



# Red Hall Primary School

## Grievance Policy & Procedure

STATUS	DATE
POLICY DATED:	January 2014
REVIEWED BY:	Avec Partnership June 2020
DESCRIPTION OF CHANGES	Updated to reflect GDPR 2018
REVIEWED BY THE GOVERNING BODY:	29 <sup>th</sup> September, 2020
NEXT REVIEW DATE:	Summer 2022

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## **1. Introduction**

- 1.1 This policy applies to all employees of Red Hall Primary School.
- 1.2 This policy aims to:
  - a) Help the School to deal with grievances in the workplace as quickly and effectively as possible.
  - b) Promote fairness and transparency by providing written rules and procedures that are specific, clear and applied consistently.
- 1.2 This Policy reflects the ACAS Code of Practice on Disciplinary and Grievance Procedures.
- 1.3 This guidance and statement provides the means for employees to raise genuine complaints and concerns and have them dealt with fairly and objectively, without fear of recrimination. They are not intended to establish guilt or provide punishment but as a means of resolving problems at work.
- 1.4 However, it is important that any grievances raised are genuine and not malicious. The behaviour and responsibility of all parties involved in the grievance (including the employee who has raised the grievance) will be considered.
- 1.5 If the grievance relates to a potential disciplinary issue, the matter will be dealt with under the School's Disciplinary Policy and related procedure.
- 1.6 The School also recognises that good employment relations practices – including those relating to recruitment, induction, training, communication and consultation, can prevent many grievances from arising. The School aims to promote these areas through a number of proactive employment practices and initiatives.
- 1.7 In line with the School's value's all employees have rights and responsibilities including being treated fairly.
- 1.8 In cases where employees are unhappy about their treatment at work, or about any aspect of their work;
  - a) Employees must advise the School of grievances as soon as possible.
  - b) Employees should raise their concerns with the Head Teacher / manager, who will try and resolve the situation on an informal basis.
  - c) Where some form of formal action is needed, the action that is reasonable or justified will depend on all the circumstances of the particular case.
  - d) The School will carry out necessary investigations to establish the relevant facts without unreasonable delay.
  - e) Employees will be given the opportunity to state their case.

- f) Employees will be provided with copies of the paperwork relating to any investigation (including witness statements as appropriate) should the matter progress to a formal Grievance Meeting or Appeal Hearing.

- g) An employee will have the right to appeal against the outcome of a formal Grievance Meeting held under stage 2 of this policy.
- 1.9 If the concerns relate to the employee's or manager, employees should still raise them directly with or manager if they feel able to do so. Where this is not possible, employees should discuss their concerns with another senior manager, the Head Teacher or Trade Union representative.
- 1.10 Where the concern relates to the employee's Head Teacher and they feel they are unable to discuss their concern with them, they should discuss their concerns with the Chair of the Governing Body.

## **2. Representation**

- 2.1 Employees have a statutory right to be represented at meetings during the formal stages of the procedure.

The employee may be accompanied by:

- A trade union representative
- An official employed by a trade union (regardless of whether the employee is a member of the union or the union is recognised by the School)
- A colleague or friend of their choice who does not have a conflict of interest in the case
- 2.2 A trade union representative who is not an employed official must have been certified by their union as being competent to accompany a worker.
- 2.3 More information on representation and the requirement for employees to make a reasonable request is provided at **Appendix 1**.

## **3. Definition**

- 3.1 Grievances are concerns, problems or complaints that an employee has about their work, working conditions or relationships with colleagues.

- 3.2 Employees may raise a grievance if the grievance is not already covered by another School policy or procedure, or the appeal mechanism related to these. For example:

- a) Grievances relating to bullying and harassment or discrimination are covered under the School's Anti-Harassment and Bullying Policy.
- b) Complaints against any disciplinary or capability action taken against an employee will be dealt with as an appeal under the School's Disciplinary and Capability Policies.
- c) Complaints / grievances associated with restructures and redundancy consultations should be raised as part of consultation exercises in line with the School's Redundancy policy.

- d) Complaints against pay and grading should be raised through the School's Pay Policy appeal procedure.
  - e) Complaints about decisions made under the pension scheme will normally be considered under the Internal Dispute Resolution Procedure (IDRP).
  - f) Serious concerns about something wrong within the School should be raised under the Confidential Reporting Policy
- 3.3 The requirement to attend an appointment with Occupational Health or a sickness absence review meeting does not constitute a grievance.
- 3.4 This policy does not apply to grievances raised on behalf of two or more employees by a representative of a recognised trade union or other appropriate workplace representative.

