

The Family of Learning Trust

Grievance Policy



Version	12/19
Name of Policy Writer	EducateHR Ltd
Last Radical Revision/Consultation	January 2018
Last Updated	December 2019
Next Review Due	December 2020

Contents	Page
1. Introduction.....	3
2. Purpose and scope.....	3
3. Matters beyond the scope of a grievance procedure	4
4. General principles of a grievance procedure.....	4
5. What constitutes a grievance.....	4
6. Overlapping grievance and disciplinary cases.....	5
7. Grievance procedure – informal stage	5
8. Grievance procedure – formal stage	6
9. Appeal hearing.....	7
10. Grievance submitted at the end of employment contract	8
11. Non-attendance during grievance investigation or appeal	8
12. Other policies and procedures.....	8
Appendix 1: Grievance Proforma – Formal Resolution.....	10
Appendix 2: Grievance Proforma – Appeal	12

1. Introduction

- 1.1 The ACAS Code defines grievances as “concerns, problems or complaints that employees raise with their employers”. These may be either:
 - matters affecting themselves as individuals; or
 - matters affecting their personal dealings or relationships with other employees.
- 1.2 In relation to grievances, it is stated by ACAS that ‘... *fairness and transparency are promoted by developing and using rules and procedures for handling grievance situations*’. Such rules and procedures should be set down in writing and should be both clear and specific.
- 1.3 Staff grievances can arise from a variety of sources within the workplace and it is desirable therefore that a staff grievance procedure fulfils two key purposes:
 - to enable a grievance to be resolved informally, and as near to the point of origin as possible
 - to set out a formal procedure that can be followed where the informal approach is either inappropriate or has been explored but has failed to resolve the issue.
- 1.4 Grievances may therefore be raised either informally (not necessarily in writing) or formally (which must be in writing).
- 1.5 The staff grievance procedure must be followed by any member of staff having an employment-related grievance. Ideally, no grievance should be raised except through this procedure.
- 1.6 In the event of a grievance being submitted by a staff member against the headteacher in person, the role of the latter, throughout this policy, will be undertaken by the chair of governors.

2. Purpose and scope

- 2.1 This procedure applies to all staff employed at the academy, including those employed temporarily. It may be used to deal with allegations of sexual, racial and other forms of harassment and bullying although the academy’s Bullying and Harassment Policy may be a more appropriate vehicle to address such issues.
- 2.2 Grievances may be about terms and conditions of employment, relationships at work or the behaviour of others at the academy towards colleagues. These issues may relate to working practices, health and safety concerns, organisational change or equal opportunities. Some grievances may be minor or straightforward whilst others may concern more complex or fundamental issues and may prove more difficult to resolve.
- 2.3 It is important to draw a distinction between concerns relating to a personal grievance and concerns of whistleblowing. The latter is relevant **only** to matters which are ‘in the public interest’ and which warrant a ‘protected disclosure’ to an appropriate authority. Personal issues (such as, for instance, those related to discrimination, bullying, harassment etc) do not qualify as whistleblowing as they are **not** covered by whistleblowing legislation.
- 2.4 The aim of this policy is to achieve a fair and prompt resolution to individual grievances and to do so (where possible) at an informal level and, in all cases, as speedily as possible.

3. Matters beyond the scope of a grievance procedure

- 3.1 The grievance procedure cannot be used to challenge formal outcomes of other procedures which have their own appeal process.
- 3.2 These include the following:
- disciplinary procedure
 - capability procedure
 - attendance management procedure
 - redundancy procedure.
- 3.3 Similarly, the grievance procedure is not applicable to collective disputes (which are normally dealt with through a collective dispute process).

4. General principles of a grievance procedure

- 4.1 All documentation and discussion at meetings within the grievance procedure is to be treated as completely confidential.
- 4.2 At all stages in the procedures, the member of staff raising the grievance should have the right to be accompanied by either a work colleague or a trade union representative.
- 4.3 The formal procedure for dealing with grievances is as follows:
- the employee should set out in writing the nature of the grievance
 - the employer should hold a meeting with the employee (at which the latter must be permitted to be accompanied as detailed above)
 - the employer must decide on appropriate action.
- 4.4 At any meeting convened under this procedure, reasonable adjustments may be indicated (and should always be considered) for an employee with a disability (for example, the provision of a support worker or representative with knowledge of the disability and its effects) and access to an adjournment (irrespective of disability) should not be unreasonably refused.

