


Complaints and Grievance Procedure for School Staff

PACT HR

Oastlers School Policy for School Staff

Version 4 / October 2014

Approved by Governing Body On	2 March 2015
To be Reviewed On	March 2017
Signed on Behalf of the Governing Body	Robert Fairbairn 

City of Bradford MDC

www.bradford.gov.uk

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Governing Body Statement

This policy applies to all staff employed within the school.

The Governing Body is committed to ensuring that the employment arrangements in this school meet the highest standards of fairness and statutory entitlements in employment. We seek to build a workplace environment where colleagues are treated fairly and can work with dignity and respect.

Purpose of the procedure

The purpose of the Grievance Procedure is to address employee complaints or cases of conflict in the workplace quickly and effectively. Workplace conflict impacts on employee relationships, motivation and wellbeing within the workforce which has a negative impact to both employees and the school environment.

Every effort should be made to resolve the grievance as soon as possible at Stage 1 (informal stage) of the procedure with the least possible formality if the nature and circumstances of the grievance allows for this.

All employees have a responsibility to address and resolve grievances within the workplace with the aim of restoring positive working relationships.

This procedure is compliant with the ACAS Code of Practice on Discipline and Grievance.

NB Where a complaint is received from a parent in relation to the actions of a school employee, the Schools Parental Complaints Procedure should be used in the first instance

Signed.....Chair of Governors

Date

1. General Principles

- 1.1 This procedure applies to all staff employed in the school in respect of whom the responsibility for seeking redress of any complaint (except those matters which are subject to separate procedures e.g. flexible working) is under the control of the Governing Body under the School Standards and Framework Act 1998, as amended from time to time.
- 1.2 Complaints made under this procedure should be made within 30 working days of the last action complained of. Where there are medical reasons for a delay in making the complaint the 30 day period may be extended where it is reasonable to do so
- 1.3 If a grievance is lodged outside the time specified the employee will have no right to proceed through the formal procedure unless the School decides at its discretion that there are exceptional circumstances for the delay in lodging the grievance.
- 1.4 Employees should only raise grievances in good faith and where they do so, they should not be subjected to any detrimental treatment as a result of raising the grievance.
- 1.5 There is no intention to deter any genuine grievance being raised, but the Procedure must not be used inappropriately. When a grievance is apparently vexatious, malicious or misconceived or when grievances repeat or duplicate complaints which have already been raised and /or resolved or where an employee has refused to co-operate with the requirements of this Procedure then the Headteacher should seek further advice from their Human Resources Business Partner. Any decision to exclude a grievance or part of a grievance will be notified to the employee in writing stating the reasons. When an employee makes allegations other than in good faith or which are reasonably believed to be false, or amount to harassment of another employee, the school may decide to invoke the school's disciplinary procedure.
- 1.6 The raising of a grievance under this Procedure will not necessarily delay the operation of any stage of any other procedure. If an employee wishes to raise a grievance relating to the application of the Disciplinary, Capability or other procedure, the grievance will be considered and a decision will be made by the Headteacher/Chair of Governors or case manager as to the order in which each matter proceeds under the relevant procedure or whether all issues should be dealt with concurrently.
- 1.7 The employee must make all attempts to resolve the grievance at the earliest opportunity with their line manager at the informal stage 1 of the procedure.
- 1.8 When raising a grievance employees should state what they are seeking as a preferred outcome or remedy to the grievance. This provides a framework for discussion and clarity about remedies available under the procedure.
- 1.9 Issues that may cause grievances include:
 1. Terms and conditions of employment
 2. Health and safety

3. Work relations
4. Bullying/ harassment or discrimination *
5. New working practices
6. Working environment
7. Organisational change;

1.10 *Discrimination may be characterised as:

Any less favourable treatment or victimisation of an employee which is unlawful under the Equalities Act 2010 and other legislation, including the following:

- Gender
- Race
- Disability
- Sexual orientation
- Trans-gender Status
- Religion or belief
- Age
- Membership or non-membership of a trade union or involvement in trade union activities
- Status as an ex-offender
- Status as a part-time worker
- Or fixed-term

1.11 *Bullying and harassment can be characterised as:

ACAS states that most people use the terms bullying and harassment interchangeably, however, ACAS provides the following definitions:

Bullying is:

“Offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient”.

