

## Policy and Procedure: Complaints and Grievance

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### 1. Introduction

The Academy is committed to ensuring that the employment arrangements meet the highest standards of fairness and statutory entitlements in employment. We seek to build a workplace environment where colleagues are treated fairly and can work with dignity and respect.

The aim of the Staff Complaints and Grievance Procedure is to address any complaints fairly, consistently and promptly. We believe that the fair and effective resolution of staff concerns is beneficial to harmonious working, job satisfaction, productivity and ultimately to the effective education of our pupils.

The Staff Complaints and Grievance Procedure is not contractual and may be varied by the Academy.

### 2. General Principles and Definitions

**2.1** This procedure applies to all staff employed by the Academy in respect of whom the responsibility for seeking redress of any complaint (except those matters which are subject to separate procedures e.g. flexible working and pay relating to their employment).

**2.2** Complaints made under this procedure should be made as soon as possible (and in any case within 6 months of the alleged event(s) in order that the Trust can resolve matters. The employee should not deliberately or unreasonably delay in bringing the matter to the Academy's attention.

### 3. Terms used in the procedure

Throughout the document the person making the complaint may be termed the "complainant". The term "Academy" also refers to any committee delegated to act by the Chair of Trustees on its behalf.

### 4. Definitions of bullying, harassment and discrimination

**4.1** ACAS states that most people use the terms bullying and harassment interchangeably, however, ACAS provides the following definitions:

#### 4.2 Bullying is:

*"Offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient".*

#### 4.3 Harassment is:

*"Unwanted conduct affecting the dignity of men and women in the workplace. It may be related to age, sex, race, disability, religion, sexual orientation, nationality or any personal characteristic of the individual, and may be persistent or an isolated incident. The key is that the actions or comments are viewed as demeaning and unacceptable to the recipient".*

*“Bullying or harassment may be by an individual against an individual (perhaps by someone in a position of authority such as a manager or supervisor) or involve groups of people. It may be obvious or it may be insidious. Whatever form it takes, it is unwarranted and unwelcome to the individual”.*

#### **4.4 Discrimination may be characterised as:**

Any less favourable treatment or victimisation of an employee which is unlawful under legislation including the following:

- Gender
- Race
- Disability
- Sexual orientation
- Trans-gender Status
- Religion or belief
- Age
- Membership or non-membership of a trade union or involvement in trade union activities
- Status as an ex-offender
- Status as a part-time worker
- Fixed-term status

## **5. Responsibilities under this procedure**

### **5.1 Management**

Managers should be aware that in law an employer may be held responsible for the actions of its employees regardless of whether or not they are aware of those actions. It is therefore essential that the Academy takes appropriate measures to ensure that bullying, harassment, or discrimination do not occur. All meetings and proceedings should be confidential.

It is the responsibility of the Academy’s management to:

- Make all members of staff aware of the policy and ensure their compliance
- Deal with all issues in a timely, serious and sensitive manner
- Maintain confidentiality when dealing with cases and ensure that a written record is kept of all informal and formal meetings and discussions
- Make every effort to resolve complaints informally by discussion between the individual member of staff and the appropriate level of management; the resolution of employee complaints should form part of everyday informal managerial action

### **5.2 Individual members of staff**

Each individual is responsible for his or her own actions whilst at work. It is the responsibility of all employees to:

- Be mindful of their own behaviour and treat others with dignity and respect
- Try to resolve problems informally by discussion with colleagues and/or management
- Report incidents of harassment or bullying either personally experienced or witnessed, immediately to the appropriate line manager
- Ensure confidentiality is maintained at all times

**5.3 The Academy has delegated the following powers to hear grievances to the following levels (or above) of staff:**

<b>Complainant</b>	<b>Grievance Officer</b>	<b>Appeal Officer</b>
Staff below level of Vice Principal	Vice Principal	Principal
Vice Principal	Principal	Chair of Trustees
Principal	Chair of Trustees	Nominated Trustees

Where the complaint regards an employee at the level of the appointed Grievance Officer, then the next level of management up will ordinarily deal with the matter (i.e. where a complaint is raised (by any member of staff) regarding a Vice Principal, the Principal will ordinarily be the Grievance Officer and the Chair of Trustees will ordinarily be the Appeal Officer).