5. What constitutes a grievance

- 5.1 In considering whether the grievance procedure has been triggered, the following points should be noted:
- a grievance may be raised by e-mail, in a letter from the employee, in an informal 'note' (even a 'post-it' note), or in a letter from a third party (such as a union representative)
 - a grievance may also be raised in communication dealing with another matter or making an application of some kind (for example, a flexible working request) or within the text of a resignation letter.
- 5.2 In other words, **a communication does not have to be headed as a 'grievance' for it to be considered as such.**

- 5.3 The intention of the employee is not directly relevant, and the employee is not required to indicate that the complaint may be taken further. It is therefore recommended that senior management and governors treat all written complaints from employees (or their representatives) as potential employee grievances, as failure to do so could result in an increase in any compensation subsequently awarded to the claimant at an employment tribunal.
- 5.4 If the complaint is set out in a resignation letter the employee should be invited to a meeting to discuss the issues raised. However, if the employee does not attend such a meeting the employer should still write to the employee with an outcome, based on the available evidence (and where appropriate this may be following an investigation into the issues raised).

6. Overlapping grievance and disciplinary cases

- 6.1 If a grievance is raised by an employee after disciplinary proceedings against them have commenced, and the grievance relates to the disciplinary case (unrelated cases can proceed in parallel), a decision will be taken **either** to suspend the grievance until after the disciplinary issue has been dealt with **or** to hear the grievance at the disciplinary hearing.
- 6.2 Only in exceptional circumstances will a disciplinary hearing be suspended to deal with a grievance that has been raised after disciplinary process has commenced.
- 6.3 Depending upon the nature of the grievance, the headteacher may need to consider bringing in another manager to continue to hear the disciplinary case.
- 6.4 It is advisable that an HR Advisor is present at all formal grievance (and/or disciplinary) hearings to support management and/or governors as appropriate.

7. Grievance procedure – informal stage

- 7.1 If a member of staff has a grievance with a colleague, they should endeavour to resolve the matter by direct approach to that colleague, or by arranging a meeting (which has no formal status) through their head of department or other appropriate senior colleague and making it clear that a concern is being raised informally.
- 7.2 Where the grievance is against the headteacher, deputy headteacher or other manager, the member of staff should similarly attempt to resolve the matter by a direct approach to that individual, or by bringing it to the attention of a senior manager.
- 7.3 By agreement of the parties involved, the headteacher (or chair of governors where the headteacher is the subject of the grievance) may, if appropriate, elect to appoint an investigating officer to look into the matter more deeply. The investigating officer must, whenever possible, investigate the grievance within five to ten working days.
- 7.4 The headteacher (or chair of governors) may also arrange for mediation should this be felt appropriate.
- 7.5 Following an informal meeting and/or (if appropriate) investigation (or mediation), a written outcome letter will be provided to the employee within a reasonable period of time. This should be no longer than five working days after the initial informal meeting took place, unless there is a delay to allow an investigation (or mediation) to take place.

- 7.6 Every attempt should be made by those involved to resolve a grievance at an early stage and through normal line management processes. Only when such an attempt has proved unsuccessful should the formal process be followed. If an issue cannot readily be resolved informally it may be appropriate for the employee to seek advice and/or assistance from a senior manager prior to progressing to the formal stage.
- 7.7 If a written grievance is received where there has been no attempt to resolve the issue on an informal basis, it may be appropriate to enquire of the aggrieved individual whether there is a reason why they have not attempted to do so. In certain circumstances there may be benefit from requiring them to do this before escalating the matter to formal process, unless there is good reason (such as fear of victimisation or the seriousness of the issue) to omit this stage.
- 7.8 However, if the employee is dissatisfied with the outcome of the informal stage (or if the complaint is regarded as being sufficiently serious) he or she may proceed to the formal stage without unreasonable delay (and in all cases this should be no later than three months after the relevant event/incident occurred).

