

Early Concerns and Grievance Policy and Procedure

Descriptor	Changes made	Date	Version
Policy first implemented	-	01/07/2019	0.1
Review no.1	Policy reviewed 1 July 2020; no changes required	01/07/2020	
Review no.2	Update to reference Whistleblowing Policy. No further changes required.	April 2024	0.2

Name of policy being superseded (if applicable)	Grievance Policy (v.4 2010) Dignity at Work (v.6 2016)
Related policies	Code of Conduct: Dignity and Respect
Related SOPs	N/A
Related Guidance	Please refer to People Manager Hub: Managing Employee Situations Fairly
Equality Impact Assessment completed	Yes
Island Community Impact Assessment completed	No
Intended Audience	All colleagues
For publication	Internal and external publication
Team responsible for policy	HR
Policy owner contact details (email)	Luke.hopkin@sds.co.uk

Policies should have a clear purpose and perform at least one of the following functions. Please identify all the functions this policy performs.	If statement applies, please mark with an X below
Outline how we allocate limited resources to deliver services or outcomes	
Outline how SDS adheres to legislation, statutory duty etc.	X
Ensure fair and consistent allocation of benefits	
Protect organisational assets, including data	
Define expectations around the employee/employer relationship	X
Other (please specify)	

Early Concerns and Grievance Policy – Foreword

At SDS, our ambition for a culture of Everyday Leadership and our commitment to the SDS values is underpinned by strong working relationships across the organisation. Integral to this is the dignity and respect we demonstrate to each other through encouraging and listening to diversity of thought, feedback and constructive challenge. However, we also recognise that creating an environment where people feel safe to speak up, and raise areas of concern is an important part of how we can build and maintain good working relationships and realise our cultural ambitions. As such, we also recognise that areas of concern voiced and grievances raised, must be dealt with fairly, quickly and consistently to ensure they don't grow and undermine the important work we all do for our customers.

- Our Early Concerns and Grievance Policy seeks to support that environment by clearly setting out our commitments on how we'll work with people who come forward with concerns and issues at work. This includes a clear commitment to work to resolve concerns and issues at the earliest opportunity, access to enhanced informal support from our Early Concerns Facilitation and Mediation Services and a formal procedure that meets ACAS best practice.
- Our commitment to Dignity and Respect in the workplace sits at the heart of our values and our ambitions to be an employer of choice and exemplar of Fair Work. We recognise this by placing it as a key element of the SDS Code of Conduct, emphasising that all employees have the right to be treated with respect, at all times. SDS is committed to eliminating any form of workplace bullying and harassment and any unlawful and unfair discrimination. We will deal with all such concerns sensitively and fairly and in line with the provisions of this Early Concerns and Grievance Policy.

So, if you're reading this policy because you have a concern or problem that concerns your experience in the SDS workplace, then my message to you is very simple – please speak up now and don't let it grow. Whilst there will be different ways in which we can support you to resolve the situation, our commitment to a fair approach remains the same. Guidance on how to raise concerns and to get support are set out in this policy and within the SDS Code of Conduct.

Carolyn Anderson
Director of Human Resources

Early Concerns and Grievance Policy and Procedure

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Early Concerns and Grievance Policy and Procedure

1. Purpose of Policy

1.1. This policy outlines SDS' approach to managing a concern or grievance raised by an employee.

- i. The chance to raise and resolve areas of concern or grievance is important to the development of constructive employment relationships.
- ii. This grievance procedure is designed to ensure that areas of concern and grievance raised by employees of SDS are dealt with quickly, fairly and consistently.

2. Context

2.1. Skills Development Scotland (SDS) is a public body funded from public resources and accountable to the Scottish Government and the Scottish Parliament. SDS is focused on our customers and employees and we value our people. Our success is dependent on both the quality of our services and the way in which they are delivered, and is underpinned by our values:

1. We put the needs of our customers at the heart of all we do.
2. We continuously improve to achieve excellence.
3. We demonstrate self-motivation, personal responsibility and respect.
4. We make use of our combined strengths to deliver the best outcomes.

2.2. It is through our employees that we uphold our values and achieve positive outcomes for our own teams and customers. In order for our employees to deliver and experience positive outcomes, SDS recognises the importance of providing and ensuring a positive work environment where employees are treated fairly and with dignity and respect and are able to raise concerns about any aspect of their work in a supportive and structured way.

2.3. Some of the issues that may cause a grievance to be raised are (these are not exhaustive): -

- i. terms and conditions of employment
- ii. new working practices
- iii. work relations
- iv. the way you are being treated at work
- v. the way in which you are being managed
- vi. working environment
- vii. organisational change
- viii. direct or indirect discrimination
- ix. bullying, harassment or victimisation

2.4. Employees are encouraged to raise issues promptly, rather than let them continue to grow for a period of time. This allows early resolution and helps maintain good working relationships.

2.5. This policy applies to employees of SDS including fixed term workers employed directly by SDS, whether full-time or part-time. This policy does not apply to agency workers or self-employed contractors.