Harassment is:

“Unwanted conduct affecting the dignity of men and women in the workplace. It may be related to age, sex, race, disability, religion, sexual orientation, nationality or any personal characteristic of the individual, and may be persistent or an isolated incident. The key is that the actions or comments are viewed as demeaning and unacceptable to the recipient”.

“Bullying or harassment may be by an individual against an individual (perhaps by someone in a position of authority such as a manager or supervisor) or involve groups of people. It may be obvious or it may be insidious. Whatever form it takes, it is unwarranted and unwelcome to the individual”.

2. Responsibilities under this procedure

Management

2.1 Managers should be aware that in law an employer may be held responsible for the actions of its employees regardless of whether or not they are aware of those actions. It is therefore essential that the school takes appropriate

measures to ensure that bullying, harassment, or discrimination do not occur. All meetings and proceedings should be confidential.

2.2 It is the responsibility of the school's management to:

- Make all members of staff aware of the policy and ensure their compliance
- Deal with all issues in a timely, serious and sensitive manner
- Maintain confidentiality when dealing with cases and ensure that a written record is kept of all informal and formal meetings and discussions
- Make every effort to resolve complaints informally by discussion between the individual member of staff and the appropriate level of management; the resolution of employee complaints should form part of everyday informal managerial action.
- In considering evidence relating to a complaint the management representative will apply the "balance of probabilities" standard proof

Individual members of staff

2.3 Each individual is responsible for their own actions whilst at work. It is the responsibility of all employees to:

- Be mindful of their own behaviour and treat others with dignity and respect
- Try to resolve problems informally by discussion with colleagues and/or management
- Report incidents of harassment or bullying either personally experienced or witnessed, immediately to the appropriate line manager
- Where possible make written notes (this is advisable and should include dates and names of any witnesses etc) of incidents, harassment or bullying experienced or witnessed
- Ensure confidentiality is maintained at all times

3. Right to be accompanied

3.1 Throughout the process, both the complainant and the person whom the complaint has been made against may be accompanied, for example by a recognised trade union representative or by a work colleague not involved in the complaint. At a hearing or appeal a complainant may be represented by up to two trade union representatives or a work colleague.

3.2 In exceptional cases, dealing with sensitive matters or where the witness may feel intimidated he or she may be accompanied by a trade union representative or work colleague. However this should not be a person who has a conflict of interest. Trade union representatives cannot play the dual role of representing the person whom the complaint is made against, witnesses and/or the complainant in the same case.

- 3.3 It is good practice for a mutually agreed time to be arranged for meetings and hearings where a member of staff requires the presence of their trade union representative.

4. Circumstances when grievances will not normally be accepted

- 4.1 Where the grievance affects more than one employee (the Collective Disputes Procedure applies, please see section 15 of this policy).
- 4.2 Where the grievance is about a decision made through an agreed procedure where a right of appeal exists within that procedure (Re-Grading of role's grade, Discipline, Capability, Assimilation, Redundancy etc)
- 4.3 Where the grievance is in relation to an element that is not within the manager's control such as complaints relating to statutory adjustments to pay and allowances, for example income tax, national insurance and pensions, policies, collective agreements or conditions of service.
- 4.4 Where the grievance is about an event or decision more than **30 working days** old. However an employee may refer to earlier issues if the matter relates to a repeated pattern of behaviour and the issues support the grievance. Extension of this time limit will only be agreed where management accept that it was not reasonably practicable for the employee to have lodged the grievance in time. An aggrieved employee should submit their grievance as soon as practical. The longer the time that elapses, the more difficult it will be for the line manager or any subsequent management investigation to establish the detail of what has happened and why. Almost inevitably people will have poorer recollection of events with the passage of time. Even where records exist, people may be less likely to recall why certain decisions or actions were taken, making it difficult to conclude whether a grievance should be upheld.
- 4.5 Where the grievance is about a decision which the employee has already complained about and which has previously been investigated. **Once a resolution process is completed, or the employee withdraws the grievance (or chooses not to proceed to the next stage) then the matter is closed.**
- 4.6 Where the grievance is against those other than the decision maker for example where the employee was acting in an advisory capacity i.e. Legal/Human Resources/Finance staff.

