

# Grievance Policy and Procedure



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## **1. Scope**

- 1.1 The scope of this procedure is applicable to all staff employed by Community Academies Trust who is committed to equality and diversity and will make reasonable adjustment to the application of this policy and procedure in line with its equal opportunities commitment.
- 1.2 Community Academies Trust reserves the right to progress matters differently in the case of school-based staff where the substance of the grievance relates to an issue which is outside the control of the Local Governing Body.

## **2. Diversity Policy Statement**

- 2.1 The Trust willingly accepts not only its legal responsibilities but also wishes to embrace best practice in all areas of its work in order to secure equality of both treatment and outcome for all.
- 2.2 The Trust is therefore committed to ensuring that no-one is treated in any way less favourably on the grounds of personal differences such as race; national, ethnic or social origin; gender (including reassigned gender); sexual orientation; religious belief; age; disability; marital status; caring responsibilities or political or other personal beliefs.
- 2.3 We will implement all necessary action and training to ensure that the commitment of the Trust with regards to equality of treatment and outcome are fulfilled and will regularly monitor and review progress made in this respect.
- 2.4 We will ensure that employment and development opportunities are available to those who are, or who become, disabled on an equal footing with those without a disability, adapting jobs wherever possible to make them accessible.

This procedure should therefore be applied in accordance with this policy.

## **3. Purpose**

- 3.1 This procedure is designed to help and assist in the resolution of grievances from employees in a fair, consistent and effective manner. This will ensure that all employees with a grievance relating to their employment can use a procedure which can help to resolve grievances as quickly and as fairly as possible.

## **4. Policy**

- 4.1 An employee who has a grievance relating to working conditions, benefits, working hours, working relations, or concerns about a health and safety issue, a breach of statutory employment rights or any other issue affecting employment, should in the first instance discuss the matter on an informal basis with their immediate line manager. The matter should be discussed in confidence and discreet investigations may be made in attempt to resolve the matter speedily and fairly.
- 4.2 Most problems can and should be resolved by direct but courteous and confidential communication with any work colleague with whom a problem arises. Where this is not effective, union representatives may be able to help to resolve matters (the involvement of union representatives at this stage will not be regarded as formalising the procedure).

- 4.3 If these attempts to resolve matters are still not effective, employees are encouraged to discuss any problems they have with their immediate line manager.
- 4.4 If the issue relates to the immediate line manager, wherever possible staff are still encouraged to discuss the problem with their line manager in the first instance.
- 4.5 If the staff member really feels they cannot do this s/he can either choose to escalate the problem to their line manager but still within Stage 1 (i.e. it is still an informal grievance) or progress straight to Stage 2, the formal process.
- 4.6 If an employee raises a grievance or supports someone in raising their grievance they will be protected from detriment and will not be victimised or placed at any disadvantage as a result of their action.
- 4.7 If a grievance is proven to be knowingly malicious or vexatious, disciplinary action may be taken in line with the Trust's Disciplinary Policy and procedure.
- 4.8 If an employee raises a grievance regarding the fact they are subject to disciplinary or capability action, both issues can be combined if they are linked and dealt with via one process. There will be no resulting delay to the grievance procedure in these circumstances.
- 4.9 There may be occasions where an employee may have not raised an issue as a grievance and the employer has a duty of care to regard the issue as a potential grievance. In these circumstances the employee should be asked to confirm in writing if the issue is or is not a grievance. The issue should then be dealt with via the correct mechanism.
- 4.10 There should be clear demarcation and independence of roles throughout this process. The same line manager or governor will not be responsible for the formal hearing of the three stages in this process in respect of any one case.
- 4.11 Once a grievance has been dealt with in accordance with this policy, the same grievance may not be resubmitted within six months of being subject to this procedure.
- 4.12 In exceptional circumstances the Trust may withhold some information, e.g. if the employer believes there to be a risk of intimidation or harassment.
- 4.13 Records should be treated as confidential and kept in accordance with the Data Protection Act 1998, which gives individuals the right to request and have access to certain personal data.
- 4.14 Before setting dates to discuss any grievance, reasonable efforts should be made to arrange with both the employee and the employee's representative that they are able to attend. If the meeting falls through on two occasions due to the employee and/or representative and/or Trade Union, the employer will be under no obligation under the statutory procedures to rearrange it again. If this is the case then the Chair may consider asking the employee to submit a written submission with full details of their grievance within a set period of time and then may decide to proceed with their investigation of the employees grievance based on the information available to date.

