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| <b>PG 027</b>                             | Dispute Resolution   |
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## SECTION 1 VERSION CONTROL

| Version No. | Date       | Post Holder/Author | Post                       | Reason for Issue  |
|-------------|------------|--------------------|----------------------------|---|
| 1.0         | April 2019 | Helen Woods        | Policy & Wellbeing Partner | New guide to accompany dispute resolution policy and procedure. |

## SECTION 2 AIMS/OBJECTIVES

This guide provides a framework to managing disputes in the workplace and must be read in conjunction with PS 141 Dispute Resolution Policy, PD 603 Dispute Resolution Procedure and the PS 151 Harassment and Bullying Policy. It is applicable to both police officers and police staff.

The aim of this guide is to provide practical and useful information on managing disputes in a fair, timely and transparent manner.

## SECTION 3 DETAILS

### 3.1 Informal resolution

It is recognised that individuals may, at some time, have issues with regard to their work, working conditions or relationships with colleagues. It is in both the individual's and the organisation's interest to resolve these issues before they develop into a major problem.

Individuals should aim to settle most disputes informally with their line manager by firstly having a constructive informal discussion. Many problems can be raised and settled during the course of everyday working relationships. The facilitation of good working relationships is enhanced when managers address the issues brought to their attention in a short period of time.

### **3.2 Disputes involving Colleagues**

These are often delicate matters and managers need to consider carefully how to approach the issue. If it is a matter such as a colleague's work capacity, attitude etc., the initial step should be to discuss, in a private setting, the issue with the work colleague.

Where there are colleagues who do not appear to be able to work together and one has complained about another then mediation should be considered.

### **3.3 Mediation**

'Mediation is a completely voluntary and confidential form of resolving workplace disputes between people. It involves an independent, impartial person helping two or more individuals or groups reach a solution that's acceptable to everyone. Mediators do not make judgments or determine outcomes - they ask questions that help to uncover underlying problems, assist the parties to understand the issues and help them to clarify the options for resolving their difference or dispute.

The overriding aim of workplace mediation is to restore and maintain the employment relationship wherever possible. This means the focus is on working together to go forward, not determining who was right or wrong in the past' (ACAS).

#### **3.3.1. What can mediation help with?**

The mediation service is available to assist staff in workplace disputes and other situations where mutual agreements need to be found, such as return to work plans and re-building working relationships after a difficult situation.

Examples of the types of issues that are suited to mediation include: -

- Conflict arising from differences in working styles/roles, values or priorities
- Misunderstandings or 'crossed wires'
- Perceived unfairness or inequalities
- Some perceived bullying and harassment issues (but not gross misconduct)
- Difficulties within reporting relationships and supervisory arrangements
- Communication differences

The benefits of mediation include:

- It provides an opportunity to maintain better relationships
- It is about collaborating rather than blaming
- It helps to provide a mutually acceptable outcome – a win – win outcome (or both gain) solution
- It promotes staff engagement and mutual respect
- It can save time and money in the long run

Please contact a People Services Advisor to arrange mediation.

### 3.4 Representation

Police staff can be accompanied by a work colleague/trade union representative and police officers can be accompanied by a work colleague or staff association representative at all stages of the process. This includes any witnesses that need to be interviewed as part of an investigation.

The representative may:

- Put forward and sum up the case on behalf of their colleague
- Respond on the individual's behalf to any view expressed at the meeting
- Confer with their colleague during the meeting

It is good practice to allow the work colleague/trade union representative/staff association representative to participate in the meeting fully as this can facilitate resolution of the dispute.

### 3.5 Formal Stage

The approach should always be to resolve issues informally. However where issues cannot be resolved through informal resolution with the line manager or through mediation a formal process is required.

Remember that there are circumstances where the formal dispute resolution procedure cannot be invoked. These include procedures that have their own mechanism for appeal such as, recruitment, job evaluation, management of change, disciplinary (the list is not exhaustive) and where the Chief Officer Team has made a decision under their rights contained within the Police Regulations, for example, in relation to transfers, postings and lawful orders.