5. Counter Complaints

- 5.1 All employees have a contractual right to raise a grievance under the schools Grievance Procedure. This means that there can be occasions where "counter complaints" are raised i.e. where an employee who is the subject of a grievance raises a grievance about the "complainant". Such grievances must be dealt with in the same way as the original grievance. "Counter Complaints" should not be put on hold until the original grievance has been resolved, unless the "Counter Complainant" agrees to that course of action.

Given that a “counter complaint” will usually cover the same issues, albeit from a different viewpoint, to the original grievance, it may be appropriate to have one investigation into the matters. In addition it will usually be appropriate for the same manager to progress all matters in relation to the complaint

6. Record keeping and confidentiality

- 6.1 It is important that accurate written records are kept throughout the complaints handling processes, including any initial informal processes.
- 6.2 Records should be held in a secure and confidential manner. Records should contain information on the nature of the grievance and the date submitted. Details of decisions made and actions taken should be retained in writing.
- 6.3 In the event of a complaint being made, the management of the school may inform the Chair of Governors (or another appropriate Governor). But on no account should the case be openly discussed with any other Governors.

7. Stage 1 - Resolving Complaints Informally

- 7.1 An employee with a grievance must start by discussing it with his/her Line Manager/Senior Leadership Team Member/Headteacher at the earliest opportunity. This can often lead to a speedy resolution of the problem and is likely to be less damaging to working relationships.
- 7.2 A grievance will not progress to Stage 2 until Stage 1 has been exhausted. In exceptional circumstances the Line Manager/Headteacher may decide at Stage 1 that the issue is of such obvious seriousness and concern that it is inappropriate for it to be dealt with informally and a management investigation is required.
- 7.3 If the grievance is about the employees Line Manager/Senior Leadership Team Member/Headteacher and the employee feels unable to raise their concern with him or her, then the employee should raise the grievance with the next layer of management within school or the Chair of Governors (if against the Headteacher) to try to resolve the matter informally if possible.
- 7.4 If the grievance is about a fellow employee or working relations between individuals then the employees and Line Managers/Senior Leadership Team Member/Headteacher should seek to resolve the issue through discussion and reconciliation between the parties, wherever this is appropriate and possible with the agreement of all parties.

Informal resolution

- 7.5 Mediation is a voluntary process where the mediator helps two or more people in dispute to attempt to reach an agreement without recourse to the formal procedures. Mediation should be undertaken by a neutral third person who is trained in mediation techniques. Mediation, where it is successful, can produce quicker and more satisfactory results for the parties involved and may reduce the damage caused to working relationships and the health and

wellbeing of both parties. Employees may be offered mediation at any stage of the complaints process. Equally, either party or their trade union representatives may make this suggestion.

- 7.6 Even if mediation is not initially agreed by the parties, the offer of a mediated process can be re-offered as the case progresses.
- 7.7 Mediation may be used for:
- Resolving conflict between colleagues of a similar job or grade, or between a member of staff and their line-manager
 - Rebuilding relationships after a formal dispute has been resolved
 - Addressing personality clashes, communication problems and bullying and harassment
- 7.8 The details of discussions within mediation processes are confidential to the parties involved. The mediation process is normally carried out without the involvement of trade union or management representatives.
- 7.9 For advice on arranging mediation or for further details on the mediation process, please contact your Human Resources Business Partner.

8. Stage 2 - The Formal Procedure

- 8.1 If it is has not been possible to resolve a complaint informally, and all options have been explored, employees should raise the matter formally within 10 working days of the completion of Stage 1 to a Senior Leadership Team Member/Headteacher, or the Chair of Governors (if the complaint is against the Headteacher). This must be done in writing. The form at Appendix 1 is provided for assistance in setting out the grievance and resolution being sought.

