

# Tas Valley Church Schools Federation

## Grievance Procedure



<b>Formally adopted by the Governing Board of:-</b>	<b>[school name]</b>
<b>On:-</b>	<b>[date]</b>
<b>Chair of Governors:-</b>	<b>[insert name]</b>
<b>Last updated:-</b>	<b>[date]</b>

## Grievance model procedure P307a

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### Model procedure guidance [delete once adopted]

Governing Boards have the option of adopting this model procedure or developing their own. This model procedure includes any requirements of statute, any national and/or local conditions of service and identifies access to LA funding where this is available (maintained schools only). Any school choosing not to adopt this model must ensure that any local policy complies with the requirements of statute and any relevant national or local conditions of service. A local policy would need to be the subject of full consultation with all the recognised trade unions before adoption.

With regard to this model, the school/academy can:-

- adopt it as their policy (with choices being made from within the identified options),
- adapt it to be their policy (using the model as a basis but with changes being made), or
- ignore it (and develop or adopt an alternative policy).

Throughout the model procedure, reference is made to “Headteacher” but this should be changed on adoption where the individual school leader holds the post of “Principal” (or other appropriate title).

Please note that ‘school’ in this document refers to any maintained school. It is likely that any schools that are joined together under one governing board will want to determine a procedure to be applied equally across all employees.

Where there are important points to share regarding considerations for strategy relating to the policy or guidance notes offered by EducationHR these will be labelled “Strategy consideration”. Where establishment specific information needs to be entered or removed because it doesn’t apply to the establishment adopting the policy, this will be indicated by bold square brackets **[enter establishment specific information here]**.

This model has been subject to consultation with the recognised trade unions at County level. Any school to adopt, or adapt and adopt, as their own should consult recognised trade unions at local level.

## 1. The informal procedure and mediation

1.1 If an employee has a grievance<sup>1</sup> to do with work, or with the people they work with, there should be a first attempt to resolve the issue by making a direct approach to the other person involved. In many cases, it is possible for an employee to make direct contact, to make someone aware of the problem and to agree a solution informally.

1.1.1 In cases of bullying and harassment, it may be possible for the employee to explain to the other person that the behaviour in question is not welcome, that it offends them or makes them uncomfortable. Alternatively, if this personal approach is too difficult, they could consider putting it in writing to the individual concerned. Please read the school's Bullying and Harassment policy statement in conjunction with any bullying and harassment related grievances.

However, by its nature bullying and harassment may make the employee feel embarrassed, worried about damaging their reputation or the working environment and fearful of not being taken seriously and subsequent reprisals. In these situations, a management representative or a Trade Union Representative can make the initial approach.

If the employee cannot resolve the matter through this approach, the next step is to raise it with their immediate line manager, through an informal meeting at which any concerns are raised and examined through discussion. The employee can be accompanied or represented at this meeting by a companion (a work colleague or trade union representative).

Where an employee discloses a mental health issue, which could be a disability, reasonable adjustments will be made to the procedure. This could be allowing a companion that does not meet the statutory definition of a companion but is someone who understands the individual's condition and its effects or; having regular breaks during longer grievance meetings or; holding the meeting at a neutral venue. **[Where it is clear the process is causing repeated signs of distress to someone involved in the procedure the Headteacher will ensure the employee is aware of the support offered by Norfolk Support Line (where subscribed)]** or suggest the employee seeks advice from their GP. In some cases, help may need to be sought from Occupational Health, with the agreement of the employee, to determine how the grievance procedure can continue fairly. Advice will be sought from HR in these situations.

1.2 At that meeting, the employee should clearly outline their own view of the problem and explain to the manager what they consider to be a suitable resolution to the matter. After the informal meeting, the manager should give a reply, verbally, as soon as possible. The initial response will be given within five working days but further discussion may be needed to resolve the problem.

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<sup>1</sup> This includes bullying and harassment complaints between employees

In some circumstances, the immediate line manager does not have the authority to resolve the grievance and they may need to refer it directly to the Headteacher. Flexibility around timescales is often appropriate when trying to resolve informal grievances, particularly where it concerns interpersonal conflict between two or more employees.

