

Newton Tony CE VC Primary School

Grievance procedure for teaching and support staff policy

Policy agreed

November 2020

Policy review

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This model procedure will apply to both teaching and non-teaching staff working in Wiltshire Schools and has been agreed with the following recognised unions: NEU NAHT, NASUWT, ASCL, Unison, Unite and GMB

## Index

Section	Page
1. Policy Statement	3
2. Application of procedure	3
3. Informal resolution	4
4. Mediation	5
5. Raising a Grievance	5
6. Stage 1 – Grievance Meeting	5
7. Witnesses	6
8. Failure by the Employee to Attend	6
9. Right of Appeal	7
10. Written Records	7
11. Raising a grievance during a disciplinary process	7
12. Related Policies and Guidance	8
13. Equalities Impact Assessment (EIA)	8

## 1. Policy statement

- 1.1 Governing bodies have a statutory obligation to adopt formal policies and procedures for dealing with staff conduct and discipline (School Staffing (England) Regulations 2003), and for giving staff opportunities to seek redress of any grievances relating to their employment.
- 1.2 This procedure is designed to enable grievances to be resolved quickly and to minimise any prospect of long-term damage to relationships at the school. It aims to ensure consistent and fair treatment for everyone and for matters to be dealt with speedily.
- 1.3 This procedure is therefore recommended by Wiltshire Council for adoption by the Governing Body and following its adoption, the procedure must be made known to all staff and remain accessible to them. It is available in alternative formats upon request.
- 1.4 Schools buying the HR Advisory service are strongly encouraged to read this procedure in conjunction with the guidance notes provided.

## 2. Application of Procedure

- 2.1 This procedure is based on Sections 35(8) and 36(8) of the Education Act 2002, and the ACAS Code of Practice on Disciplinary and Grievance Procedures 2009. It has been drawn up following consultation with the recognised Trade Unions and Teachers' Professional Associations. It applies to and is designed to help and encourage employees within schools with delegated budgets.
- 2.2 The procedure should be used by employees who consider the School has failed to adequately apply their rights arising from their contract of employment, conditions of service or statutory entitlements for example:
  - terms and conditions of employment
  - health and safety
  - work relations
  - new working practices
  - working environment
  - organisational change
- 2.3 This procedure does not apply where there are matters of:
  - **grievances** that can be settled informally with the individual's line manager during the course of everyday working relationships;
  - **group grievances** - matters raised by a group of staff (for which a collective disputes procedure is to be made available)
  - **discipline** which is dealt with under a separate procedure adopted by the Governing Body;

- **competency or capability** for which there is a separate procedure adopted by the Governing Body;
- **ill health** for which there is a separate procedure adopted by the Governing Body;
- **job evaluation** - disagreements regarding job evaluations are dealt with under the Job Evaluation/ Appeals Procedure or the re-evaluation procedure as contained in the Collective Agreement on Pay and Grading - where this applies to the school.
- **bullying, harassment, discrimination and/or victimisation** which are dealt with in the first instance, under the Dignity at Work Policy;
- employment **raised by ex-employees** after their service with the school has ended;
- **whistle blowing** for which there is a separate procedure adopted by the Governing Body.

**2.4** This Procedure also does not apply where the matter is outside of the school's control. For example:

- Issues regarding statutory adjustments to pay and allowances (e.g. national insurance, income tax, pension scheme).
- Personal matters not directly related to employment. In these cases an employee should contact their Line Manager/ headteacher who may be able to assist. Advice can also be sought from the Employee Wellbeing Helpline offered by Wiltshire Council on 01225 713147 about further options for support.

**2.5** An employee may, if they wish, be accompanied or represented throughout the process at each stage by a work colleague or designated Trade Union/Professional Association Official. However, this right does not extend to friends/family or professional persons such as solicitors and barristers.

### **3. Informal resolution**

**3.1** Employees should aim to settle most grievances informally with their manager/supervisor or Head teacher. Many problems can be raised and settled during the course of everyday working relationships. This also allows for problems to be settled quickly.

### **4. Mediation**

**4.1** Voluntary mediation may be available at any stage of this procedure if it is felt appropriate. It is a decision for the school and the individuals involved as to whether mediation is an appropriate method of resolving the dispute. If all parties agree to use mediation, then this Grievance Procedure will be

temporarily suspended. A decision about whether to continue with the Grievance Procedure at the stage where it was suspended will be made by all parties once mediation has taken place. Please see the Schools HR Grievance Toolkit, Appendix 2 for more information about mediation.

## **5. Stage 1 - Raising a grievance**

- 5.1** If an employee would like their grievance dealt with formally they must inform their Head Teacher in writing by completing a Grievance Notification Form (G1).
- 5.2** The Grievance Notification form should be sent to the Head Teacher. If the grievance is regarding the Head Teacher, the Grievance Notification form should be sent to the Chair of Governors. If the grievance is being raised by the Head Teacher, the Grievance Notification form should be sent to the Chair of Governors (or the Vice Chair of Governors if the grievance is against the Chair of Governors).

