



CPS

# Crown Prosecution Service Grievance Policy



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# Policy objective

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The CPS is committed to creating and sustaining a working environment that is fair to all and free from unlawful discrimination, harassment, victimisation and bullying. Everyone working at the CPS is responsible for their own behaviour and should treat colleagues with dignity, respect and courtesy and ensure that they are valued for their skills and abilities. For further information refer to the Dignity at Work Policy.

Whilst recognising the need for a formal process, it is a general principle that grievances are best resolved informally and as close to the point of origin as possible to prevent an escalation into a more serious dispute. Employees will be encouraged not to use the formal procedures wherever possible, until attempts at informal resolution have been tried and not succeeded.

Anyone involved in any capacity within the grievance procedure must ensure that confidentiality is maintained at all times.

Records will be kept of grievances that will include: details of the grievance; the employee's response; any action taken; whether an appeal was lodged and its outcome; and any subsequent developments. All records will be kept confidential and in accordance with the requirements of the Data Protection Act 1998.

This policy is supported by an operating procedure set out below which should only be used when all reasonable attempts to resolve the grievance informally have failed. The procedure will be revised from time to time to keep pace with changes in employment legislation or in response to organisational need.

## Scope

The policy applies to anyone working for the CPS. It is also applicable to former employees – where special conditions apply. It does not apply to grievances which relate to:

- action proposed or action taken in regards to the disciplinary procedure;
- action proposed or taken under the managing poor performance procedure;
- pay and benefits that have been agreed through collective bargaining arrangements; and
- whistleblowing.

Additionally, it does not apply to grievances that relate to any other CPS procedure which has its own appeal mechanism.

## Review date

This policy will be reviewed by the Human Resources Directorate (HRD) after the first year of publication and thereafter every two years, or sooner where new developments in employment legislation necessitate such a review. Reviews will be carried out in consultation with our trade unions, managers, staff networks, the Equality and Diversity Unit and other key stakeholders. The next review will be undertaken in July 2008.

# 1. Introduction

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- 1.1** The CPS believes that, in the interest of good employee relations, grievances should be resolved quickly, fairly and at the first level of management. The objective of the policy is to ensure that differences between employees or between employees and management are resolved in this way.
- 1.2** A formal grievance is a specific complaint, in writing from an employee, concerning a matter related to: working arrangements, relationships with managers, colleagues, contractors, clients or Criminal Justice Service partners, the application of terms and conditions of employment; or factors relating to the work environment such as health and safety.
- 1.3** Types of grievance
- a) Standard grievances: These relate to general work related issues, for example work rules. These grievances do not include equality issues.
  - b) Grievances based on equality issues: This is where an individual reasonably believes that he/she is being/has been discriminated against either intentionally or unintentionally on the basis of age, disability, ethnicity, religion or belief, gender and sexuality.
  - c) Harassment: This is behaviour that is offensive and/or intimidating and unwanted. It is behaviour that has created working conditions or an environment that is hostile, degrading and/or humiliating and that a reasonable person could justifiably complain about. The behaviour or treatment may relate to a person's age, disability, gender, religion or belief, gender, sexuality, or any other reason.
  - d) Bullying: This is a form of harassment and can be defined as offensive, abusive, intimidating, malicious or insulting behaviour, an abuse of power or misuse of power through means intended to humiliate, denigrate or injure the recipient. Bullying can undermine an individual's self-confidence, competence and self-esteem.
  - e) Victimisation: This is where a person is treated less favourably than another because they have brought proceedings, given evidence or information, rejected advances or complained about the behaviour of someone who has been harassing, discriminating against, or in some other way intimidating them.

For further information on harassment and bullying see Appendix 1.

## 2. Roles and responsibilities

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- 2.1** Everyone working for the CPS carries responsibility for their own behaviour and actions both on and off site during working hours or during any activity associated with their employment. They are also expected to assist in any way required to help resolve a grievance.
- 2.2** In addition, the roles and responsibilities of Directors/Chief Crown Prosecutor (CCP), line managers and the HRD include but are not limited to the following:

### *Directors/CCPs:*

- Fully supporting the implementation of the policy and procedure consistently throughout the organisation including the release of personnel to assist with/participate in any part of the procedure.

