Transform Trust Grievance Policy September 2024

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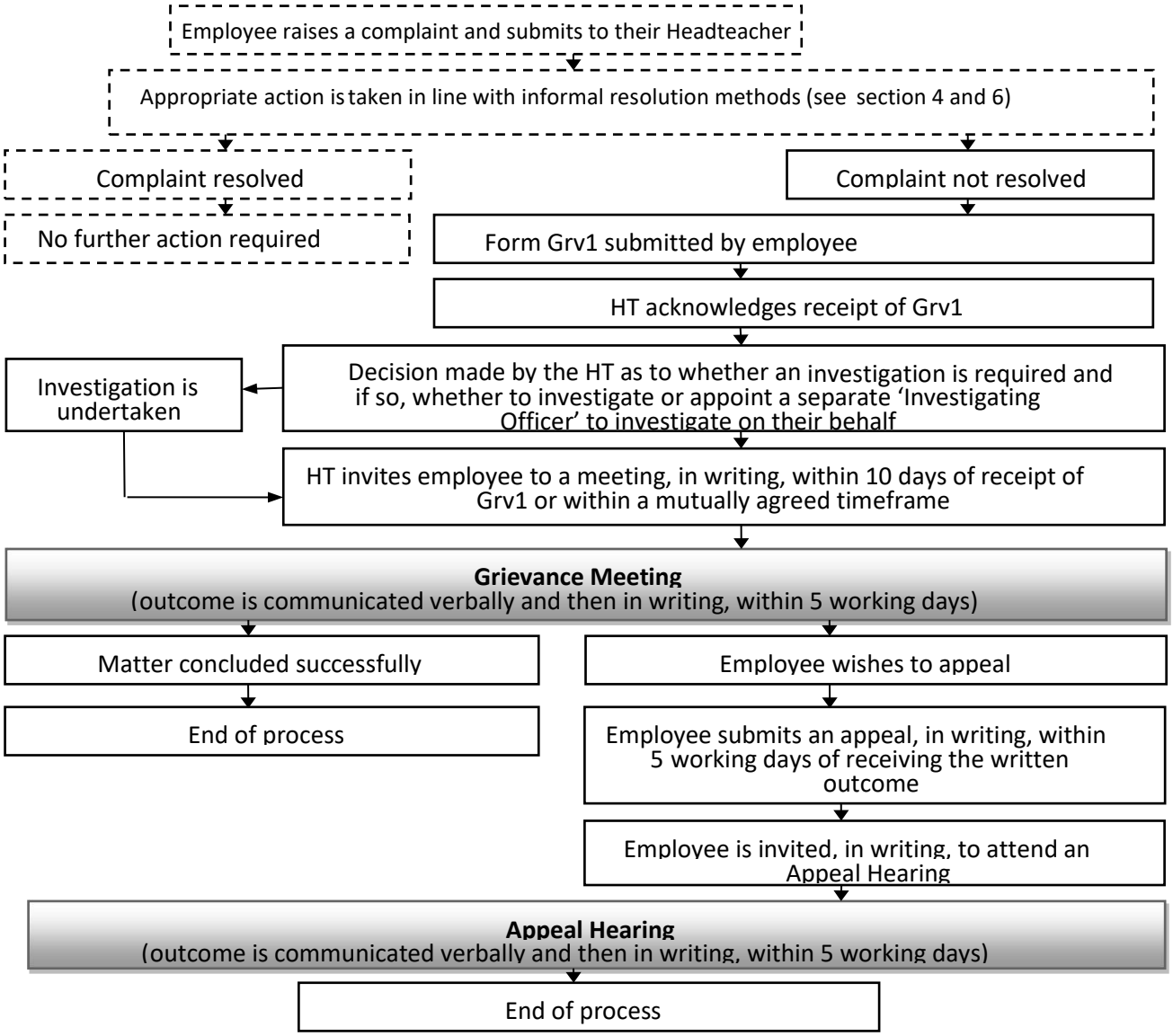
Employee raises a complaint and submits to their Headteacher
Appropriate action is taken in line with informal resolution methods (see section 4 and 6)
Complaint resolved
No further action required
Complaint not resolved
Form Grv1 submitted by employee
HT acknowledges receipt of Grv1
Investigation is undertaken
Decision made by the HT as to whether an investigation is required and if so, whether to investigate or appoint a separate 'Investigating Officer' to investigate on their behalf
HT invites employee to a meeting, in writing, within 10 days of receipt of Grv1 or within a mutually agreed timeframe
Grievance Meeting
(outcome is communicated verbally and then in writing, within 5 working days)
Matter concluded successfully
End of process
Employee wishes to appeal
Employee submits an appeal, in writing, within 5 working days of receiving the written outcome
Employee is invited, in writing, to attend an Appeal Hearing
Appeal Hearing
(outcome is communicated verbally and then in writing, within 5 working days)
End of process