For complaints regarding the Principal the Chair of Trustees shall have the authority to be the Grievance Officer and nominated Trustees will hear any appeal.

**6. Right to be accompanied**

**6.1** The employee may bring a companion to any grievance meeting or appeal meeting under this procedure. The companion may be either a trade union representative or a work colleague. The employee must tell the Academy who his/her chosen companion is, in good time before the meeting.

**6.2** At the meeting, the employee’s companion may make representations and ask questions, but should not answer questions on the employee’s behalf. The employee may talk privately with them at any time during the meeting.

**6.3** Acting as a companion is voluntary and the employee’s colleagues are under no obligation to do so. If they agree to do so they will be allowed reasonable time off from duties without loss of pay to act as a companion.

**6.4** If the employee’s choice of companion is unreasonable the Academy may ask the employee to choose someone else, for example:

- If in the Academy’s opinion the companion may have a conflict of interest or may prejudice the meeting; or
- If the companion is unavailable at the time a meeting is scheduled and will not be available for more than five working days afterwards.

**6.5** The Academy may, at its absolute discretion, allow the employee to bring a companion who is not a colleague or union representative (for example, a member of the employee’s family) if this will help overcome a disability.

**7. Postponement of hearings and appeals**

**7.1** In accordance with Section 10 (4) of the Employment Relations Act 1999 the complainant may seek a postponement of a complaint hearing and propose an alternative time, if their chosen trade union or professional association official or work colleague is not available at the time

proposed for the hearing by the employer. The Act states that the alternative time proposed by the employee must be reasonable and fall within five working days beginning the first working day after the day proposed by the employer.

**7.2** In exceptional circumstances where the efficient running of the Academy or the interests of the health and wellbeing of the parties involved is being compromised by the process; the hearing may be held in the absence of the complainant after considering representations.

## **8. Record keeping and confidentiality**

**8.1** It is important that accurate and contemporaneous records are kept throughout the complaints handling processes, including any initial informal processes. Copies of meeting records should be given to the employee, including copies of any formal minutes that may have been taken.

**8.2** Records should be held in a secure and confidential manner. Often the issues raised are particularly sensitive and it is essential that the circulation of information be minimised to that which is necessary to ensure a fair investigation and hearing. All meetings, documentation and proceedings should be confidential.

**8.3** In the event of a complaint being made, the management of the Academy may inform the Chair of Trustees (or another appropriate Governor/Trustee). But on no account should the case be openly discussed with any other Governor/Trustee.

## **9. Resolving Complaints Informally**

**9.1** Every effort should be made to resolve complaints informally by discussion between the individual member of staff and the appropriate level of management. This can often lead to a speedy resolution of the problem and is likely to be less damaging to working relationships.

### **9.2 The Individual**

In cases where an employee feels aggrieved by the words or actions of another; it is important for the employee to deal with this at an early stage. The employee should address the issue by one or more of the following options:

- An employee with a complaint must start by discussing it with his or her manager at the earliest opportunity; it may be possible to resolve the complaint informally through discussion.
- If the employee has a complaint regarding his or her line manager she or he may seek assistance from a more senior manager.
- The employee may also seek support from his or her trade union representative, Occupational Health or a mediation service (see paragraph 9).

If the complaint is against a Principal see paragraph 16.

### **9.3 Management**

When a complaint has been raised verbally or in writing in the first instance the line manager should offer a meeting to discuss the details of the complaint, and seek to gain the employee's agreement to address the complaint informally. The line manager may decide to address the complaint by one or more of the following options:

- Offer the complainant a meeting with their manager and the person whom they have a complaint against to openly discuss any issues and agree a way forward.
- Speak to the person whom the complaint is made against on the employee's behalf.
- Refer the complainant and the person whom the complaint is made against to Occupational Health for support (if necessary).
- Arrange external mediation subject to agreement by both parties.

In all circumstances, managers should try to resolve the underlying problem informally as part of good management practice. However, the decision to attempt to achieve an informal resolution ultimately rests with the complainant.

## **10. Mediation**

**10.1** Mediation is a voluntary process where the mediator helps two or more people in dispute to attempt to reach an agreement without recourse to the formal procedures. Mediation should be undertaken by a neutral third person who is trained in mediation techniques. Mediation, where it is successful, can produce quicker and more satisfactory results for the parties involved and may reduce the damage caused to working relationships and the health and wellbeing of both parties. Employees may be offered mediation at any stage of the complaints process. Equally, either party or their trade union representatives may make this suggestion.