## **6. Stage 1 – Grievance Meeting**

- 6.1** Ideally, within 5 working days of receipt of the Grievance Notification Form, the Head Teacher / Chair of Governors / Investigating Officer will arrange a meeting with the employee. The time, date and venue of the meeting will be confirmed in writing as well as the right to be accompanied / represented.
- 6.2** The school will make provision for any reasonable adjustments to accommodate the needs of a person with disabilities at the meeting. The school needs to be informed of requirements at least 48 hours before the meeting.
- 6.3** If the employee's representative/person accompanying them cannot attend on a proposed date, the employee can seek to arrange another date as long as it is reasonable and is not more than 5 working days after the original date set. Refer to the guidance notes for employees which explains what will apply in instances where the employee's preferred representative is not able to attend to support them.
- 6.4** Notes of the meeting should be taken by a Clerk to the Governing Body or another suitable person as arranged by the school and are retained as confidential to the members of the panel. Copies of the notes on the outcome only will be circulated to all parties as soon after the meeting as practicable. The note taker does not take any other part in the formal process.
- 6.5** An exchange of all documents expected to be referred to at the meeting should take place at least 48 hours before the meeting.
- 6.6** The meeting referred to in paragraph 6.1 may be adjourned if an investigation is deemed appropriate. In these circumstances, the Head Teacher or Chair of Governors shall appoint an Investigating Officer.

Timescales of the investigation will be explained to the employee. Wherever possible, the meeting outlined in paragraph 6.1 will be re-convened within 5 working days of the conclusion of the investigation.

- 6.7** The meeting referred to in paragraph 6.1 may also be adjourned for a short period before a decision is taken even if there is no need for an investigation. This allows time for reflection and proper consideration of an employee's grievance.
- 6.8** When a conclusion is reached, the Head Teacher / Chair of Governors / Investigating Officer will confirm the outcome in writing within 24 hours of the meeting referred to in paragraph 6.1 to the employee and the subject of the grievance, including the following information:
- a. whether the grievance has been upheld, either fully or in part;
  - b. if the grievance is not upheld, the reasons for this;
  - c. any actions that are to be taken to resolve the grievance;
  - d. how any actions will be monitored and reviewed;
  - e. the employee's right to appeal.

## **7. Witnesses**

- 7.1** It is preferable that witnesses attend the grievance meeting. However, in some circumstances it may be impracticable or unacceptable for the witness to be present at the meeting and in which case a copy of the written statement will be provided. Witnesses can be accompanied but not represented by a Trade Union or Professional Association Representative or work colleague.
- 7.2** Where a written statement only is to be produced the employee / representative may wish to submit a series of questions that they wish the witness to provide a written response to prior to the meeting. In instances where the witness refuses to participate, their statement will be disregarded.

## **8. Failure by the Employee to Attend**

- 8.1** An employee who cannot attend a meeting should inform the Head Teacher in advance whenever possible.
- 8.2** If the employee fails to attend through circumstances beyond their control e.g. illness, the Head Teacher should rearrange the meeting to another date taking into account the reason. The school may request for any sickness absence to be supported by a medical certificate.
- 8.3** A decision to proceed may be taken in the employee's absence if they fail to attend the rearranged meeting without good reason or the matter may be closed if it is not possible to proceed without the employee's input. The employee should be notified of these possibilities in advance.

## **9. Stage 2 – Right of Appeal**

- 9.1** If an employee is dissatisfied with the outcome of the grievance decision they may lodge an appeal using the grievance appeal notification form (G3). This must be within 5 working days of receipt of the written outcome.
- 9.2** To exercise their right of appeal employees should do so in line with the school's [appeals policy](#).

## **10. Written records**

**10.1.** A record of the documentation relating to the case will be retained and will include:

- The complaint / problem against the employee
- What was decided and actions taken
- The reason for the actions
- Any grievances raised during the disciplinary process
- Whether an appeal was lodged
- The outcome of the appeal
- Subsequent relevant developments
- Notes of any formal meetings

**10.2.** Records will be treated as confidential and kept in accordance with the General Data Protection Regulations 2016 and the Data Protection Act 2018 so that an employee has the right to request and have access to relevant information. In certain circumstance (for example to protect a witness) it may be appropriate for Newton Tony CE VC Primary School to withhold some information. Information about how an employee's data is used and processed is provided in the School's/Academy's Privacy Notice.

## **11. Raising a grievance during a disciplinary process**

**11.1** Where an employee raises a grievance during a disciplinary process the disciplinary 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. A discussion will therefore take place between school management, Human Resources and the employee (normally through their trade union representative or directly if they are not represented) about whether or not the disciplinary procedure should be suspended so that the grievance issues can be dealt with separately under the grievance procedure or whether the grievance should be raised by the employee at relevant disciplinary interviews, hearing or appeal.

**11.2** Suspending the disciplinary procedure would normally take place when:

- The grievance relates to a conflict of interest that the investigator is alleged to have
- Bias is alleged in the conduct of the disciplinary meeting
- There is an allegation that management have been selective in the evidence they have supplied to the investigator
- There is possible discrimination.

## **12. Related policies and other information**

A comprehensive toolkit is provided to client schools of the HR Advisory service to support this Grievance Policy and Procedure:

**Appendix 1** – Process flow-chart

**Appendix 2** – Guidance notes for managers

**Appendix 3** – Guidance notes for note takers

**Appendix 4** - Guidance notes for employees

**Appendix 5** – Model Grievance appeal report

**Appendix 6** – Model agenda and proceedings advice for grievance meetings

**Appendix 7** – Model letters

**Appeal Policy**

See other HR policies referred to at **2.3** where these are more relevant to the issues raised including:

- Disciplinary Policy and Procedure,
- Capability Policy and Procedure
- Collective Grievance Procedure
- Ill health Policy and Procedure
- Collective Agreement on Pay and Grading
- Dignity at Work Policy;
- Whistle blowing Policy and Procedure

## **13. Equalities Impact Assessment**

This policy has had an equality impact assessment conducted by a joint equality impact assessment panel and the results of these assessments are published on the Wiltshire Council website. If on reading this procedure you feel there are any equality and diversity issues, please contact an HR Advisor (Schools) who will, if necessary, ensure the policy/procedure is reviewed.