

# GRIEVANCE PROCEDURE

## 1 INTRODUCTION

The procedure complies with the ACAS Code of Practice on Disciplinary and Grievance Procedures. The purpose of this procedure is to enable an individual employee or group of employees to raise a concern, problem or complaint about their employment on a timely basis and for the school to deal with this fairly, consistently and speedily. Catholic and Church of England Voluntary Aided schools may wish to use their own nationally established grievance procedures. This procedure is not contractual and does not create contractual obligations on the school.

## 2 SCOPE AND APPLICATION

**All references throughout the procedure to “employee” in the context of an individual grievance should also be taken to refer to “employees” in the context of a group grievance.**

For the grievance process and procedure to take place, the person raising the grievance must be an employee at the time the issues are investigated and/or heard.

Notwithstanding this, the governing body at its discretion, may consider such a grievance submitted by an employee at or around the time their employment ended if there is clear evidence that it was not reasonably practicable for the grievance to be submitted earlier.

The procedure covers a complaint by one or more employees about their treatment by the school (for example, their line manager, head teacher or governors) on any matter relating to their employment, such as terms and conditions of employment, new working practices and organisational change.

This includes:

- a complaint that the employee has been unlawfully discriminated against;
- a formal complaint of harassment and bullying (informal processes are set out in the ‘Dignity at Work Policy’);
- a complaint from a fixed-term employee with four years or more continuous service that their request to be treated as permanent has been refused under the ‘Policy and Procedure for Making Appointments and Contractual Changes’; or
- where action short of dismissal is contemplated or taken against the employee under the disciplinary, capability or sickness absence procedure and the employee considers that the action amounts to unlawful discrimination or that the true reason for the action is not the reason given.

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The grievance procedure will not apply in the following situations:

- where the complaint is not about an employment matter;
- where the complaint is about a matter that occurred more than three months before the grievance was raised, unless it is still ongoing or it occurred earlier than three months ago but the employee has only become aware of it within that timescale;
- where an employee wishes to appeal against a decision made, for example, under the disciplinary, managing poor performance, sickness absence, redundancy, retirement or contravention of a statutory enactment/some other substantial reason procedure, as these procedures have their own appeals process;
- where the complaint relates to the employee's pay/grading or appraisal review as the school's pay and appraisal policies have their own appeals process;
- in the case of "whistleblowing" under the Public Interest Disclosure Act as the 'Policy for Confidential Reporting of Concerns' should be used;
- health and safety; or
- occupational pension, tax or benefit regulations.

In the case of a group grievance the concern may be raised by the trade union representative of one or more unions or a fellow worker on behalf of the group of employees.

In appropriate circumstances (for example, where the dispute is capable of being resolved locally) employees and their representative(s) should seek to resolve a group grievance through this procedure before taking other action, except in the circumstances described below.

### **3 GOVERNING BODY RESPONSIBILITIES**

The governing body has overall responsibility for ensuring that there are appropriate procedures in place for staff to follow if they have a grievance or complaint about their employment and that all staff are aware of them.

The governing body has specific responsibilities under the School Staffing (England) Regulations 2003 as amended for deciding whether to delegate the responsibility for hearing formal grievances under Stage 2 (except where raised by the head teacher) to a member of the Senior Leadership team, head teacher or governor.

The governing body is responsible for considering appeals made under this procedure. No person or persons who has previously been directly involved in the grievance should hear an appeal. The use of governors to hear a grievance should be limited to ensure a sufficient number of impartial governors are available to consider any appeal. 3 Autumn 2016

## **4 GRIEVANCE PROCEDURE**

### **4.1 STAGE ONE – INFORMAL RESOLUTION**

Employees should aim to resolve most grievances informally. This allows for problems to be resolved quickly and effectively. Employees should try to resolve their grievance in the first instance by:

- taking it up directly with the person concerned, for example a fellow employee, head teacher or governor; or
- informal discussion with their line manager, for example head of department, senior manager or head teacher at a meeting. A note of any informal resolution of the grievance should be kept for reference purposes. It may be necessary to confirm in writing any agreed resolutions.

