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PRIMARY SCHOOL

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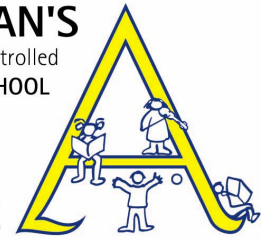
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Grievance procedure

Introduction

The Education Act 2002 places grievance procedures under the control of the Governing Body (GB) and gives GBs with delegated budgets, a statutory responsibility to establish a grievance procedure and to take appropriate steps to make this available to staff at the school. Obligations of GBs to comply with employment legislation include the responsibility to avoid discrimination on the grounds of sex, sexual orientation, race, religion and disability and to conform to the provisions of the Advisory, Conciliation and Arbitration Service (ACAS), Commission for Racial Equality (CRE), Equal Opportunities Commission (EOC) and Disability Discrimination Commission (DDC) codes of practice. Due regard should also be given to the management guidance on the application of this procedure.

The grievance procedure is a confidential process and those participating in it must not disclose the nature of the grievance or the outcome to any person who is not a party to the process except when seeking appropriate union or legal advice and/or a member of immediate family and/or if required to do so by law. Additionally, Headteachers, governors and investigating officers must remind all employees at any meetings, hearings or in correspondence, of their obligation to maintain confidentiality. If a disclosure is made that is in any way malicious or inappropriate to the circumstances of the grievance, this may lead to disciplinary action under the Schools Disciplinary Procedure.

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1 Definition and regulations

The grievance procedure enables individuals to raise issues with management about their work, or about their employers' or their fellow workers' actions that affect them. It is impossible to provide an exhaustive list of all the issues that might give rise to a grievance but some of the most common include:

- terms and conditions of employment;
- health and safety;
- relationships at work;
- new working practices;
- organisational change;
- equal opportunities or the failure to be appointed/promoted.

- 1.1 There is a legal obligation on GBs to provide written details of grievance procedures. The Employment Rights Act 1996 requires employers to include in the written terms and conditions of employment a specific reference to the grievance policy which must include to whom an employee should go with any grievance and must provide for the right for an employee to be accompanied by a trade union representative or colleague at a grievance hearing and the right of appeal. The procedure must be available to any employee who has a grievance.
- 1.2 This procedure should be used in all cases where one, or more than one, employee has a grievance against another employee, the Headteacher or the GB. Where the grievance is against the Local Authority (LA), use of the Council's grievance procedures will be appropriate.

2 General advice

The aim of this procedure is to enable any member of staff to have their grievance heard and to seek to resolve a situation or seek redress. The intention is that grievances should be settled quickly and fairly and first be discussed informally with the immediate manager or supervisor or other appropriate person.

- 2.1 Grievances can arise from a variety of sources. They can arise among members of staff or with the Headteacher or immediate line managers. They can be of a relatively simple nature or of fundamental importance. They can involve the governors of the school, or the administration of the school, or the LA. To meet this situation, there should be a first stage to the procedure which may enable a grievance to be resolved informally and without recourse to any subsequent stage.
- 2.2 It is recognised that many matters that may become the subject of a formal grievance stem from simple misunderstandings. It is therefore incumbent upon, not only the GB and the school and its employees, but particularly upon individual managers, always to strive to make their actions, instructions and requirements clear. Headteachers, managers and GBs should always respond to questions and explain the reasons for their actions. Similarly, it is incumbent upon employees not to pursue frivolous matters or malicious grievances using this procedure.

- 2.3 If an employee is uncertain about the nature of their grievance or to whom it should be addressed, advice should be sought from their trade union or professional association or the school's personnel providers.
- 2.4 Governors or Headteachers should also seek advice on procedural issues relating to the management of grievances, from the LA or the schools' personnel provider.
- 2.5 All staff have a duty to ensure that personal information, given in confidence, remains confidential. Staff expect that any medical or personal information given by them to the leadership group is treated in confidence and not passed to others without their permission. The General Data Protection Regulation (2018) also regulates how personally-identifiable data are handled.

3 What is not covered by this procedure

Where the grievance relates to actual conditions of service and not about their application, which are the responsibility of the LA and are thus not capable of resolution at school level, it is recommended that a direct approach should be made to the school's personnel team.

