

This policy specifically applies to Central Services staff and the following academies only:

Churchwood Primary Academy
Dudley Infant Academy
Hollington Primary Academy
Robsack Wood Primary Academy
Silverdale Primary Academy
The Baird Primary Academy
The Hastings Academy
The St Leonards Academy
West St Leonards Primary Academy

1. Statement of purpose

The purpose of this policy is to enable individual or collective grievances to be addressed fairly and openly to foster and achieve good working relationships within the Trust and each of its academies.

A grievance exists where an individual employee, or group of employees (otherwise known as a collective dispute), feels that they have cause for complaint in relation to their employment. This policy provides a mechanism for dealing with grievances as fairly, quickly and as near as possible to the point of origin.

Please note that this policy applies to all employees of the specified academies.

2. Key points

The principle features of this grievance procedure have been defined in accordance with the ACAS Code of Practice and 'Discipline and Grievances at Work' the ACAS guide;

When stating their grievance, employees should set out clearly in writing what concerns, problems or complaints they have, as well as what outcome they are seeking;

Consideration of an accredited mediator being used to help resolve the grievance issues can take place at any stage of the process;

Advice on the application of the procedure should be sought from the Trust's Human Resources Team.

3. Introduction

- 3.1 Although the Trust seeks to ensure fair treatment of all its employees and to enter into successful relationships with them, individual or collective problems may sometimes arise during the course of employment.
- 3.2 This grievance procedure provides a mechanism for both individual and collective grievances to be dealt with fairly, quickly and as near as possible to the point of origin. Appendix 1 outlines the entire process.
- 3.3 The Trust will ensure that, where grievances arise, all employees are subject to fair and consistent treatment in accordance with the Trust's Equality and Diversity Policy.

4. Application of the procedure

4.1 This policy applies to all employees of the specified academies.

4.2 Issues that may cause grievances include:

- Terms and conditions of employment;
- Health and Safety;
- Bullying and Harassment;
- Working environment;
- Organisational change;
- Discrimination.

This list is not exhaustive.

4.3 The procedure **does not normally** apply to:

- Any issue for which a separate procedure is applicable (e.g. Disciplinary, Unacceptable Performance or Teachers Upper Pay Scale pay appeals);
- Matters relating to statutory adjustments to pay and allowances (e.g. income tax, national insurance, pensions);
- Appeals against job gradings;
- Issues of strategic policy for the organisation;
- Matters covered by the National Joint Council (NJC) where the Academy has no discretion or authority in the matter;
- Complaints raised under the Trust's Whistleblowing Policy;
- Situations where an employee has ceased to be employed and, since the employment ended, it is no longer reasonably practicable for the employee or the Trust to comply with the requirement of following the procedure.

5. Essential features of the procedure

5.1 The grievance will be treated as confidential.

5.2 The Trust/academy should always consider offering mediation to the parties concerned as a method of resolving the dispute (see 12.1.2).

5.3 It is intended that the operation of this procedure ensures that all employees' rights under current employment legislation are protected.

5.4 A complainant who has invoked the Grievance Policy and Procedure will not be victimised in any way.

5.5 In the event that an employee raises a grievance in the course of a disciplinary or performance process, or there remains an outstanding grievance, the Trust/academy will normally consider the grievance alongside the disciplinary/performance process or as part of it if it is related to the disciplinary/performance process. Each case will, however, be considered on its merits to ensure that the Trust/academy is acting reasonably.

5.6 For grievances that are lodged whilst the employee is still employed by the Trust and where the process continues following the employee's exit from the organisation, the standard grievance procedure will be followed.

6. Collective grievances

6.1 This procedure may also be used by groups of employees who have a collective grievance and, if the situation arises, the words 'groups of employees' should be substituted for 'employee' throughout this procedure.

6.2 In the case of collective grievances the status quo (i.e. the working practices and agreements which applied at the time of the dispute) would normally operate until this procedure has been exhausted.

6.3 When dealing with large groups, representatives of the group, or where suitable a Trade Union representative, will be asked to speak on behalf of the group.

7. Time limits

7.1 It is in the interest of the Trust and employees that grievances should be resolved quickly. The time limits are intended as a guide to ensure grievances are resolved without undue delay and to ensure that there is no advantage to be gained by either party from stalling for time.

7.2 It is recognised that some alterations in the time limits may be necessary from time to time to ensure a thorough investigation of the grievance. Where additional time is required by either party, this should be mutually agreed but where it can be demonstrated that an extension is genuinely required it will not be unreasonably refused. However, where there is no mutual agreement, if management exceeds the time limits, the grievance is automatically referred to the next level of the procedure. If the employee exceeds the time limits without good reason, the grievance will be considered as being out of time and no further action will be taken.

