

GRIEVANCE POLICY

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1 Introduction

1.1 What is the policy about?

Berkeley Guardians is committed to creating and sustaining a working environment that is fair to all and free from unlawful discrimination, harassment, victimisation and bullying. Everyone 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.

The Grievance Policy is designed to ensure that concerns, problems and complaints arising in the course of employment can be raised and resolved quickly and in a fair and reasonable manner.

The Grievance procedure exists to provide a mechanism for employees to raise concerns that are not covered by other procedures.

1.2 Who does the policy apply to?

This policy covers all employees at Berkeley Guardians.

1.3 Responsibilities

All employees have a responsibility to ensure that they comply with this policy and to be aware of their own behaviour and the effect it may have on other people and to treat everyone with respect and dignity.

The Directors are responsible for ensuring that this policy and procedure is fairly and consistently implemented. They must ensure that they deal with grievances, whether verbal or written, equitably, without discrimination, and as quickly as possible. The Directors are also responsible for communicating the policy to staff in order to increase awareness and understanding of the policy and procedure.

A grievance from an employee regarding one of the Directors, the other Director will have responsibility for investigating the complaint and will discuss all other available options in relation to the whole grievance process up to and including the appeal.

If the grievance is regarding both Directors, the employee will be advised to seek advice from Citizens Advice.

1.4 Legislation

This policy is compliant with current legislation and the ACAS Code of Practice.

The Equality Act 2010 harmonises and replaces previous equality legislation and extends protection for all protected characteristics to ensure consistency. Under this legislation, protected characteristics are:

- age;
- disability;
- race;
- sex;
- religion or belief;
- gender reassignment;
- sexual orientation;
- pregnancy and maternity; and
- marriage or civil partnership.

The Equality Act makes the council potentially liable for harassment of employees by people who are not employees, for example, customers, clients, agency workers or external consultants.

1.5 Other procedures

There are a number of issues that cannot be raised through the Grievance policy. Any issues concerning the areas listed below can be raised through separate procedures:

- recruitment and selection complaints;
- restructure/redundancy consultation;
- job evaluation;

- pay, grading or allowance issues; and
- disciplinary issues.

If it is unclear which procedure the employee wishes to pursue, the Directors should seek advice from their Human Resources, Advice and Support.

Where an employee does not have a grievance but does wish to raise a concern about Berkeley Guardians or their employees, it may be appropriate to raise it under the Safeguarding Policy.

Where an employee has a grievance regarding a child (under 18 years of age) who is the care of Berkeley Guardians it shall be regarded as a complaint and therefore raised under Berkeley Guardians Safeguarding Policy.

2 What is a grievance?

A grievance is a concern, problem or complaint raised by an employee with their employer regarding their work, working conditions or relationships with colleagues. It is important to remember that in all instances, it is not what may have been intended by the perpetrator that is important in deciding whether unacceptable behaviour has occurred; it is whether the actions and comments can objectively be viewed as demeaning and unacceptable to the person making the complaint.

Employees should be aware that they cannot raise a grievance that is the same or similar to a grievance that has been investigated within the previous 12 months unless any action to redress the grievance has not been implemented.

Where an employee has not completed a Formal Grievance Form, the Director(s) must seek clarification from the employee as to whether any such notification is a grievance so that the grievance process can then be applied. If the employee indicates that a grievance is not being formally raised, then a note should be prepared by the Director(s) and shown to the employee to verify that outcome.

It is impossible to provide a comprehensive list of all the issues that might give rise to a grievance but some of the more common types are listed below:

2.1 General work issues

For example, issues regarding terms and conditions of employment, health and safety, working practices or working relationships.

2.2 Bullying

This is behaviour that is offensive, intimidating, malicious, insulting and the misuse of power. 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.

2.3 Harassment

This is unwanted behaviour which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual. Employees can complain of behaviour they find offensive even if it is not directed at them. Harassment differs from bullying in that it specifically refers to unwanted behaviour in relation to a protected characteristic (see section 1.4 for details of protected characteristics).

