

HCAT

Grievance Resolution Procedure 2020



HCAT

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HCAT Grievance Resolution Procedure

1. Introduction

- 1.1. This policy has been developed in consultation with Trade Unions and Professional Associations who are recognised by HCAT.
- 1.2. The purpose of this Grievance Resolution Policy is to ensure fair and equitable treatment for all employees of HCAT in relation to the management of grievances in the workplace.
- 1.3. This policy and procedure does not form part of any employees' contract of employment and it may be amended at any time.

2. Scope

- 2.1. This policy applies to all employees of HCAT (the Trust) including those employed by Academies within the Trust.

3. Principles

- 3.1. The Trust believes that all employees should be treated fairly, equitably and with respect. If an employee is concerned about the treatment they have received or about any aspect of their work, they should discuss this with their Line Manager who will aim to resolve the situation on an informal basis. If the employee feels unable to approach their Line Manager directly, they should approach a senior member of the leadership team or the HR department, who will discuss ways of dealing with the matter with them. Employees who are a member of a trade union may also wish to seek advice from their trade union representative.
- 3.2. Problems arising during the course of employment should be aired and, where possible, resolved to the satisfaction of all concerned. This includes occasions when a manager may need to have a constructive and justified discussion with an individual regarding their performance.
- 3.3. If a Governor (s) is approached about a grievance, they should refer it without detailed discussion to the (Executive) Principal/Headteacher/Head of School/Line Manager as soon as possible. Where the (Executive) Principal/Headteacher/Head of School is the subject of the Grievance, it should be referred to the CEO. If the grievance is about the CEO, then the Chair of the Trust Board should be informed.
- 3.4. Where an employee has a grievance with a governor that does not involve any other member of staff, they should discuss the matter with the (Executive) Principal/Headteacher/Head of School/Line Manager before making an approach to the Chair of the Academy Governing Body.
- 3.5. Employees have the right to be accompanied at formal meeting(s)/hearing/appeal by their trade union representative or a work colleague. It is the employees' responsibility to make the necessary arrangements for representation. This right does not extend to family/friends or professional persons such as solicitors and barristers.
- 3.6. A formal grievance procedure can be a stressful and upsetting experience for all parties. Everyone is entitled to be treated with respect. Abusive or insulting behaviour during the conduct of a grievance process may be treated as misconduct under the Disciplinary Policy.
- 3.7. Grievances should be raised by an employee(s) within 3 months of the incident/issue taking place. Grievances raised after this time will only be considered in exceptional circumstances.
- 3.8. All documentation relating to any grievance matter will remain confidential and will be retained on the employees personal file.

4. What this policy covers

4.1. Issues that may cause a grievance include the following:

- Terms and conditions of employment.
- Health and safety.
- Work relations.
- Bullying and harassment.
- New working practices.
- Organisational change.
- Discrimination.

4.2. This policy is not appropriate for dealing with the following:

- Staff development and review
- Disciplinary matters
- Capability and underperformance matters
- Attendance and sickness matters
- Matters relating to serious malpractice within the Trust
- Redundancy
- A grievance about a matter over which the Trust has no control, such as disputes between employees as private individuals outside their employment.

5. Informal Grievance Resolution

5.1. It is expected that wherever possible the employee will have attempted to address the grievance informally by discussing with their Line Manager before pursuing the formal procedure.

5.2. The employee must be clear about the nature and details of the grievance and a possible resolution.

5.3. The Line Manager will conduct an informal meeting with the employee as soon as possible in order to obtain a greater understanding of the grievance(s) and identify a possible resolution in consultation with the employee. The Line Manager may confirm the outcome of the informal resolution meeting in writing.

5.4. Potential outcome of the meeting **may** be:

- **Raising the matter directly.** It may be agreed that the employee raises the matter directly with the person against whom they have raised the grievance, choosing an appropriate time and using a non-confrontational manner. It is important to allow the other party to have the opportunity to respond from their point of view to jointly agree the method of moving forward.
- **Restorative meeting.** It may be appropriate to ask the Line Manager or HR representative to facilitate a meeting between the employee and the individual against whom they have raised a complaint. This should be undertaken in agreement between both parties and should take place in a mutually agreed location. It is expected that there will be an agreed method of moving forward.
- **Workplace Mediation.** It may be appropriate to follow ACAS mediation principles to help resolve the matter.
- **Conducting an Investigation.** It may be necessary to conduct further investigation into the matters raised after speaking to the employee concerned. This may involve speaking to any witnesses; ensuring other evidence is considered e.g. documentary evidence, and possibly sharing the grievance with an alleged transgressor to obtain their views. The Line Manager may choose to pass the investigation to someone at a more senior level and the investigator will be supported by

Human Resources. Once a thorough investigation has been undertaken, a written report including conclusions and recommendations will be issued to the employee. Should the employee dispute the findings of the report, they can request to proceed to a formal grievance hearing (Section 6).

- 5.5. If either party is unhappy with the adopted method of grievance resolution at any stage, a mutually acceptable alternative method may be agreed.
- 5.6. The Line Manager should make a record of the resolution/outcome of the informal process and file it on the employee's personal file.

