



# Grievance Procedure

Date: July 2022

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Approved by the Advisory Board: July 2022

Linked with other policies:

- Capability for Support Staff
- Capability for Teaching Staff
- Bullying and Harassment
- Disciplinary

Signed:

*S. Day*

## Version Control

Version	Date of review/change(s)	Page and paragraphs affected	Summary of update
1	July 2021		No changes
2	July 2022	P3 1.1.1	2 paragraphs added relating to bullying and harassment
			'their immediate line manager' replaced with 'headteacher'
			Paragraph added: reasonable adjustments
		P3 1.2 2 <sup>nd</sup> paragraph	'In some circumstances, the immediate line manager... ' removed
		P4	Points 1.3, 1.4, 1.6 added
		P4	Point 1.7 reference to Trade union representation removed
		P4	Point 1.8 added re. the role of a colleague or representative
		P4-5	Points 2 added re. Mediation
			Point 3 added: 'cases unsuitable for mediation'
		P5	Point 4 added re. Covert Recording
		P6	Point 6.2 amended '...with reasons behind that decision. If the grievance is not upheld there is a right of appeal against the decision'
		P6	Point 6.4 re. other individuals affected
		P7	Point 9 added re. Data Protection

## 1. Dealing with grievances informally

1.1 If an employee has a grievance<sup>1</sup> to do with work, or with the people they work with, there should be a first attempt to resolve the issue by making a direct approach to the other person involved. In many cases, it is possible for an employee to make direct contact, to make someone aware of the problem and to agree a solution informally.

1.1.1. In cases of bullying and harassment, it may be possible for the employee to explain to the other person that the behaviour in question is not welcome, that it offends them or makes them uncomfortable. Alternatively, if this personal approach is too difficult, they could consider putting it in writing to the individual concerned. Please read the school's Bullying and Harassment policy statement in conjunction with any bullying and harassment related grievances.

However, by its nature bullying and harassment may make the employee feel embarrassed, worried about damaging their reputation or the working environment and fearful of not being taken seriously and subsequent reprisals. In these situations, a management representative can make the initial approach.

If the employee cannot resolve the matter through this approach, the next step is to raise it with the Headteacher, through an informal meeting at which any concerns are raised and examined through discussion. The employee can be accompanied or represented at this meeting by a companion (a work colleague or trade union representative).

Where an employee discloses a mental health issue, which could be a disability, reasonable adjustments will be made to the procedure. This could be allowing a companion that does not meet the statutory definition of a companion but is someone who understands the individual's condition and its effects or; having regular breaks during longer grievance meetings or; holding the meeting at a neutral venue. **[Where it is clear the process is causing repeated signs of distress to someone involved in the procedure the Headteacher will ensure the employee is aware of the support offered by Norfolk Support Line (where subscribed)]** or suggest the employee seeks advice from their GP. In some cases, help may need to be sought from Occupational Health, with the agreement of the employee, to determine how the grievance procedure can continue fairly. Advice will be sought from HR in these situations.

1.2 At that meeting, the employee should clearly outline their own view of the problem and explain to the manager what they consider to be a suitable resolution to the matter. After the informal meeting, the manager should give a reply, verbally, as soon as possible. The initial response will be given within five working days but further discussion may be needed to resolve the problem.

Flexibility around timescales is often appropriate when trying to resolve informal grievances, particularly where it concerns interpersonal conflict between two or more employees.

1.3 If an employee other than the Headteacher has a grievance against an Advisory Board member, the employee should raise the matter initially with the Headteacher who will discuss it with the Chair of the Advisory Board and agree a mechanism for informal resolution. If an employee has a grievance against the Advisory Board, the employee should initially raise it with the Headteacher, who will seek to agree a mechanism for informal resolution, taking advice from EducationHR where required.

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<sup>1</sup> This includes bullying and harassment complaints between employees

- 1.4 If a Headteacher has a grievance against a director, they should raise the matter with the Advisory Board. If the grievance includes the Advisory Board, the Headteacher should refer it to the Clerk to the Advisory Board. The clerk should seek guidance from EducationHR on a mechanism for informal resolution, which may involve facilitation by a Local Authority Officer.
- 1.5 If it is not possible to resolve the grievance through these initial discussions, it may be appropriate for the Headteacher or Directors to nominate someone to mediate with the aim of achieving a solution and conciliation. If mediation is to be used, it should take place before the formal procedure commences.
- 1.6 Even where an informal approach is enough to resolve the immediate problem, the employee should keep a record of any incidents, including a note of any witnesses. Similarly, where the Headteacher or another management representative is involved in resolving the problem, proper notes must be kept documenting the action taken.
- 1.7 Where the employee approaches a work colleague for support, it is important to respect the fact that this person may not wish to become involved.
- 1.8 The role of the work colleague or representative at this stage is not to impose a solution but to offer support, explore possible options open to the employee and assist the employee to choose a suitable and satisfactory course of action. The work colleague or representative may feel it is appropriate to assist in resolving the problem by acting as mediator. In carrying out this function, they will be protected from victimisation and will not be forced to disclose any confidences arising from their assistance with the informal stages of this procedure