2.3.1 Victimisation

This occurs 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.

3 Resolving a grievance

It is in the best interests of everyone to ensure that grievances are dealt with quickly, equitably and resolved informally wherever possible. In the first instance, employees are asked to try to discuss the issue with the Director(s) or the person concerned to try to reach an early resolution.

3.1 Informal process

Where an employee has concerns about the behaviour of an individual, they should tell them that their behaviour is causing concern or offence, explain the effect that it is having on them and that it

must stop. The employee may not be aware that their actions cause offence to others and once it is highlighted this may resolve the situation.

If an employee feels unable to discuss the matter with the person causing offence, they may wish to speak to the Director(s) or ask a work colleague to raise the matter on their behalf.

If the matter is not resolved informally or if there are specific circumstances that make the informal route inappropriate, the formal grievance procedure should be followed.

3.2 Mediation

In some cases, mediation can help resolve problems, especially those involving working relationships, and can be a positive and supportive way of resolving a grievance.

Where the Director(s) has/have been unable to resolve the issue through discussion with the employee(s), formal mediation carried out by a trained and independent mediator, may be considered. Participation in mediation must be by mutual agreement and in consultation with the Human Resources Advice and Support, who will be able to provide details of mediation services. Berkeley Guardians should be aware that there will be a cost associated with this.

Where mediation is successful and an outcome is achieved, it will be binding upon both parties and will close the grievance procedure regarding the issue.

3.3 Formal process

Where it has not been possible to resolve a grievance informally, the employee can choose to raise a formal grievance. The employee must set out their concerns using the Formal Grievance Form (see supporting document A), providing as much information as possible to enable the grievance to be dealt with effectively.

The form should be submitted to the Director(s), where the grievance concerns a colleague. If the grievance concerns one of the Directors, it should be submitted to the other Director. If the grievance is regarding both Directors, then the employee should act upon the advice from Citizens Advice regarding the form.

The employee should retain a copy of the completed form for reference purposes.

If an employee submits a formal grievance without attempting to resolve the situation informally and where there are no specific circumstances that make the informal route inappropriate, the Director(s) should encourage the employee to participate in the informal process in the first instance.

4 Grievance investigation

Where it is felt that the informal process has been exhausted, a thorough investigation of the allegations and/or issues should be carried out. Any investigation must look impartially at the issues raised in the grievance and reach any conclusion based on the facts and evidence.

4.1 Investigating Officer

In most circumstances, where a grievance is raised against a colleague, a Director will be the Investigating Officer.

Where a grievance is raised about a Director, the other Director will be responsible for investigating the concerns. If the grievance is regarding both Directors and an Investigating Officer is sent from a Legal Authority to look into the grievance on behalf of the employee(s), the Directors will comply fully with the investigation.

4.2 Timescales

It is important for the investigation to be concluded as soon as reasonably practicable. The Investigating Officer should endeavour to investigate the grievance and provide the outcome to the employee who raised the grievance within 30 working days of the Formal Grievance Form being received or where an Investigating Officer needs to be appointed, within 30 working days from the date of that appointment. All parties should be aware that an extension to this timescale may need to be agreed, depending on the complexity of the case.

5 Grievance meetings

5.1 Employee raising the grievance

The Investigating Officer will arrange a meeting with the employee raising the grievance to discuss the issues in more detail within 10 working days of the Formal Grievance Form being received or where an Investigating Officer is appointed, within 10 working days of that appointment.

The employee is entitled to be accompanied at the meeting by a trade union representative or a work colleague. The individual accompanying the employee must not be someone whose presence would prejudice the meeting or who has a conflict of interest. An employee may ask an official from any trade union to accompany them, regardless of whether or not they are a member or the union is recognised. A trade union representative who is not an employed official must have been reasonably certified by their union as being competent to accompany the employee.