A People Services advisor is able to provide guidance if you are unsure whether a dispute should be dealt with formally.

| ITEM                                    | RESPONSIBILITY   |
|---|--|
| Formal dispute received from individual | Should be submitted via service request/People Services email by individual/line manager   |
| Acknowledgement                         | People Services to action  |
| Investigation meeting/s                 | Dispute Resolution Handler to action   |
| Investigation                           | The Dispute Resolution Handler will keep the individual updated on progress of the investigation and inform them of any delays in meeting the timescales that have been provided |
| Letter to confirm outcome               | Dispute Resolution Handler to action   |
| Appeal                                  | Individual to submit appeal to People Services email inbox <b>within 5 working days</b> of receipt of the outcome letter   |
| Appeal meeting                          | Appeal official to action  |
| Letter to confirm appeal outcome        | Appeal official to action - after appeal meeting & any further investigation has been completed  |

All the above steps should be completed as soon as practically possible and without unreasonable delay unless otherwise stated.

The dispute resolution handler should also consider, if a complaint is regarding a colleague, when and how to advise the colleague that a complaint has been made against them and the process to be followed to investigate the complaint.

Meetings should be held at a private venue and if possible, away from the individual's/witnesses' normal working area. Notes should be taken at any meeting and should have marked on them 'these notes are not verbatim nor intended to be'.

Managers should contact People Services for templates of all letters.

### **3.6 Investigation**

The purpose of an investigation is to establish all the relevant facts and whether there is sufficient information to support the individual's dispute/complaint.

As the dispute resolution handler you need to decide on the scope of your enquiries based on the information you have been provided with and what you have been told. You should take a proportionate approach to resolving the issue and look into the dispute/complaint objectively.

Points to consider when conducting an investigation:

- Gather evidence promptly, this could include:
  - IT or electronic data
  - Letters, memos, emails, file notes, diary entries, voicemail
  - Policies/procedures/staff handbook extract
  - Shift patterns, schedules
- Identify witnesses and arrange that all meetings be held promptly to ensure that individual's recollection of the facts is not diminished by time delays
- It is good practice that witnesses should be asked questions rather than providing a statement as it may not include all the information you wish to know
- Keep questions to the complaint being investigated
- Always allow the employee to add anything they wish to say after you have completed any questions you may have

A thorough investigation is a necessity to ensure that an individual's complaint is taken seriously and looked at appropriately.

It is advisable to meet with the individual making the complaint first, followed by any witnesses or people who may be able to provide more detail on the dispute/complaint.

### 3.6.1 Investigation Meeting

The investigation meeting is an opportunity for the individual to tell us why they felt the need to submit a written complaint or have not undertaken mediation. They can speak openly about the issues, how they are affecting them and explore how the matter can be resolved/relationships improved or what will make them feel better about the events to date.

- Invite the individual to re-state their complaint and expand on the information they have provided.
- Clarify back to individual what you believe the complaint is. This makes it far easier to investigate if all parties are clear on the nature of the complaint.
- Ask the individual how they would like it resolved. Ensure that the individual is realistic about what this may look like. Wanting another employee dismissed or downgraded is not reasonable. A change in working practices may be a reasonable resolution. Each will stand on its own merits.
- It is not unusual that the person raising the complaint may request an apology from the person they have complained about. A discussion with the People Services Advisor will support a decision on what is a reasonable resolution. It should be noted that the dispute resolution handler cannot force another person to provide an apology although an individual could be asked if they were willing to apologise to the individual who has raised the complaint. The manager or dispute resolution handler can apologise on behalf of Nottinghamshire Police should they believe that is an appropriate action.
- Prior to the meeting it is advisable to collate questions that will support you to establish the relevant facts.
- At the outset of the meeting explain the process and that you are establishing the facts of the case.
- Make allowances for the individual to 'let off steam' as this could be highly important to them.
- At the meeting take notes of the questions and response given.
- After completing the questions, ask the individual and their work colleague/trade union/staff association representative if there is anything they wish to add.
- Take a short adjournment to check your questions, the responses and any notes to see if anything has been missed.
- Advise them what will happen next i.e. further witnesses to interview and approximately how long it will take to look into the issue (s).
- Close the meeting and advise it may be necessary to speak to them again.
- The notes of the meeting should be sent to the individual for them to check, initial any amendments, sign as an accurate account of the meeting and then return to the dispute resolution handler. The individual should not completely remove any of the content of the statement made.