#### 4. Responsibility

- 4.1 **Governing Body and Head Teacher** are responsible for ensuring that this policy is implemented effectively in their School. They should ensure that managers with staff management responsibilities have appropriate training.
- 4.2 **Employees with staff management responsibilities** have primary responsibility for managing employees effectively to try and prevent grievance situations from occurring. Proactive use of the appraisal process, supplemented by regular meetings to discuss day-to-day performance, should help to establish an on-going positive working relationship between managers and their team members. They should make their manager aware of any difficult cases.
- 4.3 **Employees** must raise any grievance they have as soon as it arises, with the aim of addressing issues before they escalate and must act reasonably in working to resolve the grievance with those assigned to address cases. They must also comply with this policy as appropriate.
- 4.4 **Human Resources (HR) Advisors** are responsible for advising the Head Teacher / manager s on effective case management. Relevant HR staff may accompany managers/Head Teacher at investigatory meetings, Grievance meetings and Appeal Hearings in an advisory capacity.

## **5. Authorised officers**

<b>Stage of Procedure</b>	<b>Authorised Officer</b>	<b>Appeal Meeting Officer</b>
<b>Stage 1 Informal Procedure</b>	Employee's manager/Head Teacher  Where the grievance is against the Head Teacher and the employee cannot raise their concerns with the Head Teacher, then the concern should be raised with the Chair of the Governing Body	No right of Appeal (but may move to formal procedure if there are clear and justifiable grounds for doing so)
<b>Stage 2 Formal Procedure</b>	The employee should submit their formal grievance in writing.  It should be dealt with by either the Head Teacher/ or another senior manager who has not been involved at the informal stage and who is not the subject of the grievance.  Where the Head Teacher is the subject of the grievance it will be necessary for the grievance to be presented to a Hearing Panel (Committee A of the Governing Body)	Committee B of the Governing Body sitting as the Appeal Panel.

## **6. Equalities**

- 6.1 In applying this policy, managers/Head Teacher will take into consideration the School's Equality Policy and will not unlawfully discriminate in respect of any of the protected characteristics as defined under the Equality Act 2010.
- a) Age
  - b) Disability
  - c) Gender reassignment
  - d) Marriage and civil partnership

- e) Pregnancy and Maternity
- f) Race
- g) Religion or Belief
- h) Sex
- i) Sexual Orientation

- 6.2 Disability under the act covers physical and mental impairments that have a substantial and long term adverse effect on an individual's ability to carry out normal day-to-day activities. If an employee is affected by a disability or any medical condition which affects their ability to undertake their work, they should discuss this with their line manager.
- 6.3 Further information in relation to disability is provided later in the policy; please see section for **Reasonable Adjustments**.
- 6.4 The provisions of this policy may be dis-applied or varied where this is reasonable in order to comply with the act and/or to avoid discrimination in respect of any of the protected characteristics specified above.

## **7. Overlapping Grievance and Disciplinary Cases**

- 7.1 If it becomes evident during any stage of the grievance procedure that a potential disciplinary issue is involved, the grievance procedure will be suspended and the matter dealt with under the School's Disciplinary Policy and Procedures.
- 7.2 Where an employee raises a grievance during a disciplinary process, the disciplinary process may be suspended temporarily in order to deal with the grievance. However, where the grievance and disciplinary cases are related the School may deal with both issues concurrently.

## **8. Child Protection / Vulnerable Adult Matters**

- 8.1 Where a grievance issue arises that involves a possible child protection / vulnerable adult matter, due to the nature of the employee's role, this will need to be investigated first under Child Protection / Safeguarding Adults procedures.
- 8.2 These override all other procedures and will be led by the People Services Group in child protection cases and vulnerable adult cases. Relevant cases will also be referred to the Local Authority Designated Officer (LADO), Disclosure Barring Service (DBS) and / or relevant professional bodies.

## **9. Meetings**

- 9.1 Meetings will generally take place on School property. However, a neutral venue may be agreed if appropriate.