If the person accompanying the employee cannot attend on the date suggested, the Investigating Officer should suggest another date, not more than 5 working days after the original date. This time limit may be extended by mutual agreement.

The purpose of the meeting is to:

- clarify the nature of the grievance;
- determine if mediation is an option;
- identify what further information is needed;
- discuss the employee's proposals for resolving the issues; and
- establish if a longer timescale will be necessary.

At the end of the meeting the Investigating Officer should give the employee an indication of when they might reasonably expect a response to the grievance. If the Investigating Officer feels that a response cannot be provided within 30 working days, bearing in mind any additional investigations they feel may be necessary, an extension to the timescales should be agreed at this time.

Where unavoidable delays occur, e.g. due to annual leave or sickness, the Investigating Officer should contact the employee, in writing, to agree revised timescales and to provide an update on the progress of the investigation.

5.2 Employee who is the subject of grievance

Where a grievance is raised against another employee, it is important to approach the situation sensitively and carefully. The Investigating Officer should generally start by talking privately to the employee to alert them to the fact that a concern has been raised by a fellow employee. Following this, the employee will be invited to a meeting to discuss the issue(s) in more detail as part of the investigation process. The employee is entitled to be accompanied at the meeting by a work colleague or trade union representative.

During the grievance investigation meeting, the Investigating Officer will explain the allegation(s) that have been made against the employee and will provide them with an opportunity to put forward their understanding of the situation.

5.3 Witnesses

In some circumstances, the Investigating Officer will be required to interview witnesses. Every effort should be made to avoid disclosing any confidential information unnecessarily by the Investigating Officer; however the confidentiality of any witness cannot be guaranteed.

Where the Investigating Officer feels it is necessary to meet witnesses, they should also write to invite them to a meeting and supporting document C can be amended for this purpose. The Investigating Officer must think carefully about who to interview as a witness, bearing in mind the need to show a balanced investigation. Where particular witnesses are chosen from a group, the Investigating Officer must ensure that they have applied a clear and robust method of identifying which individuals to meet with.

The witness is entitled to be accompanied at the meeting by a trade union representative or a work colleague. The individual accompanying the employee must not be someone whose presence would prejudice the meeting or who has a conflict of interest. An employee may ask an official from any trade union to accompany them, regardless of whether or not they are a member or the union is recognised. A trade union representative who is not an employed official must have been reasonably certified by their union as being competent to accompany the employee.

The Investigating Officer must make a note of why each person was interviewed and what their relationship is to the investigation. The Investigating Officer should also record any decision not to interview a witness, together with the reason why the witness was not interviewed.

Where witnesses are involved in the investigation, the Investigating Officer must ensure that they explain the need to complete the investigation confidentially and that they must not discuss the details with colleagues. The meaning of 'confidential' should be explained clearly to those

interviewed; in this context it means that whilst the interview is held in a confidential setting the subsequent statement may be read as part of the formal procedures.

5.4 Final grievance meeting

To conclude the investigation, the Investigating Officer will arrange a final meeting with the employee who raised the grievance. The purpose of this meeting is to enable the Investigating Officer to:

- outline the key points of the investigation i.e. who has been interviewed;
- clarify that all areas of the grievance agreed in the initial meeting have been covered;
- allow the employee the opportunity to highlight any areas they feel have not been sufficiently investigated; and
- allow the employee the opportunity to respond to any key issues that have come up during the investigation that were not covered at the initial meeting.

5.5 Notes of meetings

Detailed notes should be taken during investigation meetings in case the Investigating Officer's recall is called into question at a later date - it may be appropriate for the Investigating Officer to arrange for a note taker to be present at the meeting. Following an investigation meeting, notes should be typed up within 5 working days and sent to the individual to check and sign. The notes should record the facts as stated during the interview, written, where possible, in the language used by the individual and following the train of events as experienced by them. If there is any ambiguity or gap in the account, the individual should be asked to clarify the information. It is important that the Investigating Officer does not put their own interpretation on the notes.