8. Grievance procedure – formal stage

- 8.1 Where the grievance has not been resolved at the informal stage (or the informal grievance procedure is deemed inappropriate) the aggrieved employee should be requested to submit formal written notice of the grievance (on the form provided at Appendix 1) to the headteacher.
- 8.2 It is highly desirable that the recipient of the grievance (or the person delegated to deal with the matter) not only has a full understanding of the aggrieved employee's concern(s) but also of his or her expectations as to how they feel their grievance might be satisfactorily resolved (which may include an insight into their desired mechanism of redress).
- 8.3 To this end it is constructive for the aggrieved employee to complete the appropriate form as requested. However, the academy undertakes to address all grievances appropriately (even in the absence of the preferred official form being completed).
- 8.4 Following receipt of a formal grievance the headteacher should arrange a meeting with the aggrieved employee to discuss the grievance. The employee is not obliged to meet with the headteacher (in which case the grievance must still be explored in accordance with policy) but if any formal meeting does take place (whether at this stage or later) the employee is entitled to be accompanied by either a work colleague or a trade union representative.
- 8.5 The headteacher may, at his or her discretion, choose to delegate a senior manager to undertake the task of dealing with the grievance (and accordingly the term 'headteacher' in the following paragraphs should be interpreted as including any person to whom this responsibility has been delegated). This option is not open to the chair of governors (see clause 1.6) who may not delegate this responsibility although the governing body may, in the absence or indisposition of the chair, nominate another governor to deal with a grievance against the headteacher.
- 8.6 At this point, an investigation may be appropriate in which case the headteacher is responsible for appointing an investigating officer (this may be an individual external to the academy) who should be impartial and who has had no previous involvement with the grievance. This is usually indicated in matters considered to be complex and/or sensitive.
- 8.7 The investigating officer will not be party to any decision on the grievance, nor will he or she be party to any decision in any related disciplinary procedure. The investigation must be

completed as soon as is practically possible and a report prepared and sent to the headteacher.

- 8.8 Following receipt of any investigation report, and after consideration of the issues, the headteacher should present their findings to the aggrieved employee in writing. This correspondence should include any recommendations or proposals designed to resolve the issue(s). It may be appropriate to arrange a meeting with the aggrieved employee to discuss the conclusions and any actions proposed. A detailed record should be kept of any such meeting.
- 8.9 Where the aggrieved member of staff does not accept the findings of the headteacher they may appeal against the decision to a separately constituted appeal panel. Any appeal should be submitted in writing within five working days.
- 8.10 The employee's written appeal should explain the basis of their appeal, what parts of the decision are disputed, the grounds for disputing the outcome and how the employee wishes the grievance to be resolved. The form provided at Appendix 2 (entitled Grievance Proforma – Appeal) should be completed and sent to the headteacher who will then arrange an appeal hearing.

9. Appeal hearing

- 9.1 On receipt of a written appeal from the employee, a hearing will be arranged, in which the aggrieved employee may appeal in person to a panel of governors (normally three in number) who have had no previous involvement in the matter.
- 9.2 Every effort should be made to accommodate the employee's trade union representative or work colleague at the appeal hearing, including rescheduling of the hearing if the original date proposed is not acceptable to all parties. The rearranged appeal hearing should take place within five working days of the original date proposed.
- 9.3 The appeal will focus on specific reasons for not accepting the previous decision. Appeals which fail to identify any actual legitimate grounds for appeal should be rejected.
- 9.4 Appeals against grievance decisions will usually only be considered by the panel in relation to one or more of the following grounds, and accordingly the appeal should detail:
- (in relation to **procedure**)*
- how procedural irregularities prejudiced the grievance decision
- (in relation to **facts**)*
- how the facts do not support the decision or were misinterpreted or disregarded – the appeal should also detail any new evidence to be considered in cases where this is admissible*
- *additional written evidence should only be admissible at the appeal stage if it could not reasonably have been submitted for consideration at the formal stage.*
- (in relation to **proposed action or sanction**)*
- how the proposed action or sanction is inappropriate given the circumstances of the case.
- 9.5 The order of the appeal hearing should be as follows:
- i. the chair of the panel explains the process (advised by the HR Advisor)

- ii. the employee presents his or her appeal
- iii. questions may be asked by the management representative and/or the governor panel
- iv. the management gives its response (which could be a response by the investigating officer)
- v. questions may be asked by the employee and/or the governor panel
- vi. both employee and management are entitled to call witnesses (who should be held available for questioning)
- vii. once all the evidence has been presented, the chair of the panel will adjourn the hearing
- viii. the panel will also consider, in addition to oral evidence, any written evidence presented (where this is admissible*) before making their decision.