## **10. Notes of Meetings**

- 10.1 A note of all meetings undertaken, as part of the formal procedure, should be taken. It is good practice to also take and maintain a record of meetings undertaken as part of the informal procedure
- 10.2 A note taker may attend the meeting to take notes to provide a written record using the individual's own words as far as possible – even if they are not grammatically correct. The manager/Head Teacher must not change anything that was actually said during the meeting.
- 10.3 Two copies of the notes of meetings (including informal meetings). In certain circumstances, the School may withhold some information such as names etc. (i.e. to protect a witness).
- 10.4 If the individual feels that the notes are accurate, they should sign and date both copies and return one copy to the Head Teacher / manager by a specified date. The second copy is for the individual's retention.
- 10.5 The individual may be invited to make a note against and initial any parts of the notes with which they disagree.
- 10.6 If the individual is unwilling to sign a copy of the notes, the Head Teacher / manager should not insist – but simply note this fact at the bottom of the notes. They must then ask the note taker (if present) to sign and date the form and confirm that the notes are a fair record of what was said at the meeting.

## **11. Records and Confidentiality**

- 11.1 The Head Teacher / manager must treat personal Information relating to an employee's grievance as sensitive personal information in accordance with the **General Data Protection Regulations 2018** and other legislative provisions.
- 11.2 Information held on the personal file will be held in accordance with retention policies and will include:
- a) The nature of the grievance
  - b) What was decided and actions taken
  - c) The reason for the actions taken
  - d) Whether an appeal was lodged
  - e) The outcome of any appeal
  - f) Any disciplinary issues raised during the grievance process
  - g) Subsequent developments
  - h) Notes of any formal meetings
  - i) Copies of any letters issued

11.3 Copies of meeting records will be given to the employee, including copies of any formal minutes that may have been taken. In certain circumstances, the School may withhold some information (i.e. to protect a witness).

## **12. Employee Monitoring and Surveillance**

12.1 In certain cases it may be necessary for the School to carry out monitoring and surveillance as part of an investigation, this will comply with recognised local and national codes of practice.

## **13. Proactive Management**

13.1 The School's Appraisal/Performance Management process already provides a proactive forum for discussing and recording work issues with employees at least every six months.

13.2 It is good practice for the Head Teacher / manager to supplement the Appraisal process with more regular documented discussions with employees on a monthly or 6-weekly basis to talk about and record how work is going generally; discuss what is going well and any areas of immediate concern. Action can then be followed up at the next meeting to check progress.

13.3 In this way, the Head Teacher / manager can address issues as they arise so that they do not escalate to a situation where action is required under the Grievance Policy.

## **14. Further Advice**

14.1 For further advice on this policy, or if the Head Teacher / manager have any concerns about practical implementation, please contact the School's HR provider.

**Sections covering Representation, Witnesses, Mediation and Reasonable Adjustments can be found as Appendices to this policy.**

## **THE GRIEVANCE PROCEDURE**

**This section of the policy provides employees and managers with a clear understanding of the process that will be followed when a grievance issue is raised.**

### **1. DEALING WITH A GRIEVANCE**

- 1.1 If an employee raises a grievance, it is helpful if the Head Teacher / manager try to view the situation constructively, as this provides an opportunity for them to resolve a workplace problem.
- 1.2 Knowing about a problem is much better than not knowing that an employee is unhappy or disgruntled about some aspect of their employment.
- 1.3 Once the Head Teacher / manager is aware that an employee has a grievance, they can discuss the matter with the employee at an early stage and look to find a resolution. Such pro-active action at an informal stage can help to stop issues escalating.
- 1.4 The Head Teacher / manager need a number of skills and qualities to handle grievances effectively. These include:
  - a) An ability to listen well
  - b) Patience
  - c) An ability to remain objective when hearing points of view that may not align with their own
  - d) Empathy
  - e) The ability to understand the employee's grievance within the larger context of the organisation's needs and
  - f) Good verbal communication skills, in particular the ability to be direct and honest without alienating the employee.

### **2. Acting Promptly**

- 2.1 If an employee raises a grievance, it is important for the Head Teacher / manager to deal with it promptly.
- 2.2 Dealing with grievances can be time consuming and often difficult but any delay in tackling and resolving a grievance is likely to make matters worse.
- 2.3 An employee may be experiencing stress as a result of what s/he perceives as problems at work, which in turn might disrupt working relationships. As such, the existence of a grievance is likely to have an escalating negative impact on the employee's performance and productivity.

