the meeting by a representative from EAC Human Resources.

The employee must take all reasonable steps to attend the Grievance Hearing. However, if the employee or their representative is unable to attend then they should give timeous notice so that the Hearing can be rearranged with the reasons being formally recorded. If the employee or their representative is unable to attend the rearranged Grievance Hearing then another Hearing date shall be arranged and the employee advised that further non-attendance may result in their grievance being considered in their absence.

If at the Stage 2 Grievance Hearing the Chief Officer (or nominated senior officer) considers that the employee has not provided sufficient information or it is considered that matters raised require further investigation, then the hearing will be suspended at that point to allow further detail to be provided by the employee or for the Chief Officer to arrange for the matters raised to be investigated.

Once the additional information has been provided by the employee or the investigation has been concluded, the hearing will be reconvened with both parties having been provided with the information in advance, where appropriate.

The hearing should be adjourned if any new facts come to light which require examination and reconvened when the further investigation is complete.

After having fully considered all of the matters raised, the Chief Officer (or nominated senior officer) shall reply in writing to the employee and if appropriate the Trade Union representative as soon as possible after the meeting and in any case within **10 working days**, giving the reason for the decision and advising the employee of the next stage of the procedure. If practicable, the decision or recommendation shall be intimated verbally to the employee or their representative and service management at the conclusion of the meeting. If, however, there are extenuating circumstances which may delay a reply to the employee beyond the 10 working days, the Chief Officer (or nominated senior officer) should advise the employee accordingly and formally record the reasons for the delay.

**5.3 Stage 3 Level - Appeals Panel**

If the employee is dissatisfied with the reply given at Stage 2, the employee, or in the case of a collective grievance, the employee's Trade Union representative, shall intimate in writing, within **10 working days of receipt of the reply,** to the Chief Officer the reasons for their dissatisfaction and confirming how they consider the complaint/grievance may be resolved.

The Chief Officer shall forward the employee’s grievance to the Board of Trustees to enable the grievance to be considered by the Appeals Panel. The Trust’s representative(s) who heard Stage 2 will present management’s case calling appropriate witnesses. The employee and where appropriate their Trade Union representative or work colleague will present the employee’s case. Every effort will be made to hear the appeal at the first available meeting of the Appeals Panel after the notification to the Chief Officer unless there are extenuating circumstances which may delay the Hearing. A copy of the procedure to be adopted at the Appeals Hearing is attached as Appendix 2.

However, where there are extenuating circumstances which may delay the Hearing being held within this timescale then the employee and where appropriate their Trade Union Representative or work colleague will be advised accordingly by the nominated representative of the Trust.

The decision of the Appeals Panel when approved shall be communicated in writing by the Board of Trustees (or nominated representative), within **5 working days of the decision being made,** to the employee or their representative as appropriate and the Trust’s representative. If practicable the decision or recommendation shall be intimated verbally to both parties at the conclusion of the grievance hearing.

**6. RECORD KEEPING**

**6.1** The Trust is committed to full compliance with General Data Protection Regulations, the Data Protection Act 2018 and any subsequent forthcoming arrangements. The Trust observes the principles of data protection legislation and maintains confidentiality of all personal grievance information held manually or on the Trust’s information systems. For further information on your privacy rights please see the Trust’s main privacy statement at the following [link](https://eastayrshireleisure.com/media/2082/privacy-statement.pdf)

**6.2** At the conclusion of the grievance process all relevant documentation must be retained in the employee’s personnel file **for a minimum period of 12 months** from the date of the conclusion of the grievance. All documentation relating to collective grievances will be kept securely, in lockable, non-portable storage containers **also for a minimum period of 12 months** from the date of the conclusion of the grievance**.** Access to storage containers must be strictly controlled and limited to authorised and named individuals, who are entitled to see such information in the course of their duties. This information will be retained for a longer period where an employee has submitted a claim to an Employment Tribunal or raised court proceedings in respect of that grievance.

**6.3** All documentation will be securely destroyed after expiry of the designated retention period.

**6.4** A record of all grievances raised on a formal basis will be retained confidentially within Human Resources. The content, nature and outcome of the grievance will be summarised and the information used for statistical purposes and to establish patterns and consistency. The employee(s) concerned will not be identified from the summary record.

**7. SAMPLE DOCUMENTATION**

**7.1** Examples of sample documentation for use in accordance with the Grievance Procedure are outlined in Appendix 3.

**8. B.E.S.T.**

**8.1** The Grievance Policy reflects the B.E.S.T. qualities and behaviours adopted by East Ayrshire Leisure and supports employees to be empowered to raise issues of concern and for these issues to be dealt with under the framework of the Grievance Policy.

**9. REVIEW**

**9.1** The Grievance Policy and Procedures will be subject to an annual desktop review to assess whether a more detailed review is required. The desktop review will take account of operational experience or impending legislative changes. Otherwise, the Policy and Procedures will have a full scheduled review every three year’s.

