



WALTHAMSTOW HALL
SEVENOAKS

GRIEVANCE POLICY AND PROCEDURES

POLICY

The School recognises that from time to time members of staff may wish to seek redress for grievances relating to their employment. The School's policy is to ensure that grievances can be aired and, where possible, resolved quickly and to the satisfaction of all concerned. The procedure is not contractual but applies to all employees who should familiarise themselves with its provisions. All stages of this process will be dealt with without unreasonable delay. The School's grievance procedures seek to ensure fairness and consistency in the treatment of individuals in accordance with natural justice and the guidance provided in the ACAS Code of Practice on Disciplinary and Grievance Procedures (March 2015) and Discipline and Grievances at Work; the ACAS Guide (July 2020).

PRINCIPLES

Grievances may be relatively minor or of fundamental importance. Grievances can arise from a variety of sources and it is important for members of the School to recognise that many potential problems and difficulties can and should be discussed and resolved informally and as quickly as possible. Many problems can be raised and settled during the course of everyday working relationships. This also allows for problems to be settled quickly. Formal procedures are intended to be used for problems which are serious in themselves, or serious because they remain unresolved after informal steps have failed to achieve a satisfactory outcome.

The following procedures should be adopted for resolving all grievances arising from employment, except:

- (a) where the matter constitutes an appeal against a disciplinary decision which should be taken up in accordance with the School's separate disciplinary appeals procedures,
or
- (b) where the complaint is of sexual or racial nature, or relates to an individual's religion, age or disability, when the School's relevant policy should be used; and
- (c) it will not be applied to a collective dispute.

A member of staff is entitled to make a reasonable request to be accompanied by a colleague or a representative of his or her trade union or professional association at each stage of the procedure.

RESPONSIBILITIES AND ROLES

The Governing Body

The Governing Body will make and maintain a Grievance Policy and Procedures.

The Governing Body has delegated to the Headmistress the responsibility for dealing with staff grievances. (When the Headmistress or Bursar has a grievance, or is the subject of a grievance, the matter will be dealt with by the Chairman of the Governing Body, or if necessary by another nominated Governor.)

The Chairman of the Governing Body will appoint an Appeal Panel, of which at least two of the members of which shall be Governors, to hear any appeals arising from the Headmistress's decisions.

Otherwise Governors will play no part in the grievance procedures.

The Headmistress

The Headmistress has the responsibility for managing the procedures and for resolving grievances as far as is reasonably practicable. The Headmistress must seek to make the procedures known to all staff.

The Headmistress has the power to delegate to appropriate line managers to resolve grievances and disputes informally in the first instance, and for them to pass the matter to the Headmistress if it has proved impossible to resolve satisfactorily.

The Headmistress must aim to resolve any formal grievances referred to her as promptly and as sensitively as possible. She must advise the employee that he/she may be accompanied by a School colleague or trade union representative at the meeting. Any request to be accompanied must be reasonable.

The Headmistress must ensure that any decision regarding the grievance is communicated to the employee in writing as soon as possible following the meeting, usually within 48 hours (or 96 hours out of term time). The letter must also confirm to the employee his/her right to appeal to the Governing Body.

Line managers

The appropriate line managers have the responsibility for ensuring that any grievance brought to their attention is considered promptly and an informal resolution sought. They are expected to apply the policy fairly and act in a sensitive and considerate manner in the conducting of any investigation. They must keep the Headmistress informed.

If it proves impossible to resolve a grievance satisfactorily at an informal level, the line manager must refer the matter to the Headmistress.

Rights of the Employee's Companion:

The employee's companion has the right to:

- address the hearing, putting the employee's case;
- sum up the employee's case;
- respond on the employee's behalf to any views expressed at the hearing; and
- confer with employee during the hearing.

The companion may not answer on behalf of the employee any questions put directly to the employee, and may not address the hearing if the employee indicates that he/she does not want the companion to do so.

The companion may not stop the employee explaining his/her case, nor prevent anyone else at the hearing from making a contribution.

Appeal Panel

The Chairman of the Governing Body will appoint an Appeal Panel comprising three members, at least two of whom shall be Governors. The Governing Body's Appeal Panel must hear any appeal within ten working days of the appeal being received (or fourteen days out of term time), unless otherwise agreed with the employee. The Appeal Panel must consider evidence from all relevant parties, and must allow all parties to be heard at the-Hearing.