In signing and returning the notes, the individual is confirming that they believe it to be a complete and accurate version of the interview. It may be that the individual would like modifications to be made to the notes before signing it and these should be agreed with the Investigating Officer. If agreement cannot be reached on the content of the notes, copies of both notes should be included in the report.

It is often useful to ask an independent person to accompany the Investigating Officer to take notes and act as a witness to what was said. The Investigating Officer needs to give careful consideration

to who they ask to attend the meeting and make it clear to the individual that they must not discuss the case with colleagues.

Where a witness refuses to sign the notes or wishes to withdraw altogether, the Investigating Officer should discuss the situation with the individual and establish the reason for the refusal. If the situation remains unresolved, the Investigating Officer may decide to still include the notes, making it clear that it is unsigned and therefore not validated by the individual.

5.6 Responding to the grievance

Once the Investigating Officer feels they have all the necessary facts and evidence to enable them to make a decision, they will compile a report summarising their findings and recommendations. This report must be sent to Berkeley Guardians HR Advice and Support for checking.

This information will be used by the Director(s) / Legal Authority to determine whether or not the grievance should be upheld. If the grievance is upheld, the Director(s) / Legal Authority will also be responsible for determining what actions, if any, need to be taken.

6 Outcomes

The list below is not exhaustive, but gives some examples of the possible outcomes of a grievance investigation.

6.1 Grievance not upheld

Where the Director(s) / Legal Authority has not found sufficient evidence to support any of the allegations made, the grievance will not be upheld and there will be no further action taken.

6.2 Grievance upheld (either in whole or in part)

Where the Director(s) / Legal Authority has found sufficient evidence to support all or some of the allegations made, there are a number of outcomes to consider in relation to each allegation:

- no further action;

- formal mediation - mediation may be suggested as an outcome as a way to resolve the grievance. This may have been entered into or suggested earlier in the process; however, in light of the findings of the investigation the Director(s) / Legal Authority may feel that it would help resolve the situation. See section 3.2 for more detail regarding mediation;
- action plan - the Director(s) / Legal Authority may recommend the production of an action plan aimed to address the behaviour which has caused the problem. The action plan may include objectives, target setting and training;
- alternative working arrangements – the Director(s) / Legal Authority should consider whether contact between the parties is likely to occur during the course of their job and the impact on the individuals and service delivery. Reasonable operational requirements may need to be considered if this is the case for example employees moving desks, change of line management or change of location where operationally feasible;
- disciplinary action - where it is clear that a conduct issue exists and there is a case to answer, disciplinary action will be considered. Further information can be found in Berkeley Guardians Disciplinary Policy.

6.3 Communicating the outcome

In response to an employee grievance against a colleague or one of the Directors, the Director may feel that it is appropriate to arrange a meeting with the employee who raised the grievance to talk through the findings and explain how they reached their decision.

The Director will provide a written response to the employee, summarising the outcome of the grievance investigation using the template letter 'Outcome Letter – Employee Raising a Grievance' available as supporting document H. The employee should also receive a copy of the investigation report.

If the grievance was raised against another employee, or one of the Directors the Director should prepare a letter for them, summarising the outcome of the investigation using the template letter 'Outcome Letter – Employee Whom Grievance is Against' available as supporting document I. The full report will not be sent to the employee who the grievance was raised against.

If the grievance was upheld and further action is required e.g. implementation of an action plan or disciplinary action, the Director(s) must progress this in a timely manner.

If a Legal Authority has been instructed on behalf of the employee, then it will be their responsibility and procedure of communicating the outcome to the employee.

7 Appeal

If the employee is dissatisfied with the decision of the Director(s) / Legal Authority, the employee has 10 working days from receipt of this decision to submit an appeal. The employee should appeal, in writing, setting out the grounds of appeal and send it to the Director(s) / Legal Authority, who will then facilitate the arrangement of an Appeal meeting.

