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Grievance Policy

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St Margaret's Academy

TORBAY COUNCIL

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1 Introduction

The Trust encourages open communication between all employees. Our aim is to maintain constructive working relationships and find mutually acceptable solutions to workplace problems and issues. In the majority of cases, concerns can be dealt with informally, e.g. through team meetings or informal discussions, although there may be occasions when any such resolution is not entirely to the satisfaction of the individual. However, it is hoped in following through any grievance, improvements to the situation giving rise to the grievance will be possible.

In many cases third party mediation can help resolve problems, especially those involving working relationships.

The purpose of this Grievance procedure is to provide a formal means for an individual to raise a grievance and have the matter explored fairly and promptly.

This procedure follows closely the Advisory Conciliation and Arbitration Service (ACAS) Guidance and meets the requirements of the Employment Act 2002 (Statutory Dispute Resolution Procedures).

Generally, a grievance can be raised by an individual about any matter concerning their employment or about how conditions of service are applied to them, although specific matters will be dealt with under separate arrangements.

The following are common issues that may be addressed through the grievance procedure:-

- Terms and conditions of employment
- Health and Safety
- Work relations
- New working practices
- Working environment
- Organisational change
- Discrimination

It should be noted that as well as this procedure, other supporting documentation is available to line managers regarding the Grievance Procedure. It is strongly recommended that this be referred to in order to gain a complete overview of the process and for best practice reasons. “Managing Grievances” and “Witness Guide to Grievances” can be obtained from the Academy.

1.1 Scope

The following matters are excluded from this grievance procedure and there are separate mechanisms to deal with them:

- Pay issues (*Pay Policy)*
- Fraud, corruption and malpractice (*Whistleblowing Policy)*
- Selection for redundancy *(Redundancy Policy)*

- Discipline and capability issues *(Disciplinary and Capability Procedures)*
- Bullying and Harassment issues *(Acceptable Behaviour Policy)*
- Absence *(Managing Attendance Policy)*

1.2 Equality Statement

This procedure applies equally to all Academy employees regardless of their age, disability, gender, race, religion or sexual orientation. Care will be taken to ensure that no traditionally excluded groups are adversely impacted in implementing this policy. Monitoring will take place to ensure compliance and fairness.

1.3 General Principles

** Reference to 'line manager' is made throughout this document. In the context of this document 'line manager' may be interpreted as immediate supervisor / Year Head / Assistant Head / Deputy Head and in some cases Headteacher.

Employees should be in a position to bring to the attention of management any grievances that arise in the course of their work and to have these issues considered fairly and promptly.

At any stage in this procedure, an employee has the right to request involvement from their trade union representative or work colleague in any formal discussions or meetings. To do so, the employee should let the immediate line manager know as soon as possible. Every effort should be made to accommodate the employee's companion, including the rescheduling of a grievance hearing if the original date is not suitable. The Grievance Procedure may also be followed without a representative. Academies are encouraged to take advice from their HR provider throughout the process.

All employees are entitled to a fair hearing. If an employee feels that he/she may be compromised by the grievance being heard by the immediate line manager, he/she may ask the Headteacher to arrange for another Line Manager to hear the grievance. The Headteacher's decision on who hears the grievance will be final.

Supervisors and managers of staff are required to give any grievance that has been raised formally proper and full consideration; Managers will be encouraged and supported to facilitate mutually acceptable solutions to genuine concerns raised by members of staff

To ensure that grievances are dealt with quickly, the procedure sets out time limits that will normally apply. However, these time limits are a guide and due to service needs, Trust closure periods etc. and may not always be achievable. Therefore, these may be varied by mutual agreement and it is a Management responsibility to ensure that at each stage of the process the response times are agreed by all parties before the process may proceed. Periods of academy closure do not need to halt the procedure but for the procedure to actively continue during this time, all parties will need to be in agreement.

In order to make the grievance process as clear and easy to follow as possible, the Academy should take appropriate HR advice throughout the process. The Academy's HR provider may attend hearings that are of a more complex nature.

When an employee raises a grievance during a disciplinary process the disciplinary process may be temporarily suspended in order to deal with the grievance. When the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently.