### **3. Stage 1 - Informal Procedure**

- 3.1 The majority of potential grievance issues can be resolved informally. It is important that all parties involved in the grievance attempt to do so as quickly and as close to the point of origin as possible.
- 3.2 This generally involves employees raising the grievance verbally with the line manager as soon as it arises (although they may do so in writing if they wish).
- 3.3 If the concerns relate to the employee's manager, employees should still raise them directly with the Head Teacher / manager s if they feel able to do so. Where this is not possible, employees should discuss their concerns with another senior manager, the Head Teacher or Trade Union Representative.
- 3.4 Where the grievance is against the Head Teacher and the employee cannot raise their concerns with the Head Teacher, then the concern should be raised with the Chair of the Governing Body.
- 3.5 A quiet word is often all that is required and many problems can be raised and settled at an early stage during the course of everyday working relationships. Alternatively problems can be raised at one to one meetings; however, timing is often an essential factor to this happening. This approach is normally less timeconsuming and less likely to damage working relationships.
- 3.6 Although the employee does not have a legal right to accompaniment at this stage of the process both this and HR involvement may be agreed as appropriate. Further information can be found in the section on **Representation**.
- 3.7 The Head Teacher / manager s should consider the issues raised by the employee at the meeting in order to try and come to a resolution with them.
- 3.8 If any of the issues are unclear or more facts or needed the Head Teacher / manager s should consider adjourning the meeting and conducting an investigation before arriving at any decision and/or action required to resolve the grievance.
- 3.9 Despite the meeting being informal procedure, it is normal good practice that a written record is made of the meeting, the outcome and any subsequent action and that a copy is given to the employee. Further details regarding the retention of documentation can be found in the **Notes of meetings**.
- 3.10 Where an employee is dissatisfied with the outcome of the informal stage they should put forward a formal grievance in writing, which will be dealt with under stage 2 of this policy where there are clear and justifiable grounds for doing so.

#### **4. Stage 2 - Formal Procedure**

- 4.1 The grievance will only be dealt with formally if the employee can demonstrate that s/he has tried to go through the informal route but this has failed and there are clear and valid reasons for moving to stage 2 or if the grievance is of such a serious nature that it warrants moving immediately to the formal procedure.
- 4.2 Where a grievance is serious or an employee has attempted to raise a problem informally without success, the employee should raise it formally in writing and without unreasonable delay with a manager who is not the subject of the grievance.
- 4.3 The letter must set out clearly the nature of the grievance and the facts concerned. Employees should stick to the facts and avoid language that may be considered insulting or abusive. Where employees have difficulty expressing themselves because of language or other difficulties, they may seek help from a trade union representative, or from colleagues.
- 4.4 Employees have a statutory right to be represented at meetings during the formal stages of the procedure.

The employee may be accompanied by:

- A trade union representative
- An official employed by a trade union (regardless of whether the employee is a member of the union or the union is recognised by the School)
- A colleague or friend of their choice who does not have a conflict of interest in the case

- 4.5 It is good practice for the Head Teacher / manager dealing with the grievance to plan and record action relating to the grievance from the start so there is a clear record of how it has been addressed. This record should then go on the employee's personal file once the grievance has been addressed.

#### **5. The Formal Grievance Meeting**

- 5.1 After a formal grievance has been received, the Head Teacher / manager or Committee dealing with it will arrange a meeting with the employee and should
  - Write to the employee advising them of the date of the meeting. The School will normally give the employee at least 5 working days prior notice of the meeting in writing and provide the employee with any paperwork relevant to the grievance.

- Inform the employee of their statutory right to be represented at the meeting (please refer to the section on **Representation**). Where possible, the employee's representative should be consulted on the date and time of the Grievance meeting.
  - Arrange for a note taker to be present.
  - Consider whether similar grievances have been raised before, how they have been resolved and any follow-up action that has been necessary to allow consistency of treatment.
  - Advise the employee of the need to provide any relevant additional evidence that s/he wishes to be considered at the meeting preferably 5 working days in advance but at least 2 working days prior to the meeting.
  - Note that if any relevant supplementary evidence to be considered at the meeting is submitted by either party after this timescale, both sides must receive copies prior to the meeting and the manager/Head Teacher or Committee will ultimately decide if this can be considered.
  - Consider arranging for an interpreter where required / requested or if any other reasonable adjustments are needed.
- 5.2 The employee may be represented and the Head Teacher / manager or Committee may be accompanied by the HR Advisor.
- 5.3 The Head Teacher / manager who tried to address the grievance under the informal procedure may also attend the meeting to explain how they tried to resolve the issue, along with the HR Advisor who supported them, where relevant.
- 5.4 The purpose of the meeting will be for the employee to explain his / her grievance and how they feel it could be resolved, including why they feel it wasn't resolved at stage 1. The employee will also have been invited to bring any written material in support of the grievance to the meeting.
- 5.5 No decision will be made about the grievance at the meeting to allow proper consideration of the matter and / or undertake further investigation (as is normally appropriate).
- 5.6 If an investigation is required, the meeting will be adjourned and re-convened at a late date.

