



# Academy Grievance Procedure

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Summer 2020

## **Grievance Procedure**

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## **1. Introduction**

- 1.1 As the employer of staff in our Academies, Northern Education Trust (NET) recognises the statutory responsibilities related to employment. Day to day management of staff is delegated to the Principal and line managers in each academy. Throughout this document reference is made to the responsibilities held by the Governing Body/Principal for operational purposes. Ultimate responsibility rests with the Trust.
- 1.2 This procedure allows for individual employees to raise concerns related to their employment including matters relating to the Governing Body and its members. The aim of the procedure is to resolve individual grievances as quickly as possible in an equitable way.
- 1.3 The procedure is written in line with the ACAS Code of Practice as amended March 2015.
- 1.4 This Procedure was ratified by the Trustees on 6<sup>th</sup> October 2017 following consultation with Trade Unions. It will be reviewed from time to time in full consultation with Trade Unions.

## **2. Scope**

- 2.1 This grievance procedure applies to all employees of the Trust working in the Academy.
- 2.2 The grievance procedure deals with staff concerns, problems or complaints, including employee relations issues. If the complaint is related to alleged bullying, harassment or matters of alleged discrimination, investigations should be carried out through the Dignity at Work procedure, in the first instance.
- 2.3 The grievance procedure is not to be used for the following matters:
  - Matters covered by collective bargaining arrangements between the Trust and Trade Unions
  - Redundancy. Appeals on redundancy will be dealt with under the provisions of the Redundancy Policy
  - Disciplinary and Capability issues, including appeals
  - Income Tax or National Insurance matters
  - The rules of the pension schemes
  - Any other matters outside the control of the Trust/Academy
- 2.4 In addition, employees may not simply complain about the Trust/Academy established procedures, although a complaint about the way those policies and procedures have been applied should be allowed to proceed.
- 2.5 Appeals against staff grading or pay awards should be dealt with by the Academy's pay policy appeal system.

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

### **3. Representation**

- 3.1 At hearing and appeal processes, both parties to a grievance have a statutory right to be accompanied by a trade union representative<sup>1</sup> or work colleague; however NET allow representation at all stages of the process, including meetings. A Trade Union representative who is not an employed official must have been certified by their union as being competent to accompany the employee. For avoidance of doubt an Investigating Officer will not be entitled to representation when acting in the role of investigating officer.
- 3.2 It is the responsibility of the employee to arrange for his/her representation including notifying the representative of the hearing date in good time and sending copies of all relevant documentation. Where the employee's chosen Trade Union representative or work colleague is not available at the time proposed for the meeting/hearing, the employee may propose an alternative time. If the alternative time is reasonable and falls within 5 working days after the original date proposed, the meeting/hearing must be postponed to that time or to a time convenient to all parties.
- 3.3 The Trade Union representative or work colleague may also address a hearing/ meeting to put and sum up the employee's case, respond on behalf of the employee to any views expressed at the meeting and confer with the employee, but may not answer questions on their behalf.
- 3.4 It is good practice for management to try and agree a mutually convenient date for the meeting/hearing with the employee and their representative or work colleague to ensure that meetings do not have to be delayed or postponed.
- 3.5 The Academy will also need to consider whether any additional support for the employee is required, for example when a physical disability or other special need is identified.

### **4. Duties of the Principal/Line Managers & Employees**

- 4.1 Responsibility of the Principal/Line Managers:
- 4.1.1 To take action where it is recognised at an early stage that could prevent or minimise the likelihood of complaints being made
  - 4.1.2 To ensure that all employees are advised of how to raise concerns and of the availability of the grievance procedure
  - 4.1.3 Where concerns and problems are raised, to deal with matters promptly, sympathetically, fairly and impartially
  - 4.1.4 To attempt to resolve the problem and deal with the concerns at local level and informally where possible

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<sup>1</sup> A trade union is defined as any body listed on the Certification Officer's list of Trade Unions

- 4.1.5 To advise employees of the right to be accompanied by a Trade Union official or work colleague
- 4.1.6 Meet the timescales for contacting employees and to progress matters, without unreasonable delay, when the formal procedure is commenced
- 4.1.7 In considering solutions, the Principal/Line Managers need to have regard to the impact of their decisions on for example, other employees, matters of employment law or other policies and procedures adopted by the Academy
- 4.1.8 To document and record each step in the procedure