2.6. This policy and procedure reflects the ACAS Code of Practice on Discipline and Grievance Procedures.

2.7. Where grievance and disciplinary cases overlap, the disciplinary process may be postponed while the grievance is dealt with, or the processes may run in parallel. If an employee raises a grievance about an unrelated matter while a disciplinary process is underway, the grievance may not be heard until the disciplinary process has concluded.

2.8. SDS reserves the right not to pursue grievances that are frivolous or vexatious, or that merely repeat complaints that have already been made and considered. SDS aims to deal with such issues in a sensible way, which minimises disruption whilst still ensuring that employees are fairly treated. Making deliberate false or malicious allegations will be treated as misconduct under the Disciplinary Policy and Procedure.

2.9. If the grievance process raises or reveals a potential misconduct issue on the part of an employee (including discrimination, harassment, bullying or victimisation) this will be dealt with under SDS' Disciplinary Policy. The details of any outcomes applied to other individuals as a result of the Grievance will be treated as confidential and will not be disclosed to any other parties of the Grievance.

2.10. Not in scope of this policy:

- i. Issues that are the subject of collective trade union negotiation and consultation will not be considered under the grievance procedure and will be dealt with in line with SDS' trade union recognition agreement.
- ii. Concerns which relate to dishonest or criminal behaviour such as bribery, fraudulent reporting or misreporting of performance data or misuse of funds or other resources, should be reported through the Whistleblowing Policy.
- iii. If an employee is the subject of a formal disciplinary, performance improvement or sickness absence procedure and wishes to make a complaint about how the matter is being handled, they should raise this as part of the relevant procedure. This is not intended to remove any statutory rights or requirements in relation to raising or responding to a grievance.
- iv. Complaints that an employee may have about a formal disciplinary, performance improvement or absence sanction they have received must be raised as an appeal under the relevant procedure.
- v. There is no statutory right for the grievances raised by former employees to be addressed under a formal grievance procedure. SDS will consider complaints received from former employees and take any action it considers appropriate. Former employees will not normally be invited to a grievance meeting and will not receive formal notification of the outcome.

3. Policy Commitments

3.1. Employees are expected to:

- i. Try to resolve the issue informally by raising it firstly with their line manager, where appropriate.
- ii. Consider early concerns facilitation or formal mediation, where offered, in both the informal and formal stages of the grievance procedure.
- iii. Focus on and provide suggestions on potential solutions that will resolve the issue, where appropriate.
- iv. Co-operate fully and promptly in any further fact finding required.

3.2. SDS is committed to facilitating the early and timely resolution of employee concerns and grievances by:

- i. Working with employees to resolve concerns raised informally or formally (including complaints of bullying & harassment) either, as appropriate, via early concerns facilitation with a trained facilitator or through a formal mediation process with a qualified workplace mediator or through the grievance procedure at the earliest opportunity.
- ii. Ensuring that areas of concerns and grievances raised by employees are dealt with promptly, fairly, objectively and consistently.
- iii. Outlining its commitment to equal opportunities for all and the importance of dignity, respect and zero tolerance to bullying and harassment in the work place in the SDS Code of Conduct;
- iv. treating complaints of bullying and harassment sensitively, impartially and maintaining confidentiality to the maximum extent possible, taking care to ensure that the rights and reputations of both parties are not unjustly affected.
- v. Ensuring that employees raising a concern or formal grievance in good faith will not suffer any detrimental treatment for bringing the matter to the attention of management, even if the grievance is not substantiated.

4. Definitions

“Early Concerns Facilitation” is an internal service in which trained SDS employees facilitate colleagues to resolve concerns informally and confidentially.

“Mediation” is a process whereby a neutral third party intervenes in a workplace conflict or dispute to assist the parties in reaching a satisfactory outcome through a structured informal process. Mediation is voluntary, non judgemental, future focussed and confidential.

“Grievances” are concerns, problems or complaints that employees raise with their employers.

“Zero Tolerance” to bullying, discrimination and harassment in the workplace means that no form of unlawful discrimination, bullying or harassment will be tolerated and that any concerns raised will be considered appropriately in line with this policy and procedure.

Grievance Procedure

5. Informal Discussions

5.1. Most areas of concern (grievances) can be resolved quickly and informally through discussion between the employee and their line manager and SDS expects employees to raise concerns relating to their employment directly with their manager in the first instance. However, if the employee is unable to speak to their line manager, for example, because the complaint relates to their manager, then the employee may speak informally to a more senior manager.

5.2. The manager shall discuss the nature of the concern with the employee and seek to identify and agree through discussion how best to resolve the concern at the earliest opportunity. The manager will provide clarity by confirming any action points in writing to the employee. Both parties should retain any notes of these informal discussions or meetings confidentially. The manager may offer advice on how the matter may be resolved or, they may suggest the engagement of the Early Concerns Facilitation and Mediation service.

6. Early Concerns Facilitation and Mediation Services

It may be appropriate for the matter to be dealt with by way of early concerns facilitation or formal mediation, depending on the nature of the grievance. This involves the appointment of a qualified workplace mediator, who will evaluate the appropriateness of the situation for either early concerns facilitation or formal mediation. Both services involve the appointment of a suitably trained individual who will work with both parties to identify ways to move forward and resolve the situation. These services will only be used where all parties involved in the grievance agree to participate. More information on SDS' Early Concerns Facilitation and Mediation services can be found on Connect.