**additional written evidence should only be admissible at the appeal stage if it could not reasonably have been submitted for consideration at the formal stage.*

- 9.6 During the hearing, both employee and management may request an adjournment at any point. Notes should be taken of the hearing (clerk to governors may perform this role).
- 9.7 The decision of the appeal committee will be communicated in writing to the employee within a reasonable timescale following the appeal hearing (usually within five working days).

10. Grievance submitted at the end of employment contract

- 10.1 If an employee raises a grievance and subsequently gives notice that they are leaving, or that their employment is to be terminated, every effort should be made to investigate the grievance before they leave. If it is not possible to fully investigate the grievance before the end of their employment contract, then a written response should be sent to the employee.
- 10.2 If a grievance is raised by an ex-employee following the end of their employment contract, the headteacher will provide a written response based on the submission. However, grievances submitted over 12 weeks after the end of the employment contract will not normally be considered.
- 10.3 If the grievance raised by an ex-employee relates to the actions of the headteacher, the chair of governors should provide a written response following an internal investigation (which could involve a meeting with the headteacher to ascertain the circumstances).

11. Non-attendance during grievance investigation or appeal

- 11.1 If an employee is unable or unwilling, without good reason, to attend meetings concerning the resolution of a grievance and/or to communicate with the headteacher, the latter may proceed to make a decision (in determining the grievance) based on the available evidence.
- 11.2 If an employee is unable or unwilling, without good reason, to attend a grievance appeal hearing, the panel may proceed to make a decision (in determining the appeal) based on the available evidence.

12. Other policies and procedures

12.1 This policy will be supported by the following policies and procedures:

- Disciplinary Policy

Appendix 1: Grievance Proforma (Formal Submission)

Section 1: Employee Details

Name:

Post:

Location:

Contact details: Telephone:

Email:

Section 2: Employee Representation Details

Please provide contact details for your trade union representative (you are entitled to be represented by a trade union representative or work colleague at any stage of the formal procedure).

Name:

Name of trade union:

Contact details: Telephone:

Email:

Section 3: Grievance Details

Please detail your grievance giving full details of dates, incidents, parties involved, witnesses, circumstances etc.

Additionally, where possible, please ensure that you include or reference the following specific details:

- the date that this issue commenced
- whether this is a one-off issue, or part of a sequence of events
- which policies, procedures or employment terms do you believe have been breached?
- what action/steps you have taken to resolve the issue informally, when and who with?
- copies of any relevant documentary information
- what are you looking for in terms of a redress/satisfactory outcome?

Note: this procedure is intended to support the resolution of any grievance(s) as quickly and fairly as possible to avoid any minor issues developing into more serious matters.

Please state your grievance:

(continue on a separate sheet if necessary)

Please state what you are seeking as a satisfactory outcome to your grievance:

Signed: Date:

Name (Printed):

Appendix 2: Grievance Proforma (Appeal)

Section 1: Employee Details

Name:

Post:

Location:

Contact details: Telephone:

Email:

Section 2: Employee Representation Details

Please provide contact details for your trade union representative (you are entitled to be represented by a trade union representative or work colleague at any stage of the formal procedure).

Name:

Name of trade union:

Contact details: Telephone:

Email:

Section 3: Appeal

As you are appealing against the outcome of the formal stage of the grievance procedure, you must ensure that you state why you are dissatisfied with the manager's decision. Your appeal should focus on specific reasons for not accepting the previous decision.

Appeals which fail to identify any actual grounds of appeal may be rejected, and appeals against grievance decisions will usually only be considered by the panel in relation to one or more of the following grounds, and accordingly the appeal should detail:

*(in relation to **procedure**)*

- how procedural irregularities prejudiced the grievance decision

*(in relation to **facts**)*

- how the facts do not support the decision or were misinterpreted or disregarded – the appeal should also detail any new evidence to be considered in cases where this is admissible*

**additional written evidence should only be admissible at the appeal stage if it could not reasonably have been submitted for consideration at the formal stage.*

*(in relation to **proposed action or sanction**)*

- how the proposed action or sanction is inappropriate given the circumstances of the case.

Please state your reasons for appealing against the previous outcome:

Please state what you are seeking as a satisfactory outcome:

Signed: Date:

Name (Printed):