### *Line managers:*

- Resolving workplace issues informally as quickly as possible;
- Making reasonable decisions on the basis of the facts in front of them; and
- Implementing the policy and procedure consistently and in line with current legislation and best practice.

### *Human Resources Directorate:*

- Communicating the policy and the procedure;
- Ensuring that appropriate training and updating programmes are implemented across the organisation;
- Advising managers on all aspects of the policy and procedure to ensure they operate it in a fair and effective manner;
- Advising employees on all aspects of the grievance process;
- Providing support and strategies to help improve workplace relations;
- Providing a central resource for monitoring and reviewing the effectiveness of the policy and procedure; and
- Monitoring grievance cases to identify trends, consistency and that any disproportionate impact on any particular group is highlighted and addressed.

### **2.3 Other sources of advice and support**

Carefirst Support Services – confidential counselling service for employees.

Enable – the support forum for disabled employees.

HR Advice Centre Cardiff.

LGBT – support network for Lesbian, Gay, Bisexual and Transgender employees.

National Black Crown Prosecution Association (NBCPA) – a support network for Black and minority ethnic staff.

Trade Unions – FDA and PCS.

## 3. Informal discussions

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- 3.1** Before considering use of the formal procedure, any employee who has a grievance should normally discuss it in the first instance with their line manager or the person concerned with a view to early resolution. The manager will make every reasonable attempt to address the issue(s) at the earliest opportunity and ideally within ten working days informing the employee of the actions taken or to be taken.
- 3.2** Any employee who feels that they have been bullied, harassed or discriminated against or victimised should, if they feel able to do so immediately, or as soon as possible after the incident, tell the individual that their behaviour is offensive, unwanted and that it must stop. The employee should:
- Explain or describe the behaviour that is causing the concern or offence;
  - Explain or describe the effect that behaviour has on them and how it makes them feel; and
  - Tell the individual how the behaviour needs to change.
- 3.3** If an employee feels unable to discuss a matter with their line manager personally, or with the person causing the offence, they should ask a work place colleague, or some other appropriate person to raise the matter on their behalf or to be with them when they do so. See section 2.3 above for additional sources of support.
- 3.4** In cases where resolution of the grievance appears difficult, it is expected that the employee and line manager will seek the support of one of the trained mediators who will work confidentially with both parties to try to reach a satisfactory outcome. All those involved in the grievance must consent to the mediation process.

For more information on the role of the internal mediator, see Appendix 2.

- 3.5** If the grievance raises serious issues that cannot readily be dealt with informally, the employee should progress it through the formal procedure.

## 4. Formal grievance

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- 4.1** It is expected that grievances are raised as speedily as possible, and at the latest within three months of the incident that has caused concern unless there are exceptional reasons for not doing so.
- 4.2** The employee must set out their concerns in writing to their line manager, providing as much information as possible to enable the grievance to be dealt with as quickly as possible. If the grievance is about the line manager, the grievance should be sent to the line manager's manager. For further information on raising a formal grievance see Appendix 4.
- 4.3** Where a grievance appears to disclose issues relating to discrimination, harassment, bullying or victimisation, the line manager will copy the grievance to the HRA in the first instance who will seek a decision from the HR Operations Manager in conjunction with the Equality and Diversity Unit on whether it is appropriate to commission an internal investigator to take the matter forward.
- 4.4** In any event, the employee who has raised a grievance will be notified in two days of the way in which the grievance will be managed. The line manager will inform the Area/HQ Business Manager and the HRA of any formal grievances received.
- 4.5** Where an internal investigator has been appointed, the line manager will advise the employee in writing of the name of the internal investigator. If the employee is unhappy with the choice of investigator they may make written submission to the HRA within one working day of being notified of the investigator, setting out the reasons why the chosen investigator is not suitable.

## 5. Grievance meeting

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**5.1** The person managing the grievance (either the line manager or the internal investigator) will invite the employee to attend a formal meeting to discuss the grievance.

