

Creating Tomorrow Trust Grievance Policy - Draft



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Introduction:

This policy has been adopted by the Governors and is designed to enable grievances to be resolved as efficiently and quickly as possible and to minimise the prospect of long-term damage to relationships at the school and Trust.

Wherever possible, a grievance should be raised informally. Where the informal process fails or is inappropriate, the formal procedure should be invoked.

Grievance procedures are entirely separate from other procedures such as those relating to appraisal, capability, competency, discipline, bullying or harassment. The rights of employees under the grievance procedures should not be overridden by actions taken or proposed to be taken under the other procedures.

A record of the outcome of any meetings involving the formal stages of these procedures should be placed on the employee's file, together with copies of the written evidence considered and correspondence involved.

The membership of any committee of Governors is a matter for determination by the Governing Body.

Scope:

The procedure applies to all employees within the Academy Trust. This procedure does not apply where there are matters of **bullying, harassment, discrimination and/or victimisation** for which there is a separate policy adopted by the Governing Body and Trust.

This policy has been drawn up following consultation with the recognised Trade Unions. Where the Governing Body / Trust wishes to deviate from this proposed policy or adopt any other policy it is the responsibility of the Governing Body / Trust to arrange consultation with appropriate representatives of recognised trade unions or professional associations.

Legal Background:

The law relating to this policy includes the Employment Rights Act 1996, Employment Relations Act 1999, and the Employment Act 2008. It also takes account of the ACAS Code of Practice on Disciplinary and Grievance Procedures.

As noted within the ACAS Code of Practice, workers have a statutory right to be accompanied by a companion at a grievance meeting which deals with a complaint about a duty owed by the employer to the worker. The chosen companion may be a fellow worker, a trade union representative or an official employed by a trade union. A

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trade union representative who is not an employed official must have been certified by their union as being competent to accompany a worker.

The ACAS Code advises that to exercise the right to be accompanied a worker must first make a reasonable request. However, it would not normally be reasonable for workers to insist on being accompanied by a companion whose presence would prejudice the hearing, nor would it be reasonable for a worker to ask to be accompanied by a companion from a remote geographical location if someone suitable and willing is available on site.

When the Procedure is Used:

Grievances are concerns, problems, or complaints that employees raise with their employer.

This procedure can be used for any matter directly arising out of an employee's employment, **except** where another more specific process exists for that purpose.

These other processes include:

- ◆ Bullying, harassment, discrimination, or victimisation allegations
- ◆ Pensions appeal
- ◆ Redundancy/redeployment appeals
- ◆ Managing employee performance (capability) appeals
- ◆ Disciplinary appeals
- ◆ Probationary appeals
- ◆ Recruitment complaints
- ◆ Matters covered by the Whistleblowing Policy

Grievances will not be progressed under this procedure if the above areas are applicable; such cases will be heard under the appropriate policy.

This procedure can be used for individual and collective grievances but must not be used for matters which should more properly be discussed within the normal joint consultative processes agreed with trade unions.

In some cases, outside help such as an independent mediator can help to resolve problems, especially those involving working relationships. Refer to the section Handling Grievances, Mediation.

Informal Stage:

Day-to-day issues will normally be resolved through dialogue between the employee and their line manager / Head Teacher; or the other party to the grievance if this is not the employee's manager. This will be more effective if the employee raises the issue as soon as possible.

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An informal meeting between the immediate line manager / Head Teacher and the employee will allow them to discuss the issue on a **one-to-one** basis outside of the formal process outlined below. Although the date of any informal discussions and any actions agreed should be recorded, no formal notes of these meetings will be made as these discussions do not form any part of the formal processes.

Refer to Appendix 1 for guidance on informal meetings.

The employee should be made aware of any support available to them through the confidential counselling services, for example:

- ◆ Any Employee Assistance programme that the Trust employees may have access to
- ◆ The Education Support Partnership - <https://www.educationsupportpartnership.org.uk/> telephone: 08000 562 561
- ◆ A trade union representative.

If the grievance is not resolved through the informal process, the employee may invoke the formal procedure.