### **Investigation of Issues (if required)**

- 5.7 The Head Teacher / manager or Committee will undertake any further investigation necessary before re-convening the Grievance Meeting.
- 5.8 The investigation should be completed as soon as practically possible. However, where this is not possible due to the nature of the investigation required, the Head Teacher / manager or Committee must keep the employee informed of timescales and the reason for the delay.

5.9 Investigations may include interviewing other named in or linked to the grievance, or witnesses and taking notes of the meetings or statements and / or writing a report on the investigation. In some circumstances, evidence given by witnesses may have to remain confidential or anonymous. Where this is necessary, the School will explain the reason(s) for this and provide an appropriate summary of the evidence gathered instead.

5.10 The employee will be provided with a copy of any relevant written information at least 5 working days prior to the re-convened meeting to allow time to consider their response.

### **Preparing for the Re-convened Grievance Meeting**

5.11 The Head Teacher / manager or Committee holding the re-convened meeting should:

- Write to the employee advising them of the date of the meeting and enclosing any paperwork relating to the investigation within 5 working days of the meeting.
- Arrange for a note taker to be present.
- Consider whether similar grievances have been raised before, how they have been resolved and any follow-up action that has been necessary to allow consistency of treatment.
- Advise the employee of the need to provide any relevant additional evidence that s/he wishes to be considered at the meeting preferably at least 5 working days in advance but at least 2 working days prior to the meeting.
- Note that if any relevant supplementary evidence to be considered at the meeting is submitted by either party after this timescale, both sides must receive copies prior to the meeting and the manager/Head Teacher or Committee will ultimately decide if this can be considered.
- Consider arranging for an interpreter where required / requested or if any other reasonable adjustments are needed.

### **The Re-convened Grievance Meeting**

5.12 Effectively a continuation of the initial grievance meeting, where the manager has had tie to undertake any further investigation required and is in a better position to give a considered decision on the grievance.

5.13 The Grievance Meeting will be held as soon as is reasonably practicable, subject to the requirements of the investigation. The School will normally give the employee at least 5 working days' notice of the meeting in writing.

- 5.14 The employee has the legal right to be represented (as defined in the **Representation Section**). Where possible, the employee's representative should be consulted on the date and time of the Grievance Meeting.
- 5.15 The Head Teacher / manager or Committee may be accompanied by the HR advisor. The Head Teacher / manager who tried to address the grievance under the informal procedure may also attend the meeting to explain how they tried to resolve the issue, where relevant, along with the HR advisor.
- 5.16 The meeting will be minuted.
- 5.17 The Head Teacher / manager or Committee conducting the meeting may also invite others interviewed as part of the investigation process to attend. However, the employee who has raised the grievance will normally be notified of the names of any such individuals attending at least 5 working days' before the meeting.
- 5.18 In certain cases, the School may consider allowing the employee to call other individuals to the hearing (i.e. where those people will help the employee to put their case and the School to understand the issues.) However, this must have been agreed in advance of the hearing. In most cases, it will not be necessary to call such individuals, as the issues in the grievance will have been established during the investigation process.
- 5.19 The meeting may need to be adjourned for further investigation if any new acts/issues arise which were not known about prior to the meeting.
- 5.20 At the end of the meeting the Head Teacher / manager or Committee should adjourn and consider what action, if any, to take. Where possible the decision/outcome should be confirmed verbally to the employee. The decision should also be confirmed in writing to the employee within 5 working days of the meeting. Feedback to the employee should include an explanation of what action has been taken or will be taken, or an explanation that no action can be taken, together with the reason(s) for this.
- 5.21 Where appropriate, the letter will set out what action the Head Teacher / manager or Committee intends to take to resolve the grievance. The letter will also advise that the employee can appeal if they are dissatisfied with the action taken. A copy of the letter must then be placed on the employee's personal file.
- 5.22 If the grievance highlights any issues concerning policies, procedures or conduct (even if not sufficiently serious to merit separate disciplinary procedures) they should be addressed as soon as possible.
- 5.23 Any action taken must be monitored and reviewed, as appropriate, so that it deals with issues effectively.
- 5.24 The Head Teacher / manager or Committee should also make any other individuals interviewed as part of the investigation aware of the outcome, if appropriate. This is especially important if the grievance concerned them personally.

