

Grievance Policy



Approved by:	The Trust Board	Date: September 2020
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Recognised unions have been consulted on this document via the Unity Schools Partnership Joint Consultation and Negotiation Committee. It was accepted by Unity Schools Partnership on:	Date: September 2020
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1. INTRODUCTION

Unity Schools Partnership ('the Trust') is committed to creating and sustaining a working environment that is fair to all and free from unlawful discrimination, harassment, victimisation and bullying. Everyone is responsible for their own behaviour and should treat colleagues with dignity, respect and courtesy and ensure that they are valued for their skills and abilities. The grievance policy is designed to ensure that concerns, problems and complaints arising in the course of employment can be raised and resolved quickly and in a fair and reasonable manner. The grievance procedure exists to provide a mechanism for employees to raise concerns that are not covered by other procedures.

This policy applies to all employees and workers within the Trust.

2. AIMS

2.1 This policy is designed to facilitate the resolution of grievances by adhering to the following principles:

- discouraging the harbouring of grievances
- assisting the resolution of grievances in an atmosphere of trust and confidentiality
- enabling grievances to be settled as near as possible to their point of origin
- ensuring that grievances are dealt with fully, promptly and fairly
- informing both parties to a formal grievance that they have a right to be accompanied by a trade union representative or work colleague at all stages.

Employees will not be victimised for raising a grievance or for supporting a colleague to raise a concern. Situations involving discrimination, bullying, harassment or victimisation should be dealt with under the equality and bullying and harassment policies.

3. CONFIDENTIALITY

All grievance proceedings, including details of any investigation and statements relating to it, are confidential to the parties concerned, with the exception of official bodies (e.g. externally the Police, Health and Safety Executive, or internally the Trust's Executive Leadership team) which have a right, under some circumstances, to require disclosure of information. The Head of HR will be notified of the outcome of any formal process, once it has concluded. Any breach of confidentiality may also be considered under the disciplinary policy.

4. EXCLUSIONS

This policy does not apply to complaints of professional malpractice, wrongdoing or criminal activity: such complaints should be raised immediately via the Whistleblowing Policy. Similarly, this policy will not be used to raise complaints where any other policy (such as the disciplinary policy) applies. Pay and Grading Appeals will be considered under the specific arrangements in place for that purpose. The Grievance policy will not be used to deal with complaints made after employment has ended, for any reason. However, if a grievance has been raised and not concluded before an employee leaves, they will be invited to continue with the grievance process.

This policy does not apply to complaints against staff raised by parents/carers or other individuals who are not employees or workers within the Trust. Any such complaints will be dealt with under the Trust's complaints policy.

5. ROLES AND RESPONSIBILITIES

Any complaint raised under this policy should be made in good faith. Any complaint found to have been made for malicious, false or similar reasons may give cause for disciplinary action. All employees are expected to co-operate in the implementation of this policy and the accompanying Harassment and Bullying Policy (where applicable), both of which are intended to secure fair and reasonable treatment and equality of opportunity for all employees.

This policy and procedures will be monitored to ensure consistency of application and adherence to equalities legislation, to ensure that it operates in accordance with the duties to promote equality, to eliminate discrimination and to promote good relations between employees with protected characteristics as required under the Equality Act 2010.

The Equality Act 2010 harmonises and replaces previous equality legislation and extends protection for all protected characteristics to ensure consistency. Under this legislation, protected characteristics are:

- age;
- disability;
- race;
- sex;
- religion or belief;
- gender reassignment;
- sexual orientation;
- pregnancy and maternity; and
- marriage or civil partnership.

Whether raised at the informal or formal stages of this process (see below) it is important that the employee approaches the appropriate person with their grievance.

