



# SCHOOL'S GRIEVANCE AND DIGNITY AT WORK POLICY

**This document applies to Community and Voluntary Controlled Schools and is advisory for Foundation and Voluntary Aided Schools**

September 2016

**CONTENTS**

POLICY STATEMENT..... 1

POLICY ..... 1

PROCEDURE..... 2

    Informal Stage ..... 2

    Formal Stage ..... 2

    Appeal Stage ..... 3

GRIEVANCES AGAINST A HEAD TEACHER / EXECUTIVE HEAD TEACHER ..... 3

MEDIATION..... 3

RECORD KEEPING ..... 4

DIGNITY AT WORK ..... 4

    Protected Characteristics ..... 4

    Harassment ..... 4

    Harassment by Others..... 5

    Direct Discrimination..... 5

    Indirect Discrimination ..... 5

    Bullying..... 5

    Victimisation ..... 6

    Implications ..... 6

    Legislation ..... 6

EMPLOYEE SUPPORT ..... 7

ACTION..... 7

APPENDIX 1 ..... 8

    GRIEVANCE AND DIGNITY AT WORK FORM – FORMAL STAGE ..... 8

APPENDIX 2 ..... 9

    GUIDANCE ON CONDUCTING A FORMAL GRIEVANCE APPEAL FOR GOVERNORS. 9

## **POLICY STATEMENT**

It is the policy of the School that all grievances raised by employees are dealt with in a fair and effective manner and at the appropriate level bearing in mind the nature of the complaint.

In particular, any form of harassment, discrimination, bullying or victimisation is unacceptable.

## **POLICY**

This policy enables employees to raise problems or concerns that they may have about work or their working environment, including Dignity at Work issues.

Unless there are exceptional circumstances the grievance must be raised within three months of the incident or action giving rise to it. Any grievance raised outside of that time limit may not be considered.

Any grievance must be raised only by an employee or ex-employee (subject to the time limits above). If an ex-employee wishes to raise a grievance they must indicate in writing that this is the case. Criticisms of individuals or of the School through, e.g. an exit questionnaire or interview will not be considered as a formal grievance for the purposes of this policy. There is no automatic right to a meeting in respect of a grievance by a person who raised a grievance as an ex-employee and any response to that grievance may be in writing only.

This policy aims to ensure that:

- lawful, non discriminatory and effective arrangements exist for dealing with employee concerns and grievances
- all employees are aware of their responsibilities regarding raising problems and concerns and will not suffer detriment for doing so as long as the complaint is not malicious
- Head Teachers are aware of and supported in carrying out responsibilities for the resolving of issues as soon as possible

Some matters relating to employment do not fall within the scope of this policy and are dealt with under separate arrangements. These include:

- Disciplinary outcomes (Disciplinary Policy)
- Allegations of serious health and safety issues, unethical conduct, conduct that is an offence, fraud, corruption or financial malpractice (Whistleblower Policy)
- Applications for grading, re-grading and appeals (Job Evaluation Procedure)
- Payroll matters affecting Income Tax, National Insurance, Pension, etc (via direct contact with the provider concerned)

Grievances raised by employees against Governors will be dealt with under the Complaints Procedure which is a requirement of all maintained schools as detailed within Section 29 of the Education act 2002.

## PROCEDURE

Where possible grievances should be resolved informally between the employee and their immediate manager or supervisor. Where the grievance remains unresolved following the informal stage, the employee can raise it formally with a more senior level of management.

### Informal Stage

Where an employee has a grievance they should raise it with their immediate line manager or supervisor. Where the manager is unable to resolve the grievance immediately, they must give the employee a response within a reasonable timeframe and without unnecessary delay. Most issues should be resolved at this level.

Where a grievance is between individual employees they will be encouraged to discuss concerns between themselves as appropriate.

Records of any informal meetings will be kept by the relevant manager in respect of progressing issues with the aim to resolve matters at this level.

### Formal Stage

Where the grievance cannot be resolved to the employee's satisfaction they can raise it formally with a more senior level of management\*. The employee should do so in writing, clearly stating that they want the grievance to be dealt with under the formal grievance procedure and setting out:

- The nature of their grievance.
- What action has been taken so far and the reasons they are dissatisfied with the informal stage.
- The solution they want.

A form which may be used for this is included at [Appendix 1](#).

The manager will arrange a meeting with the employee within a reasonable timeframe and without unnecessary delay. A representative of their trade union or a work colleague may accompany the employee at the meeting. Where the union official is unable to attend on the date arranged, then the manager will re-arrange the meeting to take place within 5 working days of the original meeting date. At the meeting the employee will set out the reasons for their grievance and the solution sought.

Where the manager is unable to give a response at the meeting because the matter requires further investigation or consideration, the meeting will be adjourned. Within 7 working days of the meeting the manager will write to the employee giving a formal response or notifying the employee when they will respond if further time for investigation is necessary. In any event the manager will respond as soon as practicable.