1. Policy Statement

This policy applies to all school staff employed within Transform Trust and all staff employed centrally for Transform Trust.

The Scheme of Delegation for each school within the Trust outlines the delegated responsibility for staffing matters and the pay and conditions of all staff.

This policy has been developed taking into account the requirements of both education and employment legislation and recognises the guidance set out in the ACAS Code of Practice in force at the date of adoption of this policy. The policy provides a fair method of dealing with grievances within the Trust and its Schools.

Those employed in a Trust Centre role should use this policy to appeal against the informal outcome of a pay review.

Definition

A grievance is a concern, problem or complaint raised by an employee regarding their work, working conditions or relationships with work colleagues.

This policy does not cover issues raised by people who are not or have not been employed by the Trust. Such issues will be handled under our Complaints Procedure.

The Grievance Procedure does not apply to non-employees (which includes former employees who no longer work for the Trust).

A grievance raised by a former employee may be considered at the absolute discretion of the Trust and under this policy up to 3 months, less one day, from the individual's last date of employment with the Trust.

Former employees may not use this policy to raise issues that were conclusively dealt with by the Trust prior to the termination of their employment.

Where a grievance raised by a former employee is heard under this policy, the term 'employee' in the procedures shall be taken to mean 'former employee' and references to the 'Headteacher' shall be taken to mean their Headteacher at the time they left the Trust.

No grievance will be considered solely on the grounds that other formal action is being taken against an employee, nor can this policy be used to frustrate action already being taken under other Trust policies, for example discipline, capability or attendance.

Grievances concerning the Headteacher, Executive Headteacher or the CEO will be managed in the case of the Headteacher or Executive Headteacher by the CEO or in the case of the CEO by the

Chair of the Trust Board. Grievances concerning the Executive Team will be managed by the CEO. Individual Trust staff will have their concerns dealt with by their Executive Team Lead.

This policy should be used to manage a complaint from an employee about their work and/or working conditions and/or a work colleague, fairly and without delay. For the avoidance of doubt, this document does not form part of your terms and conditions of employment.

2. Policy Application and Exclusions

This policy is based on good practice to ensure a consistent and effective approach. The application of this policy will be fair, equitable, objective and will not discriminate either directly or indirectly on the grounds of an employee's sex, age, disability, gender re-assignment, marital or civil partnership status, pregnancy, maternity status, race (including colour, nationality and ethnic or national origins), religion or belief, sex and sexual orientation.

This policy:

- Does not cover complaints from or about Trustees unless the complaint relates to the Chief Executive Officer (CEO). In other cases, the relevant Complaints Procedure should be used.
- May only be used by individual employees; group complaints will not be accepted. This may however be varied by mutual agreement and individual complaints may be looked at collectively where appropriate.
- Does not apply to those employed by other organisations, employed under another organisations' terms and conditions of employment which includes a contractual grievance policy, casual workers or volunteers.
- Is not for use by a Headteacher who has concerns and/or complaints about employees they manage. These concerns should be dealt with through the application of the appropriate HR policies, for example the Disciplinary or Capability Policy and Procedures.

