



HCC GRIEVANCE PROCEDURE

May Reid

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Signed – Governor

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Print Name

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INTRODUCTION

The governing body is required to set out a grievance procedure. This procedure has been negotiated with trade unions and is recommended for adoption.

The aim of this procedure is to achieve fair and equitable treatment for all employees of a school.

Whilst this policy recommends that employees submit a notice of grievance (see appendix 1), a grievance can take other forms, such as face to face discussion or complaint, resignation letter or exit interview. It is important to deal with any potential grievances without delay, and take expert advice from your HR Adviser.

2. PURPOSE, SCOPE AND PRINCIPLES

2.1 The grievance procedure is designed to help school governing bodies, Headteachers and staff resolve individual grievances by:

- affording the employee the opportunity of putting his/her case;
- fostering good relationships between school management and staff by encouraging the speedy and effective resolution of grievances;
- settling grievances as near as possible to their point of origin in an atmosphere of trust and confidentiality.

This procedure should be freely accessible to all staff, and a copy should be given to the parties at the outset of the formal stages.

2.2 The procedure applies to:

- all employees of the school, including the Headteacher;
- staff employed in units or bases that are attached to a school

The procedure does not apply to:

- peripatetic staff who are centrally employed by the LA;
- school meals staff employed by Hertfordshire Catering or by an external contractor
- employees of external contractors and providers of services.

(Such staff are covered by the relevant procedures of their employing body)

2.3 The procedure may be used for grievances:

- between colleagues where there is no line management relationship;
- between an employee and his/her manager(s) -
 - this includes not just the immediate line manager but may include the manager's manager and so on;

- an employee, including the Headteacher, and a governor;
- an employee and the local authority.

The procedure may not be used for grievances about:

- disciplinary action;
- termination of employment;
- National Insurance, Income Tax or pensions;
- pay or performance management;
- harassment and bullying

all of which are covered by separate procedures.

2.4 Mediation

It may be appropriate for the matter to be dealt with by way of mediation, depending on the nature of the grievance. This will involve the appointment of a third party mediator, who should be considered impartial by both parties, who will discuss the issues raised by the grievance with all of those involved and seek to facilitate a resolution. Mediation will be used only where all parties involved in the grievance agree. For schools that buy into the HR Advisory Service, trained mediators are available.

- 2.5** At all stages of the grievance, either party has the right to be accompanied and/or represented by his/her trade union or professional association representative or by a work colleague and by no one else.

Where a grievance is against an accredited trade union or professional association representative, no action shall be taken unless and until the matter has been discussed by the Headteacher (or a person acting on his/her behalf) with the county secretary or a full-time officer of that trade union or professional association.

The time limits in the procedure should be adhered to whenever possible, though they may be altered to meet particular circumstances by agreement between the parties.

- 2.6 All parties need to understand that the outcomes of a grievance procedure may need to be justified before an employment tribunal or court. Governing bodies, Headteachers and school managers also need to understand that access to the grievance procedure does not require the completion and submission of a formal notice of grievance. Decisions in the public courts have determined that a written complaint that falls within the scope of a grievance procedure should be dealt with using the grievance procedure, even where the complaint is not presented on the recommended Notice of Grievance.**

3. ROLES AND RESPONSIBILITIES

By their nature, grievances are internal matters and may involve a number of people. It is not really possible – nor desirable, given the emphasis upon dealing informally with grievances – to prescribe specific roles. However, the following broad guidelines may be helpful.

3.1 The Headteacher

The Headteacher, who may or may not be the subject of the grievance, will have a crucial role to play, together with the line-manager where appropriate, in achieving a resolution of the grievance at the Informal Stage.

3.2 Chair of Governors

If a Governor or Governors are approached about a grievance, they should refer it without detailed discussion to the Chair of Governors, who will arrange a hearing under Stage 1, if it appears that all opportunities have been exhausted informally.

Where the Headteacher is the subject of the grievance, the Chair of Governors assumes the responsibilities of the Headteacher in arranging for the grievance to be considered

3.3 Other Governors

For reasons stated above, it is not appropriate for other Governors to be involved in detailed discussion of the substance of a grievance (unless, of course, they are themselves a party to the grievance), because they may be needed for a Stage 1 hearing or Appeal.

3.4 Expert Advice

The Headteacher or Chair of Governors may need to seek expert advice, either at the initial stage or at formal hearings. For schools that subscribe to the Schools' HR Advisory Service, an HR Adviser is always available, and they may attend meeting or hearings.

3.5 Representative of a Professional Association or Trade Union

Similarly, in the interests of good employer/employee relationships, representatives are anxious to advise and offer early support to their member at all stages with a view to seeking an agreed resolution as early as possible.

3.6 Guidance for Participants

Appendix 3 sets out guidance for line managers (who may be the Headteacher) about conducting an informal grievance meeting.

Appendix 4 sets out guidance for employees about how to raise a grievance.