- 1.3 If the employee is not satisfied with the manager's reply, or if they feel unable to talk to the immediate line manager, then they should talk to the Headteacher. If the grievance relates to the Headteacher and the employee is not satisfied with the Headteacher's reply, or if the employee feels unable to discuss it with the Headteacher, then the employee should discuss the grievance with the Chair of Governors.
- 1.4 If the grievance is against the Headteacher the procedure detailed below will apply but reference to 'Headteacher' or 'Headteacher or other management representative' will need to be read as 'Chair of Governors or other nominated governor'. The Chair of Governors may also request support from the Local Authority in addressing such issues with any request being made through the HR Business Partner (Schools).
- 1.5 If an employee other than the Headteacher has a grievance against a governor, the employee should raise the matter initially with the Headteacher who will discuss it with the Chair of Governors and agree a mechanism for informal resolution. If an employee has a grievance against the Chair of Governors, the employee should initially raise it with the Headteacher, who will seek to agree a mechanism for informal resolution, taking advice from EducationHR where required.
- 1.6 If a Headteacher has a grievance against a governor, they should raise the matter with the Chair of Governors. If the grievance includes the Chair of Governors, the Headteacher should refer it to the Clerk to the Governors. The clerk should seek guidance from EducationHR on a mechanism for informal resolution, which may involve facilitation by a Local Authority Officer.
- 1.7 If it is not possible to resolve the grievance through these initial discussions, it may be appropriate for the Headteacher or Chair of Governors to nominate someone to mediate with the aim of achieving a solution and conciliation. If mediation is to be used, it should take place before the formal procedure commences.
- 1.8 Even where an informal approach is enough to resolve the immediate problem, the employee should keep a record of any incidents, including a note of any witnesses. Similarly, where the Headteacher or another management representative is involved in resolving the problem, proper notes must be kept documenting the action taken.
- 1.9 Where the employee approaches a work colleague for support, it is important to respect the fact that this person may not wish to become involved. In such circumstances, the employee may consider contacting their trade union representative and/or the Norfolk Support Line (where this service is purchased) to seek advice and informal assistance.

1.10 The role of the work colleague or representative at this stage is not to impose a solution but to offer support, explore possible options open to the employee and assist the employee to choose a suitable and satisfactory course of action. The work colleague or representative may feel it is appropriate to assist in resolving the problem by acting as mediator. In carrying out this function, they will be protected from victimisation and will not be forced to disclose any confidences arising from their assistance with the informal stages of this procedure.

## **2. Using mediation to resolve a grievance**

2.1 An independent third party or mediator can sometimes help resolve grievance issues. Mediation is a voluntary process where the mediator helps two or more people in dispute to attempt to reach an agreement. Any agreement comes from those in dispute, not from the mediator. The mediator is not there to judge, to say one person is right and the other wrong, or to tell those involved in the mediation what they should do. The mediator is in charge of the process of seeking to resolve the problem but not the outcome.

2.2 A mediator does not have to be someone specially trained for the task, but they should have the necessary skills to facilitate a discussion between two people who may have different views about a situation. Mediators may be employees from within the school, EducationHR or they may be from an external mediation provider, in which case, there may be a cost.

2.3 There are no hard-and-fast rules for when mediation is appropriate but it can be used:

- for conflict involving colleagues of a similar job or grade, or between a line manager and their employees,
- at any stage in the conflict as long as any ongoing formal procedures are put in abeyance, or where mediation is included as a stage in the procedures themselves,
- to rebuild relationships after a formal dispute has been resolved,
- to address a range of issues, including relationship breakdown, personality clashes, communication problems, bullying and harassment.

2.4 Grievances may lend themselves to the possibility of mediation.

2.5 Where mediation is used the individual convening the mediation meeting should make a record of the alleged incident and the outcome of the meeting. To indicate agreement with the outcome, all parties should sign the record. This will remain confidential to the signatories.

## **3. Cases unsuitable for mediation**

3.1 Mediation may not be suitable if:

- used as a first resort – because people should be encouraged to speak to each other and talk to their manager before they seek a solution via mediation,
- it is used by a manager to avoid their managerial responsibilities,
- a decision about right or wrong is needed, for example where there is possible criminal activity,
- the individual bringing a discrimination or harassment case wants it investigated,

- the parties do not have the power to settle the issue,
- one side is completely intransigent and using mediation will only raise unrealistic expectations of a positive outcome.

#### 4. **Covert recordings**

The Governing Board believes that the covert recording of workplace meetings undermines trust between individuals.

The covert recording of any meetings or proceedings, including disciplinary and grievance hearings and appeals, by an employee potentially constitutes an act of gross misconduct. It features in the list of non-exhaustive acts of gross misconduct in the school's guidelines on conduct document. Without sufficient mitigation, the covert recording by an employee of colleagues in such a meeting may lead to the employee's summary dismissal.

The employee will be informed of this policy position before any disciplinary, grievance or capability meeting.

Similarly, no covert recording of the deliberations of a panel at the end of any hearing may be made by an employee. This would also potentially constitute an act of gross misconduct likely to lead to the employee's summary dismissal.

