



Enabling Partnerships of Excellence in Continuity of Education for All Pupils

ASPIRE – STUDY – PERSEVERE



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Chair of Management Committee	Seeta Mephani
Head Teacher:	PK Maselino



HARROW SCHOOLS GRIEVANCE POLICY AND PROCEDURE

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1. INTRODUCTION

1.1 This document sets out the School's Grievance Policy and provides a structured 3 Stage procedure comprising of:

- Informal
- Formal – Stage 1
- Formal Appeal - Stage 2 (conclusion of the formal grievance process)

For ease of reference attached to this document is a detailed flow chart of which describes the above procedural stages at Appendix 1.

1.2 This policy enables employees to raise concerns related to their employment. The aim is to resolve grievances as quickly and as close to the point of origin as possible in an equitable way, which does not hinder the provision of an effective and efficient schools operation.

1.3 A grievance that has not been raised **within three months** of the issues arising will normally be disregarded unless it is agreed that there are exceptional circumstances or complaints that are exempt from this time scale e.g. discrimination.

1.4 An employee can opt to deal with a matter informally by raising it with an appropriate manager to seek an informal, no blame resolution. All parties are encouraged to seek a resolution at the informal stage. If action is recommended to resolve the issue it should be set out clearly and followed up to ensure it is taken. Managers are strongly encouraged to endeavour to resolve grievances informally and problems promptly, which may include a facilitation meeting in order to understand the views and perspective of the employee and others.

1.5 A grievance may be considered to be a complaint by an employee about the action, which their employer (or another employee) has taken or is contemplating taking in relation to them. A grievance could be regarded as any one of the following:

- Terms and conditions of employment
- Unfair treatment
- Health and safety
- Working relationships
- Harassment or bullying
- Working conditions
- Equal opportunities
- A breach of statutory employment rights
- An employee feels that an employment condition has been used incorrectly against them

N.B. This list is not exhaustive nor is it an attempt to give a definition of a grievance.

1.6 This policy does not cover:

- a. Employees appealing against a dismissal/disciplinary decision. This is dealt with through the appropriate appeals procedure.
- b. Concerns relating to pay, to a term or condition of employment or are about a term or condition of employment within the written particulars of employment (this does not affect statutory and contractual rights to raise a grievance about the application of terms and conditions)
- c. Matters relating to an employee's grade of their post or their salary and remuneration where these have been clearly determined by school's policies.
- d. Complaints in relation to the application of another procedure, which has its own appeal stage, or have previously been investigated e.g. disciplinary
- e. Complaints in relation to a matter which has already been raised under the Whistleblowing procedure
- f. Complaints raised by anyone not covered by a contract of employment issued by the Council
- g. An employee who is no longer employed
- h. Collective negotiation or consultation with recognised trade unions
- i. Matters that are over 3 months old, (however employees' reference can be made to earlier matters, if they believe that they support the grievance)
- j. Matters covered by statutory controls such as Income Tax, National Insurance and Pension Schemes
- k. Matters covered by other national or local appeals procedures, such as Redundancy dismissals, termination of probationary period.
- l.
- m. Whistleblowing Complaints. These are dealt with under the Harrow Council Whistle Blowing Policy and Procedure.

1.7 The making of covert recordings during any meetings without the knowledge and consent of all parties will lead to disciplinary action being taken. A written record of all meetings conducted under this procedure will be taken. This will be done either by the person holding the meeting or by an additional person arranged to take notes. The employee, or any person acting on their behalf, are not normally permitted to record electronically any meeting that is held under this procedure. Any breach of this provision may lead to disciplinary action. In certain limited circumstances, we may permit a meeting to be recorded electronically, for example where it is a reasonable adjustment for an employee with a disability. Where we intend to record meetings held remotely, we will comply with our data protection obligations and obtain prior consent from all attendees.

2. SCOPE

2.1 The policy and procedure set out in this document applies to all Teachers on Teachers pay and conditions and Harrow Council employees employed in schools under the terms of Harrow Pay Employment Conditions if this policy has been adopted by the respective schools' Governing Body.

2.2 Where a grievance concerns a Headteacher, the employee should raise their concern with the Chair of Governors.

2.3 If a grievance is raised by an employee against the Chair of Governors, or any other member of the Governing Body, this should be dealt with through the Grievance Policy and will be heard by an Employee Grievance Committee.