The members of the Appeal Panel must not been involved in any prior stages of the grievance procedure. They must declare any prior involvement and play no further role.

The Appeal Panel may call for expert advice wherever appropriate.

The Appeal Panel must retire to make its decision, which may be in the form of a recommendation if appropriate. The Appeal Panel may announce its decision at the end of the-Hearing, or later, but written confirmation of the decision must be sent to all parties within 48 hours (not including weekends or public holidays) of the conclusion of the Hearing, unless otherwise agreed with the employee.

The findings and decision of the Appeal Panel will be final.

The Employee

The employee has a duty to use every endeavour to resolve the dispute satisfactorily. The employee has the right to bring a School colleague or trade union representative to any formal meeting.

The Governing Body expects that employees will also set out with the intention of settling the dispute as speedily as possible.

If an employee has a grievance with any member of the Governing Body, he/she should first inform the Headmistress and, having done so, may then raise the matter directly with the Chairman of the Governing Body (or with the Vice Chairman if the grievance is with the Chairman).

Where an employee is aggrieved on any matters involving other staff, they should discuss the matter initially with the individual concerned. If they feel unable to do this or this fails to resolve the matter, it should be raised with their line manager in the first instance and the Headmistress where appropriate.

If the dispute cannot be resolved informally the employee should follow the formal procedures.

INFORMAL RESOLUTION

Where an employee has a grievance with another member of staff he/she should initially try to resolve that grievance promptly and directly with the other person. If considered necessary, the employee should raise the matter with the appropriate line manager in the first instance, and/or the Headmistress, if required. The Headmistress, or her delegate, may, by agreement with the employee, consult with others, as appropriate, in considering the grievance and in order to

determine the most appropriate response to the grievance or perceived grievance. Parties will be encouraged to articulate what resolution they seek and mediation, counselling or other support as appropriate may be used to resolve the problem satisfactorily at the informal stage wherever possible. If required, an Investigation may be conducted at this stage to help inform the process. The Appendix provides guidance on how to conduct an investigation and is based on ACAS guidance. If the dispute cannot be resolved informally, the employee must follow the formal procedures.

FORMAL PROCEDURES

If a grievance cannot be resolved informally or the employee considers they have not been fairly treated, they may raise their grievance in writing to their Head of Department and it will be treated as a formal grievance. If the grievance concerns the Head of Department it should be raised with either the Head or the Bursar. If the grievance concerns the Head or Bursar, the matter should be referred to the Chair of Governors in the first instance.

At the meeting, the employee may be accompanied by a colleague or trade union representative of their choice. The employee must tell the person holding the grievance meeting who their chosen companion is, in good time before the meeting. At the meeting, a companion may make representations and ask questions, but should not answer questions on an employee's behalf. Acting as a companion is voluntary and colleagues are under no obligation to do so.

The employee will be informed in writing of the outcome of the grievance and the reasons for the decision. If any action is to be taken as a result of the grievance, the employee will, where possible, be informed.

The decision will be issued as soon as possible following the conclusion of the meeting. Where the matter needs to be investigated and/or the meeting adjourned, the employee will be given an indication of the likely timescale for receiving a response.

Stage 1

Step 1 - Statement of Grievance

Where the informal procedure has failed (to resolve the matter), the employee must submit details of the grievance in writing to the Headmistress, including details of any attempt to resolve the matter informally, as soon as is reasonably practicable.

(If the grievance is against the Headmistress or the Bursar, or the Headmistress or the Bursar is the aggrieved party, the written grievance will be forwarded without delay to the Chairman of the Governing-Body.)

Step 2 - The Meeting

The Headmistress will arrange to meet the employee within five working days (or seven days out of term time) with a view to investigating the dispute. At the meeting the employee will have the opportunity to explain their grievance and how they think it may be resolved. The Headmistress may seek advice from any appropriate source, and may investigate and take evidence from the original line manager and/or all the parties to the dispute. Depending on the circumstances, the meeting may be adjourned in order for an investigation to take place. Any investigation must be thorough and may require interviews of witnesses in support of both sides of the grievance. Guidance on investigations is at the Appendix. Where the matter needs to be investigated and/or the meeting adjourned, the employee will be given an indication of the likely timescale for receiving a response.