## **6. Stage 3 - Appeals**

- 6.1 Where an employee feels that their grievance has not been resolved satisfactorily, they may appeal, providing there are clear and justifiable grounds for doing so.
- 6.2 To do so, they must write to the Head Teacher / manager or Committee who made the decision within 5 working days of receipt of the letter giving the outcome of the Grievance meeting.
- 6.2 The employee must give clear grounds for the appeal in the letter – i.e. explain why they feel that decision was wrong or unfair as clearly and succinctly as possible and how the employee feels this could be addressed.
- 6.3 The Appeal will be dealt with impartially by Committee B sitting as the Appeal Panel. The Panel will be accompanied by an HR Advisor who has not had any previous involvement in the case.
- 6.4 Committee B should take the same steps as for the Grievance meeting in terms of preparation for the Appeal. The Head Teacher / manager or Chair of Committee A who decided the outcome at the Grievance meeting will also need to attend to explain their decision and may wish to be accompanied by the original HR Advisor.
- 6.5 The same issues apply broadly in terms of conducting the Appeal, although the employee will be asked to explain the grounds of their appeal further.
- 6.6 If an adjournment is necessary, all parties need to leave the room apart from the Appeal Panel and the Appeal Panel HR Advisor neither party is allowed to remain in the room if one party leaves.
- 6.7 The Appeal Panel will consider the grounds put forward by the employee and assess whether or not the conclusion reached at the original Grievance meeting was appropriate. The Appeal is not a re-hearing of the original grievance but rather a consideration of the specific areas with which the employee is dissatisfied in relation to the original grievance. As such, the Appeal Panel may confine discussion to those specific areas rather than consider the whole matter afresh.
- 6.8 After the Appeal, the Panel must set out their decision in writing within 7 calendar days of the Appeal. A copy of the letter must be retained and placed on the employee's personal file.
- 6.9 The Appeal is the **final stage** of the grievance procedure and the matter will be closed.

## **7. Criminal Issues**

7.1 Where the authorised officer dealing with the grievance feels that criminal issues are involved in the grievance, they should contact the School's HR Advisor for further advice.

## **8. Failure to attend a Meeting / Investigation / Appeal**

8.1 There may be occasions when an employee fails to attend a Grievance meeting, Investigation or Appeal in line with the Grievance Policy.

8.2 In such cases, the Head Teacher / manager or Committee A/B concerned may need to investigate whether the employee still intends to pursue the grievance, or whether, for example, the employee has a genuine illness that is preventing them from attending.

8.3 The Head Teacher / manager or Committee A/B will need to consider all the facts and come to a reasonable decision on how to proceed. Considerations may include the seriousness of the grievance and medical opinion on whether the employee is fit to attend the meeting.

8.4 Each situation will depend on the facts of the case and should be discussed with the School's HR provider.

8.5 If the meeting has already been re-arranged and the employee fails to attend without good cause, the Head Teacher / manager or Committee A/B will normally write to the employee to either advise the employee that the School will assume that,

- a) The employee no longer wishes to progress their grievance / appeal,  
**Or**
- b) The Grievance meeting / Appeal will take place in the employee's absence and a decision made on the evidence available.

8.6 If it is decided that the meeting should go ahead, the employee's representative may attend in the employee's absence and will be allowed the opportunity to present the employee's case. The employee will also be allowed to make written submissions in such a situation.

8.7 The employee will then be advised of the outcome in writing.

8.8 It may be decided that in certain circumstances that an appeal cannot go ahead without the employee being present.

## **9. Illness / Absence during the formal grievance procedure**

9.1 If the employee's absence from work occurs during the course of the grievance, the School will also seek advice from Occupational Health on the employee's fitness to attend meetings, Appeals etc. The School will progress the grievance as far as possible in relation to each case (i.e. interviewing witnesses and collecting relevant information.)