## 4.2 Responsibility of all Employees

- 4.2.1 Bring concerns to the Principal/Line Manager as soon as it is recognised that there is a problem that they can not resolve themselves.
- 4.2.2 All employees need to recognise that the purpose of this policy is to ensure a working environment where it is possible to bring concerns to the attention of management and have them dealt with promptly, sympathetically, fairly and impartially.
- 4.2.3 The aim is to deal with genuine grievances, where possible, in an informal manner to the satisfaction of all parties. It is therefore particularly important not to be tempted to proceed with unfounded or malicious complaints. It is important to remember that where a formal grievance is considered the behaviour and responsibility of all parties involved (including the complainant) will be examined.

## 5. Informal Procedure

- 5.1 There will be times when an employee is dissatisfied with a particular incident or treatment. It is expected that these concerns should be raised at the time and a joint resolution found between the employee(s) or the Principal/Line Manager rather than resorting immediately to the formal grievance procedure.
- 5.2 The Principal/Line Manager should deal with all grievances raised, whether or not the grievance is presented in writing at this stage. Wherever possible the Principal/Line Manager should, with the employee's consent, attempt to address the concerns on an informal basis and ensure the employee is satisfied with the outcome.
- 5.3 In many cases considering and responding to the issues raised at a local level may be all that is needed, and will often be a more satisfactory way of dealing with a grievance than a formal meeting. Depending on the nature of the grievance it may be that the Principal/Line Manager was unaware of the problem until raised by the employee.
- 5.4 Talk to the employee in private, listen to whatever they have to say about the issue. This should be a two way discussion, aimed at identifying the cause of the employee's grievance and finding a way to resolve it that is mutually acceptable.
- 5.5 It may be necessary to seek clarification about the issues raised from other parties at this stage.

- 5.6 An especially effective tool in settling a dispute at an initial phase is Mediation. In each case consideration will have to be given as to whether mediation will be appropriate. Subject to the agreement of both parties, mediation can be arranged to try to settle the grievance. See the stages involved in mediation at Appendix 2. For the avoidance of doubt, mediation can be employed at any stage.
- 5.7 A note of any informal resolution of the grievance should be kept for reference purposes. It may be necessary to confirm in writing any agreed resolutions.
- 5.8 If the complaint involves the person with whom the grievance would normally be raised the employee should approach the next available senior member of staff. In the case of a complaint against the Principal the employee should contact the Chair of the Governing Body in the first instance. The Chair should inform the Chief Executive of the Trust.
- 5.9 If the complaint is related to alleged bullying or harassment, investigations should be carried out through the Dignity at Work procedure, in the first instance. This follows the same approach to handling grievances but provides specific advice and support.

## **6. Formal Procedure**

- 6.1 Although the emphasis is on dealing with matters informally, in the event that informal discussion fails to bring an acceptable resolution within 10 working days, or such other timescales as agreed by both parties, the following formal procedure should be used.
- 6.2 Where a grievance is received and it is not possible to resolve it informally the Principal/Line Manager should confirm with the employee if they wish to lodge a formal grievance.
- 6.3 If the employee wishes to proceed under the formal process, they must confirm this in writing to the Principal by completing the pro-forma attached to this document at Appendix 1. The Principal, nominated person or Chair of Governors should consider and respond to the employee as soon as possible following the investigation and no later than within 20 working days of receipt of the initial notification by the employee.
- 6.4 Before submitting a grievance, it is advisable that employees seek support from a work colleague or Trade Union representative.
- 6.5 A formal grievance must set out the following:
- The name and job title of the employee
  - The reason the employee is aggrieved
  - The action they have taken so far to try to resolve the problem
  - Where no previous action has been taken the reason why it is not possible/appropriate to deal with it informally
  - The expected outcome or an indication of what would be required to resolve the grievance
- 6.6 On receiving a formal grievance, the Principal will respond to the grievance or can appoint a nominated person to do so. The Principal or nominated person will have full authority to resolve the grievance and determine what action, if any, is appropriate subject to the right to appeal.