The Appeal meeting constitutes the final forum for consideration of grievance issues.

8 Other types of grievance

8.1 Collective grievances

The provisions within the Employment Act 2002 (Dispute Resolution) Regulations 2004 allow grievances to be dealt with collectively where more than one employee has the same grievance:

- the parties will be treated as having complied with the relevant grievance procedure if the grievance is raised in writing on behalf of at least two employees (including the complaining employee) by an 'appropriate representative'; and
- the 'appropriate representative' is defined as an official of an independent trade union recognised by the employer for the purpose of collective bargaining or an employee of that employer who was elected or appointed to represent employees and has authority to do so under an established procedure to resolve grievances.

8.2 Post-employment grievances

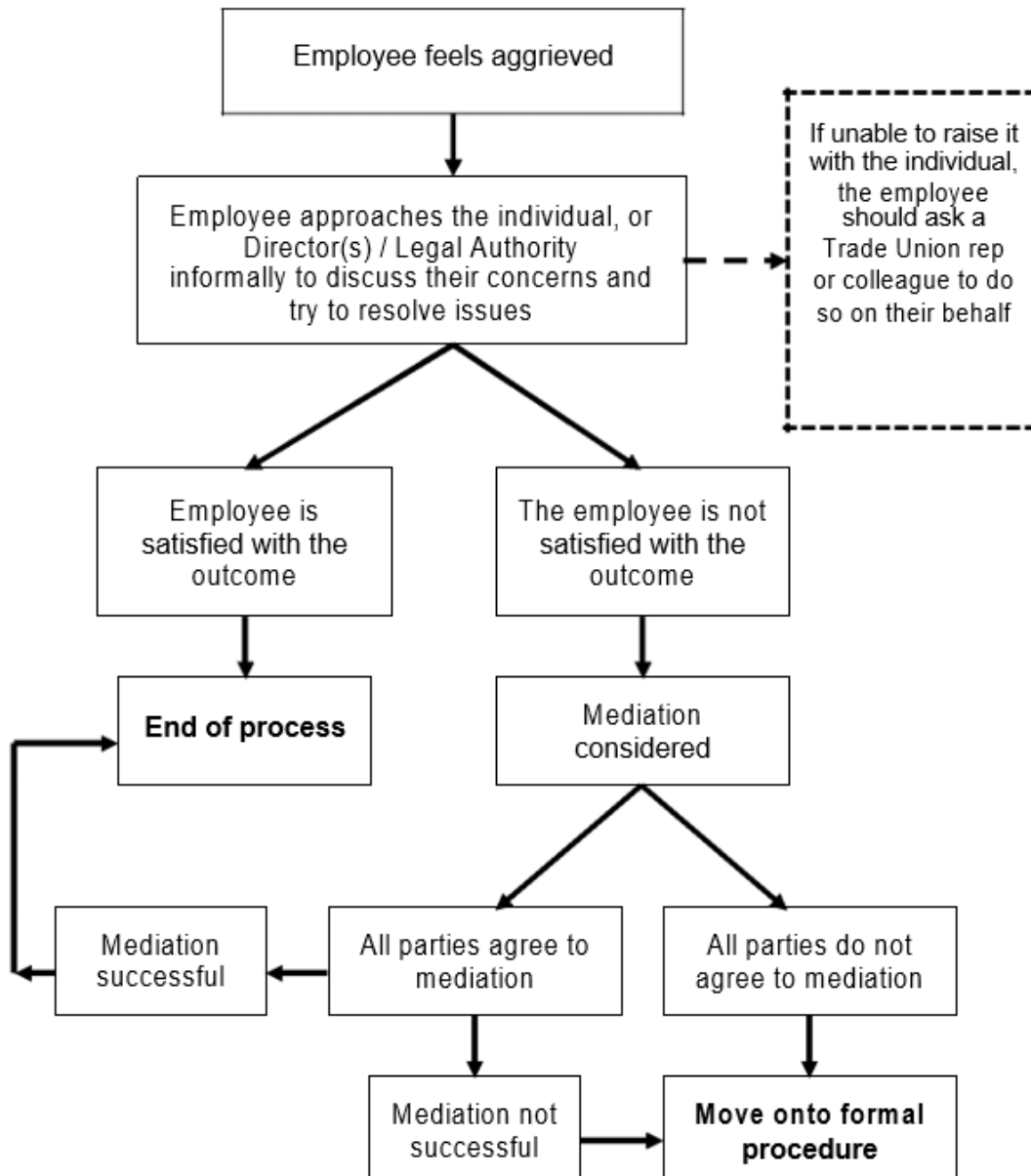
This procedure applies where an employee has ended their employment with Berkeley Guardians and Berkeley Guardians were not aware of the grievance before their employment ended or were aware, but the formal procedure had not been started before the employment ended.