If the complaint is an informal one and involves other employee(s) the employee may make a direct approach to the individual(s) concerned. Otherwise, they should directly approach their line manager, or the Headteacher or relevant Director (who may wish subsequently to delegate this matter to a senior member of staff, as appropriate) in order to explore informal resolution of the matter. Where the grievance is about the Headteacher, it should be referred to the employee's Line Manager or the Chair of Governors. If the grievance is about a member of the Central Team, it should be referred to the relevant Line Manager or Director. Where the Headteacher has an informal grievance of their own, this should be referred to their Line Manager or the Chair of Governors in the same way. The same principles apply within the formal stages (see below) of this procedure, with the grievance being submitted to the Headteacher or Chair of Governors as appropriate. Within the Central Team this would be the relevant Line Manager or Director. The grievance would then be heard by the Headteacher, or by the Hearings Committee of the Governing Body, or the relevant Director within the Central Team, accordingly. Where an employee reaches the appeal stage, they would lodge the appeal with the person, or the Chair of the Committee, who heard the first formal stage. The Governors' Appeal Committee will then be convened to hear the appeal. For Headteachers' grievances, the formal grievance hearing will be carried out by the Governors' Hearings Committee and any subsequent appeal by the Governors' Appeal Committee. For grievances within the Central Team, any appeals would be heard by an appeal panel of Directors within the Central Team.

Grievances against Governors are outside the scope of this policy as Governors are not employees. Grievances against the CEO should be referred to the Chair of Trust Board.

- Where the grievance is about a member or members of the school's governing body, this should be referred to the Chair of Governors. If the matter cannot be resolved informally, the grievance will be referred to the CEO or Chair of Trust Board for consideration and resolution.
- Where the grievance is about the school's Chair of Governors, the matter should be referred to the CEO or Chair of Trust Board for consideration and resolution.

6. INFORMAL STAGE

Many grievances can be resolved informally and quickly, and there is an expectation that employees will make every effort to do this, without unreasonable delay, before formal steps are considered. The relevant person (see paragraph 5 above) receiving the complaint will try to resolve it informally with the party or parties concerned wherever possible. Where there is a dispute between employees, it may be appropriate to involve a trained workplace mediator in these circumstances, with the various parties' agreement. To be able to seek a swift resolution, those involved in the dispute may be invited to seek assistance from their trade union representative.

In some cases, mediation can help resolve problems, especially those involving working relationships, and can be a positive and supportive way of resolving a grievance. Where a Headteacher / Line Manager has been unable to resolve the issue through discussion with the employee(s), mediation may be considered. Participation in mediation must be by mutual agreement and in consultation with the relevant HR Business Partner, who will be able to discuss this.

Mediation can be used in a variety of circumstances for example:

- misunderstandings/conflict between colleagues or peers;
- misunderstandings/conflict between employees and managers/supervisors;
- perceptions of harassment, discrimination or bullying; and
- communication difficulties.

Where mediation is successful and an outcome is achieved, it will be binding upon both parties and will close the grievance procedure regarding the issue.

7. FORMAL GRIEVANCE PROCESS

If a grievance has not been satisfactorily resolved informally, the employee raising it should set the grievance down in writing, without unreasonable delay, and state what steps have already been taken to resolve the grievance, and what they are seeking as an outcome. The grievance should be given, together with any supporting documentation, to relevant person as set out in section 5 above.

7.1 INVESTIGATION

In some cases, it may be necessary for the Headteacher to commission an investigation. Within the Central Team, it may be necessary for the CEO or the Head of HR to commission an investigation. The amount of any investigation required will depend on the nature of the allegations and will vary from case to case. The investigation may be carried out by the Headteacher, or delegated to a member of the senior leadership team.

In cases relating to the Headteacher, the Governing Body should seek advice from the Trust's Head of HR regarding commissioning an investigation, and would be responsible for commissioning any investigation. If the employee concerned is a trade union official (as statutorily defined) the matter will be discussed with their branch secretary or a full time official before an investigation is undertaken. An employee who is the subject of investigation may be accompanied at any interview or similar investigatory meeting by a trade union representative or work colleague. A record should be made if the employee agrees to continue the procedure without support. The employee and any witnesses who make statements during the course of any investigation will normally be asked to check and sign any written statement of evidence.