Raising a Formal Grievance:

To raise a formal grievance the employee must register the grievance, in writing, with the Head Teacher, clearly setting out the nature of the grievance. A formal grievance must normally be **raised within 3 months of the event** giving rise to the grievance. This will constitute a Stage 1 grievance.

There is a standard grievance form available for employees wishing to submit a formal grievance. Please refer to Appendix 2.

In the first instance, a formal grievance should be raised with the Head Teacher. The Head Teacher will normally manage the Stage 1 grievance (but may appoint another senior member of staff or independent person.)

Where the grievance concerns the Head Teacher, the employee should address the grievance directly to the Chair of Governors. The Chair of Governors will normally manage the Stage 1 grievance (but may appoint another governor or independent person).

Where the grievance is raised by the Head Teacher, this should be sent to the Chair of Governors. The Chair of Governors will normally manage the Stage 1 grievance (but may appoint another governor or independent person).

Where the grievance concerns governor(s), it should be sent to the Chair of Governors. If the grievance concerns the Chair of Governors, it can be sent instead

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to the Vice-Chair or a member of the staffing committee. Grievances against governors will be managed by a committee of one or more governors who have not been directly involved in the matter that is the subject of the grievance. Refer to the section Handling Grievances, Grievances Against the Governing Body.

Formal Procedure – Stage 1:

Receipt of a Formal Grievance

The Stage 1 grievance manager will:

- ◆ Consider whether to offer independent mediation
- ◆ Acknowledge the receipt of the grievance and arrange a meeting with the employee normally within 7 calendar days; ensuring that the employee is advised of their right to be accompanied by a trade union representative or work colleague at the meeting
- ◆ Consider arranging for someone who is not involved in the case to take an accurate note of the meeting
- ◆ Seek advice from Trust HR on whether similar grievances have been raised before, how they have been resolved, and any follow-up action that has been necessary, to allow for consistency of treatment
- ◆ Consider whether any reasonable adjustments are necessary to enable a person who is disabled to participate in the Stage 1 meeting

The Meeting

The Stage 1 grievance manager should:

- ◆ Make introductions as necessary
- ◆ Invite the employee to explain their grievance and how they would like to see it resolved
- ◆ Sum up the main points
- ◆ Adjourn the meeting prior to taking any decisions to reflect and consider all the points raised. This adjournment will be of such length as is necessary to complete any relevant investigations as required
- ◆ Advise the employee of the outcome of their grievance and any action they propose to take as a result and the timescale. This Stage 1 outcome can be oral and then confirmed in writing, within 7 calendar days
- ◆ Let the employee know that they may appeal against the outcome of Stage 1 and progress to the next and final stage of the formal grievance procedure if they consider that the grievance has not been satisfactorily resolved.

Formal Procedure Stage 2 – Appeal Stage:

If the employee considers that their grievance has not been satisfactorily resolved at Stage 1, they can appeal. The employee must do this in writing, within 7 calendar days of receipt of a written outcome.

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The standard grievance form can be used by employees wishing to progress their grievance to the appeal stage. The notice of appeal must clearly set out the grounds of appeal and be sent to the Head Teacher (employee grievances) or Chair of Governors (Head Teacher grievances).

Receipt of a Stage 2 Appeal

The Head Teacher/ Chair of Governors will:

- ◆ Acknowledge the receipt of the appeal and arrange for a committee of one or more Governors to hear the appeal
- ◆ Arrange for the Stage 1 manager to attend
- ◆ Write to the employee, normally within 7 calendar days to advise of the date of the hearing; ensuring that the employee is advised of their right to be accompanied by a trade union representative or work colleague, and advising that this stage constitutes the final stage of the School's Grievance Procedure
- ◆ Consider arranging for someone who is not involved in the case to take accurate notes of the meeting
- ◆ Consider whether any reasonable adjustments are necessary to enable a person who is disabled and/or their companion to participate in the appeal meeting

The meeting

The Chair of the Committee should:

- ◆ Make introductions as necessary
- ◆ Invite the employee to explain their reasons for appeal
- ◆ Invite the Stage 1 manager to explain the reasons for their original decision
- ◆ Sum up the main points
- ◆ Adjourn the meeting prior to taking any decisions to reflect and consider all the points raised
- ◆ Advise the employee of their decision / action they propose to take and the timescales for this. This outcome can be oral and then confirmed in writing, within a further 7 calendar days. If it is not possible to respond within these time periods, (for example, if the appeal Committee need to carry out any further investigation) the employee must be told why, and when a reply can be expected
- ◆ Let the employee know that the decision of the Appeal Committee is final

Handling Grievances:

Timescales

All grievances should be handled in a timely manner. The timescales within this policy are recommended timescales only. If it is not possible to respond within these timescales, the parties involved must be told why and when a resolution /outcome can be expected.