### 5.2 Key points

- The employee must be given at least five working days' notice in writing of the date of the grievance meeting. The letter will inform them of their right to be accompanied by a trade union representative or workplace colleague (Representative).
- The employee's Representative may address the meeting to put the employee's case, sum up the employee's case and respond on the employee's behalf to any view expressed at the meeting. The Representative may not, however respond to specific questions as to facts that have been put to the employee. Reasonable steps must be taken to ensure the employee and/or their Representative are able to participate fully in the meeting.
- If an employee or their Representative is unable, for good reason, to attend the meeting on the date proposed, the person managing the grievance will reschedule the meeting, to take place as soon as possible but not later than five working days after the original date. No further rescheduling will be considered unless the reason for non attendance is considered exceptional.
- The employee must have submitted all documentation to be considered at least two working days before the meeting.
- A note taker must be present to take a note of the key points. A copy of the notes will be sent to the employee within two working days of the date of the meeting. Any significant disagreements on the content of the note should be attached as a separate note.

**5.3** The person conducting the grievance meeting will be advised during the process by an HRA.

## 6. Decision

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**6.1** The employee must be notified of the outcome either at the end of the meeting with written confirmation within five working days or in writing within five working days of the meeting. They will be given reasons for the decision which may be one of the following:

- a) That the issues complained about will be resolved without the need for any further inquiry or investigation and the way in which this will happen. Where this is the case the employee will be given the right to appeal;
- b) That the issues complained about require further inquiry by the line manager before a decision can be reached. Once the manager has completed any inquiries and reached a decision the employee will be notified and given the right to appeal; or
- c) That the internal investigator will need to carry out an investigation and that the

employee will be advised of the outcome. The employee will not be given a right of appeal until after the conclusion of the investigation and a decision has been reached.

## 7. Investigation

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**7.1** The following sets out the procedure for carrying out an investigation, where issues of discrimination, harassment, bullying or victimisation have been raised as a grievance and it is decided that a full investigation is appropriate.

### 7.2 Key points

- Where a grievance relates to another member of staff, the investigating officer will write to the person providing a copy of the grievance to be investigated. The employee will be informed of the various support mechanisms available within the CPS.
- An employee who is the subject of a grievance can be accompanied by a Representative during any investigation interviews. The employee's Representative may address the investigating officer to put the employee's case, sum up the employee's case and respond on the employee's behalf to any view expressed at the interview. The Representative may not, however respond to specific questions as to facts that have been put to the employee.
- The employee will be given an opportunity to adjourn briefly to discuss an issue with their Representative.
- The investigating officer will interview all known persons he or she considers are able to provide additional information to the investigation.
- The investigating officer will keep a record of each interview held. A record of the interview will be sent to the person interviewed within two working days. Any significant disagreements on the content of the notes should be attached as a separate note.
- The investigation should normally be concluded as quickly as possible and, in any event, within 15 working days.
- At the conclusion of the investigation, the investigating officer will send the completed investigation report to the manager who commissioned the investigation.

For further information on grievance investigations see Appendix 3.

## 8. Outcome

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- 8.1** The line manager will notify the employee who raised the grievance ideally in person, and in any event, in writing of the outcome of their grievance within five working days of the conclusion of the grievance investigation. The employee will be given a copy of the investigation report and reasons for the conclusions reached. The employee will be also be informed of the right to appeal and the name of the person to whom any appeal should be made.
- 8.2** An employee who is the subject of a grievance investigation will be informed ideally in person and, in any event, in writing of the outcome of the grievance within five working days of the conclusion of the grievance investigation and the reasons for the conclusions reached.
- 8.3** At the conclusion of a grievance, the line manager will consider ways to ensure that normal working relationships are resumed and re-established as quickly as possible and that all persons affected by the grievance process are appropriately supported. For example, this may be by reference to Carefirst or mediation.
- 8.4** Where an investigation into a grievance discloses behaviour that could be considered misconduct, the line manager will progress the matter at the formal stage of the disciplinary procedure and inform the employee concerned. This includes grievances that are considered to be vexatious or malicious.

## 9. Appeal

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- 9.1** If the employee who raised the grievance decides to appeal against the outcome of the grievance they must do so in writing within five working days of receiving the decision setting out the reasons for the appeal.
- 9.2** The appeal hearing generally and, in particular, is to consider whether:
- There were any procedural flaws and if they affect the merits of the grievance;
  - The decision appears to be perverse and not supported by the information gathered; and whether
  - Any new information that was not available at the time of the original meeting but has since come to light.

