



## **GRIEVANCE POLICY FOR SCHOOLS BASED STAFF**

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### **1. Statement Of Purpose/Objectives**

The aim of this policy is to:

- 1.1 Provide a mechanism by which staff can raise matters with regard to their employment with which they are aggrieved;
- 1.2 Enable grievances to be resolved as speedily and effectively as possible;
- 1.3 Maintain a positive working environment and good working relationships to ensure an efficient and motivated workforce.
- 1.4 To work in line with the ACAS Code of Practice.

This policy has been produced following consultation and negotiation with the recognised Teacher Associations/Trade Unions.

## 2. Scope

2.1 This policy applies to all school based workers – both teaching and nonteaching. For ease of reference this policy refers to all ‘workers’ as employees.

## 3. Matters Outside The Scope Of This Procedure

3.1 The Grievance Policy is entirely separate to the Discipline, Sickness Absence and Competency Policies. The rights of employees under the Grievance Policy shall not be affected by actions taken or proposed actions to be taken, under these other procedures. This policy will not be appropriate however, where other mechanisms/policies exist to deal with the specific issues i.e. an appeal against a disciplinary sanction or a Dignity at work complaint.

## 4. Terms & Definitions

4.1 **Management Guidance:** A document that advises managers on the process and procedure and how to handle grievance issues. Standard letters are also available for the various stages of the process.

4.2 **Days:** Any reference in this policy means school working days.

4.3 **Right to Representation:** The right to representation applies at all the formal stages of this policy. The right to representation includes a trade union official or colleague; it does not include legal representation. The employee may also be represented at informal meetings. The Headteacher may also, when presenting a report in response to a complaint, be represented at hearings.

4.4 **Confidentiality:** Grievance proceedings and records are confidential to those persons involved. Schools should be mindful of the requirements of the Data Protection Act/Human Rights Act.

4.5 **Management Representative:** This will be the person who is presenting management’s case in response to a grievance. This could be either the Headteacher or nominated Governor where the grievance is against the Headteacher or the Headteacher is raising the grievance.

4.6 **Grievance / Appeals Committee** – Committees that are formally appointed by the Governing Body and given delegated powers to act on their behalf. Each Committee will comprise of 3 members of the Governing body.

No governor may serve on both the Grievance Committee and the Appeals Committee.

4.7 **Governor’s Forum Appeals Committee** – A committee made up of 3 governors from different schools that is formally appointed by the Governors Forum to consider appeals for grievances against the Governing Body (or a sub-committees of the governing body)

4.8 **HR:** Human Resources. It is advisable to inform the HR team upon receipt of a grievance (whether formal or informal). HR are also available to provide advice on dealing with such issues so as to ensure that decisions taken are fair and consistent.

4.9 **LA:** Local Authority.

4.10 **LA Representative:** - The person nominated by the LA to act as their representative in giving advice to Governing Bodies and attending stages of the grievance procedure. In terms of employment law and policy/procedural advice this would normally be a member of the HR Team. Dependant upon the complexity of the case a member of the legal team may also provide advice.

4.11 **Clerk to the Governing Body** – the recognised person who holds this responsibility.

## 5. Roles & Responsibilities

Please note: This policy assumes that the Governing Bodies of Foundation, Voluntary Aided and Foundation Special Schools, have agreed in writing that the LA can attend meetings, interviews and hearings in an advisory role. In the absence of such an agreement the Secretary of State can make the determination. For Community, Voluntary Controlled, Community special and Maintained nursery schools, the LA has an automatic right to attend in order to provide advice.

If a person who raises a grievance has a relative/partner living with him/her who is employed at the school, that person will take no part in the consideration of the grievance. Likewise any other person who may have a pecuniary interest should take no part in the consideration of the grievance.

Any governor who has considered a grievance at any stage should take no part in any resulting Disciplinary case.

5.1 LA Representative – To advise all parties throughout the grievance process.

5.2 Management Representative(s) – to investigate and/or present the management case at a hearing.

5.3 Headteacher: Their role will vary dependent on the nature of the case and who is involved. It could include carrying out investigations, presenting a management case or hearing a case.

5.4 Members of the Governing Body – their role will vary dependant on the nature of the case and who is involved. It could include carrying out investigations, presenting a management case, hearing a case, or hearing an appeal.