It may be necessary to convene a series of meetings, with those involved in the grievance, for this purpose. The first meeting should, wherever possible, be arranged within ten working days (or fourteen out of term time) of receipt of the formal written grievance. Any other meetings should be arranged as soon as reasonably practicable after the first one.

Copies of all relevant documents should be provided to all parties involved at least three working days before the meeting (or five days out of term time).

Each party may be accompanied by a School colleague or representative of their trade union and will be given an opportunity to present their case.

A clerk may be present for the purposes of taking minutes of the meeting. If agreed by all parties, the meeting may be recorded.

The decision of the Headmistress may be advised after deliberation at the end of the meeting, but, in any event, will be confirmed in writing at at least three working days (five days out of term time) following the conclusion of the meeting).

If the employee is not satisfied with the Headmistress's decision he/she has a right of appeal to the Governing Body's Appeal Panel.

Stage 2 Right of Appeal

The aggrieved employee has the right of referral to an Appeal Panel of the Governing Body and shall submit written notification of his/her appeal to the Clerk to the Governing Body within five working days (ten out of term time) of receipt of the Headmistress's written decision.

The Appeal Hearing should normally take place as soon as is reasonable practicable on the receipt of the written notification of an appeal.

Copies of all relevant documents will be provided at least three working days (five days out of term time) in advance of the Hearing to all parties involved.

Each party may be accompanied by a School colleague or representative of their trade union and will be given an opportunity to present their case to the Appeal Panel.

A clerk may be present for the purposes of taking minutes of the Hearing.

The decision, or recommendations, of the Appeal Panel may be given to all parties after deliberation at the end of the Hearing, or as soon as possible thereafter, but, in any event, will be confirmed in writing within ten working days of the hearing.

There is no further right of appeal and the findings of the Appeal Panel will be binding on all parties.

Conduct of the Appeal Hearing

The grievance will be set out by the employee or companion. Any relevant witnesses or witness statements may be considered, and expert advice may be sought if appropriate.

The Appeal Panel may ask the Headmistress to attend the Hearing and, if she is present, they will ask the Headmistress to explain her decision and to offer any evidence. Alternatively, the written decision of the Headmistress will suffice. The employee (or companion) may ask questions of the Headmistress, if present, and any witnesses.

At any point the Appeal Panel members can ask questions of all parties.

The Appeal Panel will finally ask the employee (or companion) to sum up on behalf of the employee.

At the end of the Hearing the Appeal Panel will consider its decision without any other party being present (except where a clerk may be present for the purpose of taking minutes).

Adjournment

The Appeal Panel may adjourn the proceedings at any stage if this appears necessary or desirable. If the adjournment is for the purpose of enabling further information to be obtained the Appeal Panel will specify the nature of that information.

All parties may ask for a reasonable adjournment for the purpose of consultation.

Any adjournment will normally be for a specified time.

Record-keeping

Records should include:

- the nature of the grievance.
- what was decided and actions taken.
- the reason for the actions.
- whether an appeal was lodged Discipline and grievances at work.
- the outcome of the appeal.
- any subsequent developments.

Records should be treated as confidential and be kept no longer than necessary in accordance with the data protection principles set out in the Data Protection Act 2018.

Written grievances will be placed on an employee's personnel file along with a record of any decisions taken and any notes or other documents compiled during the grievance process. These will be retained in accordance with the School's Staff Privacy Notice and Records Retention and Storage Policy.

CONFIDENTIALITY

In order to preserve the rules of the natural justice for all parties, confidentiality will be respected by all parties as seen fit, and matters relating to disputes will not be discussed outside the meeting/procedures described.

This policy will be reviewed regularly by the Headmistress and the Governing Body and after any formal disciplinary action has been taken.

Reviewed May 2021
Date of next review May 2022

Signed: Date:

Mrs J Adams
Chairman of the Governing Body

Appendix

I Investigation Guidance

INVESTIGATION GUIDANCE

The following is based on the **ACAS** guidance on Investigations in Support of Disciplinary and Grievance Issues.

An investigation is to:

- see if there is a case to answer.
- make sure everyone is treated fairly.
- gather evidence from all sides.
- help the employer to see what should happen next.

At any stage the employer can still look at whether:

- the formal procedure needs to carry on.
- the issue can be resolved informally instead.

