



## **TRUST IN LEARNING (ACADEMIES)**

### **STAFF GRIEVANCE PROCEDURE**



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Date	Page	Change	Purpose of Change
October 2015		None	
January 2018	2 (Point 4)	Expansion of leave reasons	To take account of changes to legislation
	5 (Section 7)	Removal of Appeal process as this is replaced by TiLA Appeal Policy	To bring in line with new TiLA appeal Policy

## Introduction

1. Employees may have grievances about their working conditions, application or non-application of policies and procedures, environment, relationships with management or colleagues, duties and responsibilities or work volume. Grievances may arise from discrimination, harassment, bullying or victimisation on the basis of age, gender, disability, race or religion or sexual orientation.
2. Every effort must be made by employees and managers to resolve grievances as a priority issue.
3. The school will strive to prevent a member of staff from being victimised as a result of the grievance or any subsequent investigation/management action. However, if a grievance is frivolous, vexatious or malicious, or without justification, it could lead to disciplinary action.
4. A member of staff cannot use this procedure to raise grievances about an event or events that occurred more than three months ago, unless in the following exceptional circumstances:
  - 4.1. The member of staff can show in an harassment or discrimination grievance that the events were directly related to the current incident that has led to the grievance/complaint
  - 4.2. The member of staff was unable to raise a grievance until they had returned to work after sick leave or maternity/paternity/ Shared Paternity/ Adoption leave
5. Some issues are best dealt with under specific policies and procedures. These should be used wherever possible by employees and managers. They include:

### Issue

Improving Performance  
Organisational Change  
Pay and Grading  
Pension  
Sickness Absence

### Policy/Procedure

Appraisal and Capability Policy and Procedure  
Managing Change Policy and Procedure for Schools  
TiLA Pay Policy  
Pension regulations  
Managing Attendance Policy

### Stage 1

6. The procedures to be followed are:

- 6.1. If a member of staff has a grievance they should raise it informally (either orally or in writing) with
  - The line manager, or
  - The perpetrator, that is the person who the grievance is about, or
  - A third party (for example a trade union representative). An employee has the right to be accompanied by a trade union representative at this stage and employees are encouraged to seek their support
- 6.2. It is important that a member of staff advises their manager by email or letter that they have a grievance, which they are attempting to resolve informally.
- 6.3. A member of staff may ask (in writing) that an informal meeting takes place with their manager to discuss the nature of the grievance and the steps they have taken or are taking to seek to resolve the grievance. The manager may request the school's HR Adviser to be present at this meeting.
- 6.4. If this is successful in resolving the grievance, the member of staff should let their manager know by email or letter.
- 6.5. If the grievance cannot be resolved informally or if it is more serious, a member of staff can request that it is considered under "Stage 2". In this event, they should use the Employee Grievances Form (Appendix A) to state the grievance and the remedy they are seeking. Assistance from a trade union representative can be sought to do this. Written evidence in support of the grievance should be included it with the form.
- 6.6. The completed Grievance Form should be sent to the member of staff's manager. If the grievance relates to the manager, it should be sent to the Headteacher. If the grievance is with the Headteacher it should be submitted it to the Chair of Governors.

### Stage 2

- 6.7. The Headteacher or manager will invite the member of staff who submitted the grievance to a meeting to enable the case to be explained and to consider how to deal with the grievance taking account of:-
  - What has been done so far to resolve the issue?
  - The clearly identified and reasonable remedy on the completed Employee Grievance Form? If this is not clear, further clarification can be requested.
  - Does your grievance require any immediate action to be taken?
  - A member of staff can be supported by a trade union representative or a work colleague at this meeting.
- 6.8. The aim of the meeting is to find a way forward. Success is far more likely if a potential solution can be identified and agreed. The Headteacher will consider the options set out below, and will inform the member of staff of the way they intend to resolve the matter:

### Options for the Headteacher or Manager

- Take any appropriate immediate action to resolve the grievance;
- Speak to the subject (perpetrator) of the grievance and/or other parties involved on behalf of the member of staff;
- Decide (with agreement) that both sides should meet further to discuss the issue;
- Call in a third person (for example an HR Adviser or a mediator) to help resolve the problem. Before this starts a commitment to accept mediation will be required from everyone involved, otherwise it will not work. If mediation does not resolve the grievance, the grievance procedure will resume to find an alternative resolution;
- Advise the member of staff, and any third parties, that a formal investigation will be required. This action will be taken when the manager considers, that by the nature of the allegations, some formal action may be necessary against the perpetrator, the member of staff and/or a third party. If an investigation is necessary, the manager will arrange for it to take place in accordance with the appropriate policy. The member of staff will be advised in writing of the arrangements for the investigation, which should commence within 15 working days of receiving the grievance.

