



Schools Grievance Policy and Procedure

Authority Guidelines on Staffing Procedures for Community,
Voluntary Controlled, Community Special Schools and Early Years
Centres (and those adopted by Governing Bodies of other
maintained or non-maintained schools)

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School:

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Grievance Policy and Procedure

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Grievance Policy

1. Policy statement

The provisions of the Employment Act 2008 are the result of a consultation process started by the Department of Trade and Industry. The statutory dispute resolution procedures were repealed from 6 April 2009 and a revised Code of Practice issued by ACAS giving 'clear, simple and non-prescriptive guidelines on grievances and disciplinary procedures.'

In addition, changes to the employment tribunal rules give tribunals discretion to take into account the reasonableness of the parties' behaviour when assessing compensation.

This grievance policy applies to all school staff employed in a Community, Voluntary Controlled and Special School in Wirral, or any other school who adopts this policy.

This policy and procedure have been consulted and 'collectively agreed' with all recognised professional associations representing teachers and trade unions representing schools support staff.

It is essential that a fair and systematic approach should exist in every school whereby employees may air a grievance related to their employment and ensure that it is resolved speedily.

The grievance policy and procedure provide a framework and a structured mechanism for employee complaints to be dealt with. There are informal and formal procedures for dealing with grievances.

Its aim is to resolve grievances as quickly as possible and in an equitable way, which minimises the impact on the school and maintains professional working relationships between colleagues. Failure to deal with grievances in a timely manner has a detrimental effect on working relationships, performance, and absence.

2. Principles of the Grievance Policy

The grievance policy and procedure are based on the following principles:

1. Where the circumstances are appropriate, and/or both parties agree, grievances should be dealt with through the informal process, including mediation, where appropriate.
2. Any employee raising a grievance will be given the opportunity to explain their issues, and an appropriate person will fact-find or investigate their issues and respond. The outcome is confirmed in writing.
3. The employee does not suffer any detriment in the form of victimisation for asserting their statutory right to raise a grievance.
4. Any witnesses are protected against detriment and dismissal as a result of acting as a witness during a grievance hearing.

5. All parties directly affected by the grievance should be kept informed of progress as appropriate.
6. Any representative or work colleague is protected against detriment and dismissal in respect of their action in accompanying the employee and for addressing or seeking to address the hearing.
7. Not to discriminate against any individual in the application of this policy and procedure under the Equality Act 2010.
8. Confidentiality will be observed at all times by those involved in the grievance process and information shared on a need-to-know basis only.
9. Any employee having a grievance related to his/her employment has the right to express that grievance and to be represented by a teacher professional association, a trade union representative or a colleague at all stages of the procedure and is advised to contact his/her representative at the earliest opportunity.

This procedure is for use by individual employees who have a grievance with another employee, the Headteacher, or the Governing Body. Grievances can arise from a variety of sources. They can be of a relatively simple nature or be of fundamental importance. A grievance can be defined as an issue or concern about a range of issues affecting an employee at work.

Examples of potential grievance issues include:

- terms and conditions of employment (except pay and grading)
- Health and Safety
- work relations
- new working practices
- working environment
- organisational change
- bullying and harassment (schools should follow ACAS advice www.acas.org.uk/index.aspx?articleid=2178)
- discrimination (school may also have a separate policy for addressing this issue)

The Grievance procedure **does not** apply to:

- collective disputes between staff and Wirral Local Authority or any other employer, eg an Academy or Multi-Academy Trust (these grievances should be dealt with through the procedures described in the appropriate nationally and locally agreed documents relating to teaching [Burgundy Book] and support staff [Green Book] in schools)
- pay disputes (refer to Whole school Pay Policy – pay appeals process)
- whistleblowing concerns (dealt with under the schools Whistleblowing Policy and Procedure)
- employees appealing against a dismissal or disciplinary decision (dealt with through the disciplinary appeal procedure)

NB It should be noted that it would be inappropriate for a grievance procedure to be used to make a complaint against a more junior member of staff; in such an

event, reference should be made to the Disciplinary or Work Performance Procedures.

3. Commitment to equality

This policy addresses the following equality duties:

- to eliminate unlawful discrimination, harassment, and victimisation
- to advance equality of opportunity
- to foster good relations between different groups of people

One of the main purposes of the policy and procedure is to ensure that employees who wish to raise a grievance may do so in the knowledge that management decisions follow a standard process which affords a fair, rigorous, consistent, transparent assessment.