8. Industrial action

8.1 No industrial action will take place if all stages of this procedure have not been exhausted in accordance with the stated time limits.

9. Right to representation

9.1 Employees have the right to be accompanied by a Trade Union/professional body representative, or colleague not acting in a professional capacity, at all **formal** stages of the grievance process.

9.2 There is no right to legal representation at any stage of this procedure.

9.3 The employee's representative has no legal right to answer questions on the employee's behalf, but does have the right to address those present at the hearing and to ask questions. They can also confer privately with the employee in the hearing room or outside, as well as request an adjournment as and when required.

9.4 Managers should inform an employee of their right to representation in writing if the formal stage of the procedure is invoked. It is the employee's own responsibility to arrange for a representative to accompany them.

9.5 If an employee's representative cannot attend on a proposed date, the employee can suggest an alternative date and time on one occasion, so long as it is reasonable and it is not more than **5 working days** after the original date.

9.6 A formal grievance raised against an accredited union representative can lead to a dispute if it is seen as an attack on the functions of a trade union. Therefore, although normal standards shall apply to trade union representatives as employees, where a grievance is raised against a trade union representative, the circumstances of the case will first be discussed with a senior trade union representative or full-time official.

9.7 Managers handling grievances should seek advice from the Trust's Human Resources Team.

10. Support during this process

10.1 The unions recognised by the Trust provide advice and support direct to their members if they are experiencing or are accused of harassment at work.

10.2 Employees in academies (both Teachers and support staff) may wish to consider contacting the Teacher Support Network on 08000 562 561.

10.3 The complainant must be assured that s/he will not be discriminated against or victimised for raising the complaint. Confidentiality will be observed throughout and the need for any disclosure of the details of the case will be discussed and agreed.

11. Bullying and harassment

11.1 The essential characteristics of harassment or bullying are that the offending behaviours are unwanted by the recipient and would be regarded as harassment or bullying by any reasonable person. It should be noted that whilst employees are encouraged to raise any concerns they may have, it should be understood that many management activities, such as instigating disciplinary proceedings, monitoring performance, dealing with attendance issues, changing deadlines and priorities and responding to service needs do not, if handled reasonably, constitute harassment or bullying.

11.2 What is bullying?

11.2.1 Bullying is the intimidation or belittling of someone through the misuse of power or position which leaves the recipient feeling hurt, upset, vulnerable or helpless. People affected by bullying often feel the matter may appear trivial to others or they may have difficulty in describing the behaviour.

11.2.2 However, bullying is not restricted to those in positions of power. It may also occur because minorities or those deemed as vulnerable or weak, are bullied by the majority or by those who perceive themselves as stronger. It is intended to undermine, humiliate, put down or injure the recipient.

11.3 What is harassment?

11.3.1 Harassment is usually directed at those individuals who are vulnerable or in a minority. It is generally described as unwanted or unjustified behaviour which affects the dignity of people in the workplace, and which has the effect of creating an intimidating, hostile, degrading, humiliating, threatening or offensive environment. As set out in the Equality Act 2010, harassment may be on the grounds of gender, ethnic origin, disability, sexual orientation, religion or belief or age.

11.3.2 Differences in attitude, background or culture can mean that what is perceived as harassment by one person may not seem so to another. Harassment will be considered to have occurred if the person concerned perceives it to have occurred ***even if this is not the intention behind it.***

11.4 Responsibilities of managers and employees

11.4.1 If managers are aware that there are relationship problems within their teams it is their responsibility to address these issues immediately before they escalate to a formal complaint.

11.4.2 Allegations of acts of this nature received either informally or formally, must be dealt with promptly and sensitively.

11.4.3 An employee who becomes aware of harassment or bullying occurring to themselves, another member of staff/volunteer or another party e.g. a service user, has a duty of care to bring the matter to the attention of his/her manager.

11.5 Suspension

11.5.1 Managers should seek advice from the Trust's Human Resources Team on the options and way forward before reaching a decision on whether it is appropriate for the complainant and the alleged offender to continue working together during the investigation. It may be advisable for the duration of the investigation to:

- Suspend the alleged offender on full pay and/or grant the complainant special leave; or
- Temporarily move either the complainant or alleged offender in accordance with the terms and conditions of their employment.

11.5.2 Suspension is a neutral act carried out in order to ensure a fair and thorough investigation of the claim. All suspensions should be closely monitored and reviewed and should not continue for longer than absolutely necessary. Managers must ensure regular communication with any employees on suspension throughout the duration of the investigation.