## 10. Appeal meeting

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**10.1** An appeal will be heard by a manager more senior to the employee's line manager and who has not previously been involved in the grievance except where this is not possible due to the seniority of the employee concerned.

**10.2** The manager hearing the appeal will write to the employee within two working days of receiving the appeal, to invite them to attend an appeal meeting.

### **10.3** Key points

- The employee will be given at least five working days' notice of the meeting and will be informed of their right to be accompanied by a Representative. The employee must have submitted all documentation to be considered at least two working days before the meeting.
- If the employee is unable, for good reason, to attend the meeting on the date proposed, the manager hearing the grievance will reschedule the meeting to take place as soon as possible and no later than five working days after the original date. No further rescheduling will be considered unless the reason for non attendance is considered exceptional. Reasonable steps must be taken to ensure the employee and/or their Representative are able to participate fully in the hearing.
- A note taker must be present to take a note of the key points. A copy of the notes will be sent to the employee within two working days after the date of the hearing. Any significant disagreements on the content of the note should be attached as a separate note.

**10.4** The manager conducting the appeal meeting will be advised during the process by an HRA.

## 11. Outcome

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**11.1** The manager will notify the employee of the outcome either at the end of the meeting with written confirmation within five working days or in writing within five working days after the date of the appeal meeting. The letter will give details of the person to whom a further appeal may be made in the event that the employee is dissatisfied with the outcome.

## 12. Further appeal

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- 12.1** An employee wishing to make a further appeal must do so within five working days of receiving the outcome of their original appeal setting out the reasons for the appeal in accordance with section 9.
- 12.2** A further appeal will normally be managed by the line manager of the person who carried out the appeal meeting. Where this is not possible or appropriate, a further appeal will be dealt with by some other designated manager who has not previously been involved in the case.
- 12.3** Key points
- The appeal will be a paper based exercise.
  - The manager dealing with the appeal will review all of the original documentation to see whether the previous decision was reasonable.

## 13. Outcome

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- 13.1** The manager will notify the employee in writing within two working days of the outcome. The decision is final and there is no further internal right of appeal other than that set out below.

## 14. Right of appeal to the Civil Service Commissioners Board (CSAB)

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- 14.1** An employee may appeal to the CSAB in cases where their grievance relates to a refusal to allow the employee to participate in political activities. Appeals to the CSAB must relate to a breach of the Civil Service Code.

CSAB contact address: **Room G32, 22 Whitehall, London, SW1A 2WH.**

## 15. Grievances raised after employment has ended

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**15.1** Former employees of the CPS may still raise a grievance regarding incidents occurring during the period of their employment. In these circumstances, the grievance procedure as detailed above can be modified to make the process shorter.

**15.2** Grievances must be raised within three months of the employee leaving the CPS.

**15.3** The modified procedure will apply only in the following circumstances:

- The employee no longer works for the CPS;
- The CPS was not aware of the grievance before the employee's employment ended or the formal grievance procedure had not been started or completed by the time the former employee's employment ended; and
- It has been agreed in writing by both parties that it will apply. If either party does not agree, the procedure set out in sections 4-13 will apply.

### **15.4** [Stage 1: Statement of grievance](#)

The former employee must set out in writing a detailed account of their grievance and their consent to the use of the modified procedure. The former employee should then send this document to their former line manager.