Grievance Procedure

4. Roles and responsibilities

4.1. Context – pecuniary interests

Any person involved in investigating or hearing a grievance, must declare any pecuniary interest and take no further part in the grievance process.

4.2. Employee

The employee should cooperate fully in the grievance process, raise concerns in good faith, and work with the Headteacher or Governing Body genuinely to seek a resolution. In the first instance, all employees must try to resolve the grievance informally by a direct approach to the person(s) with whom they have a grievance, which may include mediation.

Employees must cooperate in any investigation and hearings in relation to the grievance, specify the details of the grievance and the preferred outcome. The employee is responsible for contacting and liaising with trade union, professional association representatives or work colleagues.

NB Any grievance should be addressed as soon as possible but should be raised or submitted within 3 months of the last alleged incident or issues arising.

4.3. Headteacher

The Headteacher may assist in trying to deal with issues before a formal grievance is lodged by an employee.

1. The Headteacher should have a meeting with the employee to try to clarify and seek a resolution (Stage1).

2. Where necessary, a Headteacher may appoint an investigating officer to undertake an investigation into more complex grievance issues.

Headteachers should ensure that grievances are treated seriously, in a timely manner, and that procedures are followed correctly, and consider options to resolve the issues, such as mediation.

4.4. Governing body

The Governing Body is responsible for implementing appropriate grievance procedures, including constituting relevant committees to hear formal staff grievance and staff grievance appeal hearings. The Governing Body should ensure that grievances are treated seriously, in a timely manner, and that procedures are followed correctly, and consider options to resolve the issues, such as mediation.

Where a grievance is not resolved informally or formally, a committee of normally 3 Governors should hear the grievance.

Should the employee be dissatisfied with the outcome of the grievance hearing they have the right to appeal to a committee of 3 further governors, who have not had any previous involvement in the case.

4.5. Chair of Governors

Where the grievance lodged is in relation to actions of the Headteacher, the Chair of Governors may appoint a nominated governor or external investigator to investigate the grievance.

Wherever possible, the Chair of Governors is responsible for trying to deal with issues informally before a formal grievance is lodged by an employee against a Headteacher, having first tried to resolve the issue with the Headteacher. The Chair of Governors should advise the respondent of the grievance to try to resolve the issue firstly with the Headteacher.

The Chair of Governors should have a meeting with the employee to try to clarify and seek a resolution, and when necessary may appoint an investigating officer to undertake an investigation into more complex grievance issues.

4.6. Investigating officers

Where required, the role of the investigating officer is to gather information and/or take statements to establish the facts surrounding grievance, produce a fair, balanced, and objective report detailing the evidence collected. They will present or support the presentation of the report to an appropriate person or committee. Please seek HR advice from your HR provider.

NB The investigating officer should undertake the investigation without any unreasonable delays.

4.7. Professional Association / Trade Union / work colleague

Where appropriate, the Professional Association, Trade Union representative or work colleague is responsible for supporting employees through the grievance process, including representing employees at relevant meetings, including formal meetings arranged under the grievance procedure.

NB Any grievance should be addressed as soon as possible but should be raised or submitted within 3 months of the last alleged incident or issues arising.

4.8. Human Resources

The role of HR Consultancy Team is to provide HR advice and guidance to:

- **Headteacher** on potential courses of action to address concerns about the conduct of an employee, and provide HR advice at grievance hearings convened by the Headteacher, and liaise with TU or Professional Association representatives, on behalf of the Headteacher, to try and facilitate an early resolution, where possible
- **investigating officer** on conducting and/or supporting them to undertake an investigation and produce a report (with appendices), and support in the presentation of the case
- **governors** on the possible courses of action to take in respect of grievance hearings and appeals convened by the school

4.9. Legal services (where appropriate)

The role of legal services is to provide:

- advice and guidance on legal matters pertaining to the case
- specific advice on complex employment law matters
- advice to governors, where necessary, at grievance hearings or appeals

5. Informal Grievance Procedure: Stage 1

- A. Where an employee has a grievance, which involves other member(s) of staff, he/she should **first of all endeavour to resolve the matter by a direct approach to the member(s) of staff involved** or in discussion with their line manager in the school.
- B. Where a direct approach has not happened or the employee is not satisfied with the outcome, then the Headteacher should arrange a meeting with the employee **usually within 5 working days.**

The Headteacher may seek advice from their HR Consultancy provider to assist in providing potential resolution(s) to the grievance.