To protect everyone involved in the grievance case, the employer must make sure they follow a fair procedure. The investigation is an important part of this. If the employer does not carry out a reasonable investigation, any decisions they make are likely to be unfair. This could risk legal action.

Preparing for an investigation

If the employer has decided an investigation is required, it should start as soon as possible.

This is to make sure they are treating the employee fairly. For example, people might remember a situation more clearly the sooner they're asked about it.

To keep things as fair as possible and where possible, the employer should get somebody who is not involved in the case to carry out the investigation but guidance also recommends that the person hearing the grievance is usually best to conduct the investigation.

The person investigating should start by making an **investigation plan**. This can include:

- what needs to be investigated.
- anyone who needs to be spoken with ('witnesses').
- any sources of evidence, for example work records, emails or CCTV recordings.
- any time limits, for example CCTV footage being deleted or staff going on leave
- timeframes.
- relevant policies to follow.
- whether the person investigating is expected to give recommendations at the end of the investigation.
- setting out the importance of confidentiality.
- any other relevant points or information.

A clear plan will help to:

- make the investigation as quick and easy as possible.
- make clear exactly what needs to be done.

- make sure the process is full and fair.
- avoid negative effects on staff or the business.

Further advice and guidance can be found on the ACAS website:

<https://www.acas.org.uk/investigations-for-discipline-and-grievance-step-by-step>

Telling the employee

The employer should tell the employee with the grievance issue as soon as they decide to open an investigation. This is unless the employer thinks there is a risk that the employee might tamper with evidence or influence witnesses. In this case, the employer should wait until there is less risk of this. When the employer tells the employee they are opening an investigation, it's a good idea for them to explain:

- why they are carrying out an investigation
- who will be carrying it out
- what they are going to do
- that they will need to talk to any witnesses
- how long it could take
- what will happen next, for example a meeting
- that everything will be kept confidential

An investigation can be stressful for the employee. It is important for employers to consider the wellbeing and mental health of their employees and offer support where needed.

Carrying out an investigation

The person investigating should do their best to:

- be fair and objective.
- follow any policies or guidelines your workplace might have.
- get as much information on the case as is reasonable.
- not try to prove guilt, but get balanced evidence from both sides.
- keep the case confidential.

While an investigation should be completed as quickly as possible, it always needs to be thorough and fair. Some investigations might take longer depending on the case and how many people need to give information. For example, a simple case might only take a day to gather enough information, whereas a more complicated case could take several weeks. The employer should set a reasonable timescale and tell the employee. If it is found that more time is needed during the investigation, this should be allowed for. Any delays should be explained to anyone involved and written in the investigation report.

The person investigating should get all the information they reasonably can and need for the case. They should work out what physical evidence is needed based on:

- what's laid out in the investigation plan.
- what sources of information they can use.
- any time limits, for example records getting deleted.

More evidence might come to light as the investigation goes on, so the person investigating should allow for this. Types of physical evidence could include:

- emails
- paperwork
- receipts
- computer records
- phone records
- CCTV recordings
- attendance records

The person investigating must consider the ways they can get information and:

- follow the law (for example, on data protection).
- respect the employee's right to privacy.

The person investigating should keep a written record of how and why they got any evidence.

Holding investigation meetings

The person investigating might also need to get information from:

- the employee.
- other employees involved ('witnesses').
- other witnesses, for example clients or customers.

The right to be accompanied

'The right to be accompanied' means that by law, an employee or worker can bring a relevant person ('companion') to any meetings. If the employee or worker has the right to be accompanied, they must choose their companion from one of the following:

- A work colleague.
- A workplace trade union representative who is certified or trained in acting as a companion.
- An official employed by a trade union.

Under discrimination law, employers must make 'reasonable adjustments' for disabled employees. This might mean allowing someone else to attend, for example a support worker or someone with knowledge of the disability and its effects. Employers can, but do not have to, allow companions who do not fall within the above categories.

Absence from an investigation meeting

If the employee with the grievance issue needs to go to an investigation meeting but does not attend, the person investigating should rearrange the meeting. The employer or person investigating should see if it would help to make other arrangements. For example, if the employee is off with stress and is worried about coming to the workplace, they could hold the meeting somewhere else. If the employee is too sick or keeps refusing to attend, the person investigating will need to look at all other evidence and make a reasonable decision.