To ensure that an unbiased investigation is conducted, the dispute resolution handler should focus on how information is obtained. Good questioning can be the key to a thorough investigation.

It is important that the dispute resolution handler does not influence the outcome of the questions being asked by making inappropriate suggestions. Individuals who have complained may feel vulnerable; therefore a soft approach may lead to the individual opening up more. Open, closed, probing questions should be asked as appropriate. Leading questions should be avoided. Remember that the what, where, how, why, when questions can be very useful when conducting an investigation.

Example: In the case of a complaint that 'an individual was not allowed to change their hours.' Questions to ask the individual could include:

- When you requested a change in hours, what hours did you request? Rather than 'you were not allowed to work school time hours, were you?
- How would you describe your manager's response to your request? Rather than 'did your manager even consider your request?'
- When did you request the change? Rather than 'Was it just 2 weeks prior to wanting to change your hours that you put in your request?'

### **3.6.2 Witness Meeting**

- Liaise with the line manager of the witness to arrange an appropriate time to attend a meeting
- Invite the witness/s to a meeting by letter as soon as practically possible.
- Prior to the meeting it is advisable to collate questions that will support you to establish the relevant facts
- At the outset of the meeting explain the process and that you are establishing the facts of the case.
- Advise the witness that the notes of the meeting may be shared with the person who has raised the issue/complaint.
- Remind them of the confidential nature of the investigation and ask that they do not discuss the case outside of the meeting.
- After completing the questions, it is good practice to take a short adjournment to go through your notes to check whether anything has been missed.
- Reconvene the meeting and close the meeting.
- The notes of the meeting should be sent to the individual for them to check, initial any amendments, sign as accurate account of the meeting and then return to the dispute resolution handler.

If, after meeting the individual raising the complaint and witnesses, there are conflicting statements or inconsistencies then it could be explored further by re-interviewing the individual with the complaint or re-interviewing witnesses to clarify accounts. It may be that there is no benefit in re-interviewing any personnel involved.

### **3.6.3 Decision Making**

The dispute resolution handler must consider all the information that has been gathered and if there is a contradiction in any of the information. The dispute resolution handler must decide what/who they believe and have a rationale for that belief.

Consideration should be given to what the individual is expecting as resolution. Before deciding on any actions, consideration should be given to the following:-

- Outcomes for similar complaints
- Impact on any force policies or procedures
- Cost to the force of any changes
- Impact on other people who work for Nottinghamshire Police
- Whether a disciplinary/misconduct investigation should be commenced against another individual (in this case advice should be sought from People Services)
- Whether the changes are reasonable in the circumstances
- Impact on the health and well-being of the individuals

### **3.6.4 Investigation Report**

The dispute resolution handler will write a report (People Services can provide a report template), within a reasonable timeframe, detailing the following:

- How the issue was investigated
- The information collated during the investigation (with all relevant documentation enclosed)
- The findings which confirm whether the complaint is substantiated, part substantiated or unsubstantiated
- The rationale for the outcome reached
- Any action to be taken

If the individual has made more than one complaint then it is helpful to separate the issues so that the information can clearly be attributed to the area of complaint.

## **3.7 Dispute outcome meeting**

The dispute resolution handler should write to the individual to invite them to a meeting to confirm the outcome within a reasonable timescale.