12. Initiating a grievance

12.1 Informal stage

12.1.1 Most routine complaints and grievances are best resolved *informally*. The employee with the grievance should seek initially to resolve any problems or concerns they have through discussions with their immediate manager on an informal one-to-one basis. Where the grievance cannot be resolved informally mediation should be considered by all parties before dealing with the matter under the formal grievance procedure (Section 12.3).

12.1.2 The Trust's policy is to always consider offering mediation to the parties concerned as a method of resolving the dispute at the earliest opportunity. Mediation can be considered at any stage of the grievance process. Workplace mediation is a confidential and informal way to resolve disagreements or disputes between people who work together. The process is assisted by a trained mediator who encourages the parties to speak with an objective of reaching a mutually acceptable agreement that will resolve their problems. It gives the parties a chance to talk about the situation, express their concerns and come up with some practical ideas about how things could change for the better. The dispute could be between two or more people.

12.2 Bullying and harassment informal approaches

12.2.1 There are a number of ways for an employee to deal with a complaint informally. For example, the employee can approach the alleged harasser/bully directly themselves to discuss the situation. If this is not possible there may be other ways to resolve this informally, for example the employee may wish to approach their manager to arrange for someone to facilitate a discussion between the employee and the alleged bully/harasser.

12.2.2 When making a complaint, in order that the issue can be dealt with promptly and efficiently, employees may be required to make a statement that covers the following areas:

- Clear, specific allegations against the named person or people;
- Where possible, dates, times and witnesses to any incidents with direct quotes;
- Factual description of events;
- An indication of how each incident made the complainant feel;
- Any documentary evidence; and
- Details of any action that the complainant, or others, has already taken.

12.2.3 If the unwanted behaviour continues after the informal approach or a satisfactory response is not received, the grievance procedure should be entered into at Stage 1. If this is the case the manager should ensure that the complainant clearly understands what the procedure will be and who will have responsibility for what. Managers should always seek advice from the Trust's Human Resources Team as to which is the most appropriate course of action. Following that discussion a joint decision will be made as to whether this procedure should be used or the issue is one of serious misconduct by either employee and should be investigated using the Trust's Disciplinary Policy and Procedure.

12.3 Formal stage

For all grievances the following procedure applies and the hearing protocol is set out in **Annex 2**.

12.4 Stage One - Line Manager

12.4.1 The employee should put their grievance in writing outlining the following:

- What the grievance is, including supporting information/witnesses and what stage of the procedure they are raising the grievance under;

- Why the employee feels that the matter has not been resolved at a previous stage (if applicable);
- What outcome the employee is seeking and how the employee thinks that can best be achieved.

Note: To ensure all parties are treated with dignity, language that may be considered insulting or abusive should not be used.

- 12.4.2 The employee should then send their grievance to their line manager (or the next senior manager if the grievance is against the line manager). If the grievance is about the Principal or a member of the Trust's central management team, the grievance statement should be sent to the Chief Executive with a copy to the Chair of the Board of Trustees (via the Clerk to the Trust).
- 12.4.3 The Manager will arrange for a Stage One hearing to take place to consider the facts of the case. Ideally the arrangements should be confirmed within 10 working days of receipt of the employee's grievance in writing. The hearing should be convened at the earliest opportunity in order to discuss the grievance.
- 12.4.4 If an employee and/or their representative are unable/fail to attend the hearing on the proposed date, it will be rescheduled on one occasion within 5 working days of the original proposed date (unless there is agreement by all parties to extend the timescales). If the hearing is not attended by an employee and/or their representative on the second occasion without good reason, the case will be considered in the employee's absence or a written submission will be considered.
- 12.4.5 In order to resolve the grievance effectively it may be necessary for both parties to meet on more than one occasion if both parties are in agreement. The format of the hearing will be agreed by the Chair and will vary depending on specific circumstances.
- 12.4.6 The Chair will have a Human Resources representative present to advise them on policy and procedure throughout the process.
- 12.4.7 All parties attending the hearing will receive 10 working days' notice of the hearing in writing and receive a copy of this Grievance Policy and Procedure. Any written information to be used at the Stage One hearing must be submitted and passed to all parties at least **5 full working days** before the hearing. This should include details of any witnesses (and witness statements) either party intends to call at the hearing.
- 12.4.8 The decision made at Stage One should be notified to the employee and the person responding to the complaint at the hearing and confirmed in writing within **5 working days** of the date of the meeting. If a decision cannot be made at the hearing, both parties will be given an explanation why and a written response will be sent to both parties within 5 working days of the hearing.