The Complaint

- 8.2 A copy of the complaint will be provided to the person complained against. They may respond in writing to the Headteacher or Chair of Governors. If the letter of complaint refers to other persons then these elements of the complaint will be removed to preserve confidentiality. Only in exceptional circumstances will the complaint be withheld. Where this is being considered, advice should be sought from the schools HR Business Partner and discussed with the relevant Trade union representative. This should be dealt with sensitively.
- 8.2 The complaint should give a detailed account of what is alleged to have occurred, who was involved, detail any witnesses and state when the event/s happened. The complainant should also state what outcome they are seeking from their complaint.
- 8.3 Should an investigation be necessary then the timescales for arranging a hearing may vary. To minimise employee stress and to facilitate the efficient running of the school all attempts will be made to complete the process in a timely manner.

- 8.4 If a grievance is lodged in writing, but no attempt has been made to resolve it informally, it will normally be referred back to Stage 1 (Informal Resolution).

The Case Manager

- 8.5 A case manager should be appointed to handle the complaint.
- 8.6 The case manager may be a member of the Governing Body or an appropriate senior manager.
- 8.7 Care should be taken that the person who is to be the case manager has no direct interest in the outcome of the case and is not a witness to any of the events complained of.
- 8.8 The case manager's role is to:**
- Acknowledge the complaint in writing, normally within five working days of receipt.
 - Manage the case in accordance with procedural requirements
 - Offer mediation and arrange this, if required
 - Undertake an investigation, or commission another appropriate person to undertake this role (for further advice please contact your Human Resources Business Partner)
 - Present the findings of the investigation to the complainant and subsequently to the person complained against possibly in conjunction with the Headteacher or Chair of Governors if appropriate
 - Arrange for any necessary hearings
 - Present the management case at any hearing, or commission another appropriate person to undertake this role (for further advice please contact your Human Resources Business Partner)
- 8.9 Where the complaint is against the Headteacher the Chair of Governors will arrange for the Clerk to Governors to convene a Governing Body meeting to nominate a Governor/s to investigate. Alternatively, the school may decide to employ an external investigating officer.

The Investigation

- 8.10 The case manager will establish the basic facts of the case through either conducting any investigation themselves or through an investigation conducted by an Independent Investigating Officer. Where the matter is not complicated it may be resolved by mutual agreement or mediation, if not tried previously.
- 8.11 More complex or legally sensitive cases are likely to require a more detailed investigation. Should the case manager decide that a more detailed investigation is required then an investigating officer may be appointed. The investigating officer may be an appropriate school manager or Governor. In some circumstances the school may decide in the interests of fairness or capacity to appoint an independent external investigator.
- 8.12 The investigating officer's role is to:
- Interview the complainant, any witnesses and the person complained against

- Establish the facts of the case
- Submit a written report setting out the findings of the investigation to the case manager

8.13 The investigating officer must not decide on the outcome of the complaint(s).

8.14 **NOTE:** In some cases it may be appropriate to suspend the person whom the complaint is made against in order to conduct the investigation. Advice should be sought from the school's HR Business Partner before any action is taken.

Feedback on the findings of the Investigation

8.15 Once the investigation has been completed the case manager should arrange a meeting with the complainant to give feedback on the findings. Where possible this should be done as part of a face to face meeting, however in more complex cases, this may be best achieved through clear written feedback from the case manager.

8.16 If the case manager is not the investigating officer then the investigating officer may also be present at any meeting.

8.17 The complainant can be accompanied by a trade union representative or a work colleague, not involved in the case.

8.18 Where a complaint has been made against another member of staff, a meeting should then be arranged with that person in order to provide them with feedback on the investigation. The person whom the complaint is made against may also be accompanied by a trade union representative or a work colleague, not involved in the case..

8.19 The meetings with both complainant and the complained against will normally be held consecutively.

8.20 If the findings of the investigation support the complaint then the case manager will inform the employee of this.

8.21 If the findings of the investigation do not support the complaints made by the employee because there is contrary evidence, or if there is insufficient evidence to support the complaints, then the employee can be given this information and advised that if they want to take the matter further then they will need to inform the Headteacher/Chair in writing that they now want to have the matter considered at a grievance hearing.

8.22 Where there is reason to believe that the employee has been treated inappropriately or if there is evidence that the employee has been bullied, harassed or discriminated against, then the case manager may suggest that management action should be considered, using the school's Disciplinary Procedure where appropriate.