- C. In circumstances where the grievance is **against the Headteacher**, the employee should first of all endeavour to resolve the matter by a **direct approach to the Headteacher**.
- D. **Where a direct approach has not happened or the employee is not satisfied with the outcome**, then the Chair of Governors should arrange a meeting with the employee usually **within 5 working days**.

Only where the employee continues to be dissatisfied with the outcome of the informal stage, can they refer the grievance to the formal stage.

5.1. Option for resolving a grievance informally: Use of third-party mediation

It may be appropriate for the matter to be dealt with by way of mediation, depending on the nature of the grievance. This involves the appointment of a third-party mediator, who will discuss the issues raised in the grievance with all those involved and seek to facilitate a resolution. Mediation can be used only where all parties involved in the grievance agree.

6. Formal Grievance Procedure: Stage 2

6.1. Formally lodging the grievance

If the employee is dissatisfied with the outcome of an informal grievance, he/she must submit a formal written notice of the grievance to the Headteacher (or Chair of Governors, where the grievance is in relation to the Headteacher) with a copy sent to the member(s) of staff with whom they have the grievance.

The employee should provide:

- specific issues that they wish to raise including relevant dates and times (where appropriate)
- details of witnesses
- any supporting documentation
- confirmation of the preferred outcome

All formal grievances should be submitted on the attached form (Appendix 6).

6.2. Management of straightforward grievance matters

Following receipt of a formal grievance the Headteacher (or Chair of Governors where the grievance is in relation to the Headteacher) shall **normally** arrange a formal grievance hearing with the employee and the TU, Professional Association Representative, or work colleague. This should normally be within 10 working days and will be heard by a committee of governors. Where this time frame is not possible, all parties should be informed in writing of a proposed date.

6.3. Management of more complex grievance matters

6.3.1. Formal investigation into grievance

In some circumstances the Headteacher or Chair of Governors may need to carry out an investigation into the issue or concern raised, and/or where necessary may appoint an investigating officer to undertake an investigation into more complex grievance issues.

6.3.2. Investigation process

An investigating officer should draft an investigation plan (See Appendix 1), outlining the key issues to the investigated and the process to be followed.

The investigating officer should (in most circumstances):

- meet with the employee who raised the grievance
- meet with any witnesses to the alleged issue
- meet with the employee who the grievance is about
- prepare an investigation report with relevant appendices

6.4. Formal Grievance Hearing

The Headteacher (or Chair of Governors) will arrange a meeting with the employee, normally **within five working days** of receipt of the grievance, where the Headteacher or Chair of Governors have not been involved in the informal stage.

NB If the Headteacher or Chair of Governors has been involved in the informal stage the formal grievance should be considered by a Committee of Governors.

The respondent of the grievance needs to receive all information and have had sufficient time and opportunity to respond.

Copies of documents which are submitted to the Committee by one party should be sent to the other party, to the committee members and to the Director of Children's Services (or their nominated representative) **not less than five working days before the hearing**.

The Headteacher or Chair of Governors may have an HR representative in attendance at the meeting to provide advice and guidance.

NB The Headteacher (or Chair of Governors) may seek advice from the Director of Children's Services (or her/his representative).

6.5. Formal Grievance Hearing considered by governors

A. The Grievance Committee shall **normally** consist of **three** governors.

- B. Each affected party shall have the opportunity to make written representations to the committee and the right to appear in person to make oral representations.
- C. Where an investigation has been undertaken the investigating officer **may** present findings to the committee for consideration.
- D. They **must** be available to answer questions presented by both parties and the committee, relating to the nature and content of the investigation report and appendices
- E. Each party is entitled to be accompanied by a teacher professional association, trade union representative or workplace colleague if they so wish.
- F. The format of the grievance hearing should follow the same format as that set out in Appendix 4.
- G. The outcome of the grievance hearing should be in writing to the employee, usually within 5 working days. Where relevant, a copy of the outcome letter should be sent to both parties.

NB In the case of community and voluntary controlled schools the Director of Children's Services (or his/her representative) should be invited in order to give advice.

7. Formal Grievance Appeal: Stage 3

7.1. Grievance appeal process

- A. Appeals should be notified in writing to the Clerk to Governors normally **within ten working days** of receipt of the decision on the appeal form attached Appendix 7.
- B. An **appeal will be to a different Committee of governors** and should not involve any governors who have previously considered the case.
- C. The Grievance Committee and Grievance Appeal Committee shall **normally consist of three governors**.
- D. The format of the Grievance Appeal Hearing should follow the same format as that set out in Appendix 5.