- 4.15 To ensure a consistent approach, the Trust's Human Resources department will advise at Stage 2 and Stage 3 and, if requested by either party, also at Stage 1.
- 4.16 Problems arising during the course of employment should be expressed and, where possible, resolved quickly and to the satisfaction of all concerned. If the problem cannot be resolved by these discussions, employees have a right to express their grievance by following the procedure detailed below, except in cases of:
- Applications for regrading and grading appeals
  - Appeals against disciplinary and capability decisions
  - Pay Policy matters

## **5. Employees' Rights to Accompaniment**

- 5.1 An employee bringing a grievance has the right to be accompanied and supported, by either a workplace colleague or a Trade Union representative of their choice at a meeting convened at any stage of the grievance procedure.
- 5.2 The role of the Professional Association/Trade Union representative or workplace colleague is to:
- Confer with the employee, including before the employee answers any question
- Respond on behalf of the employee to any views expressed at the meeting
  - Present and sum up the employee's case, as agreed with the employee
  - Ask for adjournment if necessary
- 5.3 The Professional Association/Trade Union representative or work colleague is not permitted to:
- Answer questions put directly to the employee
  - Address the meeting if the employee indicates that they do not wish them to
  - Prevent the employee from explaining their case or answer any questions
- 5.4 The employee should provide the name of their representative in advance. If the chosen representative is unavailable at the time of the hearing, the employee may request a postponement (once except in exceptional circumstances)) to a time that is convenient to all parties within a reasonable timescale not normally exceeding five working days.
- 5.6 An employee will not be subject to any detriment by the Trust for having acted as a companion in grievance proceedings.

## **6. Procedure**

- 6.1 This procedure is only intended for use where informal discussion has not achieved resolution of a situation. It is not a substitute for discussion between individuals and their line manager.
- 6.2 This procedure has three stages. The first is informal; stages two and three are formal, with the third stage being the right of appeal.

- 6.3 The three stage policy is applicable whilst the employee is in employment. If an employee ends their employment whilst the grievance procedure has not been completed, then the grievance procedure should be continued until the procedure has been exhausted.
- 6.4 If employment has ended or at any point it becomes impractical for either party to follow the above policy or both parties agree in writing, the case may be dealt with as a the Modified Grievance. The Modified Procedure is detailed in Appendix 1.

## **7. Stage One - Informal Procedure**

- 7.1 When an employee has a grievance arising from their employment the employee should initially raise the matter with their immediate line manager.
- 7.2 The grievance does not need to be in writing.
- 7.3 If the grievance is against the line manager the employee may not feel comfortable to do this, so the employee can raise the matter with the next level of management and remain at Stage One of the process or progress to Stage Two. The line manager will provide a verbal response within five working days of the grievance being raised, and a written outcome as soon as practically possible depending on the circumstances.

## **8. Stage Two - Formal Procedure**

- 8.1 If the Stage One grievance is still unresolved, the employee must put the grievance in writing within 10 working days of the outcome to Stage One using the grievance form shown in Appendix 6.
- 8.2 If the employee is dissatisfied with the response from the line manager they must pass the Stage Two grievance to the next appropriate line manager. If the initial procedure (Stage One) was handled by the Headteacher (or nominee) then the Stage Two process will be handled by the school's Local Governing Body (or the Headteacher).
- 8.3 Where the grievance is against the Headteacher then the grievance should be dealt with by the Trust's Strategic Leadership Team alongside the school's Local Governing Body.
- 8.4 The appropriate manager will arrange a hearing at a mutually agreed time to discuss the grievance. This will be held within 10 working days of receipt of the Grievance Form. The manager may then need to arrange a full investigation if necessary.
- 8.5 The manager must determine whether it is possible to investigate and hear within the required timescales. If not, the employee must be advised of the delay and new timescales agreed.
- 8.6 At the Stage Two grievance hearing the manager will make recommendations to resolve the grievance. An interim reply may be necessary if further investigation is required. Guide on the requirements of a hearing can be found in Appendix 4.
- 8.7 The manager will confirm their decision and recommendations in writing to the employee within 10 working days of the hearing, or longer by mutual agreement.