- 3.1 Grievance issues which should be raised directly with the LA are the application of maternity leave, sickness or special leave provisions, time off for recognised trade union officials or other contractual conditions of service as laid down in national and local documents, about which the school has no discretion.
- 3.2 Where an employee has concerns about malpractice within the LA or school, for instance, a criminal offence, fraud, miscarriages of justice or a danger to health and safety which fall outside the scope of this and other LA or school procedures, these should be dealt with under the Whistleblowing Policy.
- 3.3 Formal grievances involving complaints of discriminatory acts on grounds of sex, sexuality, age, marital status, race, colour, religion, nationality, ethnic or national origins, or of racial or sexual harassment, should be investigated and where there is sufficient evidence should be progressed in accordance with the disciplinary procedures. Such acts, if upheld are contrary to disciplinary rules and could be construed to be unlawful. The advice of the School Personnel's Advisor and the Equality Officer should always be sought in such cases. The following matters cannot be raised under this procedure:
 - a. Amounts deducted for income tax, national insurance, and other statutory deductions from pay.
 - b. Matters raised by a group of staff for which a collective disputes procedure is available.
 - c. Appeals against the grading of posts (which should be dealt with under the pay appeals procedure).
 - d. Matters over which the Council or school has no control.

4 General principles

It is fundamental to any grievance procedure that normal working should be maintained until all stages of the procedure have been exhausted. Where the grievance under discussion is concerned with proposed changes in working hours or other agreed working arrangements, the status quo should not be varied until the provisions of this procedure have been exhausted, whilst the matter is under consideration.



- 4.1 Grievances can run concurrently with any formal procedure which includes an appeals mechanism, but with regard to process matters rather than the substantive matters which can be addressed by rights of appeal. This should not cause delay to the formal procedure.
- 4.2 This procedure is intended to provide a speedy method of resolving grievances and, so far as is practicable, the prescribed time limits should be observed. Therefore, all parties in agreeing to adhere to these procedures undertake to make themselves available for meetings organised to meet the timescales within the procedure (see Appendix 2).
- 4.3 For the purposes of this procedure, a working day shall be a day that an employee is expected to work. However, there may arise on either side substantial reasons (e.g. a school vacation, sickness), why exceptionally, it would be desirable to extend the time limits. Any such extension should be agreed by all parties or, in the absence of agreement, to be determined by management at a time within the next available 10 working days.
- 4.4 The aggrieved employee shall be entitled to be accompanied by a colleague or trade union official at any meeting relating to her/his grievance. Any other employee attending such meetings, for example as a witness, may be accompanied, but not represented, by a colleague or trade union official. For the purposes of this procedure, a colleague is defined as an employee in the same organisation.
- 4.5 In cases where the person or panel hearing the grievance needs to obtain further information, or to enquire about policy or other issues, it is open to them to defer the matter for a period of time agreed with the member of staff and their representative to enable such enquiries to be made. The advice of officers of the Authority may be requested to assist in the resolution of grievances. It is recommended that all cases are notified to the school's personnel provider so that their advice can be forthcoming.
- 4.6 The time limits specified in the procedure may be modified by mutual agreement but every effort should be made to deal with grievances as speedily as possible. If the time limits at Stage 1 or 2 are unreasonably exceeded, the employee will be entitled to request that it proceeds to the next stage of the procedure.
- 4.7 Hearings should take place during an employee's normal working hours wherever possible. It is expected that employees will make all reasonable efforts to attend hearings in order that their grievance can be resolved speedily. Employees cannot be required to attend a grievance hearing outside their normal contractual working hours or teachers' directed time. If an employee is requested and is willing to do so, in order to resolve matters quickly, time off in lieu or paid overtime for attendance outside their normal contractual hours may be given.
- 4.8 Nothing in the procedure should preclude the right of an official of a recognised Trade Union to raise independently with the Headteacher or GB any employee relations matter affecting the school. Where an official of a Professional Association or Trade Union attends a meeting with the Headteacher or the GB, a representative of the LA may be invited by the Headteacher or GB to be present.



5 The grievance procedure

The following procedure should be used in all cases where an employee has a grievance against another employee, the Headteacher or the GB.

5.1 Stage 1: Informal procedure

- a. Where members of staff have a grievance relating to their employment, they should, where appropriate, try to resolve the matter by direct approach with the person(s) concerned, or through discussion with an appropriate senior person. The employee should also have discussions with the Headteacher if this would help to resolve the matter.
- b. If a direct approach is considered inappropriate or where the matter is not resolved as a result of such an approach, the employee should raise the grievance with her/his line manager (or other appropriate member of staff) and should inform the person(s) against whom s/he has a grievance, that s/he proposes to discuss the matter with the Headteacher or other appropriate senior member of staff (or, in cases of grievances against the Headteacher, with the Chair of Governors).
- c. Where a member of staff requests a personal interview (informal stage) with the Headteacher, head of department or other senior member of staff, this should be granted within five working days of the request being made. The Headteacher, head of department or other senior member of staff, should seek to resolve the matter personally, or by mutual agreement, in consultation with other members of staff. The Headteacher may also consult with the Chair of Governors, officers of the LA or representatives of Trade Unions or professional associations as s/he considers appropriate.
- d. Many complaints or minor grievances are best resolved informally. If, however, the matter is considered too serious for an informal resolution, or if an informal approach fails to resolve the matter, the formal grievance procedure should be invoked.