Mediation

This is a voluntary process, agreed by both parties whereby an independent third-party mediator helps two or more people in dispute to attempt to reach an agreement. The agreement comes from those in dispute not from the mediator. Mediation can be used at any stage of the grievance process. This will mean that any formal procedures are halted whilst mediation route is pursued. If mediation is unsuccessful, the process will revert to the stage reached prior to mediation. The Head Teacher should contact the Trust HR for further information on mediation options.

Record Keeping

A written record must be kept of any grievance that is dealt with. Records will include the nature of the grievance, what was decided, and the actions taken, the reasons for the actions, whether an appeal was lodged, the outcome of the appeal, and any subsequent developments. These records are confidential. Confidentiality will be given the utmost importance at all stages of the procedure. If an employee attends a formal meeting, they should be given a copy of the notes of that meeting and the opportunity to provide annotations to those notes. If annotated notes are provided, these will be appended to the original notes so that the original document remains unaltered.

Role of the Trade Unions Representative or Work Colleague

Employees are entitled to be accompanied at **formal** grievance meetings by either a work colleague or a trade union representative if they are a member of a trade union.

If an employee chooses to be accompanied, the companion is allowed to address the meeting to put forward the employee's case, sum up the case, respond on the employee's behalf to any view expressed at the meeting, and confer with the employee during the meeting. It is good practice to allow the companion to participate as fully as possible in the hearing, including asking the witnesses questions. However, the companion may not answer questions on behalf of the employee, address the hearing if the employee indicates that s/he does not wish the companion to do so, or prevent the employer from explaining their case.

Grievance Meetings

Grievance meetings should be planned to ensure that timings and locations are reasonable to both parties. The employee should be given sufficient time before any meeting to prepare. If the employee falls ill or other circumstances beyond the employee's control prevent him/her from attending the meeting, then an alternative date should be arranged.

Overlapping Grievance and Disciplinary Cases

Where an employee raises a grievance during a disciplinary process the disciplinary and grievance process will normally run concurrently. In some circumstances the Head Teacher / Chair of Governors may decide to temporarily suspend the disciplinary process to deal with the grievance. The school / Trust may contact HR for further advice on this matter.

Abuse of the Grievance Procedure

Employees who abuse the grievance resolution procedure by making malicious complaints or operating the procedure vexatiously may be liable to disciplinary action.

Grievances Resulting in Disciplinary Action

If the employee's grievance results in disciplinary proceedings against another employee, these will be handled in accordance with the disciplinary procedure. The employee raising the grievance has no right to influence or be informed of the outcome of disciplinary proceedings. However, the employee raising the grievance may be called as a witness to any disciplinary hearing which may subsequently occur.

Grievances Against the Governing Body

If a grievance appears to be against the whole governing body, the aggrieved will be asked to clarify exactly what action(s) or decision(s) of the governing body they are aggrieved about. This should normally allow governors to be identified who have not been directly involved in such actions or decisions and who may therefore consider the grievance at Stage 1 or Stage 2.

In some rare and exceptional circumstances, the governing body may decide that a governor from another school should consider a grievance. Before doing so advice should be taken from the Trusts HR and/or the Academy Trust.

Use of Independent /External Investigators

It is acceptable to appoint an independent person to carry out the investigation at Stage 1 and make recommendations. However, if this person is external to the school and/or Trust then the Head Teacher or Governing body will be required to approve those recommendations before they are implemented.

Grievances from Employees who Leave the School

This grievance policy will not be used to deal with complaints made after an employee has left the school / Trust. Instead, they may choose to seek to resolve the complaint using their Complaints Policy.

