



Cheshire Police Authority

Grievance Procedure

Introduction

The Authority maintains an effective grievance procedure in accordance with equality and diversity policies and fully supports any member of staff highlighting bullying, harassment, discrimination, victimisation or other unacceptable conduct, disadvantage or detriment, via the grievance procedure.

Any member of staff who feels aggrieved about the way they have been treated at work, can raise those issues without fear of recrimination and have them explored in an impartial, fair and balanced manner.

In implementing this procedure the Chief Executive and/or Chairman may seek the advice and/or assistance from Chief Officers within the Constabulary.

Aim of the Procedure

The aim of this procedure is to provide guidance and explanation to all staff concerning the following:

- How grievances should be raised and investigated
- The roles and responsibilities of those involved in the grievance procedure
- Sources of support available to staff involved in the grievance procedure
- How to communicate and record grievances and their outcomes
- How grievances are monitored, stored and reported on

This procedure is not to be used for criminal, disciplinary or misconduct matters, to establish guilt or to blame, however a grievance may result in disciplinary or grievance proceedings being taken.

Definition of a Grievance

A grievance is a statement that an individual is dissatisfied with something that has occurred, or is occurring, at work. This includes during break time, social events involving work colleagues and training courses. A grievance can concern the way the Authority, a Manager or a colleague has treated the individual.

A grievance is not:

- A statement of opinion e.g. "Cheshire Police Authority is an awful place to work".
- A statement of emotion e.g. "I am fed up at work".
- A character assassination e.g. "My Line Manager is a bully".

Procedure Boundaries

The grievance procedure may not be used for raising the following matters:

- Expressing something that does not constitute a grievance.
- Complaining about a reasonable instruction received from a Manager.
- Complaining about a decision or outcome that is consistent with agreed policy.
- Complaining/appealing under a policy or procedure that has its own complaint/appeals mechanism.
- Making a complaint against a person acting in the capacity of a Trade Union/Staff Association/Staff Network representative. (Such grievances should be directed via the complaint mechanism of that body).
- Making malicious allegations (disciplinary action will be taken where this is established).

Grievance Structure

The aggrieved has the responsibility to structure their grievance in a clear and unambiguous manner. This enables the investigating officer to fully understand the nature of the issue, how the aggrieved is/has been affected and what outcome they are seeking.

The aggrieved must state the stage of the procedure they are raising their grievance at.

The grievance must also contain the following information for each point raised:

- What informal action, if any, the aggrieved has already taken (e.g. spoken with their Line Manager)
- Whether the grievance is part of a collective grievance
- What has happened (e.g. dates, times, who was present, what was said)
- What impact it has had (e.g. they have lost confidence)
- What outcome they would like to see (e.g. an apology)

An investigating officer receiving a grievance or a point within a grievance, either informally or formally that:

- Does not constitute a grievance; or
- Does not fall within the boundaries of the grievance procedure; or
- Is not structured in a clear and unambiguous manner

may return the grievance until it satisfies the above requirements. At the formal stages the investigating officer should also make a record of the reason for the delay and store it with the grievance notes.

Post-Grievance Matters

The aggrieved may not, at any stage of the grievance procedure, add additional issues to those contained within the initial grievance. This enables the investigating officer to focus on each point raised in order to achieve resolution.

New issues that arise after the grievance has been raised should be taken up as a separate grievance. An investigating officer receiving new issues either informally or formally, that were not raised as part of the initial grievance under investigation, may refuse to investigate those issues as part of that grievance.

Retrospective Grievance Matters

A new grievance that includes issues previously dealt with at any stage of the grievance procedure may not be retrospectively registered. A new grievance may however make reference to such previous issues.

Preliminary Activity

Prior to raising a grievance, the aggrieved should examine whether or not the issue they seek to raise is consistent with current policy.