3. ROLES AND RESPONSIBILITIES

3.1 Managers and employees have a responsibility within this procedure. Participants in this process shall be respectful of one another and refrain from using language that could be perceived as insulting, offensive or abusive or intimidating.

3.2 The Headteacher / Designated Manager / Chair of Governors will:

- Ensure that all employees are made aware of the Grievance Policy and how to access it.
- Try to resolve all issues informally before they become formal grievances.
- Respond promptly and without unreasonable delay to try to resolve any informal and formal grievances and ensure that timescales are adhered to and that they can account for decisions with a sound rationale.
- Ensure the grievance procedures are followed correctly, seeking advice from the HR Team when they are unsure.
- Treat all grievances seriously, dealing with each one consistently and sensitively ensuring fairness, natural justice and equality whilst maintaining confidentiality at all times.
- Ensure that the aggrieved employee is aware of the option to use mediation before they invoke the formal process.
- Appoint an investigating officer (where appropriate) to investigate the complaint.
- Review the investigation report and confirm to the HR Business partner if it should move to the formal stage or not.
- Appoint a clerk to organise a hearing committee and keep a record of any hearings or appeal hearing relating to the grievance.
- Organise an Employee Grievance Committee which would normally comprise of 3 governors not involved in the grievance issue (if no clerk is available).
- Draft and send any formal letters relating to the grievance case (if no clerk is available).

3.3 Clerk will:

- Arrange a hearing committee which would normally comprise of 3 governors and confirm who will be chairing the hearing.
- Organise a date and venue for the hearings.
- Keep all parties informed.
- Collate and put bundle documents together in a chronological order for the panel members and staff member.
- Take minutes at the hearing.

3.4 **Employees will:**

- Work with the manager to genuinely seek resolution.
- Try to resolve all issues informally, before implementing the formal procedure under Stage 1.
- Co-operate fully with any investigation.
- Comply with all reasonable management instructions whilst their grievance is being progressed.
- Not raise a grievance maliciously.
- Maintain confidentiality throughout and on conclusion of the process.

3.5 **HR will:**

- Advise and guide the headteacher, investigating officer and hearing / appeal committee.
- Attend the grievance hearing / appeal.
- Cross check all correspondences including invite letters and outcome letters.
- Ensure the policy is adhered to and non-compliance is escalated to the relevant people.
- Review hearing bundle to ensure it contains all relevant paperwork prior to be sent out.
- Advise on procedural matters and best practice.

3.6 **Investigating Officer**

- Liaise with the headteacher and HR to gain a full understanding of the nature and scope of an investigation.
- Conduct an investigation and produce an investigation report within the timescales set out in the policy.
- Managers must as far as is practicable, adhere to the timescales as set out in this procedure. Exceptionally where there are compelling reasons for delay at the formal stages of this procedure the manager must write to the employee concerned to advise of these reasons; informing them of any reasonably revised timescales
- Managers must treat the resolution of grievances as very high priority. If necessary, they must seek advice from their line manager about other duties which will need to be given a lower priority for the duration of the grievance investigation.
- The manager in conjunction with HR shall provide regular progress update to the employee and their union representative throughout the investigation
- Be impartial and not have a conflict of interest that might prejudice a fair investigation.
- Communicate findings to the headteacher and HR as to whether there is a case to answer or not.
- Must attend grievance appeal hearing and present the investigation their case.
- Maintain confidentiality.

