
Title of Policy/Procedure: Grievance Procedure

Reviewer(s): Chief Executive Officer
Director of Operations
Finance, Personnel and Resources Committee

To be read in conjunction with the following policies: Acceptable Behaviour Policy
Guidance Notes for Grievance Procedure

Consultation Process: Consultation took place with the Finance, Personnel and Resources Committee. The policy has been adopted from Swindon Borough Council and amended to reflect the Trust

Policy Date: May 2017

Review Date: May 2019

1. Introduction

A grievance is defined as a 'complaint by an employee about action, which his/her employer has taken or is contemplating taking in relation to him/her'. The complaint may be due to a variety of issues, such as:

- terms and conditions of employment
- health and safety
- work relations
- working environment & conditions
- workload

This document sets out the Trust's grievance policy and provides a structured mechanism for employees to raise concerns related to their employment. Its aim is to resolve grievances as quickly and as close to the point of origin as possible in an equitable way, which does not hinder the provision of an effective and efficient schools operation.

2. Scope

The policy and procedure set out in this document applies to all Teachers on Teachers pay and conditions and support staff employed in schools.

If an employee raises a grievance against the Chair of Governors, or any other member of the Governing body, this should be dealt with through this Grievance Policy and will be heard by a Grievance Panel.

Some issues are best dealt with under specific policies and procedures. These should be used wherever possible by employees and managers. They include:

- Policy and Procedure for Schools - Acceptable Behaviour Policy
- Pay and grading - School's Pay Policy
- Pension - Pension regulations

3. Roles and Responsibilities

Both managers and employees have a responsibility within this procedure.

Managers will:

- Try to resolve all issues informally before they become formal grievances
- Ensure the grievance procedures are followed correctly, seeking advice from HR
- Treat all grievances seriously, dealing with each one fairly, consistently and sensitively
- Address any grievances promptly and where possible within any given timelines
- Where appropriate, consider alternative working arrangements with the aggrieved employee where it is not possible, or appropriate, for the employee to continue to work as before.

- Respect the need for confidentiality at every stage of the procedure

Employees will:

- Work with the manager to genuinely seek resolution
- Co-operate with any investigation.
- Wherever possible try to raise the grievance informally.
- Comply with all reasonable management instructions whilst their grievance is being considered.
- Respect the need for confidentiality at every stage of the procedure

4. Principles

This procedure will work in accordance with the following principles

4.1 Informal resolution

All employment related concerns should be discussed in the first instance with the employee's immediate line manager if appropriate. If the matter is such that they do not wish to discuss it personally with their line manager, the issue should be raised directly with the Headteacher. In the event that the grievance is against the Headteacher the employee should raise the issue with the Chair of Governors. Although the informal stage is strongly recommended as a first step, employees have the right to bypass the informal stage and go straight to the formal Stage 1 if they so wish.

4.2 Mediation

As an alternative to raising a complaint through the formal grievance procedure or at any stage of the procedure, an employee or the manager may request that the matter is dealt with through mediation. Mediation is voluntary and will only take place with the agreement of both parties. Where mediation is agreed once the formal grievance procedure has been started, the formal procedure will be adjourned whilst the mediation takes place. Either party will have the opportunity to withdraw from the mediation at any stage without prejudice. In the event that no mutually acceptable solution is reached through mediation, the procedure will be reconvened at the point of adjournment.

4.3 Use of the Grievance Policy

All genuine grievances raised will be treated seriously. However, employees should be aware that they must not use the policy to raise concerns without just cause and with the intent of causing distress to others. Inappropriate use of the policy may result in the employee who has raised the grievance being subject to disciplinary action under the disciplinary procedure.

With regards to performance management, an employee may wish to raise a grievance about the way the performance management is handled by their manager. However, it is not expected that the Grievance Policy or Acceptable Behaviour Policy will be used solely because the manager is seeking to

performance manage an employee, and the employee disagrees with this decision.

If the grievance concerns an employee's line manager, the employee should raise their concern with the next level of management. Where the grievance concerns the Head Teacher, the employee should raise their concern with the Chair of Governors. Where the grievance concerns the Chair of Governors, the employee should initially raise their concern with the Vice Chair of Governors.

4.4 Right to be accompanied

At all stages of the grievance procedure employees will have the right to be accompanied by a trade union representative or a fellow employee. Before any meetings take place the employee should notify the manager whom they have chosen as a companion.

4.5 Records

At all formal stages of the procedure, meetings will be recorded in writing and copies made available to employees.