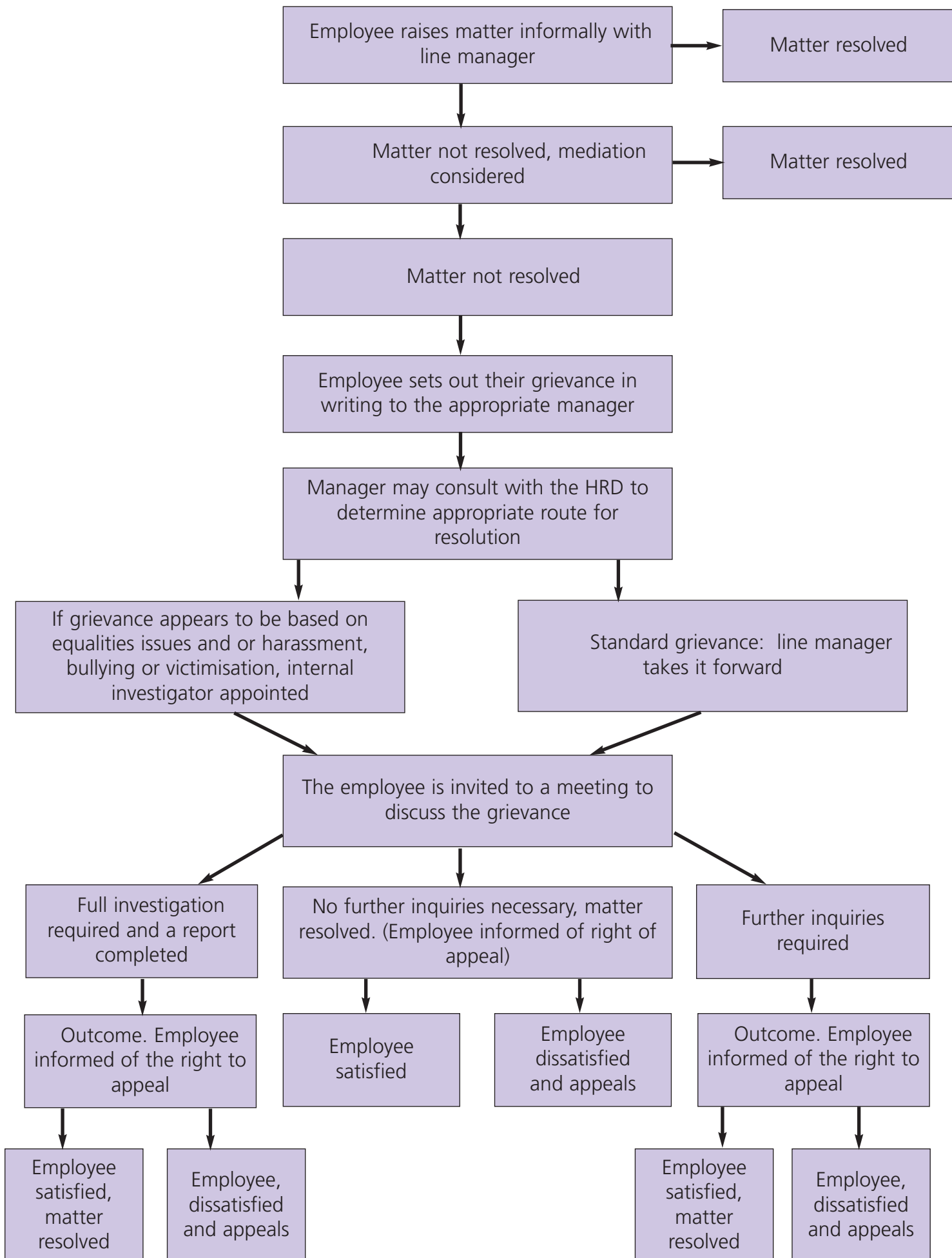
### **15.5** [Stage 2: Written response](#)

The former line manager will consider the grievance as a paper exercise and send a written response to the employee.