5.5 Clerk to the Governing Body – The Clerk to the Governors, if present, will take no part in the proceeding, but will remain with the Committee to provide procedural advice. They shall also make available any notes taken of the evidence and will record the Committees decision.

5.6 Employee's Representative – to advise the employee and where appropriate present the case on behalf of the employee at a hearing or appeal hearing.

5.7 Note taker – Notes of all formal hearings will be made by the Clerk to the Governing Body. It is also recommended that all other meetings are documented, however it will be the relevant school's responsibility to provide a note taker for this purpose.

## **6. Informal Stage**

6.1 In any normal working environment there are times when employees will raise issues or concerns – often such matters are minor and will be resolved in normal day-to-day communications. In many cases dealing with the concern sympathetically and promptly in the right way is all that is required to remedy the situation.

6.2 Employees should aim to resolve most grievances informally with their head teacher or a senior colleague in the first instance.

6.3 Where an employee has a grievance with the Headteacher they should make a direct approach to him/her to discuss the matter.

6.4 Where an employee requests an informal meeting to discuss concern(s) this should normally take place within five days of the request being made.

6.5 The Headteacher or senior colleague should seek to resolve the issue informally with the employee. The Headteacher may also, by agreement with the employee(s), consult, in confidence, the chair or relevant committee of the governing body and/or the LEA. Such consultation would however prevent any further involvement of that person/committee in consideration of that grievance.

6.6 The employee may wish to be accompanied at the informal stage by a representative.

## **7. Formal Stage**

7.1 Where a grievance has not been resolved informally or, given the nature of the grievance, the informal stage is considered by the employee to be inappropriate, they should submit their grievance in writing to the Headteacher and should indicate that they wish to raise a formal grievance.

N.B. Where the grievance is against the Headteacher, or where it is the Headteacher raising the grievance, the written grievance should be submitted to the Chair of the Governors who will then nominate a governor to investigate.

7.2 The employee should set out the details of the grievance, including what steps have been taken so far and what resolution is sought. Wherever possible it should be accompanied by supporting documents.

7.3 On receiving a formal grievance the Headteacher (or nominated Governor where appropriate) should arrange a meeting with the employee to discuss the grievance. This meeting should take place within 10 days of the grievance being received.

7.4 At this meeting, the Headteacher (or nominated Governor) should establish:

- The exact nature of the grievance
- Any action that has already been taken
- Any further action that the complainant wishes to be taken.

7.5 It may be necessary for the Headteacher (or nominated Governor) to adjourn this meeting in order to carry out any necessary investigations which involve all the relevant parties.

Where such an adjournment is necessary the timescales for this should be agreed by all parties before the adjournment takes place.

7.6 Following the meeting the outcome will be communicated in writing to the employee, normally within 5 days of the meeting.

## **8. Formal Hearing (Referral to the Grievance Committee)**

8.1 Where an employee is unhappy with any outcome following this formal grievance meeting they have the right to appeal by referring the decision to a grievance committee. The employee should make their appeal in writing to the Headteacher (or nominated Governor) within 10 days of the date of the decision letter.

8.2 Any appeal will be referred by the Headteacher (or nominated Governor) to the Clerk to the Governing Body within 5 days of its receipt.

8.3 The Clerk to the Governing Body will arrange that the Grievance Committee of the Governing Body meet with the employee; normally within 20 days of receipt of the written confirmation that the employee wished to appeal.

8.4 The Clerk to the Governors will send copies of the written statements of grievance and the Headteacher's (or nominated Governor) response, together with a copy of this grievance policy to the Grievance Committee.

8.5 Should either side wish to submit further documentation for the Committee to consider this should normally be provided to the Clerk to the Governing Body at least 5 days prior to the meeting.

N.B. Late disclosure of documents will only be accepted where there is a genuine reason for this. The final decision to allow such documentation will be made by the chair of the Grievance Committee having considered the reasons for their delay.

8.6 The Grievance Committee will hear the case in accordance with procedure detailed in Section 12 of this procedure.

8.7 The Clerk to the Governors will document the proceedings of the meeting and will confirm the decision in writing to all parties concerned within five days of the conclusion of the meeting. The employee will be advised of their right of further appeal.