4. STAGES IN THE GRIEVANCE PROCEDURE

4.1 Informal Stage

If an employee has a grievance that involves another member(s) of staff, he/she should first of all endeavour to resolve the matter amicably by direct approach to the person(s) involved and, where helpful, in discussion with the appropriate manager, who may be the Headteacher. This allows for problems to be resolved quickly and normal working relationships to resume.

Employees should be able to clearly demonstrate that they have made every effort to discuss the issue(s) informally, before the formal process is commenced.

4.2 Formal Stages

4.2.1 Stage 1

Where an employee's grievance remains unresolved, he/she should submit a notice of grievance form (see appendix 1) to the Headteacher or, if the Headteacher is the subject of the grievance, the Chair of Governors. A Stage 1 meeting should be arranged **without unreasonable delay**. Any substantial delay and the reason for this should be communicated to the employee. The employee has the right to be accompanied by a Union or Professional Association representative or a work colleague and the Headteacher may wish to be accompanied by an HR Adviser.

Where an employee has a grievance with the governing body that does not involve any other member of staff within the school, he/she should advise or consult with the Headteacher before making an approach to the Chair of Governors.

A Stage 1 grievance meeting will not take place unless:

- The employee has previously informed the Headteacher or Chair of Governors of the basis of their grievance. If the Headteacher or Chair of Governors is unsure about this, they should seek clarification from the employee by meeting them separately before the Stage 1 meeting.
- The person hearing the grievance has had a reasonable opportunity to consider their response to that information

It is important that all grievances are considered fairly and that both parties have advance access to any written statement or evidence to be used at the grievance meeting. This should be in sufficient time (5 working days) to enable full consideration of the material.

If any witnesses are needed, they should be given an appropriate amount of notice and authorisation may need to be given by their manager in order to ensure their release from work. The manager considering the grievance will decide (in conjunction with the employee) who should be present at any meeting.

If the hearing manager reaches a point in the meeting where he/she needs further information, the meeting should be adjourned. Following the meeting, the hearing manager will give a response to the grievance. They should confirm this in writing giving the employee the right of appeal.

4.2.2 Appeal

Either party may appeal in writing to the Chair of Governors **within seven working days** of receiving the panel's written decision. The appeal notice should make clear the reasons for the appeal. The Chair will arrange for three members of the governing body not previously involved, to hear the appeal. Whilst new evidence on the same grievance may be permitted any new grievance(s) cannot be added to the proceedings.

The hearing will take place **without unreasonable delay** of the Chair receiving the written notice of appeal and follow the arrangements set out in Stage 1 above. The person that heard the Stage 1 grievance must attend and may be supported by an HR Adviser.

If the panel reaches a point in the appeal hearing where further information is required, the meeting should be adjourned so that advice can be obtained. Following the appeal hearing, the chair of the panel considering the case will give a response to the grievance. The Chair of the panel will confirm the outcome to the employee in writing and their decision is final. There is no further right of appeal

5. HEARING A GRIEVANCE APPEAL

5.1 The Panel's Proceedings

The Panel will need to elect a Chair. The following is the usual and fair way to proceed.

Step 1 Let the individual or representative explain the grievance, introducing witnesses, where necessary.

Step 2 If there is an individual who is the target of the grievance, allow this individual or representative to ask any relevant and pertinent questions of the aggrieved party and witnesses. Governors may also ask questions at this point.

Step 3 Where there is an individual who is the target of the grievance, allow him/her to make a statement in response, introducing witnesses where necessary.

Step 4 Let the aggrieved party ask any relevant and pertinent questions arising from Step 3. Governors may also ask questions at this point.

Step 5 The Chair and members of the panel ask any remaining questions of clarification.

Step 6 The parties may make closing statements, the aggrieved person or representative speaking second.

Step 7 The Chair summarises the major points raised and confirms them with the parties.

Step 8 The parties withdraw but can be recalled if the panel requires clarification.

Step 9 The panel's decision is conveyed orally to both parties and confirmed in writing within three working days. The panel may, particularly after a lengthy hearing, adjourn and reconvene at another time to consider and present its decision, but written confirmation within three working days of reaching a decision applies.

6. OVERLAPPING DISCIPLINARY AND GRIEVANCE ISSUES

An employee may raise a grievance after disciplinary proceedings have started against him/her. The Commissioning Manager of the Disciplinary Procedure should consider suspending the disciplinary case for a short period – no more than one week – to consider the implications of the grievance on the disciplinary. If the grievance has been raised before the appeal stage of the disciplinary procedure and the matters of grievance are linked to those of the disciplinary, then the grievance should be considered within the disciplinary procedure. If the grievance concerns matters that are unrelated to the disciplinary, then a separate process under the grievance procedure will need to start. In almost all cases, the grievance should be considered after the completion of the disciplinary. The exception here would be where there is a long delay in the progress of the disciplinary- perhaps because police proceedings are awaited.

