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ELHAP Grievance Procedure

1 Introduction

- 1.1 Most problems or complaints employees have at work should be dealt with informally in the normal course of events. The grievance procedure exists, however, to give all employees the formal opportunity to raise any issue which cannot be dealt with in this way.
- 1.2 Employees should also be aware that the Employment Act 2002 introduces a statutory grievance procedure which employers are bound to adhere to as a minimum, and employees are bound to use before presenting a claim to an Employment Tribunal.

2 Scope

- 2.1 This procedure is applicable to all staff on permanent or fixed-term appointments, including sessional staff and other temporary staff.
- 2.2 There are separate procedures for dealing with appeals against disciplinary outcomes and the outcome of job evaluations. However, if the complaint concerns the way in which the issue was handled rather than the outcome, it may be dealt with under the grievance procedure.
- 2.3 There is a separate procedure to follow in the case of a complaint of harassment or bullying. Please see the ELHAP Harassment at Work Policy.

3 General Principles

- 3.1 An employee has the right to raise a grievance on any reasonable grounds relating to his/her employment. The procedure below will also apply to a grievance raised by a group of employees. An employee may contact the ELHAP Human Resources Sub-Committee for advice at any stage.
- 3.2 Grievances should be dealt with as quickly and fairly as possible. Where possible, every attempt should be made to resolve the matter locally and informally, but a formal complaint can be raised at the outset if the complainant so wishes.
- 3.3 All parties will be given the opportunity to state fully their grievance/defence. Copies of any written statements will be supplied to all parties on a confidential basis.
- 3.4 An employee will have a right of appeal against a decision made in relation to his/her complaint (but see Paragraph 6 below).
- 3.5 An employee may find it helpful to discuss a grievance with a staff or trade union representative at any stage, and also has the right to be accompanied by a work colleague, staff representative or a trade union official during any grievance/appeal hearing.

- 3.6 The supervisor/manager/trustee investigating the grievance may be supported by a colleague (who has not been involved with the grievance) or a member of the ELHAP Human Resources Sub-Committee or Board of Trustees. This colleague will not be involved in the decision made upon the grievance.
- 3.7 The person against whom a grievance is being raised (the respondent) may also wish to be accompanied by a work colleague, staff representative or a trade union official to any meeting. If this is the case, the respondent must inform the Chair of the ELHAP Human Resources Sub-Committee of this prior to the meeting.
- 3.9 A complaint will be dealt with without unreasonable delay. However, all periods of time set out below may be varied within reason, either by mutual agreement, or if required due to key members of staff not being available

4 Procedure for raising a grievance

An employee may either try and resolve the matter informally, or may invoke the formal procedure at the outset.

Informal Procedure

- 4.1 Where an employee has a grievance they can try to resolve the problem by approaching the relevant member/s of staff directly if they feel able to and it is appropriate. Alternatively, they can discuss the complaint with their supervisor or line manager (or the next level of management if the complaint is against their supervisor/line manager) to explore whether they can deal with the matter at an informal level, if appropriate.
- 4.2 If this is not appropriate, or the informal approach does not produce the desired result, the employee may then invoke the formal procedure as set out below.

Formal Procedure

- 4.3 An employee wishing to formally raise a grievance must put his or her complaint in writing to their supervisor/line manager, stating that they are invoking the grievance procedure. If the grievance is against the line manager, see note 2 of Appendix A.
- 4.4 The manager will arrange a meeting with the relevant parties, usually within 10 working days (or will meet separately with the relevant parties if more appropriate). The relevant parties should be kept fully informed of what is happening and given copies of all documentation, including the written complaint and any written response. They must also be informed of their right to be accompanied at the meeting by either a work colleague, staff representative or a trade union official. Guidance on the procedure to be followed is outlined in Appendix B. A written response will be given to the parties involved as soon as possible after the meeting, but in any event within 10 working days (it is the manager's responsibility to ensure that this is received, e.g. by delivering by hand/recorded delivery). The manager will keep a record of the complaint, the meeting and the outcome, and provide a copy to both parties.

5 Appeals Procedure

If the matter has still not been resolved to the employee's satisfaction s/he will have the right to appeal within 10 working days of the date of the written response. The procedure below should be followed:

- 5.1 The employee should submit to the Chair of the ELHAP Human Resources Sub-Committee written notification of their wish to appeal, which should include their written

statement of the grievance and outlining the reasons why they feel it has not been adequately dealt with.