4. KEY PRINCIPLES

- 4.1 The provisions of the Equality Act 2010 will be applied throughout the implementation of this policy.
- 4.2 This policy has been developed in line with the ACAS Code of Practice and the aim of the policy is to provide a fair process to resolve grievances:
- a. To enable genuine grievances to be resolved quickly and consistently across the school in order to maintain good working relationships.
 - b. To resolve grievances informally before implementing the formal process.
 - c. To ensure that the issues raised by an employee in their grievance are investigated fairly, thoroughly and promptly, and that the outcome is confirmed in writing without unreasonable delay.
 - d. To ensure that the employee does not suffer any detriment in the form of victimisation by asserting their statutory right to raise a grievance.
 - e. All grievances raised will be treated seriously. However, employees should be aware that they must not use the policy to raise complaints which are vexatious or malicious. Where an employee raised a grievance on grounds which they knew to have been false with the intention of harming another person, disciplinary action be considered against the employee raising a grievance.
 - f. A grievance can be closed at any point during the process, following receipt of written consent from the employee to do so. Grievances can also be closed where the employee who raised the complaint is not engaging in the process or adhering to the timescales.
 - g. Grievances will be dealt with on a case by case basis.
 - h. Not to discriminate against any individual in the application of this policy and procedure on the protected characteristics of age, disability, gender reassignment, marriage and civil partnership, maternity and pregnancy, race, religion or belief, sex, sexual orientation, or other grounds protected in law (e.g. part-time worker status, trade union membership or HIV positive status).

5. RIGHT TO BE ACCOMPANIED

- 5.1 The employee has the right to be accompanied by a Trade Union representative or workplace colleague at any formal grievance meetings.
- 5.2 The person against whom the allegation has been made can be accompanied by a Trade Union representative or workplace colleague at any formal grievance meetings. Employees will be advised of sufficient details of any complaint made against them and given the opportunity to respond to the complaint before any formal outcome is determined.

- 5.3 Employees should be aware that their personal information including possible sensitive, relevant information will be shared with their nominated representative unless their permission to do so is formally withheld.

6. MEDIATION

- 6.1 There may be situations where, with mutual agreement, mediation may be considered to be appropriate. 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.
- 6.2 Mediators may be employees trained and accredited by an external mediation service who act as internal mediators in addition to their day jobs. Or they may be from an external mediation provider. They can work individually or in pairs, or in pairs as co-mediators.
- 6.3 Mediation may be appropriate for conflict involving colleagues of a similar job or grade, or between a line manager and their staff, to address a range of issues, including relationship breakdown, personality clashes, and communication problems.
- 6.4 Mediation is unsuitable in cases such as possible criminal activity, or where the individual bringing a grievance alleges discrimination or harassment case and wants this investigated .
- 6.5 The manager considering the grievance may recommend the use of an **independent mediator** to the Headteacher who shall make the final decision on whether funding for mediation can be provided.
- 6.6 Notes of the mediation meetings are confidential and should not be disclosed to other parties. There may be exceptions e.g. information concerning safe guarding issues, where there may be a requirement to disclose information. The parties involved in the mediation must however be consulted and the reasons for disclosure fully explained, usually in writing. HR advice must always be sought before any disclosure.
- 6.7 In the event of mediation been agreed or recommended, contact your designated HR support in order to arrange this request.

7. COLLECTIVE GRIEVANCES

- 7.1 If a collective grievance arises, involving a group of employees within the same school, relating to the same issue, this may be dealt with through this policy and the group of staff may nominate up to 2 spokespersons to represent their case. The spokespersons have the right to be accompanied by a Trade Union representative or work colleague.
- 7.2 Even though this will be dealt with as a collective grievance, all parties must provide their written consent or sign the grievance statement.

- 7.3 As long as the issue is the same in each case, it will be necessary to hold only one meeting at each stage with the spokesperson(s).

8. INFORMAL APPROACHES TO RESOLVING GRIEVANCES

- 8.1 In the first instance employees are expected to discuss the issue with their line manager to see if the matter can be resolved informally without invoking the formal grievance procedure. Where the grievance concerns the Headteacher, the employee should raise their concern with the Chair of Governors. Where the grievance concerns the Chair of Governors, the employee should initially raise their concern with the Vice Chair of Governors.
- 8.2 Where a grievance is brought against another employee, it may be appropriate for the headteacher to discuss their actions/inactions with them as part of their normal supervisory arrangements and without recourse to the formal procedures. This may take the form of advice, counselling, training, instruction, coaching or other managerial strategies as appropriate. Such activity may also be delegated to a member of the leadership team. In respect of the headteacher, this will be carried out by the Chair of Governors with support and advice from HR.
- 8.3 Managers should be aware of, and be prepared to explore alternative ways of resolving complaints that arise by discussing the issue and considering possible solutions with the employee. For instance, it may be appropriate to consider mediation in the informal process.