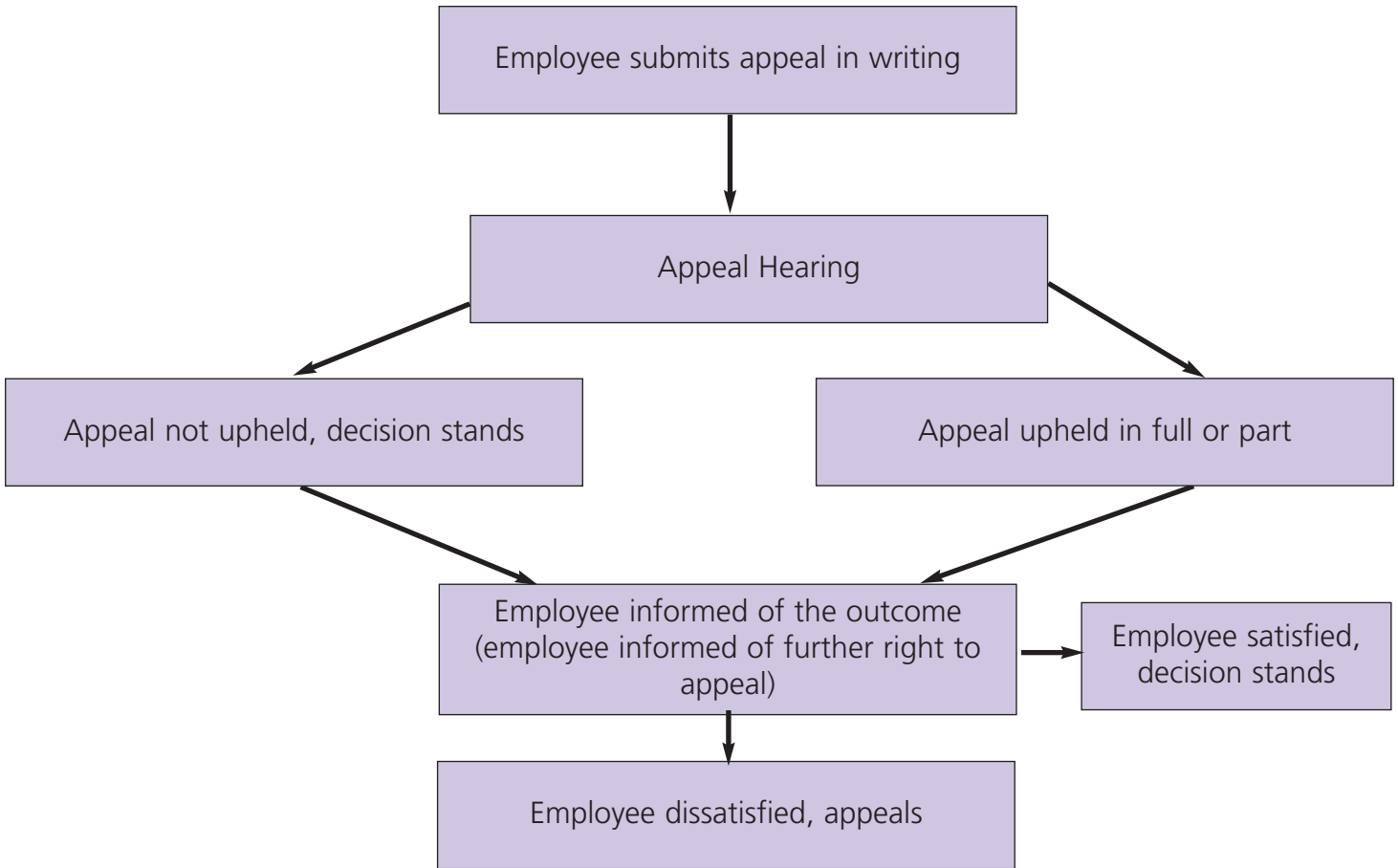
**15.6** There will not be a meeting to discuss the grievance and there is no right of appeal.