**10.2** Even if mediation is not initially agreed by the parties, the offer of a mediated process can be re-offered as the case progresses.

**10.3** Mediation may be used for:

- Resolving conflict between colleagues of a similar job or grade, or between a member of staff and their line-manager
- Rebuilding relationships after a formal dispute has been resolved
- Addressing personality clashes, communication problems and bullying and harassment

**10.4** Please note, where disciplinary action is required; this process should be completed prior to mediation.

**10.5** The details of discussions within mediation processes are confidential to the parties involved.

**10.6** The mediation process is normally carried out without the involvement of trade union or management representatives.

## **11. The Formal Procedure**

If it is not possible to resolve a complaint informally employees should raise the matter formally and without unreasonable delay (see paragraph 1.2) to the Principal, or to the Chair of Trustees if the complaint is against the Principal. This should be done in writing and set out the details of the complaint and state that the complaint is being made on a formal basis.

### **Step 1 – The Complaint Letter**

Details of the complaint should be forwarded in writing to the Principal/Chair of Trustees (see above) by the complainant. The complainant should normally receive an acknowledgement of the complaint within five working days. A formal complaint should normally be submitted without unreasonable delay following the action or decision under dispute (see paragraph 1.2).

The letter of complaint should carefully describe the complaint, giving a detailed account of what is alleged to have occurred, who was involved, detail any witnesses and state when the event/s happened. In some situations the Academy may need to ask the complainant to provide further information.

Should an investigation be necessary then the timescales for arranging a complaints hearing may vary. To minimise employee stress and to facilitate the efficient running of the Academy all attempts will be made to complete the process in a timely manner.

The complainant must co-operate fully and promptly in any investigation, this may include informing the Academy of the names of any relevant witness, disclosing any relevant documents and attending interviews, as part of the investigation. There is no right of accompaniment in an investigatory meeting.

The Academy may initiate an investigation before holding a complaint meeting where the Trust considers this appropriate. In other cases the Academy may hold a complaint meeting before deciding what investigation (if any) to carry out. In those cases, the Academy will hold a further complaint meeting with the complainant after the investigation and before the Academy reaches a decision.

## **Step 2 – The Complaint Meeting**

The Academy will arrange a complaint meeting, normally within a week of receiving the written complaint.

The complainant and his/her companion (if any) should make every effort to attend meetings. If the complainant or his/her companion cannot attend at the time specified, the complainant should inform the Academy immediately and the Academy will try, within reason, to agree an alternative time.

The purpose of a complaint meeting is to enable the complainant to explain his/her grievance and how the complainant thinks it should be resolved, and to assist the Academy to reach a decision based on the available evidence and the representations the complainant has made.

Witness evidence (save for additional matters that the employee wishes to raise) is provided through witness statements. There is no right for either the Academy or the employee to call witnesses to the hearing. As such, there is no power for the Academy or the employee to cross examine witnesses (albeit that the Grievance Officer may ask questions of the employee).

Should the employee wish to question the evidence provided by another witness in the investigation then this should be raised by the employee during the investigation or upon receipt of the investigation documents.

After an initial complaint meeting the Academy may carry out further investigation and hold further complaint meetings as the Academy considers appropriate. Such meetings will be arranged without unreasonable delay.

There are two possible outcomes:

### **Complaint - not upheld**

The Academy may conclude that the complaint is not upheld, i.e. because the behaviour complained of did not occur or because there is insufficient evidence to support the complaint. If, in such a case, the Academy is nonetheless satisfied that the complainant's distress is genuine and/or that there has been a serious breakdown in relationships the Academy may offer support to the colleagues in the restoration of their working relationship through mediation or other methods as appropriate.

### **Complaint upheld or upheld in part**

If the outcome of the hearing is that the complaint is fully or in part proven on the balance of probabilities then consideration should be given to appropriate actions to prevent reoccurrence of the matters complained of. Disciplinary action may be recommended in appropriate circumstances as a separate procedure.

The complainant should be informed of the outcome, in writing, normally within five working days. The reason(s) for the outcome should be included as part of the response. If the complaint is not upheld, the employee will be informed of the right to take the complaint to an appeal hearing.