## **2. Using mediation to resolve a grievance**

- 2.1 An independent third party or mediator can sometimes help resolve grievance issues. Mediation is a voluntary process where the mediator helps two or more people in dispute to attempt to reach an agreement. Any agreement comes from those in dispute, not from the mediator. The mediator is not there to judge, to say one person is right and the other wrong, or to tell those involved in the mediation what they should do. The mediator is in charge of the process of seeking to resolve the problem but not the outcome.
- 2.2 A mediator does not have to be someone specially trained for the task, but they should have the necessary skills to facilitate a discussion between two people who may have different views about a situation. Mediators may be employees from within the school, EducationHR or they may be from an external mediation provider, in which case, there may be a cost.
- 2.3 There are no hard-and-fast rules for when mediation is appropriate but it can be used:
  - for conflict involving colleagues of a similar job or grade, or between a line manager and their employees,
  - at any stage in the conflict as long as any ongoing formal procedures are put in abeyance, or where mediation is included as a stage in the procedures themselves,
  - to rebuild relationships after a formal dispute has been resolved,
  - to address a range of issues, including relationship breakdown, personality clashes, communication problems, bullying and harassment.

2.4 Grievances may lend themselves to the possibility of mediation.

2.5 Where mediation is used the individual convening the mediation meeting should make a record of the alleged incident and the outcome of the meeting. To indicate agreement with the outcome, all parties should sign the record. This will remain confidential to the signatories.

### **3. Cases unsuitable for mediation**

Mediation may not be suitable if:

- used as a first resort – because people should be encouraged to speak to each other and talk to their manager before they seek a solution via mediation,
- it is used by a manager to avoid their managerial responsibilities,
- a decision about right or wrong is needed, for example where there is possible criminal activity,
- the individual bringing a discrimination or harassment case wants it investigated,
- the parties do not have the power to settle the issue,
- one side is completely intransigent and using mediation will only raise unrealistic expectations of a positive outcome.

### **4. Covert recordings**

The School believes that the covert recording of workplace meetings undermines trust between individuals.

The covert recording of any meetings or proceedings, including disciplinary and grievance hearings and appeals, by an employee potentially constitutes an act of gross misconduct. It features in the list of non-exhaustive acts of gross misconduct in the school's guidelines on conduct document. Without sufficient mitigation, the covert recording by an employee of colleagues in such a meeting may lead to the employee's summary dismissal.

The employee will be informed of this policy position before any disciplinary, grievance or capability meeting.

Similarly, no covert recording of the deliberations of a panel at the end of any hearing may be made by an employee. This would also potentially constitute an act of gross misconduct likely to lead to the employee's summary dismissal.

## **5. The formal procedure**

- 5.1 If the matter is serious and/or the employee wishes to raise the matter formally the employee should set out the grievance in writing to the Headteacher.

The statement should explain the nature of the grievance, including details of what the employee has done to try and resolve the matter informally, and what the employee considers to be a satisfactory outcome to the matter. It is essential that there is a clear statement about the grievance, in order that it can be properly examined.

- 5.2 If the employee does not feel able to approach the Headteacher they should talk to a Director.

## **6. Grievance hearing**

- 6.1 The employee will be invited to attend a meeting, normally within 10 days, to discuss their grievance. The employee will have the right to be accompanied by a work colleague or trade union representative at this meeting.

- 6.2 Following the meeting the Headteacher will give their decision in writing normally within 5 working days of the meeting taking place, with reasons behind that decision. If the grievance is not upheld there is a right of appeal against the decision.

- 6.3 If it is necessary to gather further information before making a decision the employee will be informed of this and the likely timescale involved.

- 6.4 Where other individuals are affected by the outcome of the grievance, or some aspects of the outcome, they will be informed of the affect the outcome has on them and the reasons for it. The employee who raised the grievance will be informed of who else will be told and what information they will be given. Confidentiality remains of utmost importance so only information which affects another individual(s) will be communicated.

## **7. Appeal**

- 7.1 If the employee is not accepting of the Headteacher's decision they can appeal with any appeal being heard by Directors.

- 7.2 Where an employee wishes to lodge an appeal they should, within ten working days of receiving written confirmation of the outcome, write to the Headteacher setting out the grounds for appeal and enclosing any documents to be taken into account. The employee and the Headteacher will then be invited to another meeting which will normally take place within fifteen working days of receipt of appeal. The employee has the right to be accompanied by a companion to the appeal meeting.

- 7.3 The Directors will consider the outcome from the first Grievance hearing. They will listen to the grounds for appeal and consider any further statements provided by the Headteacher or others involved.

- 7.4 After the Appeal meeting the Directors will give their decision in writing, normally within 5 working days. The Directors' decision is final.

## **8. Record keeping**

- 8.1 The grievance and related papers will be stored on the file of the employee who raised the grievance. If the grievance is against another named individual and is upheld, it may be appropriate for a disciplinary investigation to be undertaken and/or a professional guidance letter issued, in which case relevant papers may also be placed on that individual's personal file.

## **9. Data protection**

The school processes personal data collected during informal complaints and the formal grievance procedure in accordance with its data protection policy. In particular, 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. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the school's data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under the school's disciplinary procedure.