4.6 Discrimination

The school will not discriminate on the grounds of sex, disability, age, race, marital status, religion, colour, nationality, ethnic or national origin, or because of their sexuality or sexual orientation. At all times during any informal or formal proceedings the school will ensure, where they are aware of any specific requirements, to make any reasonable adjustments to ensure the procedure is fully accessible and understandable to all employees. These adjustments may include:

- Location and timings of meetings
- Alternative formats of all written information
- Equipment such as an induction loop, sign language interpreter
- Appropriate adjustments for people with a learning disability

4.7 Timescales

All timescales mentioned within this procedure will be adhered to where possible, but are subject to change in the event that particular circumstances prevent them from being adhered to.

4.8 Overlapping grievance and disciplinary cases

Where an employee raises a grievance during a disciplinary process, the disciplinary process may be temporarily suspended in order to deal with the grievance. Where the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently

5. Formal Procedure

If the matter has not been resolved in the informal stages of this procedure, the employee should raise their grievance, preferably in writing, to the Headteacher. Employees may raise their grievance using the Grievance Form in Appendix 1.

The written grievance should include the following information:

- The nature of the grievance – what is alleged to have occurred, by whom and when (this should refer to specific instances rather than generalisations).
- The reason for the dissatisfaction of the informal solution (if appropriate)
- The remedy that the employee is seeking
- Details of any witnesses to the matters complained about

5.1 Investigation

On receipt of the grievance, the Headteacher (or Chair of Governors if the grievance is by or against the Headteacher) will appoint a senior member of staff (or governor) to undertake an investigation. The Investigating Officer should arrange to meet with the complainant. At this meeting, the employee has the right to be accompanied by their trade union representative or a work colleague.

The aim of the meeting is to gather all of the facts relating to the grievance and to identify any relevant witnesses. Resolution of any grievance is also far more likely if a potential solution can be identified and agreed, therefore the Investigating Officer should explore with the claimant what they would like to see as an outcome of the process.

The Investigating Officer should arrange to collect any evidence in relation to the grievance and invite any witnesses to an investigation meeting. Witnesses should also have the opportunity to be accompanied by a Trade Union representative or colleague. Detailed notes will be taken during all investigatory meetings and signed statements produced to accompany the Investigating Officer's report.

5.2 Grievance Hearing

Once all available evidence has been gathered, the Investigating Officer will produce a report for the Headteacher (Chair of Governors), detailing the findings and conclusions and if appropriate, any recommendations for resolution of the grievance. This should not include recommendations on potential disciplinary sanctions. This will be a decision for the Hearing. On receipt of the report, the Headteacher will forward a copy to the complainant and arrange a formal Grievance Hearing. If the Headteacher has undertaken the investigation, the hearing will be considered by the Chair of Governors or a Governor nominated by the Chair of Governors.

The aim of the grievance hearing is to allow open discussions around the matter with a view to achieving a satisfactory resolution and for the Headteacher (Chair of Governors) to make a decision on the outcome.

The grievance hearing must allow for:

- The employee's right to be accompanied.
- The employee to explain their grievance and propose solutions that the employee believes would satisfactorily address their grievance.
- The Investigating Officer to be given the opportunity to explain the findings of the investigation into the grievance.
- The Headteacher (Chair of Governors) to make a decision and explain the employee's right of appeal.

At the grievance meeting the Headteacher (Chair of Governors) will decide on one of the following:

- The grievance is not upheld.
- The grievance is not upheld and there is concern that it may have been raised with malicious intent. If so, further investigations into these concerns may follow through the disciplinary process.
- The grievance is upheld in part and an appropriate resolution is provided.
- The grievance is upheld in full and an appropriate resolution is provided.

5.3 Notification of outcome

Although the projected timescale for resolution is within 20 working days of the grievance being received by the Headteacher, grievances frequently take much longer to resolve, owing to problems of obtaining evidence, scheduling the availability of all involved and conflicting priorities. Where the grievance is complex and/or where a formal investigation is commissioned, it may take much longer to reach a conclusion.

Once the conclusion is reached, the Headteacher will inform the employee, and the subject of the grievance of their decision, and any follow-up action that may be required. This written notification will include the right to appeal.

6. Counter Claims

Occasionally an employee may wish to submit a grievance in response to formal managerial action being taken against them. This "counter claim" must be considered. The Headteacher or manager who receives a counter claim will consider and decide upon the following course of action/options:-

- (i) agree that the counter claim should be considered simultaneously with the formal action already being taken, which means that the employee will be able to refer to it as part of their defence; or
- (ii) determine that the nature of the "counter claim" means that the formal

action will be deferred pending an investigation. After this investigation is completed, the Headteacher or manager may recommence the formal action taking into account the findings from the investigation.

