



# Grievance Policy

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## **1. Introduction**

### **1.1 The Grievance Policy, Application & Purpose**

This Grievance Policy shall apply to all employees of Transport for the North ('TfN'). Whilst this policy and its procedures do not extend to the wider category of 'worker', where a worker has a complaint of harassment, victimisation and/or discrimination they may utilise the Dignity at Work Policy to initiate a complaint which will be dealt with pursuant to that policy. The term 'worker' shall include employees, agency workers, consultants, self-employed contractors, volunteers and interns.

This policy will be applied fairly, consistently and in accordance with:

- the ACAS Code of Practice on Disciplinary and Grievance Procedures
- the right to be accompanied under section 10 of the Employment Relations Act 1999
- relevant provisions of the Equality Act 2010.

The policy is designed to resolve disputes effectively, efficiently and as sensitively as possible and sets out how TfN will investigate and determine grievances. Grievances which also entail allegations of harassment, bullying and victimisation will also take account of relevant provisions within the TfN Dignity at Work Policy.

This policy does not cover disputes relating to discipline, pay & grading, attendance/capability, performance or redundancy. Any such concerns should be raised in accordance with the relevant procedures, i.e. TfN's Disciplinary Policy, Pay, Grading and Job Evaluation Policy, Absence and Welfare Policy, Performance Improvement Policy and Security of Employment (Redundancy) Policy respectively.

This policy should not be used where complainants wish to disclose concerns relating to malpractice or wrongdoings within TfN where those concerns are in the public interest. Anyone wishing to raise such concerns should refer to TfN's Whistleblowing Policy.

## **2. General Principles**

### **2.1 General Points**

Where it is not possible to resolve a concern informally outside of this process, a complainant should raise the matter formally and without unreasonable delay with their line manager, where that manager is not the subject of the grievance, or to a member of the HR & Skills team if the grievance is against or involves their line manager.

Where a grievance relates to a proposed change to the complainant's terms or conditions, the status quo will apply until any grievance is resolved.

All parties involved in any grievance meetings are advised that these matters shall be dealt with in the strictest confidence. Any records relating to action taken under this policy will be retained within the employee's personal file for

a period which is reasonable and shall be treated as confidential data. A party found to have breached the confidentiality of this process by disclosing matters discussed therein, without prior permission and/or lawful entitlement, may face disciplinary action.

For the purposes of identification within this policy, the employee raising the grievance will be referred to as the complainant and the subject of the grievance will be referred to as the respondent. Where both parties are referred to collectively they shall be referred to simply as the employee or employees or party/parties. Where a complainant raises an appeal, they shall be referred to as the appellant.

This policy does not form part of any contract of employment and may be amended at any time subject to consultation with TfN's recognised trade union.

## **2.2 Clean Verbatim Notes & Witness Statements**

All meetings under Stage Two and Three of the policy will be recorded to enable clean verbatim notes to be produced. The clean verbatim notes from witness investigation meetings, may be shared with one or both parties to the grievance, where the hearing manager determines this would be appropriate.

Any clean verbatim notes from witness investigation meetings taken during the grievance process, whilst obtained in connection with the grievance, may also be used within other processes, such as disciplinary proceedings, where TfN consider the information to be of relevance to the issues for determination. The witness will be advised of this possibility at the outset and any evidence they provide will be understood to confer their consent to such future use. The witness will, however, be given an opportunity to review their clean verbatim notes prior to their release to any other parties.

If the hearing manager agrees to the release of some or all witness statements (clean verbatim notes), information that they consider to be sensitive or confidential and/or that relates to third parties may be redacted to protect the privacy rights of individuals who are not directly involved in the grievance (and the confidentiality of any associated matters under consideration).

The hearing outcome report/letter will be sufficiently detailed to enable the parties to fully understand the evidence gathered as part of the investigation and the rationale for the hearing manager's decision. The hearing manager will therefore balance the benefit of sharing witness statements and/or clean verbatim notes with the potential detrimental impact on employment relations and business functionality.

## **2.3 Respectful Behaviour**

Employees (and their representatives) are required to conduct themselves in a respectful manner at all times during all stages under this policy and ensure that they adhere to TfN's Code of Conduct as appropriate.