The former employee should put their grievance in writing within 3 months of the effective date of termination, to their former employer – Berkeley Guardians. Where the grievance is against both Directors of Berkeley Guardians, the grievance should be put to their Legal Authority.

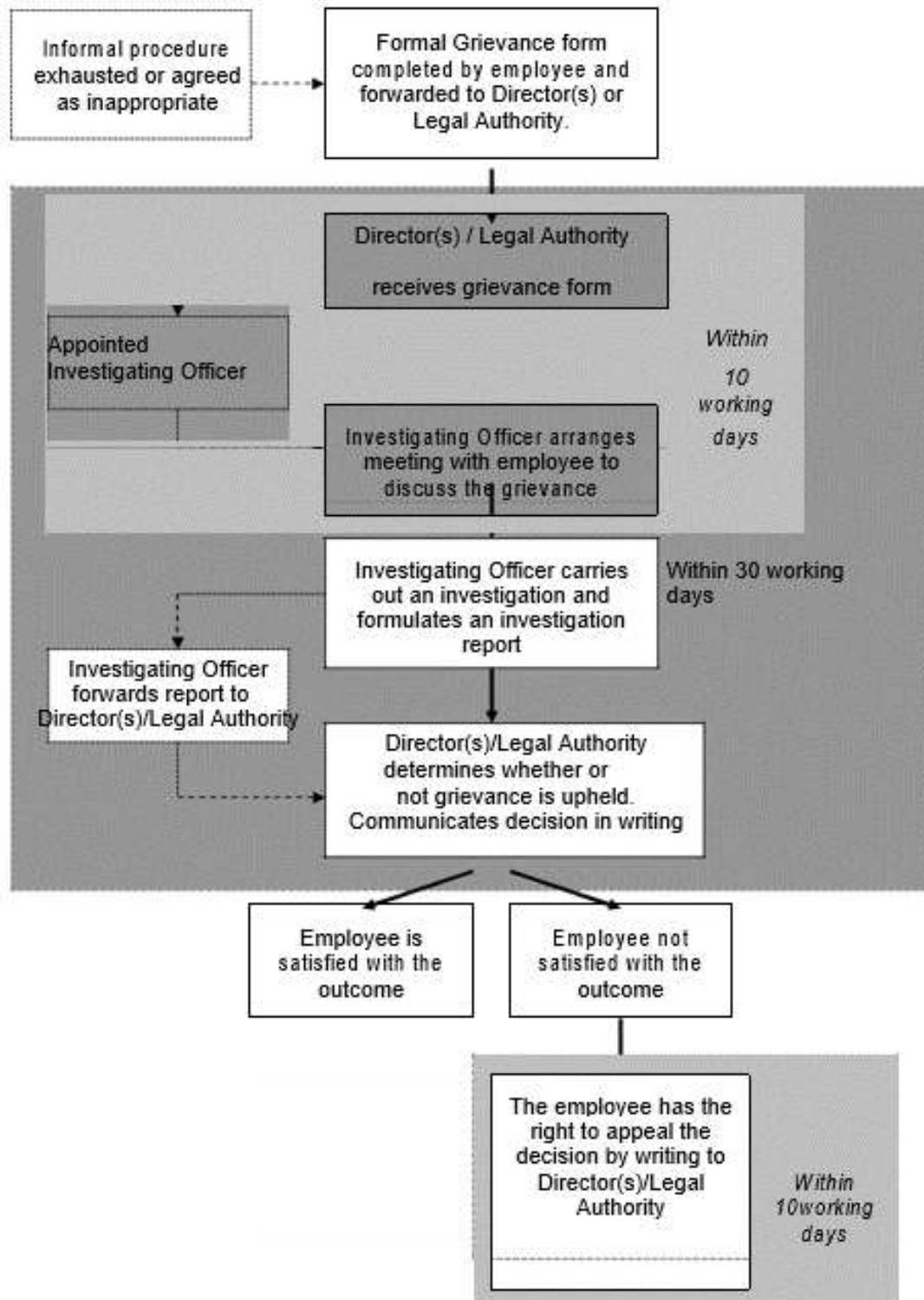
The Director(s) must investigate the grievance, although there is no requirement to meet with the former employee, and should respond, in writing, within 10 working days of receiving the grievance. This is the end of this procedure for Berkeley Guardians; there is no right of appeal.