The following matters are excluded from this policy because separate procedures exist:

- Overpayments or pay issue
- Evaluation and grading of jobs
- Selection for redundancy (see applicable Redundancy Policy)
- Disciplinary and/or Capability issues (see Disciplinary and/or Capability Policy and Procedures)
- Matters that are in the public interest and may constitute a 'protected disclosure' and are or maybe:

1) an unlawful or a criminal offence.
2) a breach of a legal obligation (but not a personal contractual breach unless such breach involves a matter of public interest).
3) a miscarriage of justice.
4) mistreatment or abuse of a client or a member of the public for whom the Trust has a responsibility.
5) in disregard of legislation governing health and safety at work.
6) seeking undue favour over a contractual matter or a job application; or against the

7) improper conduct or an unauthorised use of public funds.
8) actions which have led to or could lead to damage to the environment; or
9) an action which deliberately covers up information tending to show any of the above.

In these circumstances it would usually be appropriate to invoke the Whistleblowing (Confidential Reporting) Policy instead of the Grievance Policy.

If your concern relates directly to your manager, you should raise this with them in an attempt to resolve matters informally, wherever possible. It is appreciated that this is not always easy to do so there may be occasions where this does not occur. However, if your concern is one of harassment, discrimination, victimisation or bullying (HDVB) it may be more appropriate for you to raise your concerns with your manager's manager or an alternative manager if this is not possible.

Where a Headteacher has a concern, or an employee has a concern relating to the Headteacher, the role of manager at Stage 1 and 2 will be performed by the Chair of Governors. In some cases, the CEO may need to also be undertake the role of decision maker in the management of these matters where a Headteacher is involved.

3. Time Limits

The time limits included in this policy may be varied by mutual agreement. The policy makes reference to a number of 'days' within which certain actions/events are to occur. A 'day' is defined as any Monday to Friday excluding public holidays as defined by the Advisory, Conciliation and Arbitration Service (ACAS).

If a complaint is raised during a period of Trust closure, the timeframes indicated in the policy will commence from the first day of the Trust being open. Where a complaint is raised immediately prior to a period of closure, the availability of any person(s) who may need to be interviewed as part of any investigation will be taken into consideration by both parties when mutually agreeing any required extension to the timeframes.

4. Good Professional Relationship and Practices

It is the responsibility of all employees to take all reasonable steps to develop and maintain good working relationships with colleagues and to deal with workplace issues in a professional, practical and constructive manner. Employees should try to resolve any difficulties at the earliest opportunity without having to use a formal process. This should be done in such a way as to have the minimum impact on the Trust, other work colleagues and to preserve working relationships.

Resolving issues in a sensible and sensitive way will require all parties to recognise their part in the issue/difficulty and how their behaviour may be contributing to the circumstances.

Employees should be willing and open to looking at ways of resolving the issues without resorting to formal processes, for example by using:

- an informal setting to discuss the matter with the colleague
- the Headteacher or an appropriate colleague as a facilitator
- mediation

Employees should be able to resolve issues professionally and respectfully by agreeing that when discussions take place there should be:

- effective listening - so that each person fully understands the issues at hand and each other's view;
- effective understanding so that each person is able to respond, knowing what the issues are;
- a calm environment - no raised voices or inappropriate body language;
- common ground – identifying and agreeing common understanding;
- the taking of responsibility – each person should admit when they are wrong, if appropriate, and take steps to make professional relationships work;
- agreed action – offering apologies if appropriate, agreeing the way forward and agreeing to meet again, if appropriate.

Every attempt should be made to resolve the issues informally. If the matter cannot be resolved by way of professional dialogue the formal process should be used. Failure to foster good professional working relationships could, in certain circumstances, lead to a decision to terminate the employment of one or more parties involved on the grounds that substantial reasons exist that make appropriate working relationships impossible, and this is directly affecting the Trust.

This may be an irretrievable breakdown in working relations or irresolvable personality differences between employees at work. This is known as dismissal for Some Other Substantial Reason (SOSR) and will be dealt with under the Disciplinary Policy and Procedures.

5. Being Accompanied

The Employment Relations Act 1999 determines that an employee has a statutory right to request to be accompanied at any Disciplinary or Grievance Hearing.

To invoke that right an employee must make a reasonable request to the employer to be accompanied by either:

- a paid official from a recognised trade union/professional association
- an official of a trade union/professional association whom the union has reasonably certified, in writing, as having experience of, or as having received training in acting as an employee's companion at Disciplinary or Grievance Hearings
- an appropriate work colleague.