*\* In some schools with fewer management levels it may be necessary for the manager e.g. Headteacher, who dealt with the matter informally to also undertake the formal stage.*

## **Appeal Stage**

Where the grievance is not resolved to the employee's satisfaction at the formal stage, they can proceed to an appeal by writing to the Headteacher setting out the reasons why they remain aggrieved and requesting that the Governing Body considers the matter.

A panel of three Governors will hear the grievance appeal as soon as is practicable. The employee will be given 7 working days' notice of the hearing and have the same rights of representation as at the formal stage. The panel may be advised by a HR Adviser. Where the union official is unable to attend on the date arranged, then the hearing will be re-arranged to take place within 5 working days of the original hearing date or as soon as is reasonably practical.

Any documentation, that either side wishes to be considered at the appeal hearing, must be made available to the Clerk to Governors, no later than 5 working days prior to the hearing to enable distribution of full documentation packs to all parties for their consideration prior to the hearing. If there is a late submission of evidence it will be the Chair of the Appeal Panel to decide whether or not this will be accepted.

Guidance on conducting a formal grievance appeal hearing is included at appendix 2.

The decision of the Panel is final and there are no further rights of appeal.

## **GRIEVANCES AGAINST A HEAD TEACHER / EXECUTIVE HEAD TEACHER**

If the grievance is against the Headteacher then the employee will raise this directly with the Chair of Governors, who will seek to resolve the matter with the employee and Head Teacher informally. If this is not possible or appropriate then the Chair of Governors should consider the matter in line with the formal stage of the policy. Thereafter, if the matter remains unresolved, the appeal stage should be followed for final resolution.

Where an Executive Headteacher is in place, grievances about the Headteacher / Head of School would be dealt with by the Executive Headteacher, rather than the Chair of Governors. Where a grievance is about the Executive Headteacher this should be raised with the Chair of Governors.

## **MEDIATION**

At any stage in the grievance process any of the parties involved may request mediation. Mediation can only take place if all parties are prepared to participate.

Workplace Mediation is a confidential and informal way to resolve disagreements or disputes between people who work together.

These could include:

- • Communication issues
- • Personality clashes
- • Unresolved or ongoing grievance issues
- • Perceived discrimination, harassment or bullying
- • Differences of working style or approach
- • Inappropriate use of power, status or position

The process is assisted by a trained mediator who acts as a facilitator. The process works by encouraging the parties to speak to each other and reach a mutually acceptable solution. It gives the parties a chance to talk about the situation, express their concerns to each other and come up with some practical ideas about how things could change for the better.

Your HR provider may be able to provide this service for you or alternatively ACAS provide a mediation service.

## **RECORD KEEPING**

Supervisors and senior teachers will retain their own notes of the outcome and discussions of any informal discussions. These will be kept securely and not on an employee's personal file.

The Head Teacher will retain papers on any formal grievance or appeal for a period of 6 months

## **DIGNITY AT WORK**

### **Protected Characteristics**

The Equality Act 2010 describes those groups protected by equality legislation as having "protected characteristics". They are:

- Age
- Disability
- Race
- Religion or Belief
- Sex
- Sexual Orientation
- Gender reassignment
- Marriage and Civil Partnerships
- Pregnancy and Maternity

### **Harassment**

Harassment is unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.

Harassment is when someone considers that they have been treated in a way that is detrimental to their dignity at work. Essentially it is treatment that somebody else finds unreasonable and unwelcome and which causes intimidation and offence.

Although it may involve overt abuse of power, bullying, coercion or violence, it can often appear in more subtle forms and can be unintentional.

Harassment can be a single act or numerous acts which are ongoing.

Employees will be able to complain of behaviour that they find offensive even if it is not directed at them and the complainant need not possess the relevant characteristic themselves.

Employees are also protected from harassment because of perception and association.

### **Harassment by Others**

The School is liable for harassment of its employees by Governors and others who are not employees of the School.

Schools as the employer are likely to be liable when harassment from Governors, children, parents, clients and contractors has occurred on at least two previous occasions; that they are aware that it has taken place and have not taken reasonable steps to prevent it from happening again.

Where complaints are made by a School employee against a Governor, child, parent, client or contractor, the School will commission an investigation. Any outcomes of that investigation will be for the School to implement. However the employee will have the right to a hearing by the Head Teacher and appeal to Governors (who were not the subject of the grievance) in line with the School's Grievance Policy.

### **Direct Discrimination**

Direct discrimination occurs where a person discriminates against another because of a protected characteristic. Direct discrimination also covers associative (i.e. where someone is discriminated against because of someone else's protected characteristic) and discrimination on the basis of a perceived characteristic (i.e. where someone is discriminated against because they are thought to have a protected characteristic although they do not).

### **Indirect Discrimination**

This is where a person discriminates against another where that person applies a provision, criterion or practice which puts or would put that person at a particular disadvantage and that person cannot show that it is a proportionate means of achieving a legitimate aim.

It can also be about someone else's religion or sexual orientation other than the employee, e.g. an employee may be subject to harassment because his son is gay. This may be harassment on the grounds of sexual orientation, despite it not being the employee's own sexuality that is the subject of the harassment.