The employee must co-operate fully and promptly in any investigation. This may include disclosing the names of any relevant witnesses, disclosing any relevant documents and attending interviews, as part of the investigation.

Investigations will normally be carried out by a senior member of staff. Employees/witnesses have the right to request representation by a trade union representative or work colleague, at all meetings.

The investigating officer will promptly carry out a full and thorough investigation into the allegations in as timely a manner as the circumstances will allow. Care will be taken to ensure that where appropriate evidence is also sought from employees/witnesses who may be supportive of the employee's case. This will involve the gathering of all relevant evidence from the relevant parties and an investigation meeting with the employee/witness. The investigation should be thorough, comprehensive and unbiased.

A witness should form part of the investigation only where relevant, this could be a current or ex-employee of the trust or an external body such as a contractor or member of the public such as a parent. Where the witness is not an employee the investigating officer should decide if the witness can provide a statement or needs to attend a meeting. The investigating officer should ensure that any witnesses that are required to participate within an investigation should be asked to sign off their meeting notes under GDPR requirements. This wording may be sought from the Trust's HR team.

Where there is reluctance for the witness to come forward the investigating officer should carefully consider withholding or anonymising documents. Evidence should only be withheld or anonymised where there is strong reason for doing so. If the decision to anonymise documents is taken steps could include:

- a) Blanking out the witness's name and other information from which they could be identified
- b) Editing the statement to conceal the identity of the witness
- c) Where there are several witnesses' statements from different employees, prepare a summary of the information contained in the statements

The investigation may require employees and witnesses to be interviewed to establish the facts. Minutes of these meetings will be taken and agreed with the employee/witnesses a true record. Copies of the minutes will be provided to the employee/witness

The role of the investigating officer is to gather evidence and recommend whether:

- There is no further action required
- Management guidance is appropriate
- Training is required
- The case should be referred to a hearing

Employees have the right under the Data Protection Act 2018 to request access to information about them that is held on file, whether manually or on computer. For example, an employee who has raised a grievance and is not satisfied with the outcome may request copies of the written evidence on which the decision was made, including statements obtained from witnesses, or an employee about whom a grievance has been made may request evidence relating to the complaint. The Headteacher or relevant Director should contact the Trust Data Protection Lead in the instance of a subject access request being made, to discuss what information can and cannot be released. The Headteacher can refuse to disclose the document in question if its disclosure would also reveal information about a third party who can be identified from the information, unless the third party has consented to the disclosure or it is reasonable in all the circumstances to comply with the request without their consent.

The Headteacher, relevant Director or CEO should not automatically refuse to disclose a document if a third party, for example a colleague who has given a witness statement, does not consent to it being released. They should consider taking steps to anonymise the document before disclosing it. This might involve:

- blanking out the witness's name and any other information from which they could be identified;
- editing the statement to conceal the identity of the witness; or
- where there are several witness statements from different employees, preparing a summary of the information contained in the statements.

Ultimately, the Headteacher should take a reasoned decision about whether or not it would be reasonable in the circumstances to disclose a witness statement or other document. This will involve balancing the witness's right to privacy against the employee's right to know what information is held about them, and its source.

The investigation may be instigated before holding a grievance hearing where this is considered appropriate. In other cases the grievance hearing may be held before deciding what investigation (if any) to carry out. In such cases a further grievance hearing will be held with the employee after the investigation and before any decision is reached.

OUTCOMES

The list below is not exhaustive, but gives some examples of the possible outcomes of a grievance investigation.

GRIEVANCE NOT UPHELD

Where the Headteacher or Director of Primary/Secondary Education has not found sufficient evidence to support any of the allegations made, the grievance will not be upheld and there will be no further action taken.