Friends and or family members are not permitted unless they fall under the above criteria, and it is agreed as appropriate. It would not normally be reasonable for an employee to be accompanied by a work colleague or trade union/professional association representative whose presence would prejudice the Hearing and or was from a remote geographical location if someone suitable and willing was available on site.

If an employee's chosen representative is not available on the day proposed for the meeting, the employee can propose an alternative date within the following five days of the original proposed date. The companion may address the meeting to put and summarise the employee's case, respond on their behalf, and confer with them. The companion does not have the right to answer questions on behalf of the employee, address the meeting if the employee does not wish it, or prevent the Trust from explaining its case.

6. Stage 1 – Informal Resolution

All Transform employees are required to treat each other with respect, work together and try to positively resolve difficulties and conflict with each other at the earliest opportunity. Most employee concerns can be 'nipped in the bud' and resolved amicably. Concerns that aren't appropriately dealt with as soon as they arise can 'fester' and grow out of proportion.

In dealing with your concerns informally, you should:

- Wherever possible, try your best to resolve these yourself directly and reasonably with those involved.
- If necessary, speak to your manager for support and guidance about your concern.

Where you have not been successful in resolving your concerns directly with the person, you should then raise your concern with your manager. Your manager will arrange to meet with you and any other people involved to undertake a 'manager led discussion'. This will be held individually with each party. The purpose of this informal meeting is to facilitate a resolution. At the meeting you should explain what your concern is and what resolution you are seeking. Where appropriate, the manager may ask you to meet with the person who is causing you concern. This should only occur where it is considered appropriate and both parties are in agreement this is acceptable.

A resolution arising from this informal meeting will be recorded by your manager.

7. Stage 2 – Formal Resolution / Procedure

An employee must set out their complaint, the basis for it and the resolution they are seeking using the Grv1 form and should forward this to their Headteacher. Any documents relating to the complaint should also be submitted at this stage.

If the complaint is regarding the employee's Headteacher, the matter should be raised with the Headteacher's Line Manager. In the case of a grievance against the CEO this should be submitted to the Chair of Trustees.

Receipt of the Grv1 form should be acknowledged in writing as soon as is reasonably possible. If there is a potential for the complaint to constitute a 'protected disclosure' under the Whistleblowing Policy, the Headteacher should seek advice from the Trust HR Team.

The parties may subsequently decide to resolve the complaint by means other than this policy, e.g. mediation. This decision must be confirmed in writing and will not preclude the employee from raising their complaint under this policy at a later date.

Investigation

Depending on the circumstances of the complaint, the Headteacher may decide that an investigation is necessary. The Headteacher can either undertake an investigation themselves or arrange for an appropriate person or people ('the Investigating Officer') to carry this out on their behalf and report back to them. The Headteacher will confirm with the Investigating Officer the extent to which they should gather information.

The Investigating Officer will conduct an investigation, which may involve:

- Reviews of relevant documents or policies
- Interviews with those involved
- Seeking relevant advice

The Investigating Officer should not have had any previous involvement in the circumstances of the complaint, no close relationship with any of the parties involved nor a vested interest.

The Responder

Where the complaint is related to the actions of another employee or body, for ease of reference and for the purposes of this policy, they will be known as the 'responder'. The responder should be informed of the complaint and given a copy of this policy. They should also be given the opportunity to respond to the complaint and be advised of the likely timescale of any investigation.

Grievance Meeting

The Investigation Officer or Manager will arrange a meeting within 10 days of receiving the Grv1 form. This timescale can be extended by mutual agreement to allow additional time for information to be gathered, although it is important that there is no unreasonable delay. Consideration should be given to arranging for a suitable person to attend the meeting to take notes.

Prior to the meeting, the Investigation Officer / Manager will determine the appropriateness of sharing the information gathered and which parties to share this with. It is important that the meeting allows for free-flowing discussion and dialogue in an attempt to find an amicable solution to the complaint. The employee should be invited to re-state their complaint and how they would like to see it reasonably resolved.

The Investigation Officer / Manager will listen to all the points raised, consider any additional information gathered and then adjourn the meeting to make a decision. If a decision is reached,

the Investigation Officer / Manager will confirm this at the meeting, will set out any action that will be taken to resolve the grievance, and inform the employee of their right to appeal, how to appeal, and the relevant timelines, if they are not satisfied with the outcome. If a decision cannot be made at the end of the meeting, the employee should be informed of the reason why and when a response may be expected.