## **2.4 Reasonable Adjustments**

Where an employer knows or ought to know that an employee is disabled, they are required to ensure that policies are applied fairly and reasonably and in a manner that it fair to all participants. Accordingly, TfN will consider whether reasonable adjustments are required in the application of this policy to ensure that disabled employees participating in this process do not suffer substantial disadvantage because of their disability.

## **2.5 Notifications, Outcome letters & Other Communications**

Where, within this policy, there is a reference to a written communication in relation to processes requiring invitations, outcomes, applications or notifications said written communications must be sent by email rather than postal delivery. TfN considers that this to be a more time and cost-efficient means of communication.

## **3. Temporary Suspension**

In exceptional circumstances, TfN may temporarily suspend the complainant and/or the respondent on full pay during the grievance investigations. This action is not to be regarded as punitive or indicative of wrongdoing on the part of either party. The exceptional circumstances may include:

- where the allegations, if found, could amount to gross misconduct
- where continued presence in the workplace could otherwise undermine the reputation of TfN
- where continued presence could compromise unhindered internal investigations into the allegations raised.

Such a step is subject to approval by the Head of Human Resources (or nominated deputy) and consequent upon agreement by the Chief Executive (Head of Paid Service). It should be noted that alternative measures will be considered prior to the imposition of a temporary suspension as set out in paragraph 4. The reason for any such step, up to and including any period of suspension, will be kept confidential from the wider workforce, in the alternative an agreed form of explanation may be considered.

Any period of suspension will be kept to a minimum length of time and regularly reviewed to ensure it remains necessary and/or appropriate. The employee(s) will be kept apprised of the progress of the investigation and informed as to when their suspension has been reviewed. Suspension within this grievance process in the circumstances described is not a disciplinary measure nor is it indicative of any wrongdoing.

Where an employee is suspended, access to communication tools (laptop and mobile) may also be temporarily restricted, the employee will however be required to be contactable during normal working hours and available to attend any meetings and/or interviews that are necessary in connection with the ongoing grievance investigation.

#### **4. Temporary Reassignment of Line Management/Duties**

Where a grievance is raised by a complainant against their line manager, TfN may consider it reasonable to implement a temporary change to reporting lines and/or responsibilities/duties. Such measures are not an indication of wrongdoing but are intended to:

- Ensure a fair and impartial investigation process
- Protect the wellbeing of all parties involved
- Maintain professional working relationships during the grievance process.

Any such temporary change will be handled sensitively and proportionately, taking into account the nature of the grievance, the working environment, and the needs of the individuals concerned and the business.

Following the conclusion of the grievance process, the hearing manager will make recommendations as to whether and to what extent any temporary arrangement may be made permanent or may revert to the original. Any such recommendations will be considered by relevant functional director in consultation with the Head of HR and Chief Executive (as appropriate).

#### **5. Mediation**

As an alternative dispute resolution method, TfN promotes the use of mediation where the complainant and the respondent consider this to be a suitable alternative means of resolving their workplace issues. Mediation entails a supported discussion between a complainant and respondent, with the parties supported by an internal (or in exceptional circumstances, external) impartial mediator.

Mediation is a fully voluntary and confidential process, and anyone engaging in the process can withdraw at any time. Mediation should only be undertaken when both parties are comfortable with adopting this approach in an effort to resolve their workplace dispute or disagreement. Mediation is most effective when used at an early stage of conflict. Engaging in mediation does not prevent either party from taking a formal route at a later Stage.

Mediation should not be used for issues that should be formally investigated (e.g. harassment or discrimination). Any employee wishing to enter into mediation should notify an HR & Skills Representative.

#### **6. Overlapping Grievance & Disciplinary cases**

Where an employee raises a grievance during an ongoing disciplinary process which may relate to matters or individuals relevant to the disciplinary process, TfN may temporarily suspend the disciplinary process in order to deal with the grievance. Alternatively, TfN may elect to deal with the disciplinary and grievance processes concurrently where TfN considers it reasonable to do so; in any event, each case will be dealt with in a fair and reasonable manner and will seek to avoid unnecessary and unreasonable delay.

## **7. Grievance Procedure**

Where it is not possible to resolve a concern informally outside of this process, a complainant should raise the matter formally and without unreasonable delay with their line manager, where that manager is not the subject of the grievance, or to a member of the HR & Skills team if the grievance is against or involves their line manager.

