Schools HR

Model Grievance Procedure

February 2020

ISLINGTON

Duncombe Primary School
Grievance Policy - Staff

The policy was adopted by the Full Governing Body
of Duncombe Primary School

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1. Purpose

1.1 The procedure is designed to help resolve workplace concerns, problems or complaints which employees wish to raise in a prompt and fair manner.

1.2 It does this by:

- affording the employee the opportunity of putting his/her case;
- fostering good relationships between school management and staff by encouraging the speedy and effective resolution of grievances;
- settling grievances as near as possible to their point of origin in an atmosphere of trust and confidentiality.

2. Application of the procedure

2.1 The procedure applies to all school employees.

2.2 The procedure is designed to deal with grievances, including incidents of bullying and harassment:

- between colleagues where there is no line management relationship;
- between an employee and his/her line manager(s) (this includes not just the immediate line manager but may include the line manager's manager etc.);
- between an employee, including the Headteacher, and a governor;

2.3 A grievance enables individuals to raise issues with management about their work, or about management or a colleague's action that affect them.

2.4 Where a complaint relates to disciplinary or other action including threatened or actual dismissal, then the appeal stage of the Disciplinary procedure, or other relevant procedure, must be used.

2.5 Formal grievances involving complaints of discriminatory acts on grounds of sex, sexuality, age, marital status, race, colour, religion, nationality, ethnic or national origins, or of racial or sexual harassment, should be investigated. Where there is sufficient evidence of a discriminatory act, the matter will be progressed in accordance with the Disciplinary procedure. Such acts, if upheld are contrary to disciplinary rules and could be construed to be unlawful. The advice of Schools' HR should always be sought in such cases.

2.6 The following matters cannot be raised under this procedure:

- Amounts deducted for income tax, national insurance, and other statutory deductions from pay;
- Where there is a challenge to a general policy of the school, rather than to the application of that policy;
- Appeals against the grading of posts (which should be dealt with under the relevant procedure for support staff and for teachers) ;
- Appeals against selection for redundancy which should be dealt with through the Organisational Change Procedure;
- Matters over which the school or governing body has no control;
- Complaints that have been exhausted under other relevant school complaints procedures (e.g. Parents Complaints procedure);
- Complaints which should be raised under another schools policy or procedure

- Complaints which have not been initiated within three months of the circumstances giving rise to the grievance unless fundamentally linked to the present grievance.

2.7 Reference to 'Schools HR' is to Islington Schools' HR. If the school uses a different HR provider, that provider's support will be utilised.

3. Key principles

3.1 The procedure is designed to create a working environment which encourages harmonious, respectful and dignified working relations and as with all matters of equal opportunities.

3.2 It is incumbent upon employees not to pursue frivolous matters or malicious grievances using this procedure

3.3 In addressing circumstances where grievances are raised, the governing body will seek to ensure that each case is considered on its own merits, in an objective, fair and nondiscriminatory manner through the application of the procedure and the following principles:

- Every employee should have a clear understanding of the standards required of them as a member of school staff and have been provided with a copy of the school's code of conduct;
- Minor issues raised as grievances should be dealt with promptly without recourse to the formal procedure;
- Grievances will be handled without unreasonable delay to meetings or the communication of decisions (as required by the procedure) and with due regard for confidentiality during the process;
- Grievances will be investigated to a level appropriate to the circumstances in order to establish the relevant facts;
- Employees will be informed of any grievance against them and will be given an opportunity to put their case in response to any investigation before decisions are taken;
- Employees will be informed of their right to be accompanied at any formal meetings and of their right to appeal against any formal decision made;
- Employees will be made aware of the existence of the procedure and be informed where they can locate a copy;
- Reasonable adjustments to the procedure will be made to accommodate the needs of an employee with a disability;
- All parties, including representatives, involved in any grievance must be reminded of their obligation to maintain confidentiality.