Where the matter has not been resolved informally or the matter is more serious and the informal stage is not appropriate, the employee should use the formal grievance procedure below. Employees may wish to contact their trade union representative for advice before doing so.

In the event that informal discussion fails to bring an acceptable resolution within 10 working days (or such other timescales agreed by both parties), the following Stage 2 Formal Grievance procedure should be used.

### **4.2 STAGE TWO – FORMAL GRIEVANCE**

#### **4.2.1 Grievance in writing**

The employee should put their grievance in writing on a Staff Grievance Form (Appendix A) explaining in full the reasons for it and how they would like the grievance to be resolved. This should be sent to their line manager or, if the grievance is against their line manager, to the head teacher. (The arrangements that apply if the grievance is against the head teacher/governing body or where the headteacher has a grievance are set out in section 5 )

#### **4.2.2. Receipt of grievance**

The receipt of the Staff Grievance Form should normally be acknowledged in writing within 5 working days (7 consecutive days out of term time)

#### **4.2.3 Formal meeting**

The Headteacher or delegated manager hearing the grievance must give 5 working days notice (7 consecutive days out of term time) in writing of the meeting, explain the main purpose of the meeting and the right to be accompanied by a trade union representative or work colleague ( a work colleague is an employee working for the employer/school) 4  
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The employee should bring along any evidence or supporting documents to support their case; and should identify the name (s) of anyone who witnessed the incident (s) in question ( or provide the names of those people who the employee thinks may need to be interviewed and why)

Having identified the issues and grievances raised, the headteacher or delegated manager must assess the complexity and extent of the investigation required. If appropriate, the headteacher or delegated manager will act as the investigating officer. The headteacher or delegated manager must give the employee an indication of the approximate timescale and when they expect to be able to respond to the grievance. Should there be any unexpected delay, the employee needs to be informed.

#### **4.2.4 Making a Decision**

Following the formal meeting and completed investigations (where applicable), the Headteacher or delegated manager must inform the employee in writing of their response to the grievance and the reasons behind the decision. If the decision is to fully or partially reject the grievance, the letter must set out the employee's right to submit an appeal to the chair of governors within 5 working days (7 consecutive days out of term time) of receiving the Stage 2 response.

The Headteacher or delegated manager must ensure that the outcome of any formal grievance raised by a current employee is entered into Manager Self Service (MSS) for the purposes of equalities monitoring once any appeal process has been exhausted.

#### **4.3 STAGE THREE – APPEAL**

If the employee is dissatisfied with the response of the formal grievance at Stage 2 they may appeal within 5 working days of the date of the Stage 2 response by submitting the Grievance Appeal Notification Form (Appendix B) to the Chair of Governors. The employee must state clearly and in detail their grounds of appeal.

##### **4.3.1 Appeal Panel**

A letter acknowledging receipt of the appeal will be sent within five working days wherever reasonably possible. The appeal will be heard by at least three members of the governing body within a further 10 working days (14 consecutive days out of term time). Where exceptionally, there are not enough governors available, the appeal may be heard by two governors.

The employee has the right to be accompanied by a trade union representative or work colleague at an appeal hearing and will be given 5 working days notice in writing.

##### **4.3.2 Holding an Appeals panel**

Any papers that the management representative or employee wishes to refer to at the hearing should be circulated to the appeals panel at least 3 working days (or 5 consecutive days out of term time) prior to the hearing. Any new written evidence not previously provided for the grievance meeting by management or the employee must 5  
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be circulated to all parties prior to the appeal. Guidance on the format of an appeal hearing are in Appendix C.

In considering the appeal, the appeals panel should consider:

- Reasonableness of the original decision;
- Any new evidence, and whether the new evidence presented is sufficiently significant to affect the original decision made;
- Procedural fairness - was the procedure followed fairly and reasonably, and were there any procedural irregularities. And, if there were any procedural irregularities were these sufficiently significant to affect the original decision made.

The appeals panel should only consider a re-hearing where:

- the initial hearing was procedurally flawed such that in the view of the panel a fair and reasonable decision could not have been reached;
- significant new evidence has come to light that undermines the initial decision to such an extent that a full re-hearing is necessary to consider all previous evidence in the light of the new evidence;
- there is evidence to indicate that the person(s) hearing the original case have deliberately acted in bad faith.

#### **4.3.4 Decision of Appeal panel**

The decision of the appeals panel must be confirmed in writing to the employee (and their representative) within 5 working days of the hearing (7 consecutive days out of term time).

Where a group grievance remains unresolved to the satisfaction of the employees involved, the assistance of a third party conciliator could be considered. This might be an appropriate local authority officer or, with the agreement of the chair of the appeal hearing and the employees' representative, some other suitable person. This is the final stage in the procedure.

### **5. GRIEVANCE AGAINST THE HEAD TEACHER/GOVERNING BODY OR WHERE THE HEADTEACHER HAS A GRIEVANCE**

Where an employee has a grievance against the head teacher or governing body or the head teacher has a grievance, the complaint should be submitted in writing to the chair of governors. Chair of Governors should either investigate the grievance themselves or nominate a fellow governor to conduct the investigation. Subsequent to the investigation, a formal meeting will be held under accordance with process and procedure in para 4.2.3 (Stage 2 Formal meeting). If the head teacher's complaint is against the chair of governors, the grievance should be raised with the vice-chair. Appeals will be heard by a panel of governors that does not include the governor who conducted the investigation or the governor(s) who are the subject of the grievance. 6 Autumn 2016

## 6. FALSE, VEXATIOUS OR MALICIOUS GRIEVANCES

If an employee raises a grievance they know to be false, vexatious or malicious, it may constitute a disciplinary offence.

## Appendix C

### Suggest Format of Grievance Appeal Hearing

The normal format of a grievance appeal hearing is described below. The chair of the hearing has discretion to vary the order of proceedings.

Requests for a brief adjournment of the hearing by any party should not be unreasonably refused.

#### 1 Introduction

The chair introduces the person(s) to whom hearing the grievance appeal has been delegated, asks others in attendance to introduce themselves, explain the order of proceedings and checks that everyone has the relevant documents.

#### 2 Employee Case

- **Statement of case:** The employee (or their representative) puts forward any relevant points that they wish to bring to the attention of the delegated person(s). This should include the grounds of the grievance appeal, the reasons for it and what resolution is being sought.

- **Presentation of witnesses:** If the employee or their representative wish to present witnesses they may do so at this point. All parties shall have the opportunity to ask questions of witnesses. This begins with the employee or their representative, followed by the management representative and finally the delegated person(s) and their adviser. Witnesses will only remain at the hearing for so long as they are giving evidence or being questioned.

- **Questions to employee:** All parties will have the opportunity to ask questions of the employee. This begins with the management representative and finally the delegated person(s) and their adviser.

#### 3 Management Case

- **Statement of case:** The management representative puts forward any relevant points that they wish to bring to the attention of the delegated person(s).

- **Presentation of witnesses:** If the management representative wishes to present witnesses they may do so at this point. All parties shall have the opportunity to ask questions of witnesses. This begins with the management representative followed by the employee and/or their

representative and finally the delegated person(s) and their adviser. Witnesses will only remain at the hearing for so long as they are giving evidence or being questioned.

- **Questions to management representative:** All parties will have the opportunity to ask questions of the management representative. This begins with the employee and/or their representative and finally the delegated person(s) and their adviser.

#### **4 Questions to both sides from delegated person(s) and adviser**

The delegated person(s) and their adviser may ask questions of both parties.

#### **5 Summing up by Employee (or Representative)**

The employee or their representative should provide a summary of their case, highlighting the key points that they wish the delegated person(s) to consider.

#### **6 Summing up by Management Representative**

The management representative should provide a summary of their case, highlighting the key points that they wish the delegated person(s) to consider.

#### **7 Adjournment**

The delegated person(s) (with their adviser in attendance) consider in private the information put forward at the hearing and reach a decision.

#### **8 Decision**

Where practical the parties should be informed of the decision directly by the chair of the hearing. This must be subsequently confirmed in writing with sufficient detail to enable all parties to understand the decision and the reasons for it.

There is no further right of appeal.

## **March 2021**