

# Grievance Policy

January 2012

Reviewed annually by the governing body



## Introduction

The Employment Act 2002 (Dispute Resolution) Regulations 2004 define a grievance as “...a complaint by an employee about an action which his employer has taken or is contemplating taking in relation to him.” This can reasonably be taken to include a failure to act by the employer.

Grievances raised by individual employees may be of a relatively simple nature or of fundamental importance, significantly impinging upon the employee’s ability to work effectively. Unresolved grievances are likely to detract from the achievement and maintenance of satisfactory work standards.

All grievances should be examined carefully, whether or not the grievance is presented in writing, and be dealt with as quickly as possible. However, formal grievances under the grievance procedure should be submitted in writing. Long delays may increase the sense of grievance and may give employees the impression that senior managers in schools are reluctant to deal with their complaints.

**This policy is adopted from The Manual of Personnel practice, where the relevant appendices cited below may be found.**

## Principles

This Policy provides a process whereby:

- grievances may be resolved as close as possible to where they arise
- issues can be brought “out into the open” so that they can be considered by the relevant manager in the school
- the individual employee and the school can be reconciled in an open and expeditious manner
- confidence and trust between individual employees and their senior managers in schools is maintained.

Grievances should, as far as possible, be resolved through informal discussion and conciliation without the need to invoke the formal stages of the procedure. The formal stages of the grievance procedure are not necessarily the best way of resolving concerns and complaints of staff. Therefore, the potential for informal conciliation, including the use of external (EPS) conciliation, should be explored prior to moving into the formal procedure. This will not prevent the use of formal conciliation under the later stages of the formal procedure. However, if the employee wishes to proceed directly to the formal stages then this must be complied with.

Grievances are as much about the feelings and emotions of an individual as they are about a set of facts. A grievance therefore, is unlikely to be “resolved” by any process that simply determines whether the aggrieved is right or wrong. It will be important for the process to address the specific grievance, provide an opportunity for that individual to express their feelings, be listened to and have their feelings acknowledged. It is unlikely that any compromise solution will be achieved until these feelings have been expressed.

For this reason, at all stages of the grievance procedure, up to and including formal hearings by Governors, opportunities for informal conciliation processes and ways of resolving the issue by mutual agreement should be explored.

Some grievances will be of a sensitive or controversial nature, and confidentiality should be preserved at all times by the parties involved.

A grievance under the formal grievance procedure should be initiated by the employee in writing. An employee raising a grievance informally will be requested to set out the grievance in writing if the procedure becomes formal.

The procedure should not be used for raising issues which are outside the responsibility or control of the Governing Body; neither can it be used where separate mechanisms exist for employee “grievances” (or appeals) to be dealt with (see **Exceptions/Exclusions**).

A grievance should be instigated by direct contact from the employee to their Line Manager or Head Teacher. If the grievance relates to the Head Teacher and the person feels unable to discuss the matter with another senior member of the school’s staff (e.g.: Deputy Head Teacher, head of department etc:) it may be appropriate for an employee to raise their grievance with the Chair of Governors.

The resolution of disputes between fellow employees will not be dealt with under the grievance procedure. The alternative mediation process is the appropriate route in these cases (see Annex 1). ‘Fellow employees’ are those who are not in a line management relationship, as defined in Annex 1.

A multiple grievance arises when a number of employees all raise the same grievance (this should not be confused with a collective grievance (see **Exceptions/Exclusions**)). In these circumstances attempts should be made to encourage one individual to pursue the case on behalf of others.

The Collective Grievance Procedures should be used to address collective grievances which affect relations between the management side and the staff/trade unions/professional associations (see Appendix 21).

If a grievance is raised by an individual who is no longer employed by a school, the employee should write to the school setting out the grievance as soon as possible after leaving employment. The grievance will be dealt with in writing wherever possible, and the agreement of the aggrieved ex-employee will be sought to this approach.