3.4 Mediation will be considered at all stages of the procedure.

4. The Grievance Procedure

4.1. Stage 1: Informal

4.1.1 Where an employee has a grievance that involves another member(s) of staff, he/she should first of all endeavour to resolve the matter amicably by direct approach to the person(s) involved. The grievance procedure should be used if a direct approach is considered inappropriate or where the matter is not resolved as a result of such an approach.

4.1.2 If it has not been possible to resolve the grievance as outlined in 4.1.1, the employee should raise the grievance with her/his line manager (or other appropriate manager), without unreasonable delay. The employee must set out the nature of the grievance and the

resolutions or redress sought. If the grievance is against the employees line manager, the grievance should be raised with the next level line manager.

4.1.3 An initial interview with the line manager / next level line manager (i.e. Headteacher, head of department or other senior member of staff), should be held **within 5 working days** of receipt of the grievance, or as is mutually agreed.

4.1.4 The line manager / next level line manager should seek to resolve the matter through normal management processes. This may be in discussion with the chair of governors, Schools HR or Trade Unions representative, where appropriate.

4.1.5 Where appropriate and where both parties (the grievant and the person against whom the grievance has been made) agree, a joint discussion with all parties may take place with a view to resolving the grievance.

4.1.6 The informal stage should be concluded within **10 working days** of the initial interview taking place, where possible.

4.1.7 A note should be made of the outcome and given to both parties.

4.2. Stage 2: Formal Meeting

4.2.1 Where a formal grievance is submitted without entering the informal stage, the Headteacher / Chair of Governors may decide to refer the matter to the informal stage for resolution.

4.2.2 Where it has not been possible to resolve the grievance informally, the employee should submit their grievance in writing to their line manager using the grievance pro forma (Appendix A), together with any relevant documents, outlining the nature of the grievance and the resolutions or redress sought.

4.2.3 Where the line manager is the subject of the grievance, the grievance pro forma should be submitted to the next level line manager; where the grievance is against the Headteacher, the grievance pro forma must be submitted to the Chair of Governors. Once the grievance pro forma is received, the line manager will either investigate the grievance or arrange for another manager to investigate. This person will be known as the investigating officer.

4.2.4 The line manager / next level line manager will investigate the matter or appoint an investigating officer normally within 5 working days of the grievance pro forma being received. In exceptional circumstances, e.g. where there is no appropriate line manager, advice should be sought from Schools HR. The Headteacher / Chair of Governors may decide to appoint an external investigator, especially if the complaint is serious and/or complex.

4.2.5 Once appointed, the investigating officer will arrange a meeting with the employee without unreasonable delay, **giving 5 working days' notice** unless a shorter period is mutually agreed. The employee should be advised that they may be accompanied by a trade union representative or work colleague. A representative from Schools HR and a school appointed note taker will also be present.

4.2.6 The employee can request an alternative date for the meeting if their union representative is unable to meet on the date proposed and an alternative date should, where possible, be offered within 5 working days of the original meeting. If the employee and/or their representative do not attend the rescheduled meeting, then it may be held in their absence.

4.2.7 At the meeting, the employee will be given the opportunity to explain their grievance and the resolution sought. The investigating officer will hear the grievance and set out how s/he intends to investigate the grievance, providing timescales where possible.

4.2.8 Following the investigation, the investigating officer is able to make recommendations and decide upon one or more of the following decisions:

- Not to uphold grievance
- Partially uphold grievance
- Fully uphold grievance

4.2.9 The investigating officer will inform the employee of the outcome in writing (investigation report). Where appropriate, the investigating officer may invite the employee to a meeting to verbally inform the employee of the outcome, giving **at least 5 working days'** notice of the date of the meeting, unless a shorter period is mutually agreed, and the right to be accompanied by a trade union representative or work colleague. Where a meeting is held, the decision of the investigating officer and the reasons for it will be confirmed in writing **within 5 working days** of the meeting.

4.2.10 The employee will be informed of their right of appeal.

4.2.11 In the event that the grievance is upheld, the investigating officer will consider the seriousness and the impact of the grievance, and any mitigating factors, in reaching a decision about what, if any, remedies or sanctions should apply, including mediation and initiation of the disciplinary procedure.