## **9. Stage Three - Appeal**

- 9.1 If the employee or their Trade Union representative is dissatisfied with the outcome of the Stage Two hearing, then the employee or the Trade Union representative must appeal within 10 working days of receiving the hearing response. This should be addressed to the Chair of the Appeals Committee. This should detail the grounds upon which the appeal is based.
- 9.2 Acknowledgement of receipt of the written Stage 3 - Appeal must be issued.
- 9.3 If Stage Two - Formal Procedure, was handled by the school's Local Governing Body then the Stage Three - Appeal process will be handled by the Trust's Strategic Leadership Team.
- 9.4 Arrangements are made for an Appeals Committee to convene a meeting within 10 working days of receipt of the appeal to hear evidence and rule on the decision/recommendations previously made. The employee should be given reasonable notice of the date, time and venue of the meeting.
- 9.5 All relevant documents shall be submitted to the parties concerned as well as the Appeals Committee for the purpose of hearing the appeal within 5 working days of the appeal, together with a clear statement of the grounds for appeal. The parties concerned may make additional submissions, and should be present at the hearing, or may be required to attend and may be accompanied by a representative or a workplace colleague. There will be an opportunity for the employee, or the employee's representative, to comment on any new evidence arising during the appeal before any decision is taken.
- 9.6 The Appeals Committee may dismiss the appeal, uphold the appeal or modify the action proposed at Stage Two to resolve the grievance.
- 9.7 The Appeals Committee may announce its decision to the employee in person or subsequently in writing. Written confirmation should be issued within 10 working days of the hearing. The decision of the Appeals Committee is final.

## **10. Manager's Responsibilities**

- 10.1 When a grievance has been made, the appropriate manager will seek to resolve the issues and may investigate further depending on the nature of the grievance. All managers should:
  - Ensure that at all times the process is treated confidentially
  - Promote and operate thoroughly, fairly and with careful consideration
  - Try to resolve the grievance without undue delay
  - Where appropriate, ensure that mediation has been explored and offered to parties as a way of resolving the grievance before it escalates to the formal stage
  - Create and maintain a good working environment while the grievance is being addressed
  - Support all parties affected by the grievance
  - Ensure that accurate notes are taken and shared with the appropriate parties.

## **11. Status Quo**

- 11.1 For the purposes of this procedure the 'status quo' means the working arrangements or practices in place immediately before the event causing the grievance.
- 11.2 The 'status quo' will be applied until the grievance process is completed except where working practices are dangerous, where there would be a breach of statute, or where there would be significant impact to the welfare of others. Where significant changes have been implemented the revised arrangements will remain in place until the grievance process is completed.

## **12. Mediation**

- 12.1 Mediation is a confidential process that seeks to help employees resolve disputes in the workplace. Mediation is an informal process where employees involved in a dispute or whose relationship is under strain, have the opportunity to air their differences in a voluntary, safe, confidential meeting with the other party, in the presence of a mediator.
- 12.2 Mediation can be used at any point in the procedure, for example where other informal processes in place have been unsuccessful, or as an alternative to the formal procedure. There is no penalty or detriment if participation in mediation is not chosen.
- 12.3 If parties agree to engage in the mediation process as a way of resolving issues, the assigned manager must contact the Trust's Human Resources department as soon as possible so that a mediator can be arranged.
- 12.4 If mediation is pursued the grievance may be paused while the process takes place. If the issue is resolved informally, or through mediation the grievance will be closed. If the mediation process is not successful then the grievance should be escalated to the formal stage.

## **13. Post Grievance Support**

- 13.1 Following any grievance, whether upheld or dismissed, it is recognised that there is a need in most instances to resume normal working relationships to the highest degree possible. To ensure this, counselling support may be offered to those affected. If appropriate, this will be arranged through the Trust Human Resources department and will be confidential. Other methods to rebuild relationships may also be considered where appropriate.

## **14. Collective Grievances**

- 14.1 In circumstances where a grievance is raised by or on behalf of more than one person, the details of the grievance must be set out in writing and signed by all who are party to the grievance. The employees may nominate one person to represent the group, in most cases this will be a Trade Union representative depending on the number of Trade Union memberships of those involved.
- 14.2 Where the group is represented by one Trade Union, it may be appropriate for the problem to be resolved through collective agreements between those Trade Unions and the Trust's Strategic Leadership Team.