### **Bullying, harassment, discrimination and protected disclosures**

Grievances involving allegations of bullying, harassment, discrimination or protected disclosures require sensitivity and particular consideration in the way they are handled. It is essential that all allegations of this nature are treated seriously and thoroughly investigated.

Any complaints by school employees of an unlawful discriminatory bias or prejudice in employment decisions should be pursued initially through the separate procedures (see Appendix 18). For employees making a protected disclosure, the Protected Disclosures (Whistle Blowing) Procedure should be used (see Appendix 20).

### **Representation**

The employee is entitled, at any stage of the procedure, to representation by a trade union/professional association representative or “friend”, who will normally be another employee. It may sometimes be helpful at the informal stage for the employee to decide not to involve a representative directly in discussions with management, at least until initial efforts to resolve the matter informally have been tried.

### **Time limits**

Time limits for management response are included within the formal stages of the procedure. These are included in order to reinforce the need to deal with grievances as quickly as possible so that the employee is able to return to full concentration on work duties.

### **Use of counselling**

The parties involved may find the situation stressful and it is possible therefore that they could benefit from some counselling support. Counselling can provide a confidential avenue through an informal route without having to resort to further or formal action. Counselling is available from the county council's Employee Support Line (ESL) or the Teacher Support Line (TSL).

### **Exceptions/Exclusions**

If an employee's grievance concerns a decision that has been taken relating to their employment, and there is an alternative appeals procedure against such a decision available to the employee, then action must be taken under the appropriate appeals procedure and not through the grievance procedure. For example, if an employee wishes to make representations concerning a disciplinary sanction against them, this should be facilitated through the arrangements for appeals described in the appropriate disciplinary procedure. Similarly, appeals against capability warnings, pay decisions and disputes between employees should be addressed within their separate procedures.

### **Grievances raised as part of formal disciplinary action**

The Grievance Procedure cannot be used to circumvent the consideration of legitimate management action on matters of indiscipline or capability. However, there may be exceptional occasions where an employee reasonably holds a genuine sense of grievance about how management is handling, for example, a disciplinary investigation, prior to any formal disciplinary hearing, where it may still be relevant to consider the matter under the formal grievance procedure. Such situations should be discussed with Education Personnel Services for further advice.

### **Formal Grievance Procedure**

This procedure is for the resolution of employee grievances, which are complaints by an employee about an action, or inaction, which his/her employer has taken or is contemplating taking.

This procedure applies to all employees, including casual and temporary staff working in the school.

Grievances should be raised informally in the first instance. Instigating a formal grievance procedure is not necessarily the best way of resolving concerns or complaints. A more satisfactory, mutually agreeable outcome is much more likely using conciliation and meetings outside of this procedure.

However, if an employee wishes to raise a grievance formally, they have a contractual right to do so. The formal procedure places time scales on the resolution of a grievance and therefore formal grievances will be dealt with urgently.

#### **Stage 1 - Raising a grievance**

Aggrieved employees who wish to pursue this procedure should submit their grievance in writing to their line manager. If the grievance is against their line manager, the grievance should be raised with the next level of senior management. The letter of grievance must clearly outline the basis for the grievance.

Where the grievance is against the Head Teacher, the employee should approach the Head Teacher initially, but if this is not appropriate, they should approach their manager or the Chair of Governors.

Where the Head Teacher is the aggrieved employee, they should raise their grievance with the Chair of Governors, or if the grievance is against a member of the Governing Body, the grievance should be raised initially with the Strategic School Improvement Manager (SSIM).

The term 'Head Teacher' is used in this procedure, but where the Head Teacher's involvement is not appropriate, or where the Head Teacher is the aggrieved employee, (as above) this role will be conducted by the Chair of Governors with the involvement of the SSIM or EPS as necessary.

## **Stage 2 - Responding to the grievance**

### **a) Initial meeting**

The recipient of the grievance (the manager) will respond to the aggrieved employee within 5 working days. The response will be an invitation to a meeting to discuss the grievance raised. The aggrieved employee will be informed of their right to have a representative present at this meeting, if they so wish.