The Hearing

8.23 If the complainant remains dissatisfied with the outcome of the grievance investigation, following receiving feedback, then they may request that a formal hearing is arranged for the complaints to be considered. The first

grievance hearing, will be in front of the school's Headteacher. If however the Headteacher has had prior involvement in the case, either

- they are the party that has been complained against, or
- they have acted as case manager, investigating officer or
- a witness, in which case, the first hearing will be in front of a panel made up of members of the governing body.
- Or it is felt that a governing body panel hearing would be more appropriate

8.24 The person against whom the complaint is made will normally be required to attend any formal hearing or appeal hearing and may be accompanied at the hearing by up to two trade union representatives or a work colleague who is not involved in the case. They may be present solely as a witness or, at the discretion of the management representative, may be present throughout the hearing. Unless they are called as a witness, they will have no input into the hearing and will be solely present as an observer, at management's discretion.

For complaints made against the Headteacher see below

8.25 Members of the Governing Body panel, will be convened by the Clerk to Governors from members of the Governing Body who (where possible) have not previously been involved in the case.

8.26 The complainant and the person whom the complaint is made against should be given ten working days written notice of the formal hearing. Both parties will receive copies of the procedure and a full set of the evidentiary documentation for the hearing, including any material submitted by the other party. Should either party wish to present additional documentation they should do so by providing it to the Clerk to Governors (for Governor hearings or to the Headteacher/ for Headteacher hearings) by five working days prior to the hearing. Again, any additional material will be copied to the other party.

8.27 The Chair of the panel/Headteacher hearing the case, may wish to adjourn the hearing pending further investigation, if it is felt that the panel does not have enough information to be able to make a decision.

8.28 A Human Resources representative will normally be present at hearings to advise on the procedure. The hearing will take place as soon as is reasonably practicable. If possible, a verbal decision will be given after the hearing. The decision will be confirmed in writing within 5 working days of the date of the hearing.

The Decision

8.29 There are two possible outcomes:

1. Complaint - not upheld

The Discipline, Grievance and Dismissal Committee may conclude that the complaint is not upheld, i.e. because the behaviour complained of did not occur or because there is insufficient evidence to support the complaint. If, in such a case, the Committee is nonetheless satisfied that the complainant's distress is genuine and/or that there has been a serious breakdown in

relationships the school will offer support to the colleagues in the restoration of their working relationship through mediation or other methods as appropriate.

2. Complaint upheld or upheld in part

If the outcome of the hearing is that the complaint is fully or in part proven on the balance of probabilities then consideration should be given to appropriate actions to prevent reoccurrence of the matters complained of. Disciplinary action may be recommended in appropriate circumstances as a separate procedure.

Issuing the decision

- 8.30 The complainant should be informed of the outcome, in writing, normally within five working days. The reason(s) for the outcome should be included as part of the response. If the complaint is not upheld (at a first hearing), the employee must be informed of the right to take the complaint to an Appeal Hearing.
- 8.31 The decision letter should be copied to the:
- Management representative who presented the case
 - Headteacher
 - Complainant's trade union representative
- 8.32 The person whom the complaint is made against should receive written confirmation of the outcome of the complaint against them.

9. Stage 3 - The Appeal Hearing

- 9.1 If the complainant remains dissatisfied with the decision from the first hearing, they should notify the Clerk to Governors of the school within ten working days of receipt of the decision letter of their decision to appeal. The complainant must give specific reasons why they are dissatisfied with the outcome.
- 9.2 An appeal can be made on the grounds of:
- Why the outcome does not reflect the desired outcome/remedy initially outlined
 - Perceived unfairness of the decision, the employee must set out the reasons in the appeal application.
 - Disputing the facts of the case including new evidence coming to light.
 - Procedural non-compliance.
- 9.3 The Appeals Committee will hear the complaint. The Committee will be convened by the Clerk to Governors. The committee will comprise of Governors not previously involved at the first hearing. A Human Resources representative will be present to advise the Governors, this will be a different Advisor to the first hearing. The hearing will take place as soon as is

reasonably practicable. If possible, the Chair of the Committee may be able to give a verbal decision after the hearing. The decision will be confirmed in writing normally within five working days. The decision will be final; there is no further right of appeal through the school's procedure.