12.5 Stage Two - Principal¹ (or delegated senior manager) or Director of Operational Services

- 12.5.1 Should the employee raising the grievance not be satisfied with the Stage One decision, the employee is permitted to raise the matter in writing with the relevant Principal (in the case of academy-based staff) or the Director of Operational Services (in the case of central services staff) stating that they are doing so under this stage of the procedure and why the grievance is still an issue. To do so, they must write to the Principal/Director of Operational Services, within **5 working days** of receipt of the Stage One decision letter.
- 12.5.2 The Principal/Director of Operational Services may wish to delegate the hearing of the Stage Two grievance to a Senior Manager if appropriate. The Senior Manager should not have had any involvement with the case to date and needs to be more senior than the Manager who heard the case at Stage One.

¹ For the purposes of this document, 'Principal' means Principal, Associate Principal, Executive Principal, Acting Principal or, in the Principal's absence, the most senior teacher who is acting in the role of Principal

12.5.3 The manager who heard the case at Stage One will present their reasons for reaching their decision to the manager hearing the case at Stage Two. The person whom the complaint has been made against may attend as a witness.

12.5.4 At Stage Two, all parties will normally be in the room together. The procedure otherwise remains unchanged from that outlined at Stage One.

12.6 Stage Three - Appeal Process - Panel of Trustees

12.6.1 Should the employee raising the grievance not be satisfied with the Stage Two decision, they have a right of appeal to a Grievance Panel of Trustees. The Grievance Panel will consist of a panel of Trustees who have had no prior involvement in the case to date and they will be supported by a Human Resources representative.

12.6.2 The employee must write to the Clerk to the Trust within **5 working days** of receipt of the Stage Two outcome letter.

12.6.3 The employee should clearly state why they are not satisfied with the outcome at Stage Two and why the grievance is still an issue.

12.6.4 This stage of the procedure is the **final level** of appeal within the Trust.

12.6.5 The procedure otherwise remains unchanged from that outlined at Stage One.

13. Record keeping

13.1 Records should be kept at each stage of the formal grievance procedure detailing the nature of the grievance raised, the responses to the complaint, any action taken and the reasons for it. All parties involved in the grievance should have the opportunity to check their accuracy.

13.2 All records kept will be confidential and processed in accordance with the Data Protection Act 1998 which provides for an employee to have access to data about themselves.

14. Recurrent grievances

14.1 If an issue has already been fully and properly addressed through the grievance procedure, it is not open to the employee to restart the procedure in respect of the same issue. However, care must be taken to ensure that new issues that have emerged since the original procedure was initiated are properly addressed. The Principal is entitled, in appropriate circumstances, to reach a decision that they will not hear a grievance which has already been properly addressed. Advice should always be sought from the Trust's Human Resources Team before a decision is made.

15. Policy status and review

Written by:	
Owner:	Head of HR
Status:	Approved
Approval date:	V1 = 23/6/11(Board of Trustees) V1a = minor updates to terminology August 2014 Merger editorial changes 1 September 2017
Review Date:	2019

Annex 1 - Grievance process flow chart



Annex 2 - Grievance hearing protocol

The Chair of the Panel will have discretion in the conduct of the proceedings, although the order will normally be as follows:

- The employee (or representative) should put their case forward in the presence of the manager and call such witnesses as s/he wishes.
- The manager will have the opportunity to ask questions of the employee and witnesses on the evidence given by them. Normally such questions should be addressed to the employee at the end of his/her presentation, and to each witness following the submission of their evidence.
- The Chair of the Panel will have the opportunity to ask questions of the employee and witnesses on the evidence given by them. Normally such questions should be addressed to the employee at the end of his/her case presentation and to each witness following the submission of their evidence. The Chairperson/Panel may also wish to ask questions of clarification during the presentation of evidence.
- The manager should put his/her response in the presence of the employee and to call such witnesses as s/he wishes.
- The employee (or representative) will have the opportunity to ask questions of the manager and his/her witnesses on the evidence given by them. Normally, such questions should be addressed to the manager at the end of his/her case presentation and to each witness following the submission of their evidence.
- The Chair of the Panel will have the opportunity to ask questions of the manager and his/her witnesses on the evidence given by them. Normally such questions should be addressed to the manager at the end of his/her response/ presentation and to each witness following the submission of their evidence.
- The employee (or representative) and then the manager will have the opportunity to sum up their cases if they so wish.
- The Chair of the Panel, with their representative, will then deliberate in private, only recalling the manager and employee to clear points of uncertainty on evidence already given. If recall is necessary, both parties are to return even if only one is concerned with the point giving rise to doubt.