6.9. Once the Headteacher or manager has taken the appropriate action and made their decision on the grievance, they will confirm the outcome to the member of staff in writing, ideally within 28 working days of receiving your grievance, setting out:-

- Whether your grievance has been upheld, either fully or in part;
- What action/s they have taken to resolve the grievance;
- The appeal rights under this procedure

6.10. Although the projected timescale for resolution is within 28 days of the grievance being received by the manager, grievances frequently take much longer to resolve, owing to problems of obtaining evidence, scheduling the availability of all involved and conflicting priorities. Where the grievance is complex and/or where a formal investigation is commissioned, it may take much longer to reach a conclusion.

6.11. Once the conclusion is reached, the Headteacher or manager will inform the member of staff, and the subject of the grievance of the decision, and any follow-up action which may be required. This written notification will include appeal rights.

### **Appeal**

7. If the member of staff taking out the grievance wishes to appeal against the decision which has been made they must do so in accordance with the Trust's Appeal Procedure.

### **Counter Claims**

7.1. Occasionally the member of staff may submit a grievance in response to formal managerial action being taken. This "counter claim" will be considered. The Headteacher or manager who receives a counter claim will consider and decide upon the following course of action/options:-

- Agree that the counter claim should be considered simultaneously with the formal action already being taken; or

- Postpone the formal action, to allow the grievance to be considered first, returning to the formal action thereafter, as appropriate.

7.2. The Headteacher or manager will take HR advice before deciding which course of action should be taken. If the manager or Headteacher concerned is implicated in the counter claim, the Head teacher or Chair of Governors may decide to nominate a different manager or a governor to consider the complaint. (Note: a counter claim does not mean that the formal action will be set aside or discontinued).

7.3. A counter claim may also be lodged against the member of staff by the alleged perpetrator of the problem. The Head teacher or manager must respond to the counter claim and should decide which of the above "options" they wish to follow. The Head teacher or manager must notify both parties that a counter claim has been received.

### Employees who have left the school

7.4. A former employee may raise a grievance after their employment at the school has come to an end. If this happens, the Head teacher or Chair of Governors should contact their HR Adviser for guidance on how to deal with the matter. Any grievance will be dealt with in accordance with the "Statutory Procedures" and not this procedure.

Appendix A

**Employee Grievance Form**

Employee name:	
Job title:	
Grievance (please give a full description of your grievance, use this form to help a shared understanding of your grievance and what is needed to put things right)	
<p><b>Remedy</b></p> <p>We encourage you to say what you think needs to happen to resolve your grievance.</p> <p>You may wish to take advice from your trade union representative or human resources adviser on what might be an appropriate remedy. Remember, once the grievance is dealt with, the outcome will be at the discretion of the manager or the appeal panel and it may not reflect the remedy you have proposed</p>	
<p><b>Declaration</b></p> <p>I confirm that the details above are true and that I have read and understood the Staff Grievance Procedure. I also understand that a copy of this form will usually be given to the people I name in it.</p>	
Signature:	
Date:	

## Appendix B

### Frequently Asked Questions and Answers

**1. Does the procedure apply to me?**

Yes, if you are an existing School/Academy employee.

**2. When can I NOT use the procedure?**

You cannot use this procedure to raise grievances regarding a matter that has already been dealt with under the grievances procedure or a matter/event or matters/events which occurred more than three months ago. You should consider that some issues are best dealt with under separate policies and procedures that deal specifically with the matter concerned (see Introduction - paragraph 4 of the procedure).

**3. Where can I get advice/guidance about the procedure?**

You can get advice/guidance about the procedure from your manager, HR adviser and your trade union representative.

**6. Can I use this procedure when formal management action is being taken against me?**

Yes. You should refer to the counter claims part of the procedure.

**7. What happens if my manager does not deal with my grievance as soon as possible?**

Failure to do so may lead to your manager being criticised or reprimanded.

**8. Does anyone else need to be told about my grievance?**

No. If you wish for certain people to be called as witnesses within the grievance statement, then you will need to approach them in strict confidence and secure their support. If you refer to other individuals within the statement of your grievance and attribute them knowledge of your allegation, then any information which relates to them will be made available by the Head teacher or manager to them on a strictly confidential basis.

**9. Is it appropriate for me to continue working with the person I have complained about?**

Your Head teacher or manager will take into account your views, those of the person you have complained about and possibly other members of your team. Your manager may take advice on possible ways forward from an HR adviser. If the person you have complained about is your manager, then their manager will take into account your views. You are advised to raise your concerns with your trade union representative or departmental HR adviser. The deciding manager will seek advice from HR if you are a disabled employee and you have concerns about access or support issues.

**10. What happens if my grievance is upheld?**

Where the subject of the grievance's behaviour/actions have been found to be serious, the Head teacher or their manager will be responsible for taking any appropriate action. If a disciplinary hearing is held, you will be called as a witness, but you may not know the outcome of the disciplinary action. Copies of meeting records and/or statements may be used at the hearing. In addition, or alternatively to disciplinary action, the manager may consider taking some other action to resolve any outstanding concerns. This could mean, for example, extra training, re-clarification of accepted standard of work, reallocation of tasks, office relocation.