- 6.7 The Principal or nominated person, to invite the employee without unreasonable delay after the grievance is received, to a meeting to discuss the grievance confirming the right to be accompanied and be notified in writing of the decision. Wherever possible this date should be mutually agreed but 5 working days notice of the meeting should be given.
- 6.8 Employees should be allowed to explain their grievance and how they think it should be resolved. Consideration should be given to adjourning the meeting for any investigation that may be necessary.
- 6.9 It may be necessary to interview other employees at this stage before being able to resolve the issue; an agreed record of those discussions must be made.
- 6.10 All parties interviewed will be reminded at the outset that although any information given will be treated confidentially it may be necessary to discuss the issues raised with other persons or bodies if they can assist with the resolution of the grievance.
- 6.11 In some circumstances it may also be necessary to disclose information gathered as required for audit, disciplinary, employment tribunal or other legitimate purposes.
- 6.12 The Principal or nominated person will give the grievance careful consideration before responding. Wherever possible, the employee will be informed verbally of the decision. The nominated person will respond in writing following the meeting and will inform the complainant that they can appeal against the decision if they are not satisfied with it.
- 6.13 A grievance lodged against the Principal or Governor of the Governing Body will be considered by Governors and/or Trustees following investigation by a nominated independent person. See Appendix 3. Please note it is the practice of Northern Education Trust, that where necessary, Governors can be used from other NET academies for any hearing or appeal process.

## **7. Collective Grievances**

- 7.1 In circumstances where a grievance is raised by or on behalf of more than one person, the details of the grievance must be set out in writing and signed by all who are party to the grievance. The employees may nominate one person to represent the group, in most cases this will be the trade union representative or representatives where the employees are members of more than one union.
- 7.2 A collective grievance will be dealt with as for an individual grievance under paragraphs 5, 6. and 10. Mediation can also be used (see Appendix 2)
- 7.3 In exceptional circumstances, the parties to a collective grievance may still fail to agree despite the collective grievance procedure being exhausted and a dispute may be declared which will be dealt with under a separate procedure. Collective disputes may arise other than from a collective grievance.
- 7.4 The matter may be referred to the National Joint Consultative Committee for conciliation and resolution.

## **8. Grievance after Termination of Employment**

- 8.1 A grievance that is received from a former employee should receive a written response with the right of appeal.

## **9. Timing**

- 9.1 Grievances should normally be conducted within the timescales laid down in the procedure. However, where there is a valid reason to do so, timescales can be varied by the Principal/nominated person or the Governing Body. The employee should be given an explanation if this occurs and informed when a response or meeting can be expected. Delays should not normally exceed 20 working days.
- 9.2 Employers, employees and their representatives should make every effort to attend meetings.

## **10. Formal Grievance Procedure – Appeal**

- 10.1 If the employee is dissatisfied with the response at the formal stage he/she should notify the person who heard the grievance within 5 working days from receipt of the response to the grievance. The notification must be confirmed in writing, using the pro forma shown in Appendix 1, giving detailed reasons for wishing to progress to appeal. This must give specific grounds such as why the employee is not satisfied with the initial outcome and what outcomes they are seeking at appeal.
- 10.2 The written notification of the employee's intention to appeal should then be given to the Principal/nominated person so that an appeal hearing can be arranged.
- 10.3 The appeal will be heard by three members of the Governing Body with advice from the Trust HR Function. The Committee will hear the appeal within 20 working days of receipt of the notification of appeal from the employee and the employee should have at least 5 working days notice of the Appeal Hearing.

## **11. Conducting Grievance Appeal Hearings**

- 11.1 Grievance appeal hearings should follow a systematic sequence, achieving a balance between structure and informality - to ensure that the individual's views are fully explored.
- 11.2 The Chair of the Appeal Committee will open the proceedings by:
- stating the purpose of the appeal
  - introducing all present
  - confirming that all have the same documentation
  - explaining the way the meeting will be structured
  - asking for any points of clarification to be stated
  - reading the grievance allegation
  - advising that should it become necessary to adjourn the meeting a target timescale for this will be agreed at the meeting.
- 11.3 The procedure should be as follows:
1. The employee/representative will introduce their submission and why they are dissatisfied with the outcome
  2. The Principal/nominated person may question the appellant and his/her representative
  3. The Committee may ask questions during or after the employee's presentation
  4. The Principal/nominated person will present their findings from the initial investigation



5. The employee/representative may question the Principal/nominated person
6. The Committee may ask questions during or after the Principal/nominated person presentation
7. The Principal/nominated person will have the opportunity to sum up their submission
8. The employee/representative will have the opportunity to sum up their submission
9. The Committee will have a final opportunity to clarify any points and if necessary the Committee at this stage may wish to call the respondent to answer questions
10. The Committee will then adjourn the hearing to consider the complaint
11. All parties except the Committee and anyone advising will then withdraw.