10. Restoring Working Relationships

- 10.1 Whatever the outcome of a complaint, it is management's responsibility to re-establish effective working relationships amongst the employees involved; it is the employees' responsibility to co-operate to achieve this. The school may seek agreement from both the complainant and the person whom the complaint has been made against for the case to be referred to mediation.

11. Occupational Health Support

- 11.1 The school and governing body has a duty of care to all parties involved in the case and should recognise that the process may be stressful and have an impact on the health and wellbeing of all parties. Schools are advised to seek Occupational Health support through PACT HR where required.

12. Complaints against the Headteacher

- 12.1 An employee who wishes to make a complaint against the Head teacher should submit their complaint to the Chair of Governors and follow the stages set out in the procedure. Alternatively an employee may wish to contact their trade union representative who may support the employee in raising their concern. The Chair of Governors may delegate the matter to a Governor with the particular skills to enable them to provide assistance. Whoever undertakes this role cannot subsequently be a member of the Governing Body panel dealing with the matter.
- 10.2 Only an external investigating officer or one or more Governors may carry out an investigation into complaints against the Headteacher.

13. Complaints made by the Headteacher

- 13.1 A Headteacher may raise a complaint against a member of staff on the grounds of bullying, harassment or discrimination. A Headteacher may raise a complaint against the Governing Body but not against an individual Governor unless they are exercising a delegated power or function or one conferred by law, for example a governor acting in an official capacity as a member of the Headteacher's performance management panel.

14. Allegations against the Governing Body

- 14.1 Please contact the school's Human Resources Business Partner (who will liaise with the Governors Support Service) for advice before taking any action.

15. Collective Disputes

- 15.1 Where more than one member of staff has lodged a complaint relating to the same or substantially the same issue, the school may deal with the complaints together in the interests of fair and consistent decision-making. The trade union may initiate a collective grievance on behalf of more than one named employee where the issues are the same.

16. Overlapping Complaints and Disciplinary Cases

- 16.1 Where an employee raises a complaint during a disciplinary process, the disciplinary process may be temporarily suspended in order to deal with the complaint, at the discretion of the Governing Body. Where the complaint and disciplinary cases are related it may be appropriate to deal with both issues concurrently.

17. Where an employee leaves the school

- 17.1 If an employee leaves the employment of the school through resignation etc, consideration should be given as to whether it is reasonably practicable to conclude the grievance. Consideration will need to be given to the remedy outlined at the outset and whether any remedy is possible once the employee has left employment.

Appendix 1

APPEAL AGAINST **(Insert relevant decision/procedure)**

This form will help you with your appeal and will speed up the process

Name			
Post Title			
School			
Date of decision letter			
I wish to be represented by a Trade Union <i>(tick as appropriate)</i>	<input type="checkbox"/>	Yes	<input type="checkbox"/> No
My representative is			
Name of Trade Union			
I wish to appeal because <i>(tick as appropriate)</i>			
<input type="checkbox"/>	The decision was too harsh		
<input type="checkbox"/>	The proper procedures were not followed		
<input type="checkbox"/>	New evidence has come to light		
<input type="checkbox"/>	The decision was unsound		
<input type="checkbox"/>	Other		
I intend to call witnesses <i>(tick as appropriate)</i>	<input type="checkbox"/>	Yes	<input type="checkbox"/> No
Please provide the name(s) of any witness(es) that you wish to call in the space provided below <i>(if applicable)</i>			
<p>Whatever your reason for appeal, you should give details to support it in the space provided on the back of this form. Failure to complete this section could result in your appeal being dismissed in accordance with the provisions of the appeals process detailed in the (insert relevant procedure). You do not, however, have to state your entire case - a summary of the relevant arguments will suffice.</p>			
Please turn over			
Please provide detail of the grounds for the appeal in the space provided below			

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Signature of Applicant (person raising appeal)	
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Date	
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Please return completed forms to:
(Insert name of person making decision / the Chair of the Governors for School Name)
This form should be returned within 10 working days of your receipt of the attached letter.