6. Formal Grievance Resolution

- 6.1. If the employee is dissatisfied with the informal process or the nature of the grievance renders an informal process inappropriate, they should submit a Grievance Form (**Appendix 1**) to their Line Manager, or where the complaint involves the Line Manager, to a member of the Senior Leadership Team (or a member of the Trusts Senior Management Team where appropriate) within 10 working days of the informal resolution method being concluded. The employee will be required to provide details of the informal resolution and why it was not satisfactory, as well as any evidence to support their grievance. Where the informal route has not been used this must be indicated on the form, stating why this is the case and with supporting evidence/documentation attached. The formal grievance will not proceed unless the employee has submitted the Grievance Form.
- 6.2. The grievance will normally be acknowledged by the recipient within 5 working days (**Appendix 2 – letter 1**) and an investigation will be initiated (**Appendix 2 – letter 2**).
- 6.3. An investigation is simply the gathering of facts and it may be necessary to hold investigatory meetings with witnesses (**Appendix 2 – letter 3**). It may be determined that the existing evidence can be presented at a hearing without the need for a detailed or separate formal investigation meeting. If that is the case, the employee will have an opportunity to put their case forward at a hearing.

7. Grievance Hearing

- 7.1. A hearing will be held as soon as is reasonably practicable. Please refer to **Appendix 3** for Process at Formal Grievance Hearings and Appeals.
- 7.2. The decision to progress to a Grievance Hearing will be confirmed in writing (**Appendix 2 – Letter 4**) and must include:
 - Details of the concerns raised by the employee.
 - All supporting evidence including any corroborative documentation including an overview of the case.
 - Witness statement(s) (where relevant).
 - The date/ time/ location of the hearing giving 10 working days-notice and details of the panel members.
 - The employees' right to be accompanied.
- 7.3. Where the grievance relates to a colleague (s), they should be advised on the route being undertaken. If the alleged transgressor(s) feel sufficiently justified they may request to be in attendance for the full hearing, however, it will be for the panel to determine the outcome of this request at the commencement of the hearing.

- 7.4. In some cases, the employee may wish to submit documentation for consideration by the panel. This should be provided no later than 3 working days prior to the date of the hearing. Where relevant, the employee must also confirm which witnesses they wish to call.
- 7.5. It is expected that all internal witnesses attend the hearing to be questioned. However, in some circumstances it may be impracticable or unacceptable for the witnesses to be present at the meeting. Where internal or external witnesses do not attend for whatever reason, it is for the panel to determine the weight placed on the evidence presented in the witness statement.
- 7.6. Should the employee request their representative attend on their behalf or if they wish to provide a written submission, the person hearing the case will take this into consideration.
- 7.7. Every reasonable effort should be made by the employee and representative to be available for the hearing. If the employees' representative is unable to attend on the specified date, the employee may request that the hearing be postponed. Provided that the new date and/or time is reasonable i.e. within the working day, and within 5 working days of the original date this will be accommodated.
- 7.8. Where the employee is unable to attend the rescheduled hearing without a justifiable reason then it will be assumed the employee no longer wishes to progress the grievance and the process will be closed.
- 7.9. The case will normally be heard by a panel of three governors drawn from across the Trust, which will also apply in the following circumstances:
- Where the (Executive) Principal, Headteacher/ Head of School has been directly involved in the case either as investigating officer or as a witness.
 - Where the (Executive) Principal, Headteacher/Head of School is the subject of the Grievance.
 - Where a Grievance is made against a central Trust employee, the case will normally be heard by the COO or CEO (or in the case of the COO or CEO, the Board of Trustees).
- 7.10. If an employee attends with a TU representative or work colleague, the chosen representative does not have the right to answer questions on the employees' behalf or address any meeting without the employees' consent. They will be allowed to address the panel and present the employees' case.
- 7.11. The hearing will be concluded with one of the following outcomes:
- **Upheld** – where the grievance is founded, an appropriate action will be identified to remedy the situation, e.g. workplace mediation or appropriate disciplinary action being taken.
 - **Partially upheld** – where some aspects of the grievance are founded, and appropriate action will be identified to remedy the aspects of the grievance that are upheld.
 - **Rejected** – where there is insufficient evidence to support the grievance raised.
- 7.12. The outcome of the grievance hearing will be provided in writing within 5 working days of the hearing (**Appendix 2 – Letter 5**).

8. Right of Appeal

- 8.1. If the employee is dissatisfied with the hearing outcome, they may submit an appeal in writing within 10 working days of receipt of the outcome letter. The appeal should be addressed to the person who heard the grievance. The Appeal Form contained in **Appendix 4** should be used for this purpose but a letter outlining the grounds for appeal is also acceptable.