However, if a grievance is already being progressed and the employee leaves whilst the grievance is unresolved, the standard grievance procedure should still be followed where practicably possible, to try and resolve the issue. The school / Trust may contact HR for further advice.

Data Protection:

The organisation processes personal data collected during both informal complaints and the formal grievance procedure in accordance with its Data Protection Policy. A written record of meetings conducted under this procedure may also be made, either by the person holding the meeting or by an additional person arranged by the organisation to take notes.

Data collected as part of informal complaints and the grievance procedure is held securely and accessed by, and disclosed to, individuals only for the purposes of responding to the complaints or conducting the grievance procedure. Records are retained and destroyed in accordance with the organisations Retention Schedule.

Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the organisation's Data Protection Policy immediately. It may also constitute a disciplinary offence, which may be dealt with under the organisation's Disciplinary Procedure.

Appendix 1

Informal Approach to Grievances

Overview

In organisations where managers have an open policy for communication and consultation problems and concerns are often raised and settled as a matter of course.

Employees should aim to settle most grievances informally with their manager. Many problems can be raised and settled during everyday working relationships. This also allows for problems to be settled quickly.

In some cases, outside help such as an independent mediator can help resolve problems especially those involving working relationships.

This kind of informal chat is not part of any formal action. However, both manager and employee should be aware that formal processes will start if the situation continues.

How should it be done?

The manager should talk to the employee in private. This should be a two-way discussion, aimed at discussing the issue/s and seeking a resolution. It is important to listen to what the employee has to say about the issue. It may become evident that there is no problem if so, this should be made clear to the employee.

It is important to ensure that any informal discussion does not turn into a formal discussion, as this may unintentionally deny the employee certain rights, such as the right to be accompanied. If, during the discussion, it becomes obvious that the matter may be more serious, the meeting should be adjourned. The employee should be told that the matter will be continued under the formal procedure.

Managers should keep brief notes of the date of any informal discussions and any actions agreed because of the meeting.

The meeting should not be minuted by another person as it is an informal, one-to-one meeting.

Consideration should be given at any stage to whether the use of an independent mediator may be helpful.

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Appendix 2

Statement of Formal Grievance

Notes
<ul style="list-style-type: none">♦ The purpose of this form is to assist you with putting together a statement describing the full nature of your concerns. Completion of this form is not obligatory if you wish to present your grievance in an alternative format, however it would be helpful if you included the information requested on this form.♦ Please ensure you have read the grievance procedure before completing this form.♦ The completed form should be sent to the Headteacher, or if your concerns relate to the Headteacher, it should be sent instead to the Chair of the Governing Body.♦ Please note that should your grievance be against another member of staff, details of your complaint will be communicated to that person to give him/her the opportunity to respond.♦ Grievances will not normally be considered if 3 months have elapsed since the decision or act(s) which gave rise to your concerns took place.♦ If you have a disability, and as a result this is likely to cause you difficulties in completing the form, please advise the Headteacher, who will consider what reasonable adjustments can be made to assist you.

To be completed by the employee:	
This form is for the attention of:	The Headteacher / Chair of Governors (<i>amend as applicable</i>)
Employee name:	
Current post title:	
If you would prefer to be contacted about this matter outside of work, please provide the contact details below that you would like to be used:	
Home Address	
Email Address	
Home Telephone Number	
Mobile Number	

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1. Details of the Grievance

Please provide a detailed account of your grievance below (and on separate sheet(s) if necessary), including dates when the incident(s) took place, the names of any other people who may have been involved and referring to any additional paperwork or documents that you are providing.

Stage of Grievance:	Stage 1	Yes/No	Stage 2	Yes/No

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2. Actions Taken to Date to Resolve Your Grievance

Please summarise what has happened so far to attempt to resolve your grievance including the names of anyone who has tried to deal with your complaint and why you were not satisfied with the outcome (use additional sheet(s) if necessary).

3. What Resolution You Are Seeking By Raising This Grievance

Please note that to try to reach a successful resolution to your grievance it is important you clearly specify what you are seeking as an outcome. You can include more than one option if relevant.

4. Supporting Documentation

Please include with this form any additional documentation that you wish to use in support of your grievance.

5. Signature

Please sign and date this form below before submitting it.

Signature	
Date	