The stages of the grievance procedure, along with the appropriate timescales, are detailed below:

- Where the complainant or their representative are unable to comply with the proposed scheduling of any meeting held under this process they should provide sufficient notice of this to enable an alternative date to be set. Any alternative date proposed by the complainant should be no later than five working days after the original date proposed for any such meeting. Where a hearing manager has been appointed they will approve a suitable alternative date; where a hearing manager has not yet been appointed the decision will be taken by the Head of HR, and in their absence, a nominated deputy.
- If the complainant and/or their representative, fail to comply with the timescales notified to them and do not request an extension within the timescales notified, TfN may continue with any such meeting and/or any investigation, where TfN considers it appropriate to do so. Only where exceptional circumstances are made known to the appropriate manager, at the appropriate time, will TfN consider a further or longer extension. The exceptional circumstance may, for example, relate to a party's disability and TfN may grant a further extension as a reasonable adjustment to the policy.
- If having raised a grievance, it is agreed that the issue should be addressed through a different procedure, (for example, where TfN/the complainant considers that the matter should be dealt with under the whistleblowing, mediation or disciplinary procedure, or such procedures as appropriate) in such circumstances the grievance procedure will be halted and/or vacated.

## **8. Grievance Stages**

### **8.1 Stage One Meeting (Informal Resolution)**

Stage One of the policy provides an informal approach to resolving concerns in a constructive and supportive manner. At this stage, the focus is not on determining fault or attributing blame, but rather on achieving a mutually agreeable resolution between the parties.

Stage One is not suitable for matters which may be complex, where there may be a significant amount of evidence or documentation to be considered or where there are allegations of bullying, harassment, or victimisation or where concerns may require investigation. It is intended and designed to be an informal facilitated discussion between the complainant and the respondent who are both in agreement that they wish to utilise the process to achieve a



swift, soft touch resolution to minor issues. Representation is therefore not appropriate as part of the Stage One process.

TfN's Head of HR (or nominated deputy) and consequent upon agreement by the Chief Executive (Head of Paid Service) reserves the right to negate Stage One of the Policy and immediately instigate Stage Two of the Policy in order to deal with such grievances as expeditiously as possible. The complainant also has the right to negate Stage One of the process and request that their grievance commence at Stage Two.

Where it is agreed that the matter progress to be dealt with under Stage One of the grievance process, the parties must be comfortable to meet together with the assistance of an impartial facilitator to discuss openly the complainants concerns and any response to those concerns and demonstrate a willingness to reach an amicable resolution.

The parties should seek to resolve their concerns as soon as reasonably practicable. A file note should be kept of the Stage one meeting(s) and shared with the participants and a copy placed on their personal files. All records shall be treated as confidential.

If the concern is resolved, no further action is needed. If it is unresolved and the complainant wishes to pursue the matter further, the complainant must put their grievance in writing and forward to the HR & Skills Representative together with a request that the matter be dealt with under Stage Two of the grievance procedure as set out below.

## **8.2 Stage Two Meeting (Formal Meeting/Investigation)**

Where a complainant is not satisfied with the outcome of a Stage One informal meeting, or where TfN and/or a complainant, wish for a grievance to be dealt with in the first instance at no less than Stage Two of the Grievance Procedure, the complainant should submit detailed grounds of their grievance in writing to the HR & Skills Representative, and this shall, where possible, be submitted together with all documentation upon which the complainant intends to rely.

The Head of Human Resources (or nominated deputy) and consequent upon agreement by the Chief Executive (Head of Paid Service) will appoint a suitable hearing manager and the complainant will be notified as to the identity of the appointee in advance of the Stage Two meeting. The Stage Two meeting will be heard by a manager who has had no previous involvement in those matters which are the subject of the grievance.

In exceptional circumstances, TfN may appoint an external hearing manager at Stage Two where it is considered necessary to ensure fairness and impartiality. Any decision to appoint an external hearing manager, will be taken by the Head of HR (or nominated deputy) and consequent upon agreement by the Chief Executive (Head of Paid Service).

The HR & Skills Representative will arrange for a Stage Two meeting to be convened without unreasonable delay.

An HR & Skills Representative will be present during all Stage Two meetings to support and advise the hearing manager in relation to due process and procedural issues. The hearing manager will manage the process and will raise any questions they consider necessary. The HR & Skills Representative may, with the prior permission of the hearing manager, suggest or raise clarifying questions.