- 5.2 As soon as the appeal statement has been received, the ELHAP Human Resources Sub-Committee will send a copy to the manager who heard the complaint (the respondent), asking him or her to submit any observations they wish to make. HR may also ask the person(s) against whom the original complaint was made for their observations if appropriate.
- 5.3 The Chair of the ELHAP Human Resources Sub-Committee will arrange a meeting of the Appeals Panel (see Appendix A). An appeal will not be heard by any individual who has been involved in the earlier stages of hearing the grievance. The meeting will be arranged as soon as practicable, giving each party at least 5 working days notice of the date, time, and venue. Guidance on the procedure to be followed is outlined at Appendix B.
- 5.4 If the employee raising the grievance and/or the respondent wish to call any witnesses, they should inform the Chair of the ELHAP Human Resources Sub-Committee of their names at the time the appeal is made or when they are notified of the appeal meeting.
- 5.5 The Chair of the ELHAP Human Resources Sub-Committee will arrange for copies of the appeal statement and any statement from the respondent to be sent to members of the Appeals Panel in advance of the meeting.
- 5.6 The Chair of the Appeals Panel may allow or require the attendance of the respondent, the person(s) against whom the original complaint was made and/or any other person as a witness at the hearing.
- 5.7 The failure or refusal of any party to attend will not invalidate the hearing which may proceed in their absence. However, the Chair of the Appeals Panel may decide to adjourn the hearing to another day to allow their attendance depending upon the circumstances for failure to attend.
- 5.8 The Chair of the Panel will arrange for a note of the hearing to be taken.
- 5.9 Each party should be notified of the outcome of the appeal in writing within 10 working days of the hearing. A copy of the notes of the hearing will also be supplied to each party.
- 5.10 The decision of the Appeals Panel is final.

6 Grievance/Disciplinary matters

- 6.1 If, during the course of dealing with a grievance, it becomes apparent that a disciplinary offence may have occurred, the grievance investigation may be terminated to allow for the disciplinary procedure to be invoked.
- 6.2 The complainant may become a witness to the disciplinary investigation but will have no right of appeal against any disciplinary outcome, which is a decision for the person hearing the disciplinary matter. The complainant will be advised that action has been taken, but not the extent of any penalty.
- 6.3 If the complainant remains dissatisfied with the outcome of a grievance which proceeds in this manner, and has not already appealed, the employee may submit a grievance appeal as outlined at Section 5 above.

APPENDIX A

STAFF AUTHORISED TO ACT AT EACH STAGE OF THE GRIEVANCE PROCEDURE ⁽¹⁾		
COMPLAINANT	TO BE HEARD BY ⁽²⁾	APPEAL TO ⁽²⁾
Centre Manager	Grievance Panel of ELHAP Board of Trustees	Full ELHAP Board of Trustees
Deputy Manager	Centre Manager	Appeals Panel of ELHAP Board of Trustees
Senior Playworkers/Senior Adult Day Care Workers	Deputy Manager	Centre Manager
Playworkers/Adult Day Care Workers/Sessional Staff	Deputy Manager	Centre Manager

Footnotes:

(1) In all cases, if the designated manager is not available, or if it is not considered appropriate for them to hear the grievance, another manager at an equivalent or higher level of seniority (or a member of the ELHAP Board of Trustees) will be authorised to act in their place.

(2) If an employee wishes to raise a grievance against their line manager, they should approach the next level of management. In such cases a Panel at the appropriate level would hear any Appeal. Appeals Panels will exclude any person involved at an earlier stage of the grievance hearing.

(3) The Grievance Panel of ELHAP's Board of Trustees referred to will comprise the Vice-Chair of the ELHAP Board of Trustees and Chair of the ELHAP Human Resources Sub-Committee (or their nominees if unavailable) and another member of the ELHAP Board of Trustees who is not an employee of ELHAP.

(4) The Appeals Panels of the ELHAP Board of Trustees referred to will comprise of the Chair of the Board of Trustees and 2 members of the ELHAP Board of Trustees, excluding any person involved at any earlier stage of the grievance hearing.

APPENDIX B

GUIDELINES FOR THE PROCEDURE TO BE FOLLOWED BY THE CHAIR OF A FORMAL GRIEVANCE HEARING OR AN APPEAL HEARING

- 1 Introduce those present and explain the format and purpose of the hearing, i.e. to:
 - 1.1 Establish the facts.
 - 1.2 Hear the case of the person raising the grievance.
 - 1.3 Hear the respondent's case (either in person at the hearing or from any written statements submitted).
 - 1.4 Make a final decision on the case after considering the evidence given (to be notified in writing to all parties concerned within 10 working days of the meeting).
 - 1.5 Decide whether any further action is necessary as a result.
2. If either the employee raising the grievance or the respondent choose not to be accompanied by a work colleague, staff representative or trade union official, ensure that this is recorded and that the employee(s) agreed to the hearing going ahead.
- 3 Allow the person raising the grievance to detail their case and produce any evidence.
- 4 Hear any witnesses* for the person raising the grievance and allow both parties to raise questions through the Chair.
- 5 If the person against whom the grievance has been raised is present, allow them to respond to the allegations and produce any evidence.
- 6 Hear any witnesses* for the respondent and allow both parties to raise questions through the Chair.
- 7 Give both parties the opportunity to sum up.
- 8 Ask both parties to withdraw to allow the panel to consider the evidence.
- 9 Reach a decision, and confirm this in writing to both parties within 10 working days.
- 10 A written record of the hearing must be kept, and a copy provided to the complainant and respondent.

* Note: A witness should only be present for the part of the proceedings in which s/he is giving evidence or being questioned.

**Implemented by the ELHAP Board of Trustees
3rd October 2005**