The decision will be confirmed in writing, within five working days, setting out the key factors considered, the reason for the decision and what action was agreed to resolve the complaint. This letter will also detail the employee's right of appeal, the relevant timelines, and where to send the appeal, should the complaint not be fully resolved. The Investigation Officer / Manager should also ensure that suitable feedback is given to the responder and that this is undertaken within a reasonable timeframe.

If, due to the complexity of the investigation or any other reasonable barrier, it is not possible to conduct the investigation within this time frame, the Investigating Officer (via the Headteacher where this is not the Headteacher) will proactively inform the complainant of the updated time frames and reasons for delay.

A copy of the investigating officer / Manager resolution letter and Form Grievance 1 will be placed on your Employment File. The time period for this will be in line regulations such as GDPR.

8. Stage 3 - Appeal

Where an employee is dissatisfied with the resolution outcome at Stage 2 of the procedure, they may lodge an appeal.

In lodging an appeal, they should:

- Within 5 working days of receiving your Stage 2 resolution outcome letter, submit Form 2 (appeal form) to Transform HR.
- Ensure that the reasons for an appeal in Section C of Form 2 (appeal). Include specific factors which you feel have been dealt with unfairly or incorrectly at Stage 2.

The appeal should be heard without unreasonable delay. A minimum of five working days' notice will be given to allow for preparation. The employee will be notified of the time and place of the Appeal Hearing. The Hearing Chair may invite the Investigating Officer to provide evidence. The decision will be given verbally to all parties at the end of the Appeal Hearing unless valid reasons exist not to do so. The decision will be confirmed in writing to the employee within five working days. An appeal is not a re-Hearing of all of the facts but to determine if the original decision was reasonable given the circumstances.

The appeal will be heard by an Appeal Committee from the Governing Body appointed for this purpose. Where governors have been involved at Stages 1 or 2, for example in cases involving the Headteacher, the appeal panel will consist of governors who have not had prior involvement with the matter. This could include governors from other Trust schools where there is either insufficient capacity or numbers on the governing body.

A copy of the Appeal Committee's outcome letter and Form 2 (appeal) will be placed on the employee file.

There is no further right of appeal under this procedure.

ADDITIONAL INFORMATION

ACCESSIBILITY

If you have any specific needs that would help you to participate in the Resolution and Grievance Process an employee should raise these when first identifying their concerns

Where a manager / investigating officer has concerns about an employee's health and welfare during the process, they may facilitate further support to help that employee continue in their role.

ATTENDANCE

In raising a concern under the Grievance Procedure, there is an expectation that an employee will be available to participate in the resolution process. Where an employee raises a concern immediately prior to an extended period of absence (e.g. maternity, long term sickness or extended leave) they should ensure they are available to engage during the absence, wherever possible. Alternatively, the manager will look into the concern during the period of absence and provide their resolution in writing.

HR ADVICE

The Trust HR team and the schools allocated adviser can provide advice and support to any Headteacher / Line Manager / Investigating Officer involved in the application of this policy at any stage. This includes attendance at meetings and Hearings where required.

EMPLOYEE RESPONSIBILITIES

Employees have a contractual responsibility to carry out the requirements of their job satisfactorily, to ensure that their conduct is appropriate and that they have good professional working relationships with their colleagues. Employees should identify to their leadership team any concerns, problems or complaints that may arise in the course of their work so that they can be resolved fairly and promptly. Employees involved in the investigation and resolution of complaints must participate appropriately and with due regard to the Code of Conduct.

MULTIPLE COMPLAINTS

If an employee raises multiple complaints relating to different issues, to avoid duplication of this policy and to aid a prompt resolution, the issues will be dealt with together, where possible.

VEXATIOUS/MALICIOUS COMPLAINTS

False or vexatious complaints will be taken seriously. Where a pattern of misuse or vexatious use of the Grievance Procedure is observed, the Trust reserves the right to manage such instances as it sees appropriate, including the use of disciplinary action.