The grievance and the supporting documentation will be made available to the respondent to enable them to respond to the allegations raised against them; this also ensures that the process is fair and reasonable to both parties.

The hearing manager will be entitled to gather written and oral evidence from the complainant and respondent and, in addition, they may also meet with and gather further evidence from witnesses whom they consider to be relevant to the matters in dispute.

The complainant and respondent will have the opportunity to state their respective cases and call any witnesses as appropriate.

### **8.2.1 The Right to be Accompanied**

The complainant and respondent have the right to be accompanied in the Stage Two grievance meeting(s) by a work colleague or trade union representative (TU representative'). The TU representative may address the meeting, put forward the complainant/respondent's case, sum up their case or respond on their behalf to any view expressed at the meeting. The TU representative may confer with their member during the meeting, they may also address the meeting on behalf of their member; they do not have the right to answer questions posed directly to their member, or address the meeting, if their member does not want them to do so. The relevant TU representative should not prevent or obstruct any party from contributing to the meeting.

### **8.2.2 Further Points to Note**

It is the responsibility of the respective parties (complainant and respondent) to share with their representative any documentation they have received from TfN in relation to the grievance process. Where a party is known by TfN to have a disability which could make this requirement disadvantageous to them, TfN will, where it is reasonable to do so, provide duplicate copies to the representative.

Following the conclusion of the Stage Two meeting the hearing manager will conduct such further investigation as they consider necessary to fully establish the facts of the case. Any further investigation will be conducted without unreasonable delay. Where, as part of this further investigation, additional evidence has been forthcoming which the hearing manager considers may impact upon the outcome of the Stage Two grievance, they may exercise their discretion to meet with either party where they consider it reasonable to do so for the purpose of seeking further clarification.

All Stage Two meetings will be recorded to enable clean verbatim notes to be produced. The clean verbatim notes from witness investigation meetings may be shared with one or both parties to the grievance; please refer to paragraph 2 'General Principles' for details of those matters the hearing manager will consider when determining whether the sharing of these notes is appropriate at this stage.

Following the conclusion of their investigation, the hearing manager will consider all relevant evidence as part of their decision-making process. Whilst the HR & Skills Representative will be on hand to provide assistance to the hearing manager if requested, the decision and composition of the decision outcome letter is the responsibility of the Stage Two hearing manager.

### **8.2.3 Stage Two Grievance Outcome**

The outcome of the Stage Two grievance process will be confirmed in writing by the hearing manager and sent to the complainant via email, normally within ten working days of the meeting taking place. If the hearing manager determines it is not possible to provide the outcome within this period, the complainant will be informed as appropriate and advised as to when the outcome may be expected. The respondent will similarly be kept informed if there is any delay in the delivery of the outcome.

Where the Stage Two hearing manager does not uphold the complainant's grievance in full or in part, detailed reasons will be set out within the outcome letter which will also inform the complainant of their right to appeal.

The respondent will also be informed of the outcome relating to the allegations raised against them, and it may be appropriate for the Stage Two hearing manager to meet with the respondent and/or their line manager, to support the delivery of the outcome and implementation of any recommendations; although no further action will be taken against the respondent under the grievance process there may be learnings and/or restorative recommendations.

### **8.2.4 Appeal against a Stage Two Outcome – Notification & Purpose**

Where the complainant (i.e. the appellant) is not satisfied with the Stage Two outcome, they should notify the HR & Skills Representative in writing, of their intention to appeal. This must be done within five working days of receiving written notification of the Stage Two hearing manager's decision.

The appellant should clearly set out the full details of their grounds of appeal and should provide or confirm the documents upon which they intend to rely. It is anticipated that all documents upon which the appellant intends to rely will already have been provided by them as part of their original grievance.

The Stage Three appeal process will constitute a review of the Stage Two hearing manager's outcome; it will not be a re-hearing of the grievance. Accordingly, the appellant may raise issues regarding, for example, whether;

- the grievance hearing procedure was defective and this unfairly affected the grievance outcome, and/or
- the evidence did not support the decision reached, and/or
- new evidence has come to light which was not previously available to the appellant and therefore could not be considered during the grievance hearing and therefore should now be heard as part of this appeal process.

Where an appellant alleges that there has been a fundamental error in the original grievance investigation such as renders the Stage Two grievance outcome defective, the appellant must provide sufficient details to support that contention. In those exceptional circumstances the Stage Three hearing manager will consider whether the appeal should be extended to re-consider the investigative evidence also.