If the matter is within the delegated authority of the Headteacher, the procedures in (Stage 2) should be followed.

5.2 Stage 2: Formal procedure (for employees other than Headteachers)

- a. Where the grievance has not been resolved under the informal procedures described above, the member of staff concerned should submit a formal written notice of the grievance to the Headteacher, together with any relevant documents. If the grievance involves another member/members of staff, copies should be sent to all those involved, unless the circumstances makes this inappropriate. The Headteacher may choose to delegate this to a senior manager to investigate at this stage.
- b. The option of mediation to resolve the grievance can be considered at any stage of the grievance and if not considered earlier must be considered during stage 2 or a reason provided as to why it is inappropriate.
- c. The Headteacher should seek to resolve the problem by following the step set out below (formal stage):
 - Arrange to meet the employee within 10 working days of receipt of the written grievance.
 - Inform the employee of their right to be accompanied in the meeting by a Trade Union representative or colleague.
 - The employee can request an alternative date for the meeting if their union representative is unable to meet on the date proposed and an alternative date should be offered within 10 days of the original meeting.
 - Explore in the meeting, with the member of staff, the nature of the grievance and any action that s/he wishes to have taken to resolve it.

- Obtain and consider thoroughly all the relevant facts and investigate the matter if necessary.
- Determine whether the grievance is justified and, if so, what action can be taken/recommended to resolve it.
- Confirm whether the grievance is considered justified, or what action is to be taken or recommended to resolve it.
- If any element of the grievance is considered not justified, the reasons for arriving at this conclusion should be fully explained.
- Notify the employee of the outcome in writing within 10 working days of the meeting.
- Inform the employee of their right of appeal, and the requirement to lodge this within 10 working days of receipt of the decision letter, with confirmation as to whom it should be addressed, stating their ground for appeal as they relate to the findings and recommendations.
- Keep a proper record of the grievance, notes of all meetings and correspondence, including the facts established, the decision taken and the reason for it, together with the dates upon which the grievance was heard and responded to.

5.3 Stage 3: Grievance appeal hearing

- a. If the employee is dissatisfied with the outcome at Stage 2 and/or the matter is still not resolved, it should be referred to an appeal hearing of a panel of three governors. They shall seek to settle the grievance, with advice from and in consultation with their personnel advisor. The timescales for convening the Hearing are as stated in appendix 2.
- b. All relevant documents, including the Headteacher's written report, should be submitted to all parties at least 10 days in advance of the hearing. The aggrieved employee may be accompanied by a colleague or trade union representative, but any other employee attending such meetings, for example as a witness, may be accompanied by a colleague or their trade union representative.
- c. The decision of the appeal panel is final, and should be communicated in writing to the employee within 10 working days of the hearing. If the grievance is upheld, the remedies should be specified. If the grievance is not upheld, the written notification should include the expectation that normal working be resumed.

6 Grievances raised by the Headteacher

- 6.1 Where a Headteacher has a grievance relating to her/his employment, s/he should first endeavour to resolve the matter by direct approach to the person concerned. If not resolved, s/he should then discuss the matter either with the Chair of Governors or the Head of Schools Personnel Services. The Head of Schools Personnel Services may seek consultation with the Chair of Governors, and vice versa, or with representatives of the teachers' organisations concerned, as may be thought appropriate. Where the matter is still not resolved, the Headteacher should submit the grievance in writing to both the Chair of Governors and the Director of the Children and Young People Service.
- 6.2 Where the grievance lies with the governors, a meeting of the Grievance Panel should be arranged by them within ten working days or as soon as is practicable thereafter. The Headteacher and any other teacher who may be involved shall be entitled to be accompanied by a colleague or an official representative of their trade union or professional association. It is strongly recommended that the Director of the Children and Young People Service, or her/his representative should be consulted in order that s/he can arrange for advice to be given to the Grievance Panel when they hold their meeting.



6.3 Where the procedures outlined above have been followed and the problem is still unresolved, there shall remain the right of appeal to the Appeals Panel of the GB as set out for other employees above.