The dispute resolution handler should advise whether the complaint is substantiated, part substantiated or unsubstantiated and what action/s the force will be taking to resolve the dispute.

The meeting is not an opportunity for the individual to challenge the outcome. The individual must be advised that if they are not satisfied with the outcome then they have the opportunity to appeal.



Following the meeting, the dispute resolution handler will write to the complainant with a summary of the meeting and confirming their right of appeal. There is no obligation to provide the complainant with copies of the documentation collated during the investigation although it is good practice to provide notes of any meetings and a copy of the investigation report. The information may need to be amended to protect witnesses.

### **3.8 Appeal**

Individuals have the right to appeal if they are not satisfied with the outcome. This should be done within 5 working days of receipt of the dispute outcome letter.

The appeal official should review all the paperwork and information collated during the investigation prior to the appeal meeting.

At the appeal meeting, the appeal official should:

- Clarify back to individual what the complaint is and why they are dissatisfied with the outcome.
- Ask the individual how they would like it resolved. Ensure that the individual is realistic about what this may look like. Again continuing to want another employee dismissed or downgraded is not reasonable. Resolution has to be reasonable and within the management span of responsibility. For example an apology on behalf of the force is available as an outcome. Forcing another individual to write an apology to the aggrieved individual is not appropriate although it may be requested by the manager. Each outcome will stand on its own merits. A discussion with a People Services Advisor will support a decision on what a reasonable solution is to the complaint.
- The appeal official will provide a response verbally and then confirm the outcome in writing within a reasonable timescale.
- The reasoning for the decision should be explained in sufficient detail in the letter so that the individual can understand the outcome.

### **3.9 Conclusion of the dispute**

Once the issue/complaint has been investigated and concluded it is important that the dispute resolution handler feeds back any learning to the People Services Department and any recommendations/actions are implemented and followed up as appropriate.

In situations where an individual chooses not to follow the recommendations made the dispute resolution handler or a People Services Advisor should contact the individual to understand why this is the case and attempts made to support the individual in following any advice given. If an individual still chooses to ignore the advice given this will be noted and referred to should further issues arise in the future.

Once the complaint and appeal are completed, the report and associated documents should be filed for storage within People Services.

People Services will be responsible for recording any disputes and reporting on any trends that arise to ensure that these are investigated and addressed.

### **3.10 Sickness**

Sickness absence does not necessarily preclude an individual from participating in and assisting with an investigation or attending an investigation meeting.

Consideration must be given to the individual's health and their wellbeing in attending a meeting to discuss their complaint. For an individual, raising a complaint can be a stressful situation and support may be necessary.

The individuals may be offered the opportunity to provide a written statement detailing the nature and facts of their complaint. In turn the dispute resolution handler could request that the individual respond to written questions regarding their dispute to allow the investigation to proceed promptly. The individual could nominate a trade union representative, work colleague or staff association representative to put forward their case.

In all situations medical advice should be carefully considered when deciding how a dispute will be handled.

### **3.11 Individuals Leaving Nottinghamshire Police**

There is no provision within the Acas Code of Practice with regard to individuals who submit a complaint on leaving the force.

It is good practice that if a complaint is received just before or after an individual has left the force consideration should be given as to whether this will be investigated.

### **3.12 Victimisation**

If an individual raises a complaint or supports a work colleague who makes a complaint and feels they have been singled out for treatment different to others doing a similar role or is treated unfairly, it constitutes victimisation.

It is therefore important for managers to ensure that when investigating a complaint that the complainant or their work colleague who is accompanying them are not singled out for any different treatment.

It may have been very difficult for the individual to raise the complaint in the first place and therefore it is important to treat their case sensitively and take reasonable steps to ensure victimisation does not occur.

## **SECTION 4 LEGISLATIVE COMPLIANCE**

This document has been drafted to comply with the general and specific duties in the Equality Act 2010; Data Protection Act; Freedom of Information Act; European Convention of Human Rights and other legislation relevant to policing.