### **8.3 Stage Three Meeting (Appeal)**

The Stage Three meeting will be heard without unreasonable delay, normally within ten working days of receipt of the grounds of appeal and relevant documentation.

The appeal will be heard by a Senior Manager who has not previously been involved at any stage of the procedure. The Head of Human Resources (or nominated deputy) and consequent upon agreement by the Chief Executive (Head of Paid Service) will appoint the Stage Three hearing manager.

Due to the size and administrative resources of TfN, this may entail the appointment of a manager of equal status to the Stage Two hearing manager if it is considered that dispensing with the need for a senior manager would be suitable, for example if other senior managers are not available within a reasonable timeframe.

An HR & Skills Representative will also be present to advise the appeal hearing manager and to ensure a fair and consistent process. The HR & Skills Representative should inform the appellant in writing that they have the right to be accompanied by a work colleague or a trade union (TU) representative.

The TU representative may address the meeting, put forward the appellant's grounds of appeal, sum up or respond on their behalf to any view expressed at the meeting. They may confer with the appellant during the meeting but do not have the right to answer questions directly put to the appellant on their behalf or address the meeting if the appellant does not want them to do so. The representative must not prevent anyone, including the appellant, from making their own contribution to the meeting.

It is the responsibility of the appellant to share, with their representative, any documentation and correspondence they have received from TfN in relation to

the appeal. Where the appellant is known by TfN to have a disability which could make this requirement disadvantageous to them, TfN will provide duplicate copies to the representative as a reasonable adjustment to this process.

The Stage Two hearing manager will present their response to the grounds of appeal. The appellant and the Stage Two hearing manager will also have the opportunity to call supporting witnesses to the Stage Three meeting.

The Stage Three hearing manager will raise any questions they consider relevant to their decision making. The HR & Skills representative may, with the prior permission of the Stage Three hearing manager, suggest further clarifying questions. The Stage Three hearing manager will then ask the parties to summarise their supporting submissions, before adjourning the meeting.

Where appropriate, further investigation may be undertaken by the Stage Three hearing manager to clarify or verify information presented at the Stage Three meeting. This may include speaking to relevant individuals or reviewing additional documentation. Any further investigation will be proportionate and focused solely on the grounds of appeal. The aim is to ensure a fair and informed decision is made based upon all relevant and available information.

### **8.3.1 Stage Three Decision & Outcome**

The Stage Three hearing manager will consider their decision in private. Whilst the HR & Skills Representative will be on hand to provide assistance to the Stage Three hearing manager as and when required, the decision and the grounds set out within the outcome letter will be the responsibility of the Stage Three hearing manager.

The outcome letter will be sent to the appellant via email normally within ten working days of the Stage Three appeal meeting, unless further investigation is required. If the Stage Three hearing manager determines that it is not possible to finalise matters within this period, the appellant will be advised as appropriate and given an indication as to when the outcome can be expected.

The Stage Two hearing manager will also be advised as to the outcome of the appeal hearing. Where the Stage Two manager's original decision stands and any restorative action or recommendations remain outstanding, the process will recommence in terms of delivering those outcomes.

Where the appeal has been successful in full or in part, the Stage Two hearing manager will be advised and, where appropriate, the Stage Three hearing manager may provide observations or recommendations to be shared with the Stage Two hearing manager to enable them to understand why their decision may have been overturned.

Where the appeal is successful in full or in part, the respondent will be advised. As with the outcome process relating to the earlier Stage Two

process, it may be appropriate for the Stage Three hearing manager on this occasion to meet with the respondent and/or their line manager, to support the delivery of the appeal findings insofar as to those allegations made against them may have been upheld. The Stage Three hearing manager may suggest learnings and/or restorative recommendations.

Where the appeal has not been upheld the respondent will be advised of the outcome.

The decision of the Stage Three hearing manager will be final.

## **9. Re-forming Positive Relationships & Support**

As a final step in handling grievance disputes, recommendations may be made by hearing managers as part of their outcome decision which may improve working relationships, enhance learning and improve communication.

It is recognised that employee disputes can impact adversely on personal health and wellbeing. An open dialogue should be encouraged with employees who have been through the process. Support is available via TfN's Employee Assistance Programme (0800 072 7072) which is a free, confidential helpline available to provide 24-hour support to employees.

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