7. GRIEVANCES AGAINST THE LOCAL AUTHORITY

These will be very rare simply because the LA has few decision-making powers that affect an individual employee of a school. Where the LA has made recommendations to a governing body or Headteacher and those recommendations have been implemented, then the grievance will follow the HCC grievance procedure. Persons not employed by HCC who wish to make a complaint against the LA should follow the HCC complaints procedure.

8. COLLECTIVE GRIEVANCES

Where a group of employees take out a grievance, this will be heard using the process above in sections 4 and 5 i.e. one grievance claim. It may be appropriate for the collective to appoint one or two representatives to speak on their behalf. In such circumstances it may be appropriate for Union or Professional Association representatives of the collective to choose a lead official to represent the group.

9. EXIT INTERVIEWS & RESIGNATION LETTERS

If a Headteacher/ Chair of Governors receives a letter of resignation from an employee which states what he or she considers a grievance, they should write to the employee and ask them whether they would like a response to their grievance. An issue raised in an exit interview or leavers' questionnaire might constitute a grievance. If you have any concerns about the content of a resignation, exit interview or leavers questionnaire, always contact your HR Adviser before responding.

10. GRIEVANCES BROUGHT BY EX-EMPLOYEES

A 2 step grievance procedure is available for all ex-employees.

10.1 The sequence of events is:

STEP 1 Statement of Grievance

The ex-employee sets out the grievance in writing to the Headteacher or Chair of Governors within 30 calendar days of their final contractual working day.

STEP 2

Response

The Headteacher or Chair of Governors responds in writing within 30 calendar days of the receipt of the grievance notification.

10.2 If an employee leaves employment whilst his/her grievance is in progress, the Headteacher or Chair of Governors must write to the employee (or, by now, ex-employee) to ask whether he/she wishes to continue with consideration of the grievance. The options to be presented to the employee are:

(a) continue with current procedure

If the existing grievance is at Stage 1 of the grievance procedure, then the Stage 1 meeting should proceed, and the individual will be given the opportunity to appeal. If the existing grievance is at Appeal stage then it should be allowed to continue; the decision at this Appeal stage will be final and there will be no further right to appeal.

(b) proceed with ex-employee procedure

APPENDIX 1 – NOTICE OF GRIEVANCE

**HERTFORDSHIRE COUNTY COUNCIL
NOTICE OF GRIEVANCE**

EMPLOYEE’S NOTIFICATION OF GRIEVANCE

This form should be used to submit a grievance in accordance with Stage 1 of the formal Grievance Procedure, adopted by the Governing Body of your school.

You and your trade union representative should complete the form and hand it to your Headteacher, the person against whom the grievance is being brought and the Chair of Governors. You are advised to keep a copy.

1.

Name: School:

Post held: Section/Department:

2. Describe briefly:

- a) The nature of your grievance.
- b) When did you first raise your grievance, and with whom?
- c) What action has been taken on your grievance at the informal stage?

3. Has your trade union or professional association representative been informed? YES/NO

If YES: (a) do you wish the representative to receive correspondence? YES/NO

(b) please identify the representative and where he/she may be contacted

Signed: Date:

APPENDIX 2 – PANEL OF TRADE UNIONS’ AND PROFESSIONAL ASSOCIATION’ REPRESENTATIVES FOR ATTENDANCE AT GRIEVANCE HEARINGS:

UNISON	Mr Keith Price The Flats County Hall Hertford SG12 8DN (Tel: 01992 556260)	Mr Brian Ruggles The Flats County Hall Hertford SG12 8DN (Tel: 01992 556260)
NASUWT	Mr C Surrey 31 Horn Hill Whitwell Herts (Tel: 07725 704487)	
ATL	Mr A Hathway 30 Webb Close Letchworth Herts SG6 2TY (Tel: 07823 888613)	
NAHT	Mr Rod Woodhouse Essendon CE Primary School School Lane Essendon AL9 6HD	
VOICE (formerly PAT)	Mr D Colligan 2 St James Court Friar Gate Derby DE1 1BT (Tel: 01384 349211)	
ASCL	Ms T Nickson Bishop’s Hatfield Girls’ School Woods Avenue Hatfield Herts AL10 8NL (Tel: 01707 275331)	Ms A Saunders Simon Balle School Mangrove Road Hertford Herts SG13 8AY (Tel: 01992 410400)
NUT	Mr F Breheny 131 Ashcroft Road Stopsley Luton LU2 9AY (Tel: 07549 251497)	

APPENDIX 3 – GUIDANCE FOR HEADTEACHERS, LINE MANAGERS AND GOVERNOR PANELS

Conducting a Grievance Meeting

- Hold the session in private, away from interruption
- Listen carefully to what the employee has to say
- Stay calm, especially during any more emotional moments
- Find out precisely what the grievance is about, i.e. don't concentrate solely on the facts; try to understand the feelings behind them
- Ask open questions (i.e. questions that can't be answered with a simple 'yes' or 'no')
- Carefully summarise what the employee has said
- Look for solutions
- Once feelings have cooled down – and it is