## **12. Committee Deliberations**

- 12.1 The Committee will consider what was said together with any written submissions.
- 12.2 If the Committee are confident that they have sufficient information to reach a decision, then the decision should normally be given verbally and in any event confirmed in writing within 5 working days.

**The Committee's decision will be final.**

## **13. Record Keeping**

- 13.1 The maintenance of accurate and contemporaneous records is essential, particularly in the event of referral to an Employment Tribunal. Notes are not necessarily verbatim, and there is no requirement for agreed minutes, it should be noted that consideration by an employment tribunal might be an extended time after the matter was considered internally.
- 13.2 Records should be held in a secure and confidential manner, often the issues raised by an employee are particularly sensitive and it is essential that information is kept in accordance with the Data Protection Act 1998.
- 13.3 Documentation that should normally be retained includes:
  - all papers presented at the Hearing and Appeal meetings;
  - notes of meetings (contemporaneous or otherwise);
  - information collated by the Committee or used to assist in making a decision;
  - confirmation of the decision, or other supplementary correspondence;
  - clarity on how decisions were reached.

## **14. Monitoring and Review**

- 14.1 All records will be treated as confidential and all grievances will be dealt with in a fair and equitable manner. The procedure will be monitored to ensure consistency of application and adherence to equalities legislation, to ensure that the policy operates in accordance with the duties to promote equality, to eliminate discrimination and to promote good relations between staff with protected characteristics as required under the Equality Act 2010.

**Grievance Procedure – Pro Forma**

This form is designed for all stages of the procedure.

**Please print information.**

Name:	.....
Post Title:	.....
Trade Union:	.....
Union Representative:	.....
Union Contact Details:	.....
	.....
	.....

**Part 1 - Please continue on a separate sheet if necessary.**

Nature of the Grievance:

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.....

What steps have been taken to resolve this issue so far?

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.....

What is your expected outcome or provide an indication of what you think is required to resolve the grievance:

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**Once completed send to the Principal who will arrange for your grievance to be considered.**

Response of the Principal/nominated person (or governors in the case of the Principal):

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**Principal/Nominated person or Governors/Trustees to consider and respond within 20 WORKING DAYS of receipt of initial notification by the employee.**

**Part 2 – Appeal Stage - Please continue on a separate sheet if necessary.**

I wish to record I am dissatisfied with the initial response for the following reasons:

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I am seeking the following outcome:

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Once completed to be given to the person who heard the initial grievance.

**Within 5 WORKING DAYS of receiving the initial response.**

**The appeal hearing to be held within 20 WORKING DAYS of receipt of the appeal notification by the employee.**

Governing Body Appeal Committee Decision following consideration of the Grievance:

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**A written response to be given within a further 5 WORKING DAYS.**

### Stages of Mediation (ACAS guide Feb 2013) Separate meeting

- **First contact with the parties** – the mediator will meet parties separately. The aim of this first meeting is to allow each individual involved to tell their story and find out what they want out of the process.

### Joint meeting

- **Hearing the issues** – the mediator generally brings the participants together and invites them to put their side of the story during a period of uninterrupted time. At this stage the mediator will begin to summarise the main areas of agreement and disagreement and draw up an agenda with the parties for the rest of the mediation.
- **Exploring the issues** – having identified the issues to explore, the mediation is now about encouraging communication between the parties, promoting understanding and empathy and changing perceptions. The aim of this part of the meeting is to begin to shift the focus from the past to the future and begin to look for constructive solutions.
- **Building and writing an agreement** – as the process develops, the mediator will encourage and support joint problem-solving by the parties, ensure the solution and agreements are workable and record any agreement reached.
- **Closing the mediation** – once an agreement has been reached, the mediator will bring the meeting to a close, provide a copy of the agreed statement to those involved and explain their responsibilities for its implementation. In some cases, no agreement is reached and other procedures may later be used to resolve the conflict. However, nothing that has been said during the mediation can be used in future proceedings.