7 Grievances raised by former employees

In the event that a grievance is received after an employee's leaving date, whilst this procedure will not apply, the grievance should be considered and responded to in writing, to avoid any claims against the School. (Model template letters are available from the School's Personnel Adviser, Schools' Personnel Team.)

8 Review

This procedure will be reviewed by the Standards committee every 3 years (or sooner if necessary) and ratified by the full GB.

Date of document: **OCTOBER 2021**

Policy ratified: (Signature) (Date)

Review due: **OCTOBER 2024**



9 The use of mediation

The option of mediation to resolve the grievance can be considered at any stage of the grievance and if not considered earlier must be considered during stage 2 of the full procedure or a reason provided as to why it is inappropriate.

- 9.1 Mediation involves the parties attending a dispute meeting and discussing related issues with a person independent of the alleged issues. Mediation is a voluntary activity and can only be entered into with the agreement of all involved parties. Mediation may be provided by the Council using either its own staff or specialist agencies.
- 9.2 The aim of mediation is to maintain the employment relationship if at all possible. Mediation is about the future, not the past and who was right or wrong. Key principles are:
 - A way of sorting out disagreements or disputes without having to go to hearings. A neutral third person works with those in disagreement or dispute to help them reach an agreement that will sort out their problems.
 - Voluntary – you only take part if you want to.
 - Confidential – nothing said will be passed on to anyone else unless the employee agrees and nothing said in mediation can be used in any later school proceedings.
- 9.3 Any party can request that they enter into the mediation process.
- 9.4 If all parties agree then the person considering the grievance should, as soon as is reasonably practicable, arrange for all relevant parties to attend a mediation meeting.
- 9.5 Depending on the nature of the grievance and the preferences of the parties the mediator may meet with each party separately, meet with all parties present, or arrange a combination of such meetings.
- 9.6 The mediation meeting shall be Chaired by a mediator (to be selected on rotation from a panel of internal staff maintained by HR or from an outside specialist Agency) and shall take place on a confidential, without prejudice, basis. For the avoidance of doubt this means that not only should the matters discussed at that meeting not be conveyed or referred to on the resumption of the grievance process (should mediation fail to achieve a resolution), they will not be disclosable at or in any subsequent legal proceedings.
- 9.7 The purpose of the mediation meeting is to endeavour to reach a negotiated outcome to the employee's grievance. The role of the mediator is to facilitate the discussion not to suggest or impose a solution or express any opinion on the validity or not of the grievance.
- 9.8 If a resolution is reached which has been agreed by the employees, that shall be recorded in writing and will be disclosable as 'open' correspondence, subject to the condition of confidentiality.
- 9.9 If a mutually acceptable resolution cannot be reached, neither party shall be able to refer to any discussions or concessions made during the mediation process on the resumption of the formal grievance procedure or in any subsequent legal proceedings.
- 9.10 If mediation fails, the grievance procedure will resume from the point it was postponed.



10 The Grievance procedure flow chart

Procedure steps	Action	Timescale
<u>Stage 1: informal</u>		
Employee or employee's rep to raise written grievance via Headteacher, who may nominate this to the appropriate Manager	Management to meet with the employee and their rep. Management to conduct a full investigation and respond in writing.	Ideally within 10 working days Normally within 20 working days of the grievance unless agreed otherwise at outset.
<u>Stage 2: formal</u>		
If the employee is not satisfied with the response at stage 1 the employee or their rep must put their complaint in writing the Headteacher within 10 working days of receipt of the stage 1 written response outlining their grounds reasons for their dissatisfaction as they relate to the findings and recommendation.	Headteacher/Chair of Governors to meet with the employee and their rep. Headteacher/Chair of Governors to review the case, further investigate if necessary, consider mediation and respond in writing	Ideally within 10 working days of receipt of the 1 st stage letter of appeal Normally within 20 working days of the meeting with the employee
<u>Stage 3: appeal</u>		
If the employee continues to be dissatisfied the employee or their rep must put their complaint in writing to the Chair of Governors, within 10 working days of the date of the stage 2 written response outlining their reasons for their dissatisfaction as they relate to the findings and recommendations at Stage 2	A panel of 3 Governors not previously involved with the case (in exceptional cases 2 governors would be acceptable) to be convened to hear the appeal A review of the case/possible further investigation to be undertaken and a written response to the employee.	Employee to be given 10 days notice of the meeting. Normally to be convened within 20 working days of receipt of 2 nd stage letter of appeal Outcome of the appeal to be confirmed in writing within 10 working days of the Appeal hearing



11 Grievance hearing: order of proceedings

The conduct of the hearing will be the responsibility of the Chair which can be either the Headteacher where they have full delegation or a member of the Panel of Governors.