## **9. Appeal (Referral to the Appeals Committee)**

9.1 Where an employee is unhappy with the decision of the Grievance Committee, they have a further right of appeal, which would be to the Appeals Committee. The employee should make their appeal in writing to the Clerk of the Governing Body within 10 days of the date of the letter confirming the Grievance Committee's decision.

9.2 The Clerk to Governing Body will arrange for the Appeals Committee to meet with the employee to discuss their appeal. This will normally be within 20 days of receipt of the written confirmation that the employee wishes to appeal.

9.3 The Clerk to the Governors will forward all paperwork considered by the Grievance Committee to the Appeal Committees with the letter confirming arrangements.

9.4 Should either side wish to submit further documentation for the Committee to consider this should normally be provided to the Clerk to the Governing Body at least 5 days prior to the meeting.

N.B. Late disclosure of documents will only be accepted where there is a genuine reason for this. The final decision to allow such documentation will be made by the chair of the Appeals Committee having considered the reasons for their delay.

9.5 The Appeals Committee will hear the case in accordance with the procedure detailed in paragraph 12.

9.6 The Clerk to the Governing Body will document the proceedings of the meeting and will confirm the decision in writing to all parties concerned within five days of the conclusion of the meeting.

9.7 The decision of the Appeals Committee is final.

## **10. Grievance Against The Governing Body (or a sub-committee of the Governing Body)**

### **Informal Stage.**

10.1 Where a grievance relates to the conduct or implementation of the functions of the Governing Body and does not involve any other member of staff, the employee should submit the grievance in writing, initiating the informal stage, to the Clerk to the Governing Body.

10.2 The Clerk to the Governing Body will, within 20 days of receiving the grievance, arrange an informal meeting between the employee and Chair of Governors (or a member nominated by the Governing Body) to attempt to resolve the grievance.

10.3 The Chair of the Governors may also, by agreement with the employee(s), consult, in confidence, the chair or relevant committee of the governing body and/or the LEA. Such consultation would however prevent any further involvement of that person/committee in consideration of that grievance.

10.4 The employee may wish to be accompanied at the informal stage by a representative.

10.5 The Clerk to the Governing Body will confirm, in writing, the outcome of the meeting including any recommendation for the resolution of the grievance. This will be provided to each party involved normally within 10 working days.

10.6 If the grievance is not resolved, the details should not be reported to other governors, at this stage, in order to avoid tainting and to preserve the ability of governors to deal with the matter formally.

### **Formal Stage.**

10.7 Where the informal stage does not resolve the grievance the employee will have a right to a hearing by the Grievance Committee of the Governing Body.

10.8 The Grievance Committee should not include any governors who have taken part in the informal meeting stage or any employee who is a governor and has an involvement in the matter which is the subject of the grievance.

10.9 The employee will submit their grievance in writing, setting out the details of their grievance together with any supporting documents to the Clerk to the Governing Body.

10.10 The Clerk to the Governing Body will arrange that the Grievance Committee of the Governing Body meet with the employee within 20 working days of the written grievance being received.

10.11 The Clerk to the Governors will forward all relevant paperwork to the Grievance Committee with the letter confirming arrangements.

10.12 Should either side wish to submit further documentation for the Committee to consider this should normally be provided to the Clerk to the Governing Body at least 5 days prior to the meeting.

N.B. Late disclosure of documents will only be accepted where there is a genuine reason for this. The final decision to allow such documentation will be made by the chair of the Grievance Committee having considered the reasons for their delay.

10.13 The Grievance Committee will hear the case in accordance with procedure detailed in Section 12 of this procedure.

10.14 The Clerk to the Governors will document the proceedings of the meeting and will confirm the decision in writing to all parties concerned within 5 days of the conclusion of the meeting. The employee will be advised of their right of appeal.

## **Appeals**

10.15 Where an employee is unhappy with the decision of the Grievance Committee, they have a right of appeal, which would be to the Governors' Forum Appeals Committee. The employee should make their appeal in writing to the Clerk of the Governing Body within 10 days of the date of the letter confirming the Grievance Committee's decision.

10.16 The Clerk to Governing Body will arrange for the Governors' Forum Appeals Committee to meet with the employee to discuss their appeal. This will normally be within 20 days of receipt of the written confirmation that the employee wishes to appeal.