**Procedure for Governors/Trustees to consider an Independent Investigation**

1. All relevant documentation including the independent report is circulated in advance to the panel and HR Representative.
2. Introductions and appoint a Chair of the panel.
3. Confirm all relevant documentation received.
4. Governors/Trustees to consider the independent report and associated documentation.
5. Governors/Trustees to consider the facts and recommendations of the report.
6. Governors/Trustees deliberate and make a decision on whether to uphold, partially uphold or not uphold the grievance.
7. Outcome to be sent to all parties to the grievance within 5 working days, including right of appeal.

The process may be adjourned at the deliberation stage, in order to allow for further investigation if the panel feels that there are points that need clarification.

**Trust HR Representative to be present throughout the hearing.**



**Example Letters**

**Model Invitation Letter to Grievance Meeting (Formal Stage)**

Academy Letterhead

Date

Dear .....

**RE: Grievance Procedure**

I am writing to acknowledge receipt of your grievance letter dated ..... in which you raise the following concerns:

- .....
- .....

In order to discuss your concerns in more detail I would like to invite you to attend a meeting with me on ..... (date) at ..... (time) at ..... (venue). I will be supported at the meeting by ..... who is a representative of Northern Education Trust HR function.

You have the right to be accompanied by your trade union representative or work colleague but it is your responsibility to arrange this. Please confirm your attendance and who will be accompanying you by ..... (date).

Please contact me if you need any further clarification of the process. If the above date and time is not suitable please let me know so we can arrange a time that is mutually convenient to all parties.

I enclose a copy of the grievance procedure/You have already received a copy of the grievance procedure. (delete as appropriate)

Yours sincerely

.....(name)

.....(Post Title)

**Model Letter Informing Employee of Outcome of Investigation (Formal Stage)**

Academy Letterhead

Date

Dear .....

**Outcome of Formal Grievance Investigation**

Following the formal grievance meeting held on .....(date), and the subsequent investigation I am writing to inform you that the investigation is now complete.

After carefully considering your grievance and the information gathered from interviewing other parties I confirm that I have decided to:

Delete as appropriate

Uphold your grievance (enter here the reasons why and add any recommendations)

OR not to uphold your grievance because (give reasons and include any recommendations).

You have the right to appeal against this decision to the Appeals Committee of the Governing Body. If you wish to appeal, you must do so within 5 working days of receipt of this letter. If there is any aspect of this letter, you do not understand or on which you require further clarification, please contact me.

Yours sincerely

.....(name)

.....(Post Title)

CC ..... (TU rep) CC File

**Model Letter Invite to Appeal Hearing**

Academy Letterhead

Date

Dear .....

**Grievance Procedure – Invite to Appeal Hearing**

In response to your letter of .....(date) stating that you wish to appeal against the outcome of the formal grievance investigation notified to you on .....(date), I write to inform you that the appeal hearing will be held at .....(time) on.....(date) in.....(venue).

You have the right to be accompanied by your trade union representative or work colleague but it is your responsibility to arrange this. I will be supported at the hearing by .....; HR Advisor Northern Education Trust .

The names of those who will be hearing your appeal are ..... (names), although these may be subject to change. The panel will be supported by ..... ; HR Director, Northern Education Trust.

The documents that will be presented at the hearing are enclosed. Please confirm your attendance and who will be accompanying you by ..... (date). Please also let me have any further documents you may wish to refer to at the hearing by the same date.

Yours sincerely

..... (name)

..... (post title)

CC: ..... (TU rep) CC: File

## Model Letter Outcome of Appeal Hearing

Academy Letterhead

Date

Dear .....

### Grievance Procedure - Outcome of Appeal Hearing

Following the appeal hearing held on .....(date) attended by .....(names), I write to inform you of the outcome of the hearing.

On the evidence presented to the Appeal Panel, it is found that.....(give findings).

Following careful consideration, The Appeal Panel has, therefore, decided that :

Delete as appropriate:

Your appeal is not upheld. ....(give recommendations) the Principal has also been informed of these recommendations.

Your appeal is upheld. ....(give recommendations) the Principal has also been informed of these recommendations.

The decision of the Appeal Panel is final.

Yours sincerely

..... (name)

..... (post title)

CC: ..... (TU rep) CC: File

## CONTACTS

For advice on the content of this policy please contact:

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Employees are also encouraged to contact their trade union representative for advice and support where appropriate.