4.2.12 Where an external investigator is appointed, the external investigator will inform the Headteacher / Chair of Governors of the outcome of the investigation. The Headteacher / Chair of Governors will undertake the role of the investigating officer as outlined in 4.2.9 – 4.2.11.

4.3. Stage 3: Appeal

4.3.1 Appeals should be made **within 5 working days** of receiving the notification of the outcome and must set out the grounds for the appeal including the evidence relied upon. Appeals must be made in writing to the clerk to governors.

4.3.2 The request for an appeal should specify the grounds for the appeal and, in particular, whether these refer to the reasonableness of the decision or to procedural matters. An appeal will not normally involve a re-hearing of earlier evidence.

4.3.3 An appeal hearing will be arranged as soon as possible, giving **10 working days' notice** of the date of the appeal hearing. The notification will also include the investigation outcome and other relevant documents to be sent to the appeal panel.

4.3.4 The employee can request an alternative date for the meeting if their union representative is unable to meet on the date proposed and an alternative date should, where possible, be offered within 5 working days of the original meeting date.

4.3.5 The appeal panel will consist of 2/3 governors who have not previously been involved in the case. A representative from Schools HR and a school appointed note taker will also be present. The investigating officer may be present, dependent on the grounds of appeal, and any witnesses the investigating officer or employee may wish to call.

4.3.6 The employee will provide, **at least 3 working days** before the hearing, any documents that he/she intends to present at the Appeal hearing.

4.3.7 The appeal panel can decide upon one or more of the following decisions:

- To uphold the original decision
- To make changes to the original decision

4.3.8 The decision of the Appeal Panel will be final.

Other points to note

5. Overlapping Grievance and Disciplinary Procedures

5.1 An employee may raise a grievance after disciplinary proceedings have started against him/her. The person managing the Disciplinary Procedure should consider the implications of the grievance on the disciplinary. If the grievance has been raised before the appeal stage of the Disciplinary Procedure and the matters of grievance are linked to those of the disciplinary, then the grievance should be considered within the Disciplinary Procedure. If the grievance concerns matters that are unrelated to the disciplinary, then a separate process under the Grievance Procedure will need to start. In almost all cases where a grievance is raised after disciplinary proceedings have started, the grievance should be considered after the completion of the disciplinary.

6. Malicious Grievances

6.1 Where, following the investigation, the allegations in the grievance are found to be without foundation and the view is taken that they have been brought maliciously in bad faith, formal disciplinary action may be recommended against the person who brought the grievance.

7. Grievances from ex-employees

7.1 A letter of resignation or exit interview may constitute a grievance dependent on the content. Headteachers should seek advice immediately from the School's HR provider before any action is taken.

7.2 Where an employee has left the school's employment, the grievance procedure will only apply if the individual raised their grievance without unreasonable delay (within 3 months of the incident). If a manager receives a grievance from a former employee s/he should pass the letter to the Headteacher without delay. The Headteacher should contact School's HR before any action is taken.

8. Arranging meetings under this procedure

8.1 Dependent on the nature and seriousness of the matter / allegation / outcomes being considered at the meeting, consideration should be given to allowing reasonable time period prior to and after the meeting for the employee to meet with / be briefed / debriefed by their trade union representative.

8.2 Where additional time may be required after the meeting, in the first instance, the employee or trade union representative will speak to the manager / Headteacher or the Schools HR representative. The request will be considered at that time, taking into account the needs of the school and pupils.

9. Inability of employee to attend meetings or hearings

9.1 If an employee is unable to attend a formal interview, hearing or appeal he/she may choose to provide written permission to the effect that his/her representative may act on full authority and he/she will accept any decision that their representative has been party to. He/she may also provide a written response.

9.2 Alternatively, if he/she cannot attend for a genuine reason, and are not willing for his/her representative to act on their behalf and is not able to provide a written response, it may be reasonable to arrange another interview. However, if the employee fails to attend or provide a written response for a second time, without a genuine reason, management may make a decision based on the facts and evidence available to them in the employee's absence.