In some circumstances, it may be appropriate for a meeting to be recorded but in these cases, there must be written agreement between management and employee and consent will need to be obtained by all persons who will be included in the recording. The management and employee will then be under an obligation to ensure that all recordings are processed, securely stored and used in a manner consistent with the Data Protection Act 2018.

#### 5. **The formal procedure**

- 5.1 If the grievance has not been able to be resolved informally, including through mediation, or it is not appropriate to resolve the problem informally, either because the complainant regards attempts at informal resolution as inappropriate because of the serious nature of the complaint or where informal attempts at resolution have failed, the issue should move to the formal stage to be resolved.

The employee who has raised the grievance should, without unreasonable delay, prepare a written statement of the grievance and submit this in line with the following:

- If the grievance is against a colleague other than the Headteacher, the statement of grievance should be submitted to the Headteacher.
- If the grievance is against the Headteacher, the statement of grievance should be submitted to the Chair of Governors.
- If the grievance is against an individual Governor, the statement of grievance should be submitted to the Chair of Governors.
- If the grievance is against the Chair of Governors, a Governors' Committee or the whole Governing Board, the statement of grievance should be submitted to the Clerk to the Governors who will take advice from EducationHR.



The statement should explain the nature of the grievance, including details of what the employee has done to try and resolve the matter informally, and what the employee considers to be a satisfactory outcome to the matter. It is essential that there is a clear statement about the grievance, in order that it can be properly examined.

Strategy consideration - Refer to *Grievance statement – formal procedure F307* on InfoSpace.

- 5.2 As appropriate, the Headteacher, Chair of Governors or Clerk to Governors will identify a panel of Governors (Grievance Committee) to hear the grievance and work with the parties to achieve a resolution. The Grievance Committee would normally consist of three Governors although in some circumstances, where agreed between the parties, a panel of two Governors may be permitted. If insufficient Governors exist, or if there are too few governors who have not already been involved in the matter, the Governance Service may be able to identify experienced governors from other schools who can help with the process.

### 5.3 **Step 1 – Statement of grievance, response and investigation**

- 5.3.1 Once a statement of grievance has been received by the Headteacher, Chair of Governors or Clerk to Governors, as appropriate (see above), that person will then share the statement of grievance with the person against whom the grievance is lodged.

The individual against whom the grievance is lodged then prepares a statement of response to the grievance. An appropriate timescale should be set for this stage of the process to ensure there is no unreasonable delay. However, the complexity of the situation will determine what is reasonable. If the matter has been considered at the informal stage of the procedure, a note of the steps taken to try to resolve the matter informally will also be required.

- 5.3.2 If the grievance is of a serious nature relating to misconduct, consideration may be given to suspending the employee who the grievance is against (or alternatives to suspension e.g. temporary redeployment). Due consideration will be given so that the decision to suspend is only made where it is a reasonable response based on the facts of the case.

Strategy consideration - *Suspension checklist C303* on InfoSpace can be used to determine if suspension is a reasonable response.

- 5.3.3 If further information is needed in order to respond to the grievance, the meeting outlined below may be postponed while a full investigation is carried out. If such an investigation is considered necessary, both parties will be kept informed. The investigator will need to be independent to the case and be able to present adverse findings. The grievance meeting should not take place until the investigation is carried out.

The Chair of Governors may request support from the Local Authority in identifying an investigating officer. Any request will be made through the HR Business Partner

(Schools). Any cost associated with an external investigating officer will be met by the school.

## 5.4 Step 2 – Meeting

- 5.4.1 The Clerk to the Governing Board will liaise with Education**HR** to make the necessary arrangements and invite the individual with a grievance to a meeting as soon as possible. The meeting would ideally take place within ten days of receipt of the statement of response, but this will depend on the availability of governors, the companion (if the individual chooses to be accompanied) and others who need to be in attendance. The employee will receive a copy of the statement of response and any other relevant documents to be considered at the meeting at least five days in advance of the meeting. The Grievance Committee will be issued with a copy of the statement of grievance, the statement in response, and any other supporting documentation provided by either party.
- 5.4.2 At the meeting, the employee has the chance to explain the grievance and their suggestions for resolving it. The employee has the right to be accompanied by a companion (i.e. a trade union representative or work colleague) at this meeting.
- 5.4.3 The Grievance Committee will be advised by a senior member of Education**HR** and the Headteacher may be accompanied and advised by an HR Consultant.
- 5.4.4 At the start of the meeting the Committee will consider whether it is more appropriate to meet with the employee separately from the other party, or may seek agreement from both parties for a joint meeting.
- 5.4.5 The agenda for a joint meeting will be as follows below. The term “Headteacher” has been used below but is of course replaceable with any other person against whom the grievance is lodged.
- 5.4.6 The Chair of the Committee will arrange introductions and set out how the meeting will be conducted. The Chair will outline the Committee’s understanding of the grievance, as notified in the statement of grievance.
- The employee will be asked to present the case and to answer questions from governors, the Headteacher and their advisers.
  - The employee can call upon named witnesses to provide information and answer questions if appropriate.
  - The Headteacher will present their case and answer questions.
  - The Headteacher can call upon named witnesses to provide information and answer questions if appropriate.
  - The employee makes a closing statement, followed by the closing statement of the Headteacher.