OVERLAPPING ISSUES

After listening to your concerns, the manager may at any stage decide that the facts presented are sufficient for them to deal with your concerns under a different procedure. For example, there may be evidence of bullying which may lead straight to a disciplinary process for another employee.

The intention of the Grievance Procedure is to help resolve employee concerns arising in the day-to-day course of their employment. Where an employee has a concern which is related to another live process to which they are subject to for example Disciplinary, Restructuring, Absence Management or Capability, it is appropriate for their concern or objections to be raised and resolved under that process. The Grievance Procedure cannot be used to address issues that have already been dealt with through another live process or an appeal, except where there is reasonable belief that the concerns are of harassment, discrimination, victimisation or bullying.

MEDIATION

Mediation is a voluntary process, where trained mediators help people in dispute to attempt to reach an agreement. Where this is the case and all parties agree this, mediation can be a service used to allow both parties to move forward. Appendix 3 provides an outline of the mediation process.

CONFIDENTIALITY

Any parties affected by or involved in the application of this policy will be expected to maintain an appropriate level of confidentiality. Breaches of confidentiality will be taken seriously, especially if they hinder the application of the policy or the resolution of an issue. Failure to maintain confidentiality may result in action being taken under the Disciplinary Policy and Procedures. Disclosure of information may also be a breach of the Data Protection Act and may lead to action being taken under the provisions of this legislation in addition to action being taken under the Disciplinary Policy and Procedures.

RECORDING OF INFORMATION

A written record must be made of all interviews and meetings held during the application of this policy. Those involved in each meeting will be provided with a copy of any records made. The Headteacher will ensure there is a record of the process which should include all statements, records and evidence. All records will be retained confidentially, securely and in accordance with the Data Protection Act.

SUPPORT FOR EMPLOYEES

Employees are encouraged to seek support from their trade union / professional association in the first instance. Procedural guidance relating to this policy is available from the Trust HR team.

Where a referral to the Trust's Occupational Health or counselling service is necessary, this should be made by the employee's Headteacher. The allocated school HR adviser can provide support and advice for these referrals.

CONSULTATION

This policy is a Trust version of a policy which was subject to consultation with trade unions/professional associations. It will apply to all employees where this policy has been adopted. Should the Trustees wish to make material changes to this model policy, the required consultation must be undertaken with the recognised trade unions/professional associations in line with the Recognition Agreement. This policy supersedes all previous Grievance Policies and Procedures.

APPENDIX 1 – Form 1 - NOTIFICATION OF FORMAL GRIEVANCE

The Grievance should be recorded on this proforma and must contain full details of the following:

Pro-forma for employees to state their grievance	
Name:	**Post:**
School:	
Nature of grievance:	
Against whom is the grievance being raised? **Name:** **Post:**	
Full and complete details of grievance (including relevant dates, times, events, witnesses etc.) Please use a separate sheet if necessary.	
Supporting documents **1.** **2.** **3.**	
Please state your desired outcome/remedy sought (i.e. what will resolve the grievance?):	
Signed: **Date**:	

APPENDIX 2 – Form 2 - NOTIFICATION OF FORMAL GRIEVANCE

The Grievance Appeal should be recorded on this proforma and must contain full details of the following:

Pro-forma for employees to state their grievance appeal	
Name:	**Post:**
School:	
Nature of grievance raised and outcome given at stage 2:	
Full and complete details of grievance appeal (eg. why original decision was not appropriate, failure at stage 2 to consider all facts, bias, further evidence) **Please use a separate sheet if necessary.**	
Supporting documents **4.** **5.** **6.**	
Please state your desired outcome/remedy sought (i.e. what will resolve the grievance appeal?):	
Signed: **Date**:	

APPENDIX 3 – (MEDIATION PROCESS)

GRIEVANCE MEDIATION

Purpose

Mediation is a process which enables assistance to be given to help resolve grievances, normally at the informal stage. It does not replace established procedures but enhances the probability of resolution.

Mediation involves an independent and impartial person (the mediator) facilitating communication between the parties involved in the grievance. For it to be effective it needs the consent and participation of all the parties concerned and they need to have, or gain quickly, confidence in the mediator.

It is important that the mediator is a person with appropriate experience and no conflict of interest or bias towards one of the parties involved.