If the employee raises a grievance at the same time as a disciplinary matter is being raised, both procedures will be invoked but not necessarily simultaneously.

As an employer, the Academy has a duty to protect individuals from harassment that may take the form of grievances submitted maliciously. Having been investigated, any such grievance found to have been submitted maliciously will be considered further under the Disciplinary Procedure.

In all cases the manager hearing the grievance at whatever stage, should ensure that a written summary of the meeting is made and that a copy is made available to the employee, should they request it and to his/her representative, where one is present.

At any stage of the process, as a result of something said by a witness or an individual participating in the process, it may be necessary to return to any of the individuals involved to ask them to expand on their statements in order to discuss any issues that were not evident initially.

It is usual for grievances to be heard initially by an employee's line manager. If the issue remains unresolved and enters Stage Two of the process, it would be expected that it would then pass to a more senior level of management. For grievances reaching Stage Three, the final appeal stage, the matter will normally be heard by a panel of three Directors/ Governors or by the relevant committee. However, depending on the seniority of the individual raising the grievance and operational issues, this pattern may not always be possible. Therefore, it is acceptable within this procedure for grievances to be heard by other Directors / Governors / Trust Managers where appropriate.

In exceptional circumstances, should the employee feel uncomfortable with an Appeal Hearing at Stage Three of the process being conducted by a certain individual, he/she has the option to request that it be heard by another Director / Governor or Trust Manager. This request should be made in writing to the Headteacher, who will consider the circumstances and where appropriate nominate alternative individuals.

1.4 Grievances raised by Headteacher/Deputy Headteacher

A grievance raised by the Chief Executive Officer, Executive Headteacher , Headteacher or Deputy/Assistant Headteacher should initially be addressed to the Chair of the Trust Board of Directors. It is not expected that the Chair of Directors would hear a grievance in the early stages, instead they would be expected to allocate these hearings to other Directors or Local Governors.

1.5 Grievances relating to a member of the Directors or Local Governing Body

If an employee wishes to raise a grievance relating to a member of the Board of Directors or Governing Body, the grievance will be heard by an appropriate panel in line with the Trust's Scheme of Delegation and, if necessary, an appeal will be heard by a separate Appeals Committee.

1.6 Witnesses

Witnesses provide valuable assistance in helping to address grievances raised by employees. However, witnesses can sometimes be confused about their roles, obligations or ability to remain anonymous.

Witnesses need to understand that the individuals raising the grievance or answering a Grievance/Disciplinary, as well as their representatives, will be given copies of any statements made. Therefore, they ***should*** ensure that the information they give is factual.

Further guidance is available for witnesses in the *'Witness Guide to Grievances.*

1.7 The Right to be Accompanied

There is a statutory right to allow individuals to be accompanied by a Trade Union representative or a work colleague at a grievance hearing on cases linked to issues such as the contract of employment or a breach of legislation.

However it is viewed as good practice to allow employees to be accompanied by a Trade Union representative or work colleague at ALL formal grievance meetings, even when the statutory right does not apply.

There is a statutory right to representation at all stages of the appeal process.

The representative may be a colleague, trade union representative or an official employed by a trade union. A trade union representative need not be an employee of the Trust but if they are not a fellow worker or an employee of the union, the Trust may insist on them being certified by their union as being trained to accompany an employee at grievance hearings.

The representative will be able to address the hearing, put the employee's case and sum it up and respond on the employee's behalf to any views expressed at the hearing. The representative and employee are also able to confer during the hearing. However, the representative is not permitted to answer questions on behalf of the employee or address the hearing if the employee does not wish it, or prevent the employer from explaining their case.

Partners, spouses, friends or legal representatives have no statutory or contractual right to be able to accompany individuals. In exceptional circumstances consideration may be given to the employee bringing a companion rather than a representative. This person would not be eligible to represent the employee at the meeting.

Reasonable adjustments may be needed for an employee, or their representative, with a disability, for example the provision of a support worker or advocate with knowledge of the disability and its effects. Consideration should also be given to employees who have language or communication difficulties to ensure that they have fair representation throughout the process. This may include ensuring that reasonable adjustments are made in the case of a disabled employee, i.e. by ensuring that the meeting is conducted in a room allowing wheelchair access, or that some form of translation service or alternative format is provided for employees where English is not their first language.