- 8.2. The appeal will be heard by a panel of three Governors or Trustees not previously involved in the grievance hearing, who have no prior knowledge of the case.
- 8.3. The employee will be given 10 days-notice of the Appeal Hearing **(Appendix 2 – Letter 6)** and be informed of:
- The name(s) of the person(s) who will hear the case.
 - The date, time and location of the hearing.
 - The right to representation
 - All documentation it is intended to refer to during the appeal hearing to include the Notification of
- 8.4. Appeal and the outcome letter of the original grievance hearing.
- 8.5. The appeal will be conducted as a review of the first instance decision, having regard to the matters set out on the Appeal Form and/or letter from the employee, and the outcome letter of the original grievance hearing.
- 8.6. The person(s) hearing the appeal will receive the Appeal Form an/or letter, relevant documents referred to in the grievance hearing and a copy of the letter confirming the outcome of the grievance hearing.
- 8.7. At the appeal stage, either party may decide that it is relevant for witnesses to attend the meeting. In circumstances whereby it is impracticable or unacceptable for witnesses to attend, the person hearing the appeal will determine the weight placed on the evidence provided.
- 8.8. Every reasonable effort should be made by the employee and representative to be available for the appeal hearing. If the employees' representative is unable to attend on the specified date, the employee may request that the meeting be postponed. Provided that the new date and/or time is reasonable i.e. within the working day, and within 5 working days of the original date, this will be accommodated.
- 8.9. If following reasonable attempts to arrange a suitable date for all to attend and the employee/their representative is still unavailable, or where the employee is unable to attend the rescheduled appeal hearing without a justifiable reason, the person hearing the appeal may determine that the appeal is withdrawn.
- 8.10. The appeal should normally be conducted in one day except in exceptional circumstances.
- 8.11. If an employee attends with a TU representative or work colleague, the chosen representative does not have the right to answer questions on the employees' behalf or address any meeting without the employees' consent. They will be allowed to address the appeal panel and present the employees' case.
- 8.12. The process for the Appeal Hearing will be as outlined in the Process at a Formal Appeal Hearing **(see Appendix 3).**
- 8.13. The person(s) hearing the appeal has authority to confirm, or revoke the original outcome. The decision of the person(s) hearing the appeal is final and precludes the right to take another grievance of a similar nature unless there is repetition of behaviour/action or the recommendations identified in the outcome have not been implemented.
- 8.14. Where possible the decision will be given to the employee at the conclusion of the meeting and confirmed in writing no more than 5 working days after the hearing **(Appendix 2 – Letter 7).**

8.15. The written record of the appeal hearing should be completed as quickly as possible after the date of the hearing.

8.16. All documents pertaining to this procedure should be retained on the employee's personal file.

9. Collective Grievances

9.1. Where two or more employees raise an identical grievance, the employees may agree to have them addressed in the same grievance process. The employees may be represented throughout this process by a Trade Union Representative, one of the nominated employees or address the meeting individually. Collective grievances will follow the same process as an individual employee grievance or it may be appropriate for the problem to be resolved through collective agreements between the trade union and the employer.

10. Overlapping Disciplinary and Grievance Issues

10.1. An employee may during the course of a disciplinary process, raise a grievance. Where the Grievance is related to the disciplinary case then it is appropriate that both matters are dealt with at the same time i.e. at one meeting. However, it is advisable that another suitably senior member of staff is allocated responsibility for investigating the disciplinary aspect of the case. In instances where the grievance has no relationship to the disciplinary matter then both procedures may be dealt with concurrently.

11. Vexatious, Malicious, Frivolous and/or Persistent Grievances

11.1 All grievances will be taken seriously, but only those which raise a legitimate or genuine concern will be heard or investigated. The (Executive) Principal/Headteacher/Head of School, Chair of the Local Governing Board, CEO, or Chair of the Board of Trustees as appropriate, will not consider any frivolous or vexatious grievances or any repeat complaints which have already been responded to. Where, through investigation, an employee's grievance has been found to be vexatious, or where an employee persists in submitting grievances which are considered frivolous or vexatious, disciplinary action will be taken against the employee.

12. Grievances Received Immediately Prior to Employment Terminating

12.1 An employee may submit a formal grievance immediately prior to termination of their employment by submitting the **Grievance Form (Appendix 1)**. If a letter of resignation is received from an employee that includes what appears to be a grievance the employee should be written to and asked if they wish to progress a grievance **(Appendix 2 – Letter 8)**.

12.2. Pre-termination grievances should be dealt with in accordance with the formal grievance procedure above.

12.3. It is recommended a grievance investigation is undertaken and the employee offered either a written response or formal meeting be held where possible before the employees last date of employment.

13. Grievances After Employment Has Ended

13.1. If an employee raises a formal grievance within 14 days of leaving their employment it is recommended that the (Executive) Principal/Headteacher/Head of School investigates the issues raised and provides a written response to the former employee as soon as is reasonably practicable.

13.2. An individual who has left employment has no further right of internal appeal.

14. Monitoring and Review

14.1. *The Equality Act 2010 requires public bodies, in carrying out their functions, to have due regard to the need to:*

- to eliminate discrimination and other conduct that is prohibited by the Act
- to advance equality of opportunity between people who share a protected characteristic and people who do not share it
- to foster good relations across all characteristics - between people who share a protected characteristic and people who do not share it.

14.2. In the development of this policy due regard has been given to achieving these objectives.

14.3. This procedure will be reviewed to respond to any changes in the employment legislation, and at least every three years, in conjunction with the Trust's recognised trade unions.