



# **Forest Churches Emergency Night Shelter (FCENS)**

## **Grievance Policy & Procedure**

**October 2014**

To be next reviewed in October 2015

## Introduction

FCENS believes in the intrinsic value of every person and as such, that everyone should be treated fairly and without discrimination or favour.

The purpose of this grievance procedure is to promote a working environment where all staff are treated with dignity and respect and where complaints or grievances, whatever their nature, are taken seriously and dealt with promptly, effectively, sensitively and with confidentiality.

In conducting any investigation and reaching a decision the investigator must follow the rules of natural justice i.e. the complainant must:

- know the complaints against him/her;
- have the opportunity to state his/her side of the case before any decision is made;
- have the opportunity to be represented;
- must be dealt with fairly, reasonably and impartially at all times.
- have the right to appeal any decision made as a result of the investigation.

All new staff will be made aware of the Grievance Procedure through induction.

FCENS accepts that it has a responsibility to provide training for those staff in a supervisory position in how to recognise, prevent and deal with grievances. This training is to be mandatory for all managers in FCENS.

## Procedure

### Informal complaint

1. In the first instance the employee should refer the grievance orally to their line manager and the matter will be discussed informally. Managers must take any issue raised with them seriously. Both parties may find it helpful to keep notes. Most grievances can usually be resolved at this level. Informal procedures concentrate on conciliation, not sanctions. For example, asking someone to stop doing something or to apologise. If both parties are willing and the matter is appropriate for mediation, the mediation process will be considered.
2. It should take no more than approximately a month to deal with an informal complaint. If the complainant considers that they have not been fairly treated or is not satisfied with the handling of the matter or timeliness, then they should consider making a formal complaint.

### Formal complaint

When complainant wishes to raise a formal grievance

1. S/he should complete a complaint/grievance form (attached) within three months of the event or issue occurring and present this to the line manager. The complainant should also send a copy of their complaints form to the HR Trustee for monitoring purposes.
2. Following receipt of the complaint form, the manager should contact the complainant normally within 5 working days. This will be to discuss the complaint and the arrangements for investigation or mediation where appropriate. Where it is not possible to respond within specified time periods the complainant should be given an explanation for the delay and told when a response can be expected.
3. Where the grievance is against the line manager, the complainant should send their complaint form to the HR Trustee.
  - a. Following receipt of the complaint form, the manager should contact the complainant normally within 5 working days. This will be to discuss the complaint and the arrangements for investigation or mediation where appropriate. Where it is not possible to respond within specified time periods the complainant should be given an explanation for the delay and told when a response can be expected.
  - b. If the line manager is a Trustee he/she shall stand down from the management of

any disciplinary consultations.

4. The line manager or HR Trustee will, as soon as reasonably practicable, investigate the matter to establish the facts and, where appropriate, obtain statements from any available witnesses. This information should be recorded and kept in accordance to the Confidentiality policy and data protection act 1998.

The HR Trustee will need to ensure that any investigation is objective and seen to be objective.

5. The line manager/HR Trustee will arrange for:
  - a. an investigation into the grievance,
  - b. a hearing to discuss the grievance.

**a. The investigation**

- i. The purpose of the investigation is to obtain, collect and analyse all the evidence and information about a situation. This may be something that has happened, an individual incident, a series of incidents etc. Decisions are made on the basis of the accumulated information and evidence, and these decisions determine how the issues are handled. The investigation must gather all the facts which are relevant to the matters under consideration. Decisions are taken on the balance of probabilities.
- ii. If an investigation is required, this must begin as soon as possible, managers may need to justify the time taken in dealing with a complaint, therefore, a record should be kept of the reasons for any delays etc.
- iii. Less complex complaints should be dealt with normally within days or weeks - certainly a maximum time of 20 working days.
- iv. If any less complex complaint has not been finalised within four working weeks, the line manager needs to notify HR Trustee of:
  - The reasons why;
  - The expected time-frame for completion,
  - How the complainant has been advised.
- v. Complex cases will depend on the circumstances, but must begin without delay. Two months should normally be the maximum time taken to conclude a complex matter.
- vi. For any form of complaint, the complainant should be kept advised of progress and given an explanation for any delay. They should also be told when a response can be expected.
- vii. Where a staff member raises a complaint about the behaviour of a manager (in the course of a disciplinary case), consideration should be given to suspending the disciplinary procedure for a short period, until the complaint can be considered separately and/or bringing in another manager to deal with the disciplinary case.
- viii. In situations where action has not been taken within the time-scales and without a satisfactory explanation, the complainant should raise this with the HR Trustee.
- ix. Where the complaint involves equality issues or any other serious allegations, the complaints procedure will be followed to completion, even if the complainant resigns or leaves the service.