**11. May I appeal if my grievance has not been upheld?**

Yes. See Stage 3.

## 12. What happens once my appeal has been heard?

Having heard the appeal and considered all the evidence presented, the appeal panel may decide to:

- Uphold your appeal;
- uphold your appeal in part and propose an appropriate way forward;
- reject your appeal and propose an appropriate way forward, if necessary

They will meet with you (and your trade union representative) to advise you of their decision and any proposed way forward. They will then also meet with the respondent(s) to inform them of their decision and any proposed way forward. All relevant parties will receive written confirmation of the panel's decisions and proposed follow-up action within five working days of meeting with them.

## 13. What if I am still not satisfied?

You have a statutory right to take certain grievances (for example those related to unlawful discriminatory practices or breach of contract) to an Employment Tribunal.



## Appendix C

### Definitions

#### What are discrimination, harassment, victimisation and bullying?

They are actions or attention from a person or group of people, which may be open, implied or suggestive. If these actions or attentions are unwanted, unwelcome and not returned by the person receiving them, they will amount to some form of discrimination, harassment, victimisation or bullying.

#### Discrimination

Discrimination is about actions: people may hold a number of prejudices, which become discrimination when their actions are based on those prejudices. Discrimination can be direct or indirect. It can be an individual act, or a series of acts, or it can be institutionalised. Examples of evidence will be required. Direct discrimination occurs when a person or group of people receives less favourable treatment, which is unjustified, on grounds of age; disability; gender; HIV status; gay, lesbian, bisexual or transsexual; race; or religion. Indirect discrimination occurs when an unjustifiable requirement or condition is applied, which has a disproportionate impact on a person or group of people.

#### Harassment

Harassment is unwanted, offensive or humiliating conduct affecting the dignity of those at work. It includes unwelcome verbal, non-verbal and physical conduct that could amount to unlawful discrimination. A person or group of people may harass someone deliberately or unknowingly. It is the harassed person's perception of the behaviour that is important. Harassment may be an isolated incident or a series of events. The European Commission's Code of Practice on measures to combat sexual harassment also considers harassment on grounds of sexual orientation (that is, whether you are gay, lesbian, bisexual or transsexual) as sexual harassment.

#### Victimisation

Victimisation is treating a person less favourably than others in the same circumstances because that person has:

- made a grievance or allegations of discrimination, harassment, victimisation or bullying;
- acted as a witness in any proceedings;
- been involved in the matter in any other way

Victimisation may also occur as a result of a person's participation in trade union activities or membership.

#### Bullying

A single incident, or a series of incidents, can amount to bullying. Bullying may include:

- persistent criticism;
- personal abuse and/or ridicule;
- ignoring someone;
- excluding someone;
- other behaviour, either in public or private, that humiliates and demeans the person involved, and which has the effect of eroding their confidence and performance

Bullying may involve:

- the abuse of authority;
- the exercise of unfair disciplinary measures;

- unreasonable changes in an employee's responsibilities;
- the exclusion of an employee from normal social, consultative and decision-making processes

### **Examples of inappropriate and unacceptable behaviour**

**Inappropriate physical conduct** ranges from touching another employee to serious assault, including the threat of such actions.

**Inappropriate verbal conduct** includes:

- sarcastic comments;
- unwelcome advances, propositions and/or jokes;
- lewd comments or abusive language;
- innuendoes and jokes that are of an offensive nature

**Inappropriate non-verbal conduct** includes:

- threatening or intimidating behaviour (including aggressive body language);
- the display or circulation of offensive or suggestive pictures, objects or written material;
- graffiti;
- any conduct which degrades someone else

**Other unacceptable conduct** includes

- isolation or non-cooperation at work;
- exclusion from group social activities;
- coercion;
- intrusion by pestering, spying;
- abuse of power

### **Mediation**

Mediation is a method of helping people resolve disputes and find ways of working together more effectively and can be beneficial at either the preliminary or the formal stage. Everyone who is involved in conflict, either directly or indirectly, is affected and for some people this might be in the form of feeling stressed or emotionally distressed, performance at work suffering, poor morale amongst teams, loss of enjoyment of work, or sickness absence. A mediator will use specific skills which are impartial and they will facilitate a process that aims for a workable agreement between the parties. Other benefits of mediation are:

- it helps people learn or improve their skills for interacting with others in a positive way;
- it improves relationships and encourages co-operation between colleagues and managers;
- it can reduce and change a culture of blame, harassment and bullying

Mediation is most effective before people begin to feel extremely angry or distressed because of the conflict, and before tension, low morale, poor job performance and disillusionment permeate the team.

### **Frivolous, Vexatious, Malicious**

The use of the procedure for a reason other than a genuine concern about wrong actions/behaviour in the workplace, e.g. to upset someone, or to cause disruption in the workplace.