### **Step 3 – The Appeal**

If the complainant is dissatisfied with the decision from the complaint meeting, s/he should notify the Academy within five working days of receipt of the decision letter of his or her decision to appeal. The complainant must give specific reasons why they are dissatisfied with the outcome. An appeal can be made on the grounds of:

- Perceived unfairness of the decision.
- Disputing the facts of the case including new evidence coming to light.
- Procedural non-compliance.

The appeal will be dealt with impartially by a more senior Appeal Officer who has not previously been involved in the case. The hearing will take place as soon as is reasonably practicable. The Academy will confirm its final decision in writing, usually within one week of the appeal hearing. The decision will be final; there is no further right of appeal and this is the end of the procedure.

## **12. Disciplinary Implications on the outcome of complaints process**

- Where a complaint of bullying, harassment or discrimination is upheld, management may take action under the disciplinary procedures.
- Where the behaviour complained of is found to be inappropriate but not meriting formal disciplinary action, management may work with the person whom the complaint is made against to modify their behaviour through the use of management instruction, coaching, training, mentoring and mediation.
- The making of vexatious or false complaints may result in disciplinary action being taken.

## **13. Restoring Working Relationships**

Whatever the outcome of a complaint, it is management's responsibility to re-establish effective working relationships amongst the employees involved; it is the employees' responsibility to co-

operate to achieve this. The Trust may seek agreement from both the complainant and the person who the complaint has been made against for the case to be referred to mediation.

#### **14. Occupational Health Support**

The Academy has a duty of care to both parties involved in the case and should recognise that the process may be stressful and have an impact on the health and wellbeing of both parties. The Academy may seek occupational health support for either party where required.

#### **15. In-Academy arrangements**

In some cases it may be difficult for employees to work closely together and if possible the Academy may offer suitable alternative employment within the Academy if able to do so.

#### **16. Complaints against a Principal or Chief Executive**

##### **16.1 Informal**

An employee who wishes to make an informal complaint against the Principal with a view to resolving an issue may use any of the following approaches:

- Approach the Vice Principal, Principal or another member of the leadership team;
- Contacting the trade union representative who may contact the Principal directly;
- Approaching the Chair of Trustees.

**16.2** Where the situation cannot be resolved through mutual discussion, consideration should be given to the use of mediation.

**16.3** It must be noted that this is the INFORMAL part of the process and that any person the employee chooses to contact to assist in resolving the problem must deal with the matter on a confidential basis.

##### **16.4 Formal**

The employee may contact the Principal to raise a complaint against the Trustees. The complainant must put the details in writing outlining their specific complaint to the Principal. The same steps outlined within the Complaints Procedure will apply with the exception that the investigation and any subsequent hearing will be heard by the Principal and any appeal by nominated Trustees.

**16.5** Only an external investigating officer or one or more Trustees may carry out an investigation into complaints against the Principal.

**16.6** The employee may contact the Chair of Trustees to raise a complaint against the Principal. The complainant must put the details in writing outlining their specific complaint to the Chair of Trustees. The same steps outlined within the Complaints Procedure will apply with the exception that the investigation and any subsequent hearing will be heard by the nominated Trustees and any appeal by different nominated Trustees.

**16.7** Only an external investigating officer or one or more Trustees may carry out an investigation into complaints against the Principal.

The formal procedure is set out in paragraph 10 of this procedure.

### **17. Complaints made by the Principal**

A Principal may raise a complaint against a member of staff on the grounds of bullying, harassment or discrimination. A Principal may raise a complaint against the Local Governing Body or Board of Trustees but not against an individual Governor or Trustee unless she or he is exercising a delegated power or function or one conferred by law.

### **18. Complaints against the Local Governing Body/Board of Trustees**

The Academy's Principal should be contacted for advice.

### **19. Collective Disputes**

Where more than one member of staff has lodged a complaint relating to the same or substantially the same issue, the Academy may deal with the complaints together in the interests of fair and consistent decision-making. The trade union may initiate a collective grievance on behalf of more than one named employee where the issues are the same.

### **20. Overlapping complaints and disciplinary cases**

Where an employee raises a complaint during a disciplinary process, the disciplinary process may be temporarily suspended in order to deal with the complaint, at the discretion of the Academy. Where the complaint and disciplinary cases are related it may be appropriate to deal with both issues concurrently or deal with the complaint as part of the disciplinary process.