8. Handling Collective Grievances

8.1. What is a collective grievance?

A collective grievance is grievance lodged by a group of employees who have the same or very similar issues. The procedure will normally follow the same stages outlined for individual grievances.

The stage in the procedure at which it commences will be appropriate to the nature of the grievance and the authority of the Headteacher /Governing Body to implement any necessary resolution. ***You may want to discuss this with your HR Provider.***

NB If there are slight differences in their collective grievance, then individual hearings may take place.

8.2. Who can attend a collective grievance meeting?

For collective grievances it may be necessary to have one or two representatives of the whole group with the same grievance, and their trade union or professional association representative or an agreed work colleague.

It may also be appropriate to seek external mediation as outlined above paragraph 5.1, where all parties agree this approach.

9. Grievance against governor(s)

9.1. Informal resolution

Where an employee (including the Headteacher) has a grievance with a Governor(s), he/she should first endeavour to resolve the matter by informal discussion with the person(s) concerned, as per paragraph 5 above.

9.2. Formal grievance against governor(s)

Where any member of staff has a grievance against Governor(s), he/she should first discuss the matter with the Chair of Governors (unless the grievance is against the Chair of Governors) with a view to resolving the matter informally. If the Grievance is against the Chair of Governors, the member of staff may seek advice from any of the following:

- Dioceses or Education Representative for VA Schools
- Trade Union Representative
- HR Provider
- Academy Sponsor
- Local Authority Education Representative

Either party may seek the involvement of the Director of Children's Services (or his representative) to help resolve the matter.

If it is not possible to resolve the matter informally, the member of staff concerned should submit a **formal written notice** of the grievance to the Clerk to Governors, on the attached form (Appendix 6).

The Chair of Governors should, normally within ten days of receiving the written notification, convene a Committee of governors to consider the matter.

9.3. Formal Grievance Hearing against governor(s)

The Committee shall comprise of normally 3 governors and shall exclude any member of the Governing Body who may have a pecuniary interest in the case. If 3 eligible governors are not available, then consideration should be given to approaching Wirral Governors' Forum to provide replacement governors.

All parties should have the right to submit written statements in connection with the case and to appear in person to make oral representations. Copies of documents which are submitted to the committee by one party should be sent to the other party, to the committee members and to the Director of Children's Services (or their nominated representative) not less than 5 working days before the hearing.

All parties should be entitled to be accompanied by a teacher professional association, trade union representative or a work colleague if they so wish.

The Director of Children's Services (or his representative) should be invited in order to give advice. Where the grievance is against the Chair of Governors in a maintained school the Director of Children Services may seek to support the resolution of the grievance such as providing an investigating officer or arranging mediation between the parties (where there is mutual agreement).

10. Any costs associated with outcome of a grievance

All costs arising out of this procedure should be met from the school's delegated budget.

11. Grievances during a disciplinary process

The ACAS Code provides that where an employee raises a grievance during the disciplinary process, the disciplinary process **may be temporarily suspended**, on the advice of the Legal Services Team, to deal with the grievance when:

- the grievance relates to a conflict of interest that the manager holding the disciplinary meeting is alleged to have
- bias is alleged in the conduct of the disciplinary meeting
- management have been selective in the evidence they have supplied to the manager holding the meeting
- there is possible discrimination

NB However, where the grievance and disciplinary cases are related, it may be appropriate to deal with both issues concurrently.

12. Employment tribunals

Before an employee applies to the employment tribunal, they should try to resolve the problem by using this grievance procedure.

If an employee is considering making an employment tribunal claim against their employer, they should notify ACAS that they intend to submit a claim.

ACAS will offer to assist in settling differences between employee and employer. Employers intending to make a counterclaim against an employee must follow a similar procedure.

13. ACAS early conciliation

The process for agreeing settlement is called early conciliation. Early conciliation focuses on resolving matters on terms that employee and employer agree.

Early conciliation may not resolve matters in every claim. When this is the case ACAS will issue a certificate that is now required for a claim to be submitted to an employment tribunal.

Early conciliation extends the time an employee has to make a claim. This is because while the employee is taking part in early conciliation, the “time limitation stops”. If negotiations fail, the clock starts running again from the date the employee is deemed to have received the early conciliation certificate (referred to as ‘Day B’). Time is added to the original time limit for making a claim to make up for the pause during the early conciliation period.

However, the employee will not know the exact new time limit until conciliation has ended and the employee has received his/her early conciliation certificate.