They could also look at:

- the seriousness of the grievance issue.
- any rules your workplace has about not attending investigation meetings.
- how your workplace dealt with similar cases in the past.
- getting a medical opinion on whether the employee is fit to attend the meeting (with the employee's permission).

The employer might decide they need to carry on with the investigation without the employee. If so, the employer must:

- carry out the investigation in as full and fair a way as possible.
- tell the employee.

Witnesses

Witnesses can give important evidence that might help decide the outcome of a grievance case. If there is anyone with information about the grievance issue (a 'witness'), the person investigating can ask them to write it down (a 'witness statement'). The person investigating can also have a meeting with a witness to ask them what they know or saw. Someone should take notes during the meeting. At the end of the meeting, the witness should sign the notes and these can also form a witness statement.

The person investigating might decide a witness can give a statement without having a meeting, if the witness:

- is not an employee, for example a parent.
- only needs to give very simple information.
- is ill and cannot come to an investigation meeting.

The person investigating should ask the witness to write:

- answers to specific questions, where necessary.
- their name and, where applicable, job title.
- the date, place and time of any relevant issues.
- what they saw, heard or know.
- the reason why they were able to see, hear or know about the issues.
- the date and time of writing their statement.
- their signature.
- The witness should have reasonable time to give the statement.

If a large number of people witnessed the same incident, the person investigating should:

- talk to some of the witnesses.
- check whether they are broadly saying the same thing.

The person investigating does not have to talk to all witnesses, unless either of the following apply:

- they feel they are not getting enough information.
- there are significant differences in what the witnesses say.

Taking records

The person investigating can make audio recordings of interviews or assign a person to take notes, depending on:

- what is most appropriate or possible.
- if the person being interviewed agrees.

Sharing information and confidentiality

When getting information from a witness, it is a good idea to get their consent to be able to share it if necessary. For example, in case other people working on the investigation need to look at the information. The employee who has raised a grievance case should be given a copy of any written evidence, including witness statements. If someone believes they have been named in a report, they have the right to see any parts that:

- have information about them.
- depended on information they gave.

They should not be allowed to see private information about other people. The employer should keep investigation reports for a while, in case there are any questions in the future. If the report includes people's details, the employer should store it securely and only allow access when necessary. Anyone who has access needs to follow data protection law.

What happens after an investigation

If the employer or person investigating feels they need more information, they can go back and investigate again. They should try to do this in reasonable time and tell the employee about any delays completing the investigation.

Making an investigation report

When there's enough information and the investigation is finished, the employer should have a written report. The employer should share this report with the employee. The investigator can give recommendations for next steps, if this was agreed in the investigation plan. The following provides a template for a suggested investigation report:

- **An introduction, setting out:**
 - the name and job title of the person who authorised the investigation;
 - the name and job title of the person who conducted the investigation;
 - a brief overview of the circumstances that led to the investigation; and
 - the terms of reference of the investigation and if they were amended.
- **The investigation process followed, including:**
 - how the investigation was conducted;
 - what evidence was collected;
 - whether any pieces of evidence could not be collected and why;
 - the names and job titles of all witnesses and why each witness was relevant to the matter;
 - whether any witnesses could not be interviewed and why; and
 - an explanation of why any witness's statement has been anonymised and providing any details of enquiry into their character and background.

- The investigation findings, including a summary of the:
 - findings from all relevant documents;
 - key evidence from each witness statement;
 - facts that have been established and what facts have not been established; and
 - mitigating factors to consider, if any.
- The report's conclusions, including the investigator's recommendations based on all evidence collected and any other recommendations related to the matter.
- Copies of all documents and witness statements collected and referred to in the report.

Giving recommendations

If the person investigating is to give recommendations at the end of the investigation, they should recommend one of the following:

- Formal action
- Informal action
- No further action

Formal action could be:

- changes to an organisation's policy or procedure.
- further investigation into other matters that were found.

Informal action could be:

- training or coaching for parties involved.
- counselling for parties involved.
- mediation for parties involved.

No further action, the person investigating might still suggest anything that could help the workplace and the people involved, for example:

- counselling
- mediation
- another form of support

Now they have more information, the employer should check again if the issue can be resolved informally. After an investigation, the employer might find there is no evidence to carry on with the grievance procedure. In this case, they should end the procedure and tell the employee in question there will be no further action. If the employer finds there is an issue that cannot be resolved informally, they should carry on with the formal procedure.