If, for whatever reason, the aggrieved employee needs to rearrange the meeting, the new date for the meeting will normally be no more than 5 working days later than the date originally set by the manager.

If, following two attempts to meet, the aggrieved employee fails to attend without good reason, the manager will consider the grievance in the absence of the employee.

The meeting enables the aggrieved employee to explain their case and to suggest how they think it should be resolved. It may be possible to settle the grievance at this meeting. Alternatively, an investigation may need to be carried out. If the grievance is resolved, the outcome will be confirmed in writing to the employee.

### **b) Investigation**

Following the initial meeting, if an investigation is needed, a timescale for that investigation will be agreed with the aggrieved party. A reasonable timescale would normally be no more than 15 working days.

The investigation will be conducted confidentially and, as far as possible, in accordance with the wishes of the aggrieved party. The aim of the investigation should be to provide a clear, objective and factual account of the issues relating to the grievance.

Following the investigation, a meeting will be set up with the aggrieved employee to discuss its conclusions.

The meeting at which the investigation is discussed will be minuted, and the outcome of the meeting will be confirmed in writing to the aggrieved employee. If this course of action does not resolve the grievance, the employee has the right to appeal and will be informed of their right to do so.

### **Stage 3 - Resolving the grievance**

#### **a) Resolution by Manager/Head Teacher**

The meeting following the investigation will produce one of the following outcomes:

- The grievance is resolved, with no further action needed – in which case the matter can be considered closed, with both parties agreed on a resolution.
- The grievance is resolved, but further action is needed – for example, a change needs to be implemented that will take some time to arrange, or it may be that further action is needed against one of the parties involved e.g. disciplinary action.
- The grievance is not resolved – the resolution suggested is not acceptable to the aggrieved employee.
- The grievance cannot be resolved within a reasonable timescale.

#### **b) Conciliation**

If it has not been possible to resolve the grievance satisfactorily under the previous stages of this procedure, the grievance should proceed to formal conciliation through Education Personnel Services. Conciliation can only take place with the agreement of both parties. The manager/Head Teacher will contact EPS to arrange this. Conciliation will be set up as soon as possible and the expected timescale will be agreed between the parties. This will not normally extend beyond one calendar month.

#### **c) Appeal**

If an outcome at any of the previous stages was not satisfactory to the aggrieved party, they have 10 working days following receipt of the written confirmation in order to register an appeal against the outcome to the governors' grievance committee.

The aggrieved employee needs to notify the Clerk of the Governing Body in writing of their wish to appeal and the reasons for the appeal. The procedure to be followed during this appeals hearing is outlined within the Manual of Personnel Practice. If the governors' grievance committee sees an opportunity for resolution at any time during the appeal hearing, the hearing will be adjourned to allow both parties to consider a resolution. Guidance will be provided by the EPS representative advising the committee, who may act informally on behalf of the committee.

There is no further right of appeal.

#### **Employees who have left**

Employees who have left employment in the previous three months, still have the right to raise a formal grievance against their employer. Such a grievance must be submitted in writing to the Head Teacher who will seek agreement with the aggrieved party to deal with the matter in writing and will then respond in writing, normally within 15 working days. The governor grievance committee may hear such grievances in appropriate cases.

#### **Recurrent grievances**

If an issue has already been fully and properly addressed through the grievance procedure, it is not open to the employee to restart the procedure again in respect of the same issue. However, care must be taken to ensure that new issues that have emerged since the original procedure was initiated are properly addressed. The Head

Teacher/manager and the governing body grievance committee are entitled, in appropriate circumstances, to reach a decision that they will not hear a grievance which has already been properly addressed.

**Unacceptable conduct**

If the dissatisfaction of an employee manifests itself in unacceptable conduct, appropriate action may be taken under the disciplinary procedure.