Disability

If the aggrieved has a disability or other condition that affects their ability to submit a written grievance, they should approach their Line Manager, friend employed by the Authority/force, colleague or trade union/staff association/staff network representative to submit this for them.

STAGES OF THE PROCEDURE

INFORMAL STAGE

The Authority encourages the resolution of grievances at a local level without resort to formal grievance stages. Individuals seeking to raise an issue under the grievance procedure should raise the matter either verbally or in writing, with their Line Manager before registering it formally.

The investigating officer is not required to record the actions taken or the outcome of the grievance. The investigating officer is still required to investigate the grievance and communicate the outcome to the aggrieved and any alleged perpetrator(s).

FORMAL STAGE 1

If acceptable resolution is not achieved via the informal route, the aggrieved puts their grievance in writing, taking into account the appropriate structure and content. The grievance can be submitted by e-mail, in writing or type. The aggrieved is responsible for ensuring that their grievance is marked and submitted accordingly.

The investigating officer (normally the Chief Executive) is responsible for ensuring that grievance information is stored and recorded appropriately.

The aggrieved forwards the contents of their grievance to the Chief Executive, who will investigate the grievance at Stage 1.

The Chief Executive will register the grievance and forward a receipt to the aggrieved. The receipt will contain the following information:

- Confirmation of receipt of grievance
- Grievance reference number (which must be quoted on all correspondence)
- Sources of support and advice

The grievance is not formally registered until a receipt is issued.

Stage 1 carries 14 days for resolution, which includes bank holidays and weekends.

The aggrieved must then respond within 7 days of the results being communicated to them. The 7 days includes bank holidays and weekends. They must inform the Chief Executive in writing whether they wish to cease their grievance at this stage of the procedure, or to proceed to the next stage. The Chief Executive may not resist a request to advance a grievance to the next stage.

If the grievance is ceased, the Chief Executive will ensure that all paperwork relating to the matter is retained and filed.

If the grievance is to be progressed to Stage 2, the Chief Executive must pass all documentation connected with the grievance investigation to the Chairman of the Staff Committee. They must also inform the aggrieved of this process.

The guidance concerning

- Communicating and recording results
- Timescale for the aggrieved to respond in

applicable at Stage 1 of the grievance procedure also applies at Stages 2 and 3.

FORMAL STAGE 2

Stage 2 carries 14 days for resolution, which includes bank holidays and weekends.

The grievance is investigated by the Chairman of the Staff Committee who may delegate the investigation of the grievance to another Authority officer (who has not been previously involved in the investigation) at this stage. They will, however, remain the person responsible for deciding and communicating the outcome of the grievance.

If the grievance is ceased, the Chairman of the Staff Committee should forward all documentation connected with the grievance investigation to the Chief Executive for filing.

If the grievance is to be progressed to Stage 3, the Chairman of the Staff Committee must pass all documentation connected with the grievance investigation to the Chairman of the Authority. They must also inform the aggrieved and the Chief Executive that this stage has now commenced.

FORMAL STAGE 3

Stage 3 carries 21 days for resolution, which includes bank holidays and weekends.

The grievance is investigated by the Chairman (or someone appointed by him, but not someone who has previously been involved in the investigation), however, they remain the person responsible for deciding and communicating the outcome of the grievance.

The grievance is ceased at Stage 3 of the grievance procedure on the date that the results are communicated to the aggrieved. There is no further appeal mechanism and the Chairman must explain this at the results meeting.

The Chairman must forward all documentation connected with the grievance investigation to the Chief Executive for filing.

In the case of a grievance issued by the Chief Executive, Stage 1 will be investigated by the Chairman of the Staff Committee, Stage 2 by the Chairman of the Authority, and Stage 3 by a Panel of three Members selected by the Authority but not previously involved in the process.

GRIEVANCE INVESTIGATION AND OUTCOME

Burden of Proof

The grievance procedure is aimed at common sense resolution of issues, not for the establishment of guilt or blame. It is not necessary for the aggrieved to prove 'beyond all reasonable doubt' that the issue they are raising actually occurred/is occurring. Often it is the word of one person against another.