Appendix A: Grievance Pro-forma

1. PERSONAL DETAILS		
Your details:		
Name:		
Address:		
Email:	Phone:	
School:		
Post Title:		
Line Manager's Name:		
Trade Union Representative's Name (*if applicable*):		
Details of the person against whom the grievance is raised:		
Name:		
Post Title:		
Working relationship: (i.e. colleague, line manager etc.)		
2. DETAILS OF GRIEVANCE		
Please indicate which stage of the Grievance Procedure you are invoking by ticking the appropriate box:		
Stage 1: Informal (section 4.1)	Stage 2: Formal (section 4.2)	Stage 3: Appeal (section 4.3)

Please state the grounds of your grievance, giving sufficient information on any circumstances or events that have given rise to your grievance, including dates and times where appropriate. Incidents that happened more than four months ago cannot be submitted under this policy. You should also state the names of anyone that you have raised your concerns with. If this is stage 2 of your grievance please attach other pages or evidence in support of your grievance. If this is a stage 3, then you must also attach a copy of the report that you received at the previous stage, stating why you are not satisfied with the decision at stage 2.
What action have you taken so far to resolve this matter? Include dates of meeting attended under the earlier stages of the procedure.
Resolution: Please indicate how this matter could be resolved successfully and what you are hoping for by raising this concern/grievance?

Name: _____

Signature: _____

Date: _____

Appendix B: Appeal Hearing Format

1. Introductions – the Chair will ask all parties to introduce themselves.

2. Format of the Hearing – Chair outlines the order of the Appeal Hearing. The Chair will invite the employee to state his/her case, i.e. the grounds for the appeal against the original decision regarding his/her grievance, what outcome he/she is seeking and why.

3. Presentation by the Employee – The Employee outlines the reasons for the appeal, **no new evidence** should be introduced and this **should not** be a re run of any previous meetings or the investigation. Normally the Employee or their representative will do this; it is not usually a joint presentation. The Chair can allow a little leeway or flexibility here.

4. Questions from the Manager/Chair at the original hearing – the Manager will take this opportunity, if required, to clarify any points of information to challenge any information not previously given.

5. Questions from Chair – the Chair will take this opportunity if required to clarify any points of information, a decision will need to be taken, if new information is introduced whether it will be accepted, things to consider; the relevance of any new evidence, would the evidence have changed the original decision and also could this evidence have been produced previously, if so, why was not previously produced.

This may be an ideal time for a comfort break, if needed and dependent on the length of the Employees presentation.

6. Presentation from The Chair at the original hearing/Manager – The Chair at the original hearing will outline the reasons for the decision/conclusions made and the evidence this decision was based on, addressing the areas outlined in the employees appeal.

   Where necessary, the Manager outlines the investigation undertaken, the evidence found/not found (including any meetings/interviews) and the reason/s for the decisions/conclusions. There may be the need to address any issues that required clarification from the previous presentation.

7. Questions from Employee – the employee will take this opportunity, if required, to clarify any points of information to challenge any information not previously given.

8. Questions from Chair - the Chair will take this opportunity if required to clarify any points of information, a decision will need to be taken, if new information is introduced whether it will be accepted, things to consider; the relevance of any new evidence, would the evidence have changed the original decision and also could this evidence have been produced previously, if so, why was not previously produced.

9. Final Statement from the employee – This should be brief outline of the reasons that the previous decision should be overturned.

10. Final Statement from The Chair of the original hearing panel/Manager – This should be brief outline of the reasons that the previous decision was correct.

Adjourn Hearing for deliberation

11. The Decision – The Appeal Panel can decide upon one or more of the following:
    - Uphold the original decision
    - Change the original decision

Be clear what evidence is being taken into account (decision on any new evidence) in making the decision, where it is not totally clear the decision should be based on the balance of probability.

Policy checked and signed _____

Date _____

To obtain more information on the **Model Grievance Procedure**, please contact:

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