9 Flowchart

9.1 Informal grievance process



9.2 Formal grievance process



10 Supporting documents

The following documents, which support this policy, can be downloaded from the GDrive:

A	Formal Grievance Form
B	Meeting Record Form
C	Invitation to Meeting Form
D	Notification of Grievance Allegations
E	Investigation Plan
F	Witness Statement
G	Template Grievance Report
H	Outcome Letter – Employee Raising a Grievance
I	Outcome Letter – Employee Whom Grievance is Against
J	Grievance Appeal Form
K	Invitation to a Grievance Appeal Meeting

L	Grievance Appeal Outcome Letter

The following documents associated with this policy can be downloaded from the GDrive:

The Acas Code of Practice on Disciplinary and Grievance Procedures
Berkeley Guardians Confidential Reporting Code
Berkeley Guardians Disciplinary Policy

11 Further information

11.1 Confidentiality

Berkeley Guardians complies with all relevant statutory obligations. For more information please see our website.

Berkeley Guardians privacy notice provides more specific information on data collected and how it is handled, a copy of which can be accessed from the website.

If you have any concerns about how your data is handled, please contact either Berkeley Guardians Data Protection Officer (details available on the website), or the Information Commissioner's Office.

11.2 Dealing with abuses of the policy

Employees who attempt to abuse this policy may face disciplinary action. Berkeley Guardians takes false or misleading accusations very seriously which may result in further action taken through the disciplinary procedure. This will not include ill-founded allegations that were made in good faith.

11.3 Equality and diversity

Berkeley Guardians is committed to promoting equality of opportunity, valuing diversity and ensuring discrimination, harassment or victimisation is not tolerated.

Our policy is to treat people fairly, with respect and dignity. We also comply with legal requirements in relation to age, disability, gender, pregnancy and maternity, marriage and civil partnership, gender reassignment, race, religion or belief and sexual orientation.

11.4 Contact details

11.4.1 Directors

Jo Clark can be contacted on 07565493803 or via email jo@berkeleyguardians.com

Karen Pickles can be contacted on 07565493818 or via email karen@berkeleyguardians.com

11.4.2 HR Advice and Support

HR Advice and Support can be contacted via email enquiries@berkeleyguardians.com

11.4.3 Health and Safety Team

The Health and Safety Team can be contacted on 0117 9222500 or via email: health.safety@bristol.gov.uk

11.4.4 Citizens Advise

The Citizens Advise can be contacted on tel: 03444111444