Individuals should confirm before the meeting whether or not he/she will be accompanied and which witnesses have been called.

2 Grievance Process

It is intended to try and keep Grievance Hearings as informal as possible during the initial stages as there is much more chance of a quick and successful resolution if the employee feels that they can discuss the matter openly with their Line Manager. The manager hearing the grievance is responsible for the conduct of the hearing and managing the process and should ensure that:

- The individual who is raising the grievance and their representative (if applicable) have full opportunity to present their grievance;
- The relevant person responds to their grievance;
- Any witnesses attending are treated with dignity, respect and courtesy at all times, especially when responding to questions.

2.1 Stage One

When an employee wishes to raise a grievance he /she should, in the first instance request a meeting with his/her Line manager to discuss the grievance. The grievance should be headed 'Formal grievance' They should give their manager as much information as possible to assist in considering their grievance and also indicate their preferred outcome. Where an employee may require assistance in preparing their written grievance he/she may contact their trade union representative. Upon receipt of the written grievance the line manager should normally arrange to hear the grievance within ten working days. The line manager will normally communicate their decision verbally as soon as possible, and in any case within five working days of the hearing, unless further investigation is required. If further investigation is required the line manager should notify the employee verbally and confirm this in writing, with a new anticipated date for a response.

Once the manager feels able to deliver a response the employee should be notified verbally and this should then be confirmed in writing within five working days, with details of the Appeal Process.

In cases where the grievance relates to a work relationship matter, appropriate feedback should also be offered to any other people involved in the process to confirm that matters have been dealt with and are considered closed. This should be confirmed in writing to them.

2.2 Stage Two

If the employee is dissatisfied with how the grievance has been dealt with at the first stage and the grievance was not heard by the Headteacher at the first stage, the employee or his/her representative can request a further hearing with the next level of senior management (If the grievance has already been heard by the Headteacher any appeal will be heard in line with Stage 3 – below). This request should be made in writing to the person who heard the Stage One grievance, within ten working days of the written result of the Stage One hearing, giving reasons for the appeal and making it clear why the outcome of the first hearing is not satisfactory. The employee must identify their reasons for pursuing the grievance and should also indicate their preferred outcome.

If the grievance relates to a working relationship matter, the person who heard the Stage One grievance should notify the person/people against whom the grievance is raised that a Stage Two hearing has been requested, this should be confirmed in writing to them.

The Stage Two hearing should take place within ten working days. In order to be sure of the facts surrounding the grievance, the person who initially heard the grievance may also be present.

It may be necessary for the hearing to be adjourned in order that the manager can investigate the grievance more fully.

The outcome will be communicated verbally together with any proposed resolutions within five working days and will then confirm the outcome in writing within five working days, with details of the final stage appeal process.

In cases where the grievance relates to a work relationship matter, appropriate feedback should also be offered to any other people involved in the process to confirm that matters have been dealt with and are considered closed. This should be confirmed in writing to them.

2.3 Stage Three - Appeal

If a grievance remains unresolved, the employee or his/her representative may make a written request to the Directors / Local Governing Body for a final appeal, giving reasons for the appeal and indicating their preferred outcome. This request must be made within fifteen working days of receiving written notification of the outcome of the second hearing.

If the grievance relates to a work relationship matter, the person who heard the Stage Two Grievance should notify the person against whom the Grievance is raised that a Stage Three Appeal Hearing has been requested, this should be confirmed in writing to them.

A Stage Three appeal hearing will be heard by a panel of 3 Governors and every effort will be made for the appeal to be arranged as soon as possible and this will normally be within twenty working days of the request. Following the appeal the decision will be communicated in writing within five working days of the hearing.

In cases where the grievance relates to a work relationship matter, appropriate feedback should also be offered to any other people involved in the process to confirm that matters have been dealt with and are considered closed. This should be confirmed in writing to them.

The decision reached by the Directors / Local Governing Body (which will be a Stage Three Appeal), will be the final decision within the Trust's procedures and there is no further right of appeal.