9.2 The School's Absence Management Policy will continue to be implemented as normal throughout any grievance process.

## **10. Retraction of Grievance by Employee**

10.1 It is ultimately the employee's decision whether or not to pursue a grievance. In practice, employees may sometimes withdraw a grievance at any stage of the process. This may be due to a genuine change of heart; resolved the issue personally or has received information that has shed new light on a dispute.

10.2 In such cases, the employee must write to the Head Teacher / manager who is dealing with the case to make them aware of this and the reasons for the retraction. The Head Teacher / manager must write to the employee to acknowledge the retraction to confirm how the School will deal with this (i.e. in some cases, the grievance raised may be so serious that the School still needs to pursue an investigation.) A copy of both letters must then be retained on the employee's personal file.

## **11. Former Employees**

11.1 The ACAS code does not specify whether grievances submitted by former employees should be considered or not.

11.2 In the case of a written grievance being submitted by a former employee a decision will be taken on a case by case as to whether the School will deal with it or not. For example grievances where any form of discrimination due to a protected characteristic are received may warrant investigation.

11.3 Where the School deems that the grievance should be dealt with the appropriate person / body will carry out an investigation and give a decision in writing to the former employee.

11.4 The decision will be final and the grievance process will end at this level.

## **APPENDIX 1 REPRESENTATION**

Employees do not have a statutory right to be accompanied at **informal discussions**. However, both this and HR involvement may be agreed.

Employees have a statutory right to be represented at meetings during the formal stages of the procedure.

The employee may be accompanied by:

- A trade union representative
- An official employed by a trade union (regardless of whether the employee is a member of the union or the union is recognised by the School)
- A colleague or friend of their choice who does not have a conflict of interest in the case

To exercise the statutory right to be accompanied employees must make a reasonable request. What is reasonable will depend on the circumstances of each individual case. A request to be accompanied does not have to be in writing or within a certain time frame. However, an employee should provide enough time for the School to deal with the companion's attendance at the meeting.

Employees should also consider how they make their request so that it is clearly understood, for instance by letting the School know in advance the name of the companion where possible and whether they are a fellow worker or trade union official or representative.

The School has the right to vet / refuse representatives where there is a potential conflict of interest / safeguarding / protection or access to sensitive client information issue.

The School will consider a request for legal representation where professional registration may be at risk (in which case the School will also have access to legal representation).

A conflict of interest will include but not limited to:

- a) A representative who has a personal interest in the outcome.

If an employee's chosen representative will not be available at the time proposed for the hearing by the School, the hearing must be postponed to a time proposed by the employee provided that the alternative time is both reasonable and not more than five working days after the date originally proposed.

Employees may alter their choice of representative if they wish. As a matter of good practice, in making their choice employees should bear in mind the practicalities of the arrangements. For instance, an employee may choose to be accompanied by a representative who is suitable, willing and available on site rather than someone from a geographically remote location.

An employee who has agreed to accompany a colleague also employed by the School (whether this is a trade union official or colleague) is entitled to take a reasonable time of paid time off to fulfil that responsibility. It is also good practice to allow the colleague to familiarise themselves with the case and confer with the employee before and after meetings held under the grievance procedure.

The representative should be allowed to address the hearing to put and sum up the worker's case, respond on behalf of the worker to any views expressed at the meeting and confer with the worker during the hearing. The companion does not, however, have the right to answer questions on the worker's behalf, address the hearing if the employer does not wish it or prevent the School from explaining their case.

## **APPENDIX 2 WITNESSES**

The main issue in terms of calling other individuals to the formal Grievance meeting/Appeal is that the rules of natural justice are satisfied.

It is important to note that both the School and the employee will need to give advance notice if they intend to call witnesses.

### **School's Witnesses**

The School is not required to call such individuals (in terms of those interviewed as part of the investigation) to a Grievance meeting and remains free to present information in writing.

The employee is not entitled to insist on other individuals interviewed as part of the process being called in person so that the employee can cross-examine them. Rather, the employee should be given an opportunity 'to raise points about any information provided by' such individuals. This does not depend on the individual being present at the Grievance or Appeal Meeting: it could refer to evidence given by the individual in writing to be considered at the Grievance or Appeal Meeting.

### **Employee's Witnesses**

An employee can call witnesses, provided that their evidence is relevant, the overall request is reasonable and the witness in question is willing to take part. However, there are clear limits on the employee's right to do this.