**Record of Change**

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| **Date Reviewed** |
| April 2022 |

Appendix 1

**LTGP/1**

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| EAST AYRSHIRE LEISURE CONFIDENTIAL**GRIEVANCE PROCEDURE**NOTIFICATION OF GRIEVANCE  | EA leisure logo cmyk |

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| NOTE: If completing by hand, please do so **clearly** and in **black ink.**If you require any assistance in completing this form, please contact a representative of East Ayrshire Council’s Human Resources Service. |
| PERSONAL DETAILS |
| Name |  | Section  |  |
| Designation |  | Work Location/Work Phone No |  |
| Home Address |  |
| REPRESENTATIVE’S DETAILS |
| Trade Union Representative |  | Name of Trade Union (if appropriate) |  |
| Work Colleague |  |  |  |
| STAGE OF APPEAL |
|  Tick Appropriate Box   STAGE 2 – To Chief Officer  STAGE 3 – To Appeals Panel  |
| NATURE OF GRIEVANCE |
| **Please state fully the nature of the grievance. (continue on separate sheet if necessary)** |
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| NATURE OF GRIEVANCE (Cont’d) |
| **Please state what answer was provided at the previous stage (where applicable).** **(continue on separate sheet if necessary)** |
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| **Please indicate in your opinion how the grievance could be resolved.** **(continue on separate sheet if necessary)** |
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|  |
| Signature …………………………………………… Date ……………………………………..Name ……………………………………………. (Block Capitals) |
| **FOR OFFICIAL USE:**Date Received:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Initials \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

##### Appendix 2

**EAST AYRSHIRE LEISURE**

**APPEALS PANEL**

**STAGE 3 - GRIEVANCE PROCEDURE**

**1. INTRODUCTION**

**1.1** The following Appeals procedure will be used in all employee Grievance Hearings where the appeal is being considered by the Appeals Panel of the Trust.

**1.2** The Appellant can be represented by their Trade Union Representative or other person of their choice.

**1.3** Management will normally be represented by a Trust Representative(s) who chaired the Stage 2 Grievance Hearing or substitute. In cases where the grievance is being heard for the first time at Stage 3 level without having been heard at an earlier stage, then the appropriate senior officer representing the Trust will present management’s case.

**1.4** The Appeal Panel will be advised by either a Human Resources or a Legal Services Representative from East Ayrshire Council.

**1.5** Where persons have personal knowledge of relevant facts, it is the responsibility of either the Appellant or a Trust Representative(s) to ensure that these persons are in attendance to be called as witnesses.

**1.6** It is the responsibility of the Appellant or their representative to approach witnesses on their behalf to ensure that witnesses are in attendance at the Hearing and are willing to give evidence. Trust employees, called by the Appellant or their representative will be granted paid time off to attend if Management are given prior notice.

**1.7** Similarly it is the responsibility of the Trust Representative(s) to ensure any witnesses for their case are in attendance.

**1.8** Both the Appellant and the Trust Representative(s) shall give the Appeals Panel prior notice of witnesses and shall exchange their list of witnesses.

**1.9** The relevant documentation will be issued to **all** parties not less than 7 days prior to the Appeal Hearing.

**2. APPEALS HEARING PROCEDURE**

**2.1** The meeting will commence with the Appeal Panel members, the Officers appointed to assist them, the East Ayrshire Leisure Representative(s), the Appellant and the Appellant’s Representative in attendance. The Chair will open the meeting by introducing panel members.

1. The Appellant and/or the Appellant’s Representative shall put the Appellant’s case in the presence of the Trust Representative(s).
2. The Trust Representative(s) shall have the opportunity to ask questions of the Appellant and/or the Appellant’s Representative and any witness(s) called by them.
3. The Appeals Panel shall have the opportunity to ask questions of the Appellant and/or the Appellant’s Representative and of any witnesses called by them.
4. The Trust Representative(s) shall put the case in the presence of the Appellant and the Appellant’s Representative.
5. The Appellant and/or the Appellant’s Representative shall have the opportunity to ask questions of the Trust Representative(s) and any witness(s) called by them.
6. The Appeals Panel shall have the opportunity to ask questions of the Trust Representative(s) and of any witnesses called by them.
7. After witnesses introduced by either party have been questioned, they will retire. If necessary the Appeals Panel can recall a witness to clarify any point in question. This paragraph does not apply to the Appellant, Appellant’s Representative or the Trust Representative(s) who will remain at the Hearing prior to the grievance being considered by the Appeal Hearing.
8. Either party may request an adjournment during the Hearing. In the event of a request being granted, the Appeals Panel shall consider how long any adjournment should be having regard to the primary objective of ensuring a fair Hearing.
9. The Appellant and/or the Appellant’s Representative followed by the East Ayrshire Leisure Representative(s) shall have the opportunity if they wish to sum up their case, **introducing no new material**.
10. The Trust Representative(s), the Appellant and the Appellant’s Representative will then withdraw.
11. The Appeals Panel together with the appropriate officer(s) appointed to assist the Panel, shall deliberate in private, only recalling the Trust Representative(s), the Appellant and the Appellant’s Representative to clarify points of uncertainty on evidence already given. If recall is necessary, both parties are to return, notwithstanding only one may be concerned with the point giving rise to doubt.

**3. DECISION**

**3.1** If practicable, the Appeals Panel shall announce the decision to both parties at the conclusion of the meeting following the adjournment. In any event, the decision shall be confirmed in writing to the Appellant and the Trust Representative(s) where practicable within two working days.

**4. CONFIRMATION OF DECISION**

**4.1** The decision of the Appeals Panel will be one of the following:

(a) “that the grounds of the appeal have been substantiated and the appeal is upheld”.

(b) “that the grounds of the appeal have been substantiated in part and the appeal is upheld to the extent that …..”

(c) “that the grounds of the appeal have not been substantiated and the appeal is not upheld”.