- x. The decision, and what action is to be taken, must be based on evidence collected and not hunches, suspicions or any prejudgement. The decision must be arrived at on the balance of probabilities.

**b. The hearing**

At any hearing the employee may be accompanied by a colleague or another representative of their choice.

- i. The representative must be permitted to address the hearing, and to confer with the person they are representing during the hearing in order to clarify issues, however, the representative is not entitled to answer questions on behalf of that person.
  - ii. The hearing must be postponed if the representative is not available, but they must propose a reasonable alternative date and time before the end of five working days from the postponed hearing date. However, a postponed hearing may proceed if the representative is not available within 2 working weeks of the original postponed hearing date.
  - iii. It is not appropriate for someone to insist on a representative whose presence would prejudice the hearing or who might have a conflict of interest.
6. The employee will be informed in writing of the outcome within 5 working days of the decision being made.
7. If the manager investigating the case reaches the conclusion that formal disciplinary procedures should be implemented, a formal disciplinary hearing will be scheduled. Its purpose will be to determine whether specific charges are substantiated; the severity of the incident(s), and if formal sanctions are required. The investigation will form the basis of the management case and the disciplinary procedure will be invoked at the stage of convening a Hearing. The panel hearing the disciplinary cannot include the manager who investigated the original complaint.
8. If the grievance is still not resolved or if the employee considers that they have not been fairly treated, the employee may appeal to the Trustees who will meet with the employee, and their decision shall be final.
9. Where a grievance is brought by the line manager, it will be considered by the Trustees whose decision shall be final.

**At the end of the investigation**

- 1. The manager will draft a report normally within 10 working days, outlining the process followed, the decision reached and the reasons for the conclusions.
- 2. The report will be made available to:
  - 1. the complainant
  - 2. any alleged offender
- 3. This investigative report will be the basis of the case file. It may also be used as a management statement of case for any formal disciplinary hearing or used at any appeal hearing under this complaints procedure.
- 4. If there is no case to answer, all records of the matter will be disregarded entirely.
- 5. If the disciplinary procedure is invoked and the allegation is upheld, then action will be taken up to and including summary dismissal.

6. If an allegation cannot be substantiated following a formal investigation, and there is a reasonable belief that the complainant acted maliciously, disciplinary action may be taken against him or her. The complainant should be reminded before the investigation begins that making a malicious allegation constitutes a disciplinary offence. However, the manager to whom the complaint is made needs to be made aware that this is not to be done in such a way as to discourage complaints, and should be handled sensitively.
7. In cases where the parties are to remain in the service of FCENS, yet are from the same work area, it may be necessary for them to be separated. Wherever possible, it will be the offender who is moved if a complaint has been upheld against him/her. Even if the complaint is not upheld, the complainant and the alleged offender may still be separated, where practical, in the interests of good relations.
8. Resistance to a complaint, either by confrontation by the alleged offender or by complaint to management, can sometimes result in further victimisation of the complainant. This may include hostility, criticism of work performance, transfer, loss of promotion or job. The Trustees view such victimisation as wholly unacceptable and, if founded, such allegations could lead to summary dismissal of the victimising party.

## Right to appeal

The complainant can appeal against the manager's decision following the investigation. This appeal must be made to the Trustees, in writing within 5 working days of receiving the decision in writing.

This appeal will be to the Trustees, who will convene a hearing to examine the findings of the investigation. The panel will comprise of two Trustees. The decision rests with the Trustees. Other panel members may be present to provide impartial advice on the issues presented and should not have previously been involved with the case being considered.

The Trustee dealing with the hearing will give a decision within 10 working days, this decision is final, and should be given in writing to the appealing party(ies).

Signed:  
(Chair of Trustees)

*Anne Dollery*

Date:

23/10/2014

This policy is subject to review, monitoring and revision every 12 months (or sooner if work activity or legislation changes.)