The mediator's task is to help promote a settlement of the grievance, acceptable to both parties. If this cannot be achieved there may be at least a better understanding of the issues and viewpoints of each of the participants.

The mediator does not have the authority to decide any issue for the parties, but will attempt to facilitate the informal voluntary resolution of the dispute by the parties concerned. The mediator may suggest ways of resolving the dispute, but should try to avoid imposing his/her own judgements.

Process

In order to help resolve the grievance the mediator may initially offer to meet both parties separately to discuss methods of achieving a settlement. If necessary, the mediator may also obtain additional expert advice, including that from the HR Team, concerning contractual, technical, professional and organisational aspects of the dispute. Once it appears that an agreed settlement may be achievable then it may be possible for all parties to meet together.

The time and location of any meetings and the issues to be discussed will be agreed with the mediator. Time within the school day should be allowed to facilitate this. It will also be helpful to the mediator if both parties set out their views for them and provide copies of any relevant documents.

Mediation sessions are usually private only involving each of the parties and their representatives. Other persons may attend with the permission of the parties involved and with

the consent of the mediator.

While neither party is asked to commit to settle their case in the mediation process, all parties commit to participate in the proceedings in good faith with the intention to settle, if at all possible.

It is important that the parties engaged in the process should have the necessary authority to reach an agreed settlement, accepting that the individual will wish to seek their own advice and management representatives may need to seek formal approval to any proposals.

Confidential information disclosed to a mediator by the parties, or by witnesses, in the course of the mediation is not divulged to other parties without agreement. In order for the mediation process to be effective the mediator should not be required to divulge any of the information disclosed in internal or external proceedings without the prior agreement of the parties involved.

Similarly the parties should not introduce as evidence in any subsequent internal proceedings:

- views expressed or suggestions made by another party with respect to possible settlement of the grievance;
- admissions made by another party in the course of the mediation proceedings.
- proposals made or views expressed by the mediator or
- the fact that another party had or had not indicated willingness to accept a proposal for settlement made by the mediator.

The mediation process is normally finished when:

- there is a settlement agreed by the parties concerned with the outcome formally recorded; or
- the mediator or either party feels that further efforts at mediation are no longer worthwhile and the matter should proceed to the formal stage of the Grievance Procedure. The Head Teacher/Chair of Governors would need to be informed that this stage had been reached.

The mediation process

By convention, the person who first approaches mediation is termed “party one”, and the people you are unhappy with are termed “party two”, “party three” and so on. Mediation is a step by step process.

Step 1

The employee can approach the school to discuss their circumstance and/or to consider mediation. The school, with advice from the HR Service, will need to decide whether mediation is appropriate to meet their needs.

Step 2

- If mediation is appropriate, a suitable mediator needs to be identified.
- It is very important that anyone undertaking mediation has the relevant skills to undertake the role. In all cases, it is recommended that the school refer to organisations such as ACAS for information on external mediation services. Relevant information can be found at www.acas.org.uk (Help Resolving Disputes/Mediation or by contacting the ACAS Customer Service Helpline on 08457 38 37 36.
- If the employee would like someone to accompany them to a mediation session they need to discuss this beforehand with the mediator.

Step 3

- If the employee, with the mediator, agree that mediation is suitable, the mediator(s) will approach their work colleague(s) separately.
- The employee decides beforehand, with the mediator, the information that should be discussed with their colleague(s).
- The employee's work colleague(s) will be treated in the same way as the employee has been, with respect, fairness and rights to confidentiality.
- The mediator may meet with each person involved in the dispute.
- The mediator will encourage the employee's colleague(s) to consider mediation.

Step 4

- If all involved wish to pursue mediation, the mediator will arrange for all involved to enter into a group meeting called a face-to-face mediation.
- This takes place in a private and informal setting, with usually only the people involved in the dispute and the mediator being present.
- The mediator is there to help make sure that the employee and their colleague(s) each listen to what the other has to say; understand each other's needs and concerns; and try to find a solution. The mediator will not tell the employee what to do but can share ideas with them and help them look at different solutions.

Step 5

- At the end of mediation, the employee will usually get a written summary of the decisions (agreements) made.
- Agreements are not legally binding but are based on good faith and commitment.