7. Formal Written Grievance

7.1. If an informal approach does not resolve matters, or the employee believes the situation is too serious to be dealt with informally, an employee can make a formal grievance by using this formal Grievance procedure.

7.2. Employees should submit their grievance in writing to their line manager, indicating it is a formal grievance. If the grievance concerns the employee's line manager, they may submit it to a more senior manager instead.

7.3. The written grievance should contain a brief description of the specific nature of the complaint and relevant facts, dates and names of individuals involved, and ideally an indication of what might be done to address and resolve the points of concern. If further information is required, the employee will be asked to provide it.

7.4. Where an employee who is a trade union representative submits a formal written grievance, SDS will notify the appropriate full-time official subject to the employee's consent.

8. Grievance Meeting

8.1. A grievance meeting will be arranged, normally within 5 working days of receiving the written grievance. The employee's manager or another appropriate manager will hold the grievance meeting and carry out any fact finding.

8.2. The purpose of the grievance meeting is to enable the employee to explain their grievance and how they think it should be resolved, and to assist in reaching a decision and/or resolution based on the available evidence and the representations made.

8.3. If the employee feels unable to attend for a reason related to their health, they should inform the manager holding the meeting. Consideration will be given to appropriate alternative arrangements according to the circumstances of the case.

8.4. Failure to attend a meeting without good reason will result in the meeting proceeding in the absence of the employee and a decision made on the information available.

8.5. After the grievance meeting, further fact finding and further meetings may be required as considered appropriate. Such meetings or fact finding will be arranged without unreasonable delay to establish the facts. The amount of fact finding required will depend on the nature of the grievance and will vary from case to case and will be determined by the manager considering the grievance. It may involve interviewing and taking statements from the employee and any witnesses and reviewing relevant documents.

8.6. The employee raising the grievance is expected to co-operate where further fact finding is required. This may include informing the manager considering the grievance of the names of any relevant witnesses, disclosing any relevant documents and attending interviews.

8.7. The outcome of the grievance will be confirmed in writing without unreasonable delay and, where appropriate, will set out any further action that SDS intends to take to resolve the grievance.

8.8. Possible outcomes (this list is not exhaustive):

- i. The grievance is upheld
- ii. The grievance is not upheld
- iii. A mutually agreeable resolution may be identified by all parties
- iv. Facilitated conversations or mediation may be recommended

8.9. The employee will also be informed of their right to appeal. Where appropriate a meeting will be held with the employee to provide this information in person.

8.10. If the grievance process raises or reveals a potential misconduct issue on the part of an employee (including discrimination, harassment, bullying or victimisation) this will be dealt with under SDS' Disciplinary Policy. The details of any outcomes applied to other individuals as a result of the Grievance will be treated as confidential and will not be disclosed to any other parties of the Grievance.

9. Appeals

9.1. If the grievance has not been resolved to the employee's satisfaction, they may appeal.

9.2. Appeals should be lodged in writing to the relevant individual named in the outcome letter within 5 working days from the date of the outcome letter is received and should set out the specific grounds of appeal.

9.3. An appeal hearing will usually be chaired by a manager at a level above the original decision-maker.

9.4. At the appeal stage, the appeal hearing manager will have the power to withdraw, vary, or confirm the original decision.


9.5. Appeals will be held without unreasonable delay and will normally be scheduled within 5 working days and held within 10 working days of the receipt of the written appeal.

9.6. Once a decision is made this will normally be confirmed in writing within 5 working days of the appeal hearing, stating the reasons for the decision.

9.7. The decision at an appeal hearing is final and employees have no further right of appeal.

Early Concerns and Grievance Policy jointly agreed:

SDS		
Print Name	Signature	Date
Carolyn Anderson		22 March 2024

Unison		
Print Name	Signature	Date
Derek Cheyne		11/3/24

PCS		
Print Name	Signature	Date
Tinja Hakkila		07/03/24

Appendix 1

1. Employee Representation

A1.1. There is no right to representation at informal discussions. Informal discussions should normally take place between the employee and their manager only.

A1.2. The employee has the right to be accompanied to a formal grievance meeting / appeal hearing under this procedure by either a trade union representative or, an SDS colleague of their choice.

A1.3. The employee should confirm their companion's identity to the manager conducting the meeting at least one day before it is due to take place.

A1.4. The trade union representative/SDS colleague is entitled to address the hearing to put forward and sum up the employee's case, respond on behalf of the employee to any views expressed at the meeting and confer with the employee during the hearing. The trade union representative/SDS colleague does not, however, have the right to answer questions on the employee's behalf, address the hearing if the employee does not wish it or prevent the employer from explaining their case.

A1.5. The employee must take all reasonable steps to attend the meeting. If the employee or their companion is unable to attend at the time specified the employee should immediately inform the manager holding the meeting, who will normally seek to agree an alternative time. The alternative time should be no more than 5 working days from the original meeting date. If the companion cannot attend the re-scheduled meeting, the employee should arrange for an alternative companion to support them.