**15.7** Managers should seek advice from the HRA when in receipt of grievances from former employees.

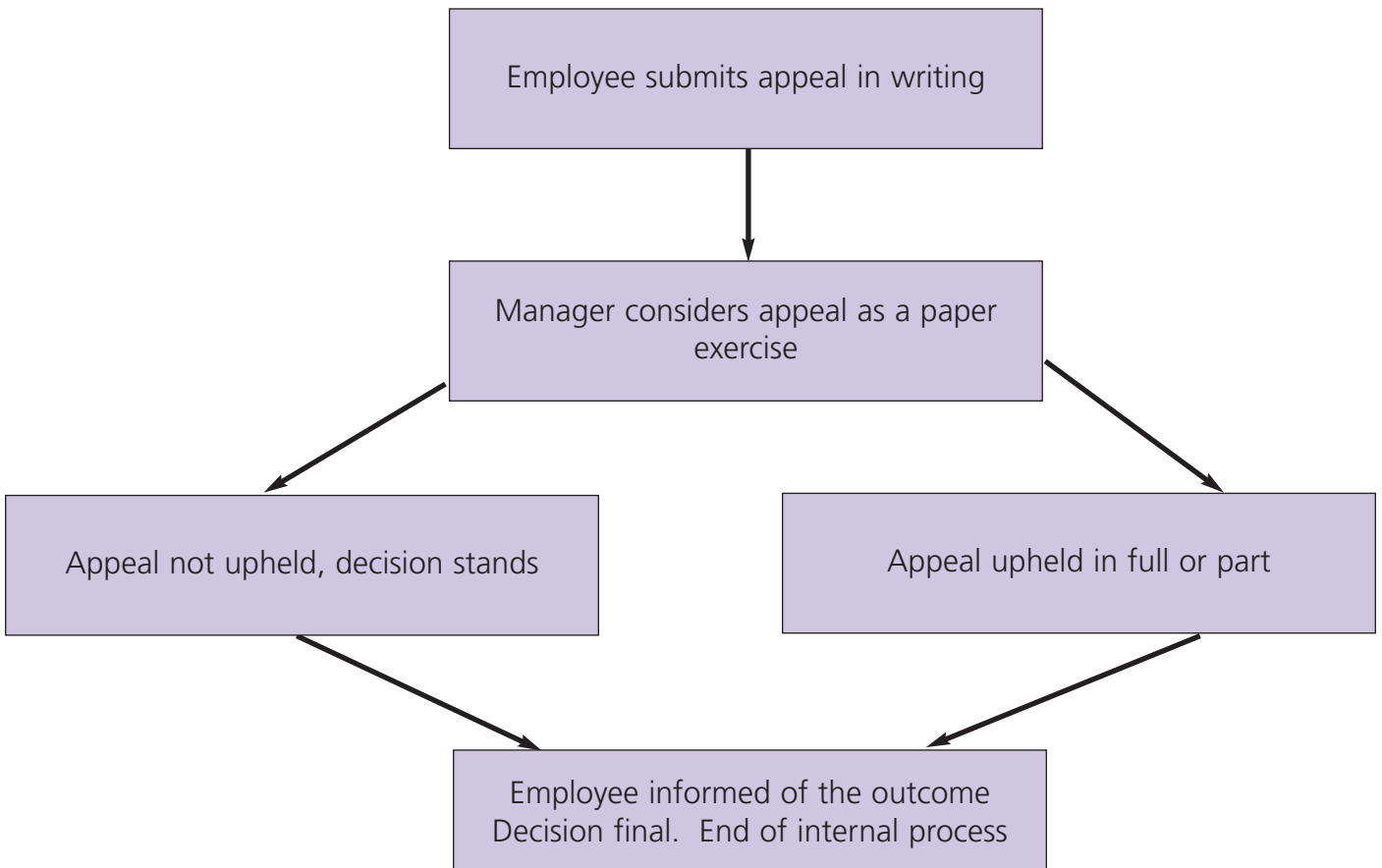
## Grievance procedure — at a glance



## Appeal process



## Further appeal process



## Grievances raised after employment has ended: modified procedure

**Stage 1**

Former employee raises a grievance in writing to their former line manager

**Stage 2**

Former line manager considers all of the information provided by the former employee

Former employee notified in writing of the outcome

End of internal process.  
There is no right of appeal

# Appendix 1

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## Conduct that constitutes discrimination

Unacceptable discrimination is an intentional or unintentional act which adversely affects a person's employment opportunities because of age, disability, ethnicity, religion or belief, gender or sexuality.

Examples of discrimination are:

- Direct discrimination: the exclusion of employees of a certain gender from jobs.
- Indirect discrimination: requiring all employees posted abroad to be married – this may discriminate against gay men and lesbians.