## 15. Relationship with Disciplinary Procedure

- 15.1 The grievance procedure should not be used for appeals against disciplinary decisions because that is provided for at the appeal stage of the disciplinary procedure.
- 15.2 If a grievance is raised once the disciplinary process is underway it may be suspended in order for the grievance to be considered first. However, this would only occur if the grievance was related to the subject matter arising out of the disciplinary meeting, for example the behaviour of a manager during the course of a disciplinary case.
- 15.3 The ACAS Code of Practice 1 - Disciplinary and Grievance Procedures (March 2015) only requires an organisation to consider suspending the process. Whilst a postponement will be considered, the disciplinary process may continue if dismissal is a likely sanction or it services the needs of the Trust to proceed this way.
- 15.4 Where disciplinary action against another employee results from a grievance, the grievance procedure may be suspended whilst a disciplinary investigation is carried out and, if necessary, the disciplinary process is completed. The suspension of the grievance procedure will be at the discretion of the Trust, taking into consideration both the interests of the organisation and of the employee who raised the grievance.

## Appendix 1 Modified Grievance Procedure

The modified grievance procedure should apply in circumstances where the standard grievance procedure would otherwise apply but where employment has ended and either:

- Both parties agree in writing that the modified procedure should apply: **or**
- It is not reasonably practicable for one or other party to take the next action under the standard procedure e.g. an employee cannot attend a meeting because he/ she cannot get time off from his / her new job.

The modified grievance procedure is as follows:

Modified Two Step Grievance Procedure	
Stage 1	The employee must set down in writing the nature of the alleged grievance and send the written complaint to the nominated representative.
Stage 2	The nominated representative must set out his or her response in writing and send it to the employee.

## Appendix 2 Informal Procedure

Stage One - Informal Procedure	
Who to report to	<p>When an employee has a grievance arising from their employment the employee should initially raise the matter with their immediate line manager.</p> <p>The grievance does not need to be in writing.</p> <p>If the grievance is against the line manager the employee may not feel comfortable to do this, so the employee can raise the matter with the next level of management and remain at Stage One or progress to Stage Two.</p>
What happens next	<p>The line manager will record the details of the grievance and fully investigate the matter.</p>
Decision	<p>The line manager will provide a verbal response within 5 working days of the grievance being raised, and a written outcome as soon as practically possible depending on the circumstances.</p>

## Appendix 3 Formal Procedure

Stage Two - Formal Procedure	
Who to report to	<p>If the Stage One grievance is still unresolved, the employee must put the grievance in writing within 10 working days of the outcome to Stage One using the Grievance Form shown in Appendix 6.</p> <p>The grievance is then escalated to the next management level.</p>
What happens next	<p>The appropriate manager will arrange a hearing at a mutually agreed time to discuss the grievance. This will be held within 10 working days of receipt of the Grievance Form. The manager may then need to arrange a full investigation if necessary.</p> <p>The manager must determine whether it is possible to investigate and hear within the required timescales. If not, the employee must be advised of the delay and new timescales agreed.</p> <p>At the Stage Two grievance hearing the manager will make recommendations to resolve the grievance. An interim reply may be necessary if further investigation is required.</p> <p>Where the grievance is against the Headteacher, then the grievance should be dealt with by the School's Local Governing Body and the Trust's Strategic Leadership Team.</p>
Decision	<p>The manager will confirm their decision and recommendations in writing to the employee within 10 working days of the hearing, or longer by mutual consent.</p>

## Appendix 4 Appeal Process

Stage Three - Appeal Process	
Who to report to	<p>If dissatisfied after Stage Two of the procedure the employee can make a final appeal to be heard by an Appeals Committee.</p> <p>The appeal should be addressed to the Chair of the Appeals Committee. The Appeals Committee should include members of the Local Governing Body.</p> <p>The appeal should be lodged on a Grievance Form within 10 working days of the Stage Two decision.</p>
What happens next	<p>Arrangements are made for an Appeals Committee to convene a meeting within 10 working days of receipt of the appeal to hear evidence and rule on the decision/recommendations previously made.</p>
Decision	<p>The employee will receive a written response to their appeal within 10 working days of the hearing.</p>

## Appendix 5 Grievance Hearing

### Grievance Hearing

- Both sides to present their case and witnesses may be called if appropriate.
- Documentary evidence may be submitted provided it has been circulated at least three working days in advance of the hearing.
- The aim of the meeting is to achieve a resolution to the grievance submitted.
- The role of the Chair is to remain impartial throughout the process and will adopt an approach aimed at reaching an agreed outcome. This may not be possible in some cases where the original decision will be confirmed or an alternative substituted.
- The Chair has the responsibility to ensure that all individuals have the opportunity to put forward evidence in support of their argument and that this is considered in an objective manner.
- The Chair of the panel will write to all parties within ten working days of the grievance hearing explaining the decision reached. In very unusual circumstances it may not be possible to respond within the specified time period. In these circumstances the employee should be given an explanation for the delay within the timescale and told when a response can be expected.