An employee's right to call witnesses is not absolute. The ACAS Code only says that the employee should be given a 'reasonable opportunity' to do so. This clearly allows the School to refuse to hear witnesses who do not have any relevant evidence to give, or who merely confirm what the School already accepts. Similarly, if the employee wished to call a large number of witnesses making substantially the same point, the School can agree to only hearing a reasonable number of them.

Some of the factors that an Employment Tribunal might consider to determine whether a 'reasonable opportunity' has been given are:

- a) The importance and relevance of the proposed witness
- a) Whether there would be any substantial delay if the proposed witness were to attend, and
- b) Whether a hostile environment would result from the proposed witness attending

An employee does not have the power to summon witnesses. If the employee nominates someone but that person is unwilling to attend the meeting, it is unreasonable to expect the School to force the individual to do so. His or her evidence should be taken into consideration as part of the overall investigation and the employee should have a chance to respond to it but a Grievance or Appeal Meeting is not a court of law.

### **Interviewing Others Involved in the Grievance (Witnesses)**

<b>Do</b>	<b>Do not</b>
Interview these individuals as soon as possible after the grievance has been raised.	The manager should not pressurise anyone into being interviewed / making a statement if they do not wish to do so. However, where they are a key witness they may be encouraged to participate. *
Conduct interviews in a private office with only the manager and witness present, and a note taker, if necessary.  The HR Advisor may also be present if required.	No attempt should be made to crossexamine others involved in the grievance.
Ask witnesses for their recollection of the facts relating to the grievance as they saw or understood them and as relevant.  Seek clarification on unclear points but do so using open questions to avoid accusations of seeking to influence others involved in the grievance.	In the record of the meeting the manager must not change anything that was actually said during the meeting.
A note of meetings should be taken and maintained.	

\*In exceptional circumstances, evidence given by others involved in the grievance may have to remain confidential or anonymous. Where this is necessary, the School will explain the reason(s) for this and provide an appropriate summary of the evidence gathered instead.

### **APPENDIX 3 REASONABLE ADJUSTMENTS**

The Equality Act 2010 require employers to make reasonable adjustments for disabled employees. This means, wherever possible, removing barriers, including physical features and working practices, that might get in the way of a disabled person doing his or her job effectively, or otherwise being placed at a substantial disadvantage.

It is important that managers consider whether any grievance issues may be disability related.

In terms of making reasonable adjustments when implementing grievance procedures, the Head Teacher / manager should consider the following in relation to the employee concerned:

- a) Ensuring that all meetings are held in accessible locations
- b) Ensuring that the employee has adequate support at meetings etc.
- c) Ensuring that information is in an accessible format (i.e. do not assume that the information can be provided in the same standard written format for all).
- d) Accessing advice / clarification from HR / occupational health as appropriate

## **APPENDIX 4 – MEDIATION**

In some cases, mediation may help to resolve grievances, especially those involving working relationships. Mediation can be used either before grievances escalate, or as part of recommended action at any stage of the procedure. Mediation is a voluntary process where the mediator helps two or more people in dispute to attempt to reach an agreement.

An 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.

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 as co-mediators.

### **Cases when Mediation may be Suitable**

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

- a) for conflict involving colleagues of a similar job or grade, or between the Head Teacher / manager and their team members
- b) at any stage of the conflict, as long as any on-going formal procedures are put in abeyance, or where mediation is included as a stage in the procedure
- c) to rebuild relationships after a formal dispute has been concluded
- d) to address a range of issues, including relationship breakdown, personality clashes, communication problems and bullying and harassment (\*the School's Anti-Harassment and Bullying Policy refers)

### **Cases when Mediation may be Unsuitable**

Mediation may not be suitable if:

- a) used as a first resort – because the Head Teacher / manager and employee should be encouraged to speak to each other before they seek a resolution via mediation
- b) the Head Teacher / manager use it to avoid their management responsibilities
- c) a decision about right or wrong is needed, for example, where there is possible criminal activity
- d) an employee bringing a discrimination or harassment case wants it investigated (the School's Anti-Harassment and Bullying Policy refers)
- e) the parties do not have the power to settle the issue
- f) one side is completely intransigent and using mediation will only raise unrealistic expectations of a positive outcome

An Employment Tribunal cannot increase or decrease any award if either the School or employee fails to agree to mediation.