## Examples of behaviour considered to be bullying and harassment

- Unnecessary or unwanted physical contact or invasion of personal space;
- Sexually suggestive behaviour, or compromising sexual invitations or demands;
- Racial harassment – including racist jokes or graffiti;
- Displaying offensive material;
- Unwarranted or suggestive remarks;
- Verbal or written abuse including non-communication and deliberate and/or inappropriate exclusion from social events;
- Derogatory name-calling and insult;s
- Threats of a physical or psychological nature;
- Bullying behaviour or language that causes fear or distress to others;
- Abuse of power by someone in authority, or bullying by junior staff towards a senior employee;
- Abuse of power by full-time employees over part-time employees;
- Incitement of others to commit harassment;
- Electronic messages or electronic displays of sexually suggestive pictures or literature (including email and text messages);
- Inappropriate and derogatory remarks in connection with performance;
- Inappropriate literature, pictures, books or tapes.

Harassment often consists of persistent behaviour, although one single act may be considered sufficiently serious to warrant disciplinary action, including dismissal.

## Appendix 2

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### Mediation

There is a clear expectation that those who are complaining will first go through the mediation process before embarking on the formal process. Mediation is the unbiased and objective intervention by an independent third party to help everyone involved in a complaint to communicate with each other and come to an agreement.

All those involved in the grievance must consent to the mediation process.

The CPS has a network of trained mediators who can be approached by either party to an informal complaint.

### Role of the mediators

The role of the mediator is to:

- Meet with the parties in one-to-one sessions in order to identify issues, needs and concerns;
- Explore ways forward; and
- Encourage both/all parties to meet together in a joint mediation session to resolve any conflict or issues between them.

During any joint meeting, the mediator will be expected to:

- Establish ground rules and a constructive environment;
- Ensure that everyone has an equal opportunity to communicate (speak and listen), negotiate and work out realistic and fair agreements; and
- Help people make their own decision about how to achieve settlement, understanding and improvements in behaviour.

## Appendix 3

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# Investigation for grievances relating to equalities issues or bullying, harassment or victimisation

### General principles

The authority for the investigation lies with the investigating officer. Investigating officers must act reasonably at all times during an investigation and ensure that they adopt, and are seen to adopt, an unbiased approach to the task. Investigating officers should ensure that an investigation is carried out within a reasonable (normally within 15 working days) timescale.

### Managing an investigation

#### *Preparation*

- Consider the information following the meeting with the person who raised the grievance.
- Structure and map out the process to be followed;
- Invite the employee who is the subject of the investigation to attend an interview giving them reasonable notice and informing them of the reason for the interview and a copy of the grievance to be investigated. The employee must also be given the opportunity to be accompanied by a Representative;
- Decide whether other employees or persons with relevant information need to be interviewed and write to them.

### Conducting investigation interviews

- At the outset of each interview, the investigator will describe the process, clarify ground rules including issues of confidentiality, and check that the person being interviewed understands what is about to take place.
- Issues raised during the course of the interview will be summarised and fed back to the interviewee during the course of, and at the end of, the meeting.
- A record of the interview will be sent to the employee who has been interviewed, normally by email and within two working days after the interview. The employee will be expected to confirm receipt of the interview record and to confirm its accuracy.
- Any other relevant employees or individuals who may be involved or who are aware of what was happening may be interviewed.
- Only in exceptional cases will information gathered, including statements of witnesses, remain confidential.

### Documents, emails

- Wherever possible, documentary evidence should be collected as part of an investigation. This will include emails, transcripts of telephone conversations.

## Appendix 3 continued

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### Investigation report

- At the end of an investigation, a report will be prepared which will include a summary of the findings, whether the allegation is proven, partially proven, whether there is insufficient evidence to make a judgement or whether the grievance is made maliciously. A recommendation as to an appropriate course of action will also be made. Original interview notes and any other documentation collected and relied upon will also be attached;
- The report will be passed to the line manager or the manager who commissioned the investigation.

# Appendix 4

## Raising a formal grievance

### 1. Personal details

To:..... (manager) From.....(print name)

Job title.....Location.....Date.....

### 2. Type of grievance

Standard

Other : Discrimination  Harassment  Victimisation  Bullying

Please provide specific details of the grievance setting out clearly the relevant dates, times of incident(s), and the names and locations of any witnesses to any incidents. (Use an additional sheet if necessary).

What, if any, action have you already taken to address this matter including the outcome of any mediation? If you did not enter into mediation, why was this the case?

What do you think is the best way to resolve this grievance?

Signed.....