2.4 Order of proceedings for formal Grievance Hearings

It may be helpful to follow a more structured approach to ensure that all relevant information and process has been covered. An example of a more structured approach (to be followed possibly at Stages Two or Three of the grievance process) may be as follows:-

- The person leading the hearing (the Chair) will introduce the hearing, and explain its purpose and how it will be conducted.
- The employee will be entitled to be accompanied at the hearing, if he/she wishes, by a fellow worker or Trade Union official of his/her choice.
- The parties present at the hearing will introduce themselves and confirm their respective roles in the hearing.
- The Chair will state whether or not any witnesses have been asked to give evidence at the hearing, and if so, who they are.
- The Chair will state that the hearing is being conducted as part of the organisation's formal Grievance Procedure and confirm that a written record of the hearing is being made.
- The Chair will invite the employee to state his/her case, i.e. the circumstances that have led to the grievance, the nature of the grievance and why he/she feels aggrieved. The employee may do this personally, and/or the employee's representative (if he/she has elected to be represented) may do this on his/her behalf. They also have the opportunity to call witnesses and refer to the documents submitted (ideally) in advance.
- The Chair or members of a Grievance panel may ask the employee (and any witnesses) questions about the circumstances of the grievance in order to establish all the relevant facts, background and surrounding circumstances.
- The employee bringing the grievance and/or their representative can also ask questions of the witnesses.
- The Chair has the right to ask the employee personally to answer such questions, although the employee may on request confer with his/her representative at any time during the Grievance Hearing.

- Should the Chair or member of the Grievance panel feel that further questioning is required of a witness not present or a previously un-questioned individual or that subsequent investigation is required, the hearing will be adjourned to facilitate this and the meeting re-convened at a mutually agreeable time/date.
- Once all the evidence has been heard, the Chair will sum up the key points of the hearing.
- The Chair will inform the employee of when a decision will be made about what, if any, action will be taken to resolve or otherwise deal with the grievance.
- The Chair will inform the employee that he/she will have the right to appeal against the outcome of the Grievance Hearing if he/she is not satisfied with it (this is not applicable for Grievance Hearings that reach Stage Three of the process).
- The Chair will thank the parties for attending and close the meeting
- The Chair will ensure that the decision is confirmed in writing to the employee raising the grievance. Feedback should also be provided in writing to all those who participated in the grievance process as witnesses using the "Notification to Witnesses feedback" letter.

2.5 Group Grievances

Where a group of employees share the same concerns they may choose to raise them as a Group Grievance, to be dealt with in one process.

The group of employees should appoint a spokesperson or spokespersons (up to a maximum of two). The spokesperson/s may wish to be accompanied to any meetings to hear the grievance by a work colleague or Trade Union Representative. (See Right to Representation)

Alternatively the Grievance may be dealt with by meeting the employees individually and dealing with their grievances on an individual basis, where the group do not wish to be represented by a spokesperson..

However it is presented, a Group Grievance will be handled in the same manner, i.e. follow the same steps, and be subject to the same timescale as individual grievances, unless further time is required for additional investigation. In which case the manager will write to the employee nominated as spokesperson with a new anticipated date for a response.

2.6 Records

Records of the Grievance (letters, interview notes etc) should be kept in confidence and held by the Trust in accordance with the Data Protection Act 1998.

Managers are advised to keep a record of any discussions relating to the Grievance procedure. The record should show the date and time of the meeting, state briefly what was discussed and record the outcome. The record should be retained in a separate confidentially marked envelope with the employee's personnel file. The letter addressed to the employee detailing the final outcome of the grievance should remain within the normal papers in their personnel file.

2.7 Monitoring

Under the Equality Act 2010 and Equal Opportunities Policies, the Trust needs to monitor its policies and employees involved in this process to ensure compliance and fairness for all employees. There is an obligation to monitor by racial group, disability and gender any employee who raises a grievance under this procedure.

3 Policy Feedback

Should you have any comments regarding this policy, please address them to the HR Policy mailbox –

HRpolicy@torbay.gov.uk

3.1 History of Policy Changes

Date	Page	Details of Change	Agreed by:
Sep 2017	All	Re-formatting and general update	

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