Harassment can also occur where, for a reason which relates to a person's disability, another person engages in unwanted conduct, e.g. an employee with a learning disability is called "stupid" and "slow" by a colleague at work. This may be harassment on the grounds of disability, whether or not the disabled employee was present when the comments were made, because they were said with the intention of humiliating them.

### **Bullying**

Bullying is offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means which undermine, humiliate, denigrate or injure the individual or a group of employees. This kind of conduct is usually sustained.

Examples of bullying are:

- shouting at an employee in front of others

- sarcastic comments deliberately aimed at the individual
- ridiculing someone or deliberately setting them up to fail
- overbearing supervision or other misuse of power or position
- making threats about job security without foundation
- undermining a competent worker by overloading and constant criticism

### **Victimisation**

Victimisation occurs when an employee is treated badly because they have made or supported a complaint or raised a grievance under the Equality Act 2010; or because they are suspected of doing so. An employee is not protected from victimisation if they have maliciously made or supported an untrue complaint.

Examples of victimisation are:

- ignoring someone or not offering them a post because they previously raised a complaint through any of the School's procedures
- blocking opportunities, e.g. training or progression because they have previously complained

### **Implications**

Harassment, victimisation, bullying or discrimination can lead to illness, absence from work, an apparent lack of commitment, poor performance and resignation. The results include:

- poor morale
- employees resigning, including potential claims for unfair dismissal
- lower efficiency
- divided teams

### **Legislation**

The School's policies supplement the right of an employee to seek legal redress for harassment and/or discrimination through the relevant equality legislation as contained in the Equality Act 2010.

Under the Criminal Justice and Public Order Act 1994, it is an offence to intentionally cause a person harassment, alarm or distress. This is where someone:

- uses threatening, abusive or insulting words or behaviour, or disorderly behaviour
- displays any visible representation which is threatening, abusive or insulting

Under the Protection from Harassment Act 1997, it is an offence for someone to:

- behave in a way which they know, or ought to have known, causes another to fear the use of violence against them
- behave in a way which they know, or ought to have known, causes another harassment

Employees alleging harassment at work can complain to the police. Head Teachers should also consider this when there is evidence to suggest criminal action.

Employers may be liable for what employees do during their employment, whether or not the employer knows of these acts. Employers can avoid a successful claim of unlawful discrimination only if they can show that they took reasonable steps to prevent the offence being committed.



## **EMPLOYEE SUPPORT**

Harassment Advisers are available to give confidential support to employees. They are trained employees who are able to:

- help employees at any time, whatever their intentions are and whatever the nature of the harassment
- give confidential support on dignity at work issues, including how to make a complaint
- help ensure that complaints are taken seriously

They are not expected to replace the responsibility of a Head Teacher, but are normally used as a first point of contact to enable employees to decide how to deal with any dignity at work issues.

Employees may approach any Adviser, the following is a link to a current list of Advisers:

<http://www.lincolnshire.gov.uk/jobs/manuals/employment-manual/employee-support/harassment-advisers/58652.article>.

The County Council's Employee Support and Counselling Service is available to provide confidential and impartial advice, counselling and help with issues of harassment, for all employees and employees may contact its trained counsellors at any stage for support on 01522 555440 or email [emp.supportandcounselling@lincolnshire.gov.uk](mailto:emp.supportandcounselling@lincolnshire.gov.uk)

Identify – Listening Ear Service available to all staff with a Black or Ethnic Minority (BME) background, which provides support with any issues in the workplace and can be reached on 07827 355915.

## **ACTION**

Complaints will always be taken seriously and will be dealt with sensitively and in the strictest confidence.

Head Teachers dealing with a complaint will consider disciplinary action against any proven perpetrator of any form of harassment who is employed by the School.

Head Teachers will also take positive action to prevent a re-occurrence of unacceptable behaviour by anyone who is not employed by the School.



## **APPENDIX 2**

### **GUIDANCE ON CONDUCTING A FORMAL GRIEVANCE APPEAL FOR GOVERNORS**

The Chair of the Appeal Panel hearing the matter arranges for the parties to enter at the same time and take designated seats

The Chair of the Appeal Panel conducts introductions if this is necessary

N.B. If the employee is unaccompanied, the Chair of the Appeal Panel checks that he/she is happy to proceed without representation and makes a note to that effect.

When directed by the Chair

- The employee or representative states the nature of the grievance and what has been done to resolve the matter.
- Any members of the Appeal Panel hearing the matter may ask questions to clarify details
- The HR Adviser may ask questions to clarify details
- The Head Teacher who has dealt with the matter up to now is asked to respond
- Any members of the Appeal Panel hearing the matter may ask questions to clarify details
- The HR Adviser may ask questions to clarify details
- The Chair of the Appeal Panel will ask both parties to withdraw and notify the employee and Head Teacher of his/her decision, in writing within 5 working days of the meeting

The decision is that of the Appeal Panel hearing the matter and the HR Adviser acts in an advisory capacity only.

The decision of the Appeal Panel is final and there are no further rights of appeal.