## Appendix 6 Grievance Form

Grievance Form
Once completed, please send a copy to your line manager and a second copy to CAT Human Resources Department. Please also retain a copy for your own reference.
Name of Employee:
Job Title:
Location:
Please outline your grievance below

**Grievance Form Continued**

What action has already been taken concerning your grievance?

Who has considered it?

What was the result?

Please state what action you require to be taken regarding your grievance to resolve the matter to your satisfaction:

Signed:

Date:



## Appendix 7 Grievance Record

Grievance Record			
This record should be completed for all grievances and a copy should be given to the employee after each new entry.			
Name of Employee:			
Job Title:			
Location:			
Nature of Grievance:			
Date Grievance Received	Action Taken	Who considered the Grievance	Date employee notified
Informal Procedure			
Stage One	Verbal	Line Manager	
Formal Procedure			
Stage Two	Formal Hearing	Headteacher/SMT	
Stage Three	Final Appeal	Appeal Committee	

## Appendix 8 Appeal Hearing Agenda

### Appeal Hearing Agenda

#### Introductions

- Chair introduces everyone and what their role is:
  - Self as Chair
  - Other panel member(s) (if applicable)
  - Employee representative
  - Any witnesses for the employee side (provided prior notice has been given)
  - Management representative responding to the appeal
  - Person who will clerk the meeting
  - HR representative to give advice to the panel
- Request that all attendees turn off any electronic devices to avoid unnecessary interruptions during the hearing
- Confirm with the employee that they have received the letter notifying them of the appeal hearing and any associated documentation
- Advise that any questions, comfort breaks and adjournment requests should be directed to the Chair
- Identify the location of the rooms available to both the employee and member(s) of the original panel, to be used should any adjournments be required
- Confirm that the appeal hearing/meeting is a result of the decision of a grievance procedure (providing the date of the original hearing/meeting and its outcome), and that the appeal will be heard in line with the relevant procedure
- If the appeal hearing/meeting has been rescheduled, confirm with the employee that they acknowledge why this was the case
- Reaffirm that the appeal process is not an opportunity for a re-hearing of the original submission but to:
  - Consider the grounds of their appeal, e.g. this could be to determine if the previous decision was fair
  - Consider any new facts and judge the reasonableness of the procedure to date (if this is a re-hearing, advice should be sought from Human Resources before commencing the meeting/hearing)
- Advise that the decision of the appeal panel will be made after the hearing, either following an adjournment, or after closing the hearing, should it require more time to consider the case. The outcome will be confirmed within the relevant timescale.

### The order of the hearing:

- The employee will be invited to present their case, during which it would be helpful if they directed the panel to the issues that they would like the Appeals Panel to consider
- Where previously agreed with the Chair, witnesses may be called
- The Appeals Panel will ask questions/seek clarification as necessary
- The original hearing panel member(s) responding to the appeal will be given an opportunity to respond to each of the points raised by the employee and make representation to the panel
- The employee shall be given the opportunity to make a closing statement covering their grounds of appeal - if this is not relevant to the appeal then the Chair holds the right to stop that part of the discussion
- The original hearing/meeting panel member(s) should be given the same opportunity and again if this is not relevant to the appeal then the Chair holds the right to stop that part of the discussion
- The panel will adjourn for the Appeals Panel to consider their decision

### Present case

- Hear the case based on the above running order

### Termination of hearing

- The Chair ends the hearing and advises the employee that they will receive the panel's decision in writing within the timescale

### Decision making

- The clerk will note the time of the termination of the meeting
- The clerk will note the main points of the panel discussion, and their decision
- The panel will obtain Human Resources advice if required to inform their decision making
- Panel considers the case and makes a decision if not done during an adjournment (Grounds for appeal: upheld, rejected, or require a full or partial rehearing, as per the policy)
- If the panel is unable to make a decision as further information is required, inform the employee as to when they can expect written notification of the decision (or if further action was deemed necessary what this would entail)
- HR clerk notes time when decision is reached and what it is

### Communication of decision

- Decision and reason for the decision confirmed in writing informing the employee the decision is final

## Appendix 9 Grievance Procedure Flowchart