GRIEVANCE UPHELD (either in whole or in part)

Where the Headteacher or Director of Primary/Secondary Education has found sufficient evidence to support all or some of the allegations made, there are a number of outcomes to consider in relation to each allegation:

- no further action;
- a formal apology to the partie(s) that have raised the grievance;
- formal mediation - mediation may be suggested as an outcome as a way to resolve the grievance. This may have been entered into or suggested earlier in the process; however, in light of the

findings of the investigation the Headteacher or Director may feel that it would help resolve the situation;

- action plan - the Headteacher or Director may recommend the production of an action plan aimed to address the behaviour which has caused the problem. The action plan may include objectives, target setting and training;
- alternative working arrangements – the Headteacher or Director should consider whether contact between the parties is likely to occur during the course of their job and the impact on the individuals and service delivery. Reasonable operational requirements may need to be considered if this is the case for example employees moving desks, change of line management or change of location where operationally feasible;
- disciplinary action - where it is clear that a conduct issue exists and there is a case to answer, disciplinary action will be considered. Please refer to the Trust Disciplinary Policy.

The employee(s) raising the grievance should be advised that the outcomes may not necessarily be shared with them once the process has been completed, in accordance with GDPR. However, the employee(s) will receive some form of notification that the process has been completed.

7.2 HEARING

The Headteacher, with the support and assistance of their HR Business Partner, will arrange a formal hearing, usually within 10 working days of the employee's written grievance being received although this will be dependent on whether an investigation is being carried out.

A hearing may be conducted by the Headteacher, or the Headteacher assisted by a member of the trust central team.

The hearing will be conducted in a manner which allows the employee to explain the grievance and how it might be resolved. in accordance with the procedure laid out in schedule 2.

The employee is entitled to be accompanied at the hearing by an accredited Trade Union representative or a workplace colleague. The person accompanying will be allowed to address the hearing, to help state the employee's case. This person does not have the right to answer questions on the employee's behalf.

A decision may be given at the end of the hearing, but in any case, will be set out in a written response to the employee within two working weeks. This response may also contain what action is intended to resolve the grievance, if any part of it is upheld.

In some cases, it may be necessary to adjourn the process to allow for further investigation to take place in order to allow a thorough consideration of the grievance, and to make recommendations for action. If so, the employee will be kept informed regarding the process and a further grievance hearing will be held following the further investigations.

Clearly, the desired outcome of the implementation of the procedure is that the behaviour that led to the grievance ceases. However, whichever stage the process reaches, and without prejudging the outcome of any formal proceedings, there may be a range of possible remedies where a grievance is upheld, including:

- formal apology;
- training;
- mediation;
- counselling;
- changes to work methods/styles;

- redeployment within the academy;
- formal disciplinary action against the perpetrator.

If after the investigation concludes the grievance is found to be vexatious and/or malicious this could result in disciplinary action against the employee.

7.3 APPEAL

If the employee feels that their grievance has not been satisfactorily resolved, then may appeal against the findings. A written notice of appeal should be submitted to the Chair of Governors, or in the case of the Central Team, to the named relevant Director (see section 5 for reporting lines), stating the grounds for the appeal. An appeal hearing will be arranged, usually to take place within 10 working days of the date of the appeal letter.

New evidence is admissible for an appeal, providing that it is submitted at least five working days before the hearing. The hearing will usually take the same format as the formal grievance hearing at 7.2 above. The employee has the same right to be accompanied.

A written response will be issued to the employee within two weeks of the date of the hearing, unless further investigation or similar is required. The decision made at the appeal is final. The employee will not be able to raise another grievance about the same matter.

8. COLLECTIVE GRIEVANCES

Where a grievance is raised by more than one employee, and the nature of the grievance and the desired resolution are the same, the grievance will be treated as a collective grievance. The employees involved must not then raise the same grievance separately. An employee and participating colleagues will be entitled to only one grievance hearing and (if applicable) one appeal hearing. An employee and participating colleagues will be notified individually of the outcome at each stage of the process. A trade union representative can raise a collective grievance on behalf of employees. The principles of this procedure will also apply to collective grievances.