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 who is right or wrong or to tell those involved what they should do. The mediator is in charge of the process of seeking to resolve the problem.

9. FORMAL GRIEVANCE PROCEDURE – STAGE 1

- 9.1 If the employee is dissatisfied with the outcome of the informal process, they may raise a formal grievance. The aggrieved employee should complete the Stage 1 Formal Grievance Form to register a formal grievance. The completed form and any relevant evidence / documentation should be submitted to the Headteacher or to Chair of Governors where the Headteacher is connected to the grievance or complaint.

The formal grievance should include the following:

- The nature of the grievance – what is alleged to have occurred.
- Actions taken to resolve the matter informally and the reason for dissatisfaction with the informal solution (if appropriate).
- The outcome the employee is seeking and how this might be achieved.
- Any relevant witnesses to the matters complained about.

- 9.2 On receipt of a formal grievance, the manager/Headteacher (or Chair of Governors if the grievance is by or against the Headteacher or other appropriate officer as advised at 8.1) will meet with the employee to investigate and clarify the details of the grievance **within 10 working days**, gather any relevant documentation and to clarify the outcome the employee is seeking.
- 9.3 The purpose of this/these meeting(s) will be for the manager/Headteacher or Chair of Governors to consider the facts, give the complainant the opportunity to explain how they would like it resolved and make their determination concerning the grievance. A note taker (clerk) will also attend these meetings.
- 9.4 The employee has the right to be accompanied by their trade union representative or work colleague at these meetings and will be provided 5 working days' notice to attend the meeting.
- 9.5 Please see further guidance in section 9 of the Grievance Toolkit for Schools.

10. APPOINTMENT OF AN INVESTIGATING OFFICER

- 10.1 In some cases it may be necessary for the manager to appoint an Investigating Officer. The Investigating Officer, if internal will normally be senior to the persons involved in the grievance. If the grievance is against the Headteacher or a member of the Governing Body an external Investigating Officer will be appointed if the grievance cannot be resolved at the Informal Stage. This will depend upon the nature and complexity of the grievance. Where an Investigating Officer is appointed they are responsible for investigating the complaints made, including the events surrounding or leading up to submission of the complaint. The Investigating Officer will compile a report containing a written summary of their findings and details of any witnesses interviewed, including, where appropriate, interview notes. If an investigating Officer is appointed the Manager should reconvene within 10 days of the initial meeting, giving the employee 5 working days' notice in writing.
- 10.2 If further allegations or information come to light during the course of the investigation, the manager and the employee must be informed.

11. FORMAL GRIEVANCE APPEAL HEARING STAGE AND CONCLUSION OF THE GRIEVANCE PROCESS – STAGE 2

- 11.1 If the employee is dissatisfied with the decision resulting from Stage 1 of the formal grievance procedure then they may appeal the grievance decision, clearly stating their grounds of appeal. Any appeal must be lodged within **10 working days** of the date of the Stage 1 decision letter.
- 11.2 Appeals under Stage 2 should be heard by the Employee Grievance Committee, a panel of 3 governors, and accompanied by a representative from HR where the grievance is more complex. Governors who previously considered the grievance shall not be present at the appeal.

- 11.3 The purpose of the Appeal Hearing will be to consider the reasons why the employee is dissatisfied with the outcome of the formal Stage 1 process and to hear the case. The employee will have the opportunity to explain their appeal grounds and submit information to support their claim. The appeal must relate to the original grievance and only matters included at Stage 1 can be included in the appeal. The employee must receive a minimum of **5 days' notice** before the meeting takes place.
- 11.4 The management case will normally be presented by the chair of the Stage 1 Employee Grievance Committee.
- 11.5 The decision will be conveyed to the employee in writing by the Chair of the Employee Grievance Committee **within 5 working days**. The grievance appeal decision is final, the employee has no further right of appeal and will not be permitted to submit a further grievance on the same facts upon which a decision has been taken.

12. FURTHER GUIDANCE

- 12.1 Further guidance is contained in the Grievance Toolkit for Schools for all parties involved during the grievance process.
- 12.2 The toolkit is updated on a regular basis. Headteachers should ensure that they refer to the most up to date copy on the intranet and not a previous printed version.
- 12.3 Formal advice and guidance is available from - Harrow HR for Schools.