

Public and Commercial Services Union

Defence Sector group

DE&S Performance Management Grievance Toolkit

September 2018

1. Introduction

- 1.1** This toolkit is PCS guidance for members on how to grieve against the outcome of the Defence Equipment and Support (DE&S) performance management system for the 2017/18 report year.

2. Raising a grievance over performance management

- 2.1** For this year, DE&S has decided to allow grievances over performance management outcomes, using the DE&S grievance process.
- 2.2** PCS are encouraging all members to raise a grievance where procedures have not been complied with or where there are grounds to suggest that members have been discriminated against on the grounds of a protected characteristic.
- 2.3** The following questions will help clarify some areas for your grievance:
- Did you have an objectives setting meeting within a reasonable timeframe? Have you had a 6 month mid-year review? Was it on time? (by Oct 31st)
 - At the mid-year review were you given a clear indication of what category: Exceptional, Very Good, Good, Moderate or Performance Improvement Required, you could potentially find yourself in at the end of year review?
 - If there was an indication that you may be in the Moderate or Performance Improvement Required category did you agree a plan to improve your performance?
 - Did you have regular meetings throughout the reporting year with your delivery manager(s) and functional development officer (FDO)?
 - If you are declared disabled were reasonable adjustments made regarding IT requirements or more general work environment and access issues? Was the delivery of the performance management process itself – the mid-year review and the end of year review meetings for example - sufficiently modified to meet your needs?
 - Were your delivery manager(s) and functional development officer of the required level?
 - Have your delivery manager(s) and functional development officer completed Equality and Diversity training, including ‘Unconscious Bias’ training?
 - Was your PAR uploaded late and you were given a Performance Improvement Required grading?

- 2.4** Before submitting your grievance, please consult your local PCS representative for advice. This also helps your local branch keep track of the number of grievances on performance management raised.
- 2.5** PCS has remained opposed to the use of performance related pay and has sought to move DE&S away from the use of guided or forced distribution, calibration panels and relative assessment. We are clear that such systems are inherently discriminatory.
- 2.6** The DE&S PM process instructs that after calibration FDOs must ensure that detailed feedback is given to job holders on the calibration outcome and how this outcome was decided. Members are, therefore, advised during this process, or as the first stage of the grievance process if they feel aggrieved, to clarify with their FDO:
- What evidence was considered by the calibration panel?
 - If the original rating put forward by your FDO was subsequently altered and at what stage – by the chair of the calibration panel at the pre-calibration point or by the calibration panel itself?
 - The justification offered for any changes at calibration?
 - If relative assessment was used to justify the mark, what peer group was used and what evidence was considered as part of that relative assessment?
 - What criteria were used to assess relative performance?
 - If altered, was the functional development officer in support of the new outcomes?
 - If not altered, was the decision on your result assessed fairly and consistently against the published performance descriptors, and not just to satisfy a forced quota?
- 2.7** Members may also have a legitimate grievance to pursue, such as:
- Members assessed as performance improvement required who had not been spoken to about their performance throughout the reporting year and being given guidance on how to improve.
 - Members who feel the process wasn't followed properly, e.g. the FDO representing them at calibration wasn't fully familiar with their work and supporting evidence.
- 2.8** Even if there are no obvious failures in process our union would advise members who feel that they have been unfairly treated to pursue a grievance. They will need to point to evidence of their performance that has not been considered appropriately, other factors that have been given undue weight, or material factors that have been ignored through the performance year.

- 2.9 It is important that DE&S receives a clear signal that linking pay to performance, informed by relative assessment is both inherently discriminatory and damaging to the morale of the workforce and the long term success of DE&S.

3. Grievance Procedure

3.1 The current DE&S grievance process has three stages:

- Informal – with the functional development officer
- Formal - with an independent decision manager, appointed by your function
- Appeal - to a nominated appeals officer, senior to the independent decision manager

3.2 Informal

Every member who is unhappy with their moderated outcome should raise the matter with their counter signing officer to seek to understand why the decision was taken, what evidence was considered and how it was justified but also to formally register their concerns at the outcome. The DE&S 2018 grievance policy does not allow trade union representation at this stage, but it is hoped this guide will furnish you with sufficient information to engage in the grievance process.

3.3 Formal

If, after this conversation you remain dissatisfied, you may submit a formal grievance to your FDO, your function management team, your corporate function manager (CFM) or, if necessary, direct to the grievance cell using the generic [formal grievance template GRV01](#).

As with all grievances you must be clear about the action you are complaining about; why it amounted to unfair treatment; the detriment that it has caused; and the desired outcome, which should be reasonable and achievable. Here are some examples:

Action – failure of the performance management process due to either:

- calibration outcomes came as a surprise, as you had not been given notice throughout the year of performance concerns,
- decision on your result assessed unfairly and inconsistent against the published performance descriptors, just to satisfy a forced quota,
- your rating is not based on the evidence submitted or does not reflect the evidence,
- rating is because you are new to the role, or have just been promoted, or have had a period of absence,

- reasonable adjustments not having been applied, or the fact that you had reasonable adjustments used as a reason to reduce your markings,
- evidence of unconscious bias or discrimination on the grounds of a protected characteristic (sex, age, race, disability, pregnancy/maternity, marital/civil partnership status, sexual orientation and gender reassignment). There are strict deadlines to pursue legal remedies in these circumstances, so please contact PCS immediately to protect your right to seek redress.
- the FDO representing you at calibration wasn't fully familiar with your work and supporting evidence,
- inconsistency of outcomes gauged against colleagues, lack of or inappropriate evidence used, discriminatory factors taken into account,
- peer group used as part of calibration panel was inappropriate (e.g. different role profiles),
- other process failure

Grievance – action led to incorrect outcome of the calibration process

Detriment – lower level of pay increase in 2018 which will have a cumulative effect on pension entitlements

Desired Outcome – calibration outcome to be reviewed using correct procedure and reward changed to reflect the outcome.

3.4 The decision manager in the formal stage should invite you to a meeting at which you are entitled to be accompanied by a PCS representative if required. The decision manager in this instance will be independent of the calibration panel, but should have access to the calibration assessment which should include details of the discussion in sufficient detail to support the decision made. Possible outcomes of the grievance are upheld, partially upheld or not upheld.

3.5 Appeal

Should the formal stage not resolve your grievance you have the right to a further appeal to an appeal manager who has no previous involvement in the case and is able to be impartial. The appeal manager will look at the original decision and the grounds with which you are appealing that decision and decide whether to uphold the decision or amend it. Again, your local PCS representative will be able to advise you on the process and the wording of the appeal letter and will be able to accompany you at the appeal hearing if needed. The decision taken at the appeal hearing will be final as far as the internal DE&S process is concerned. Whether there is an external avenue to explore will depend on individual circumstance and advice available.

- 3.6** It is important not just for this year but for future negotiations that the depth of feeling this process is generating is fully understood by DE&S. The most effective way to get that message across is for all staff who feel aggrieved by their outcomes to pursue the grievance route. If there are any non-members near, you share this advice but, please, encourage them to [join](#). The greater our membership, the stronger our collective voice in future negotiations.
- 3.7** Local PCS representatives are available to assist throughout this process, although hopefully this guidance should give you an idea of where to start in challenging an unfair performance management outcome.