The investigating officer has the responsibility to make a decision 'on the balance of probabilities' whether the grievance is upheld or not. This is the same standard of proof used by the Employment Tribunals. The aggrieved is not required to adduce evidence in order to 'prove' their grievance.

Right to be accompanied

An aggrieved member of staff has the right to be accompanied at any meeting that takes place to explore an informal or formal grievance. The accompanying person can be a colleague, friend employed by the Authority/force or trade union/staff association/staff network representative.

Companions may verbally support and assist the aggrieved. However, a companion should only speak for the aggrieved in circumstances where they would feel extremely intimidated. The Employment Rights Act 1999 does not permit a companion to answer questions on behalf of the aggrieved.

Where circumstances make accompaniment difficult, it is the responsibility of both the aggrieved and the investigating Manager to work together to reach a mutually acceptable arrangement.

Attendance at Grievance Meetings

Staff must take all reasonable steps to attend meetings connected with their grievance. It is the responsibility of the aggrieved and the investigating officer to maintain good communication and inform each other of any circumstances that may affect their ability to attend or conduct a grievance meeting.

Both the individual and the investigating officer must arrange to meet at a time and location that is mutually agreeable, paying due regard to the exigencies of the service and of any reasonable adjustments required under the Disability Discrimination Act.

Grievance meetings must be conducted in a manner that allows both parties to explain their cases.

TIMESCALES

Grievance Resolution Timescales

Investigating officers have a legal obligation to take action to resolve a grievance at each stage of the procedure without unreasonable delay. In some circumstances it may not be possible to meet the timescales, e.g.

- Where the investigating officer/aggrieved is off sick/on annual leave/on a training course after the grievance has been submitted
- Where the investigating officer needs to consult with other staff who are currently unavailable (e.g. witnesses, alleged perpetrators, policy heads).
- When the aggrieved fails to submit a structured grievance.
- Where a criminal/disciplinary investigation may be prejudiced by investigation of a grievance.
- Operational circumstances of an emergency nature and/or major incidents.

In these circumstances and only where they restrict progression of the grievance, the timescales for investigation at the formal stages may be exceeded.

Should this occur, the investigating officer must inform the aggrieved within the timescales for the grievance stage they are addressing:

- The fact that the timescales may be exceeded.
- The reasons for this.
- When the individual can expect to be communicated the outcome of their grievance at this stage.

The investigating officer should keep a written record of this action and store it with the grievance notes.

Grievance Outcome Timescales

If, after communication of the outcome of their grievance to them, the aggrieved is unable to respond due to reasons of sickness, training or leave, it is their responsibility

to inform the investigating officer of this delay. This can be done via a friend, colleague or representative.

If the aggrieved fails to respond within 7 days of the communication of the outcome of their grievance to them and fails to provide reasons for the delay, the Authority will infer that the aggrieved does not wish to progress to the next stage of the procedure. The grievance will therefore be ceased.

In this situation the investigating officer must record the lack of response on the grievance notes.

Grievance Advancement

During grievance investigation, the aggrieved may advance their grievance to the next stage of the procedure on the following grounds only:

- They are dissatisfied with the manner in which they, or the grievance, is being dealt with, or
- the grievance has exceeded the stage timescales and the investigating manager has not provided reasons for the delay, or
- the aggrieved is unhappy with the outcome of their grievance

To advance a grievance, the aggrieved submits their decision in writing to the current investigating Manager and the investigating Manager at the following stage. An investigating Manager may not resist this request.

Withdrawal of Grievance

The aggrieved may withdraw their grievance at any stage of the procedure by submission in writing to the investigating officer. They are not required to give reasons for the withdrawal. In this situation the investigating officer must forward all documentation connected with the grievance to the Chief Executive for filing. For monitoring purposes the grievance will be ceased at the date it was withdrawn.