The Headteacher or manager is advised to take HR advice before deciding which course of action should be taken. If the manager or Headteacher concerned is implicated in the counter claim, the Headteacher or Chair of Governors may decide to nominate a different manager or a governor to consider the complaint. (Note: a counter claim does not mean that the formal action will be set aside or discontinued).

A counter claim may also be lodged against an employee by a member of staff who is the subject of a grievance. The Headteacher or manager must respond to the counter claim and should decide which of the above "options" they wish to follow. The Headteacher or manager must notify both parties that a counter claim has been received.

7. Employees who have left the school

A former employee may raise concerns after their employment at the school has come to an end. If this happens, the Headteacher or Chair of Governors should contact an HR Officer for guidance on how to deal with the matter.

8. Collective Grievance Procedure

If a collective grievance arises, involving a group of employees within the same school, but relating to the same issue, this may be dealt with through this policy and the group of staff may nominate a spokesperson to represent their case.

Staff using this procedure must be aware that they cannot then use the Individual Grievance Procedure for raising the same issue.

8.1 Nominated representatives

Employees wishing to pursue a collective grievance should nominate an individual to represent their interests throughout the process. (More than one person may be nominated if a large group is involved) This person will be referred to as a 'nominated representative'. S/he may or may not be trade union representatives. One representative of each relevant Trade Union has the right to be in attendance at any grievance meeting.

8.2 First Stage

In the first instance the matter should first be taken up with the immediate supervisor/Manager informally, who should discuss the issues with the nominated representative(s) within three working days and reach a decision. If more than one department is involved, the appropriate managers must try together to resolve the problem informally.

8.3 Second stage

If the dispute or grievance is not resolved to the satisfaction of the staff concerned and they wish to take it further, the nominated representative(s) should raise the collective grievance with a manager or Headteacher who is not the subject of the grievance, by writing a letter detailing the nature of the grievance. The grievance letter must include the name, job title and contact details of the nominated representative, and whether s/he is acting in a capacity of a trade union representative.

The grievance letter must be signed by all employees to whom the grievance applies to confirm that they give their consent to be represented by the nominated representative. The letter should be dated and a copy kept by the nominated representative.

8.4 Investigation (Optional)

Upon receipt of a grievance it may be necessary to conduct an investigation. If appropriate, an investigatory meeting will be held to gather all relevant facts and evidence. The nominated representative(s) will be invited to this investigatory meeting as soon as possible, in writing. It will be made clear that the purpose of the meeting is to establish the facts and that there is a statutory right to be accompanied at the meeting.

The investigatory meeting will usually be conducted by an appropriate senior member of staff. The investigation will be conducted as soon as possible and will normally be completed with ten working days of receiving the grievance. However, if the matter is particularly complex, this can be extended to 15 working days. If it is not possible to complete the investigation within this timeframe, the nominated representative(s) will receive a written explanation of the delay and when the investigation is expected to be completed.

8.5 Decision and Notification

As soon as reasonably practicable after the conclusion of the investigatory meeting (usually five working days), the nominated representative(s) will be notified in writing that the investigation has been completed. Where appropriate, the letter will set out what action the employer intends to take to resolve the grievance. Where the grievance is not upheld, the reasons for this will be clearly explained. The letter will also specify that the employees can appeal if the majority are not content with the decision/action taken.

9. Appeals

Where the grievance remains unresolved, the employee/nominated representative(s) should write to the Clerk to Governors of the school within ten working days of notification of the decision, setting out their grounds for appeal. A panel of governors who have not been involved previously will consider the appeal. If it is considered appropriate, an alternative decision may be determined.

Appeal hearings will be dealt with in accordance with the Schools Appeals Procedure below and the decision will be final.

The employee/nominated representative(s) will be notified of the outcome of the appeal within five working days of the hearing.

9.1 The Procedure

An employee has the legal right to appeal against a decision reached under this policy. They must be notified of this right in the letter sent following the outcome of the hearing. The deadline to appeal is 10 working days from when the employee receives notification of the decision in writing.

An employee may appeal on one or more of the following grounds:

- whether the process of the investigation was fair
- whether the conclusions and recommendations are reasonable in all of the circumstances .
- whether there is any new evidence to consider

In their appeal, they must state, in writing, the reason(s) for their appeal giving clear supporting evidence for each area.