The Committee will then adjourn the meeting while they consider the information provided and how the grievance might be resolved. If practicable, the Committee will invite both parties back to the meeting on the same day to sum up the main points, and to outline what action, if any, they feel is necessary and try to achieve an agreed resolution.



## 5.5 Step 3 – Confirmation of outcome

- 5.5.1 The Chair of the panel will write to the employee within five working days of the meeting, with the decision of the panel and the reasons behind the decision. If the grievance is not upheld, there is a right of appeal against that decision.
- 5.5.2 Where other individuals are affected by the outcome of the grievance, or some aspects of the outcome, they will be informed of the affect the outcome has on them and the reasons for it. The employee who raised the grievance will be informed of who else will be told and what information they will be given. Confidentiality remains of upmost importance so only information which affects another individual(s) will be communicated.

## 5.6 Step 4 – Appeal

- 5.6.1 If the employee is not accepting of the Committee's decision, they have the right of appeal to another panel of governors. The members of the Appeal Committee will not have had any involvement in the first decision. Where an employee wishes to lodge an appeal against the decision of the Grievance Committee, they should, within ten working days of receiving written confirmation of the outcome, write to the Clerk to Governors setting out the grounds for appeal and enclosing any documents to be taken into account. The employee and the Headteacher will then be invited to another meeting which will normally take place within fifteen working days of receipt of appeal. The employee has the right to be accompanied by a companion to the appeal meeting.

Strategy consideration - *Grievance statement - appeal against decision of Grievance Committee F307a* can be used to do this.

- 5.6.2 The format for the meeting will follow that outlined in paragraph 5.4.6 above.
- 5.6.3 The Appeal Committee will consider the outcome from the first Grievance Committee hearing. They will listen to the grounds for appeal and consider any further statements provided by the Headteacher or others involved.
- 5.6.4 The decision of the Appeal Committee is final and the Chair of the Appeal Committee will write to the employee within five working days to confirm this and to share the outcome of the meeting. The Appeal Committee will give the reasons behind the decision made.

## 6. Record keeping

- 6.1 The grievance and related papers will be stored on the file of the employee who raised the grievance. If the grievance is against another named individual and is upheld, it may be appropriate for a disciplinary investigation to be undertaken and/or a professional guidance letter issued, in which case relevant papers may also be placed on that individual's personal file.

## 7. Data protection

The school processes personal data collected during informal complaints and the formal grievance procedure in accordance with its data protection policy. In particular, data collected as part of informal complaints and the grievance procedure is held securely and accessed by, and disclosed to, individuals only for the purposes of responding to the complaints or conducting the grievance procedure. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the school's data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under the school's disciplinary procedure.

## Appendix 1 – Table of changes

Date of change	Paragraphs affected	Summary of update
09/11/2020	4	Addition of a new paragraph to include covert recordings at meetings.
05/04/2019	1.1.1, 1.4, 1.8, 1.9, 2.5, 4.1, 4.3.2, 4.5.2	<p>Updated to reflect the changes made to the ACAS Discipline and grievance guidance and also to make it clear that bullying and harassment complaints are dealt with via the Grievance procedure. The procedure has been updated to:</p> <ul style="list-style-type: none"> <li>• make it clear that employees should be informed of any decisions which affect them and the reasons for the decision, but confidentiality remains key.</li> <li>• include that where an employee who is involved in the grievance procedure, discloses a mental health issue, which could be a disability, employers should allow for reasonable adjustments</li> <li>• how to support employees who make a complaint of bullying or harassment</li> <li>• reinforce the importance of taking notes of any bullying and harassment incidents</li> <li>• consider that were the grievance is of a serious nature relating to misconduct, consideration may be given to suspending the employee who the grievance is against.</li> </ul>
11/05/2018	6	New para added to take into account the new General Data Protection Regulations in force from 25 May 2018.
15/01/2018	All	All references made to academies deleted as MAT specific document created (P307b).
01/03/2017	All	New formatting due to launch of new HR website, HR InfoSpace – no change to content