Whilst the aggrieved can cease their grievance, they cannot cease any disciplinary or criminal investigations or proceedings that have already commenced as a result of them raising their grievance in the first place.

Grievance Outcome

In many circumstances, grievances raise fresh issues not previously addressed by the investigating officer or even the force. For each point raised within a grievance, there is only one outcome. It is either,

- upheld or
- not upheld.

Whilst a point raised within a grievance may be upheld, it does not automatically guarantee the aggrieved the specific outcome that they seek. Whilst due regard will be

paid to their wishes, the investigating officer has the final decision concerning the outcome of the grievance and what action will take place as a result.

The investigating officer must take appropriate steps to resolve the grievance, including:

- Discussing the matter with, and paying due regard to the wishes of, the aggrieved.
- Interviewing any alleged perpetrators and witnesses in an impartial manner.
- Consulting on matters of policy or procedure with relevant officers
- Consulting with more experienced other officers
- At the formal stages, making a written record of all actions taken.
- Reaching a decision on how to conclude the grievance.

Once investigation has taken place and an outcome has been established, the investigating officer should arrange to meet separately with both the aggrieved and any alleged perpetrator(s) to communicate the results of the investigation.

The investigating officer must communicate the outcome of the investigation. This can be done verbally or in writing at the informal stages, but must be in writing at the formal stages. A copy must be kept with the grievance notes.

The communication of the outcome to the aggrieved and any alleged perpetrator must include the following details:

- What actions the investigating officer has taken.
- Whether or not the grievance is upheld.
- The reasons why it has or has not been upheld
- What Management action/support will be taken (e.g. coaching, special leave, referral to welfare).
- The right of the aggrieved to proceed to the next stage of the grievance procedure.

The investigating officer may also wish to include the following information, which is not mandatory:

- Whether a change in policy or procedure has ensued or will ensue.
- Whether the matter will be referred for criminal/disciplinary/misconduct proceedings.

The investigating officer must also record any areas of disagreement that arise at the meeting and store this with the grievance notes.

BULLYING, HARASSMENT, DISCRIMINATION AND VICTIMISATION

Incidents of bullying, harassment, discrimination and victimisation can be raised under the grievance procedure.

As a general guide, where evidence reveals on the balance of probabilities that such conduct did occur, the investigating Manager should meet with the perpetrator(s) and inform them:

- That their conduct has fallen below the expected organisational standards.
- What the expected organisational standards are.
- That they are being instructed to stop such conduct.
- How their conduct has affected the aggrieved.
- That the situation will now be monitored, particularly concerning victimisation of the aggrieved.
- That they can seek support from other sources.

Victimisation contravenes the protected status of aggrieved persons under anti-discrimination legislation.

Individuals who believe they are being victimised for raising a grievance are encouraged to report the matter immediately under the grievance procedure.

Where an investigating officer becomes aware of a situation whereby the aggrieved, witnesses, or anyone assisting them, has suffered less favourable treatment from their involvement in bringing or supporting a grievance, it must be acted upon immediately.

Malicious Allegations

Where evidence from a grievance investigation supports that a malicious allegation has been made, the matter must be discussed with the Chairman of Staff Committee to assist in determining the most appropriate course of action.

Criminal & Disciplinary Matters

A grievance that:

- Alleges or highlights that criminal conduct occurred/is occurring and/or on the balance of probabilities, illustrates that conduct requiring disciplinary/ misconduct action has occurred/is occurring

must be referred by the investigating officer to the Chief Executive who will seek appropriate advice to determine the most appropriate course of action.

Investigations concerning criminal/disciplinary matters have primacy over grievances and it may be necessary to delay the investigation of a grievance in these circumstances.

If a grievance consists of numerous issues, the remaining issues that do not require criminal/disciplinary investigation may still be investigated under the grievance procedure.