The order of proceedings can be adjusted to suit the circumstances if necessary, in consultation with the parties, providing the overall principles, aimed at securing a fair hearing, are adhered to.

- a. The Headteacher/Chair introduces all those present and outlines purpose of hearing and any procedural arrangements.
- b. The employee and/or representative presents their case
- c. The nominated manager/school representative (supported as necessary by her/his HR Adviser, if any) has the opportunity to question the employee and/or representative
- d. The Headteacher/panel has the opportunity to question the employee and/or representative
- e. The employee and/or representative may call witnesses.
- f. The nominated manager/school representative has the opportunity to question each witness.
- g. The Headteacher/panel may question each witness.
- h. The nominated manager/school representative presents her/his case.
- i. The employee and/or representative has the opportunity to question the nominated manager/school representative.
- j. The Headteacher/panel has the opportunity to question the nominated manager/school representative.
- k. The nominated manager/school representative may call witnesses.
- l. The employee and/or representative has the opportunity to question each witness.
- m. The Headteacher/panel has the opportunity to question each witness.
- n. The employee (and/or representative) is invited to make any closing remarks.
- o. The nominated manager/school representative has the opportunity to summarise the case
- p. All persons withdraw, other than the Headteacher/panel, the note-taker and any professional advisers present, while the Headteacher/panel deliberates.
- q. The parties may be either released or recalled to clarify any points of uncertainty.
- r. Where the Headteacher/panel cannot reach a decision before the parties are released, the parties will agree how the decision will be communicated. In any event, formal notification of the outcome will be sent in writing within 5 working days of the hearing.



12 Appeal hearing: order of proceedings

The conduct of the hearing will be the responsibility of the Chair which can be either the Headteacher where they have full delegation or a member of a Governor panel.

The order of proceedings can be adjusted to suit the circumstances if necessary, in consultation with the parties, providing the overall principles, aimed at securing a fair hearing, are adhered to.

- a. Chair introduces all those present and outlines purpose of hearing and any procedural arrangements.
- b. The employee (and/or representative) presents her/his case.
- c. The Headteacher and/or Chair from the Stage 1 hearing (as appropriate) have the opportunity to question the employee.
- d. The Panel have the opportunity to question the employee.
- e. The Headteacher/or Chair from the Stage 1 hearing presents the case and the reason(s) for not upholding the grievance .
- f. The employee (and/or representative) has the opportunity to question the Headteacher/spokesperson.
- g. The Panel have the opportunity to question the Headteacher/spokesperson.
- h. The Headteacher/or Chair from the Stage 1 hearing has the opportunity to summarise the case.
- i. The employee (and/or representative) is invited to summarise the case and make any closing remarks.
- j. All persons withdraw, other than the Panel, the Clerk and any professional advisers present, while the Panel deliberates.
- k. The parties may be either released or recalled to clarify any points of uncertainty.
- l. Where the Panel cannot reach a decision before the parties are released, the parties will agree how the decision will be communicated. In any event, formal notification of the outcome will be sent in writing within 5 working days of the hearing.

Employee submission form

Prior to raising a formal grievance please refer to the School's Grievance Procedure.

This form must be used to raise a formal grievance. Employees will be required to evidence attempts to resolve their complaint informally in the first instance.

All sections must be completed and supporting documents must be attached as the grievance will not be logged until all this information is received.

On completion of this form employees should send this and the supporting documents to their manager or where this is not appropriate to the Headteacher or the School's HR Provider.

Name		School	
Job Title		Contact Telephone	
Line Manager		Trade Union Rep	

Name of person(s) you are making your complaint(s) against
Have you raised your complaints informally with your manager or another suitable person?
Yes / No – If no please explain why. If yes please specify the date and give a summary outcome of the informal stage.
Would you consider mediation to resolve your grievance?
Yes / No – if no, please explain why not.



What is the outcome/solution that you are seeking which will resolve your grievance?

Please outline your grievance being as specific as you can about the complaints you are making giving relevant background information, dates, times, events, witnesses and what evidence you have to substantiate your complaints. As you will appreciate the investigation will need to be based on relevant evidence. When cases are based on ‘one persons word against another’ it is very difficult for any grievances to be upheld.

please continue on a separate sheet, if necessary, and attach it to this form

Does documentary evidence exist to support your allegations / complaints?

Yes / No – If yes, please list them here and enclose them with this form. If no, then please explain why.

Did anybody witness the allegations/complaints you are making?

Yes / No – if yes, please list them here