10.17 The Clerk to the Governors will forward all paperwork considered by the Grievance Committee to the Governors' Forum Appeals Committee with the letter confirming arrangements.

10.18 Should either side wish to submit further documentation for the Committee to consider this should normally be provided to the Clerk to the Governing Body at least 5 days prior to the meeting.

N.B. Late disclosure of documents will only be accepted where there is a genuine reason for this. The final decision to allow such documentation will be made by the chair of the Governors' Forum Appeals Committee having considered the reasons for their delay.

10.19 The Governors' Forum Appeals Committee will hear the case in accordance with the procedure detailed in paragraph 12.

10.20 The Clerk to the Governing Body will document the proceedings of the meeting and will confirm the decision in writing to all parties concerned within 5 days of the conclusion of the meeting.

10.21 The decision of the Governors' Forum Appeals Committee is final.

10.22 Once the grievance has been resolved, a report will be made to the full Governing Body of the proposal for the resolution and any views expressed.

## **11. Grievance Against The LA**

11.1 Where the grievance relates to the functions of the LA or one of its officers, the employee will submit their grievance in writing to the Director of Children's Services together with any supporting documentation. The LA should provide a copy of their appropriate Grievance or Complaints procedures to the employee upon request. The Governing Body should consider the extent to which it is able to support the employee, where such support is sought, in such a case.

## **12. Procedure At A Formal Hearing**

All formal hearings will follow the structure set out below:

- The employee bringing the grievance (or their representative) will present their grievance and may call witnesses where necessary and appropriate (see management guidance on witnesses.)
- The management representative will be entitled to ask questions on the information put forward.
- The Chair/Members of the Committee may ask questions on the information provided.
- The Management Representative will present the details of their case and may call witnesses where necessary and appropriate (see management guidance on witnesses.)
- The employee and/or their representative will be entitled to ask questions on the information put forward.
- The Chair/Members of the Committee may ask questions on the information provided.
- The employee side may make a closing statement.
- The management side may make a closing statement.
- Both parties will then withdraw to allow for deliberations by the Committee.
- In most instances, the decision will be conveyed orally to both sides on the same day of the hearing, if this is not possible a timescale will be given.
- Once the decision has been conveyed it will be confirmed in writing.

## **13. Note Taking**

At any stage of the grievance procedure it is advised that all parties make their own notes of meetings for future reference. In to facilitate this, any party can be accompanied by a scribe who will not participate in the meeting.

Notes of all formal hearings will be made by the Clerk to the Governing Body and these will be shared with all relevant parties including trade union representatives. It should be noted that these are not minutes of the meeting and as such will not be shared for agreement. However, should any party disagree with the content of the notes then they should submit a statement outlining the areas of disagreement and these will be held on file with the original notes of the meeting.

#### **14 .Terms & Conditions During The Grievance Process.**

During the investigation the status quo with regard to an employee's terms and conditions of employment will remain. For example: Where an employee's complaint is in relation to duties that they have been requested to undertake, until the grievance is resolved, they should, either continue to undertake such duties as are already being undertaken, or, not carry out the duties where those duties being requested have not yet commenced.

Where the carrying out of duties would potentially be in breach of health and safety regulations, these duties should cease immediately and until the grievance is resolved and without prejudice to either party.

#### **15. Employment Tribunals**

Nothing in this policy restricts employees from exercising their statutory rights under existing employment law. However, employees should be aware that they will not subsequently be able to take a case to an employment tribunal unless they have first raised a grievance in writing and waited a further 28 days before presenting the tribunal claim. Employees are advised to seek advice from their trade union/teacher associations before exercising their rights.

#### **16. Grievances Unresolved When Employment Ends.**

Wherever possible a grievance should be dealt with before an employee leaves employment. However, where an employee has already left employment, and the School's grievance procedure has not commenced or been completed and where both parties agree in writing, then the statutory, 'modified grievance procedure' outlined within the Dispute Resolution regulations will apply.

#### **17. Monitoring & Review**

Human Resources will work with head teachers and governing bodies to monitor the application of this policy. They may review any aspect of the policy in light of changing circumstances at any time, in consultation and negotiation with the trade unions/teacher associations.