In all instances, the group of employees should formally lodge their grievance in writing to the Headteacher or to the Director of Primary or Secondary Education (as appropriate) if it is regarding the Headteacher. If a group of employees within the Central Team wish to formally lodge a grievance, this should be done in writing to the relevant Director (see Section 5 for reporting lines). One form should be submitted but must be signed by all employees who are party to the grievance.

The arrangements for the grievance hearing will be made in accordance with section 7.2 above. The employees may nominate one person to represent the group – in most cases this will be the trade union representative, or trade union representatives where the employees involved are members of more than one trade union.

An employee who wishes to appeal against the outcome of the grievance hearing must lodge notification of their intention to appeal along with full grounds for their appeal (including any supporting documentation) within 14 days of the date of written notification of that sanction, as directed in the letter of notification. If some employees are satisfied with the outcome and do not wish to proceed to an appeal, the request for an appeal should clearly identify those withdrawing from the process and those wishing to pursue the appeal. If only one employee wishes to pursue the appeal, an individual procedure will apply to the appeal. The arrangements for the appeal hearing will be made in accordance with section 7.3 above. The decision of the appeal decision maker will be final and all employees will be given the decision in writing within two working weeks.

9. PROCEDURE FOR A HEARING

Hearings will be held in as informal a manner as possible and the employee will be afforded every reasonable assistance to put their case forward. The conduct of the hearing is at the discretion of the chair hearing the case, but the chair will allow the parties every reasonable opportunity to present their case.

In the case of an appeal the order of presentation set out below would normally be reversed, with the employee as appellant present

ing their case first. However, by prior agreement or where the appeal constitutes a re-hearing of the full case, the case against the employee may be presented first as at the initial hearing. Chairs hearing appeals should ensure that all parties have a common understanding and agreement on the order of presentation.

9.1 Introduction

The Headteacher / Chair hearing the case will ensure that those present are introduced to each other and that they are aware of the procedure to be followed.

9.2 Presentation of the Allegations

The person presenting the case may make an opening statement outlining the case. The person or committee hearing the case and the employee responding to it may ask questions.

The employee will then call any witnesses and ask them to give their evidence. The employee or their representative may then ask questions of each witness. The person or committee hearing the case may also ask questions of any witness. The person presenting the case may then re-examine the witness.

Where evidence is presented in the form of documents, the person presenting the case or an appropriate witness will explain the nature and significance of the documents.

9.3 The Employees Case

The employee or their representative may make an opening statement. The person or committee hearing the case and the person presenting the case against the employee may ask questions.

The employee may call any further witnesses and invite them to give their evidence. The person presenting the case against the employee may ask questions of each witness after they have given their evidence. The person or committee hearing the case may then ask questions. The employee or their representative may re-examine the witness.

Where there is any documentary evidence, the employee or any witness on their behalf will explain its significance.

9.4 Re-examination

Both parties will be asked if they wish to re-examine any evidence. The person or committee hearing the case may also do so at its discretion.

9.5 Final Statements

The person presenting the case may make a final statement. The employee or their representative may then also make a final statement.

9.6 Adjournment

Either party may ask for an adjournment at any stage. The decision to adjourn is at the discretion of the Chair, who will consider a request in the light of the reason given for it.

9.7 Consideration of the Case

All parties will withdraw. The Headteacher or the committee will deliberate. An HR advisor may be present at these deliberations to advise on procedural matters.

If it is necessary to recall either party or any witnesses, to resolve a point of uncertainty, both parties will be invited to be present, whether or not the point of doubt concerns one party or both.

9.8 Decision

If possible, the decision will be communicated orally to the employee after the hearing. The decision will be confirmed in writing to the parties involved as soon as possible after the hearing, normally within 5 working days.

Further Advice

If any staff, contractor or visitor requires any further information regarding this policy or support they should either ask their Headteacher **or** contact the HR Helpdesk at hrhelpdesk@unitysp.co.uk or telephone 01440 333401.