9.2 Preparing for an appeal hearing

The Clerk to the Governors will be responsible for the arrangements for formal hearings and they will need to:

- a) Arrange a convenient date and location for the Appeal Hearing and someone to take minutes.
- b) Write to the employee to confirm
 - the appeal hearing arrangements giving them at least five working days before the appeal hearing
 - their right to be accompanied by a trade union representative or work colleague.
 - Requesting that any additional paperwork they wish to submit to the panel must be received by the Clerk to Governors three days before the hearing
- c) Invite the Chair of the previous hearing and, if appropriate, any witnesses.
- d) Circulate to the panel members
 - Copies of the paperwork submitted by the employee
 - letter and minutes from the previous hearing

9.3 The Purpose of the Appeal Hearing

The hearing will consider the grounds that the employee has put forward and assess whether or not the conclusion reached at the original grievance was appropriate. The appeal hearing is not a rehearing of the original grievance, but

rather a consideration of the specific areas with which the employee is dissatisfied in relation to the original grievance. The panel, in conducting the appeal hearing may therefore confine discussion to those specific areas rather than reconsider the whole matter afresh.

9.4 The Format of the Appeal Hearing

The Chair of the Panel will call in all parties and introduce the Panel.

The Chair will explain that the purpose of the appeal hearing is to determine whether the outcome from the original hearing was correct and whether the decisions made at that hearing should be upheld, overturned or replaced with another decision.

The Chair should also explain the procedure to be followed during the hearing and confirm that all parties have copies of the appropriate paperwork

The Chair will then ask who will present the case for each party and how many witnesses are to be called.

In all cases the employee (or his/her representative) will present their case first and call any witnesses. The employee or their representative will need to outline the ways in which they believe the conclusions of the previous hearing were flawed

The employer's representative will have the opportunity to ask questions of the employee on the evidence given by her/him and any witnesses whom she/he may call.

- The Panel may ask questions of the employee and witnesses.
- The employer's representative will put the case in the presence of the employee and call such witnesses as she/he wishes.

- The employee will have the opportunity to ask questions of the employer's representative and her/his witnesses.

- The Panel may ask questions of the employer's representative and her/his witnesses.

- The employer's representative and the employee (or her/his representative) will have an opportunity to sum up their cases if they so wish.

- The Chair will then ask both sides to withdraw to allow the Panel to consider the case in private only recalling the employer's representative and the employee to clear points of uncertainty on evidence already given. If the recall is necessary both parties are to return. (The representative of the Trust and the Clerk to the hearing may be present whilst the Panel is considering the case).

- Adjournment - The Chair may call a short break at any time in the

proceedings. If s/he considers that more than a short break for deliberation is necessary then the hearing should be formally adjourned. If at any time those present become too upset to continue or the hearing is becoming heated, the Chair should arrange for an adjournment to allow people to compose themselves before continuing. Any requests for an adjournment should be considered sympathetically.

9.5 Making a decision

In coming to a conclusion on the facts of the case, the panel will need to decide on the 'balance of probabilities' and whether the outcome of the original hearing was justified. This is not as stringent a test as in a criminal court of law where the test of 'beyond reasonable doubt' applies, but it nevertheless requires the panel to come to a conclusion based on evidence rather than 'gut feeling'.

9.6 Test of reasonableness

At this stage, it may be useful to run through the following checklist to ensure the panel has reached a fair decision:

- Has there been as much investigation as is reasonable in the circumstances?
- Have the requirements of the appeals procedure been properly complied with up to this point, including advance notice to the employee of the matter(s) to be considered at this hearing?
- Was the decision made at the original hearing reasonable in the circumstances?

9.7 Outcomes of the Appeal hearing

The outcomes available to the appeal panel are:

- Uphold the previous decision in full
- Uphold the previous decision in part
- Uphold the employee's appeal in full and make an alternative decision

9.8 Notification of the Decision

The Panel may announce its decision to the parties personally or, if the employee prefers, arrangements can be made to contact him/her or representative by telephone/email.

The decision will be confirmed in writing within five working days to the employee and the Trust.

The decision of the Appeals Panel is final.

If the panel is not satisfied with the investigation or any other material aspect of what has gone before, it is for the Chair of the Appeal Hearing to submit the matter for further investigation and/or a new hearing.

Ratified by:

Signature of Chair/Vice-Chair: Date: May 2017

- Local Governing Body
- Board of Directors

EMPLOYEE GRIEVANCE FORM

Your name _____

Job title _____

Grievance (please give a full description of your grievance, use this form to help a shared understanding of your grievance and what is needed to put things right)

Remedy

We encourage you to say what you think needs to happen to resolve your grievance. You may wish to take advice from your trade union representative on what might be an appropriate remedy. Remember, once the grievance is dealt with, the outcome will be at the discretion of the Headteacher/Manager or the appeal panel and it may not reflect the remedy you have proposed.

Declaration

I confirm that the details above are true and that I have read and understood the Schools Grievances Procedure. I also understand that a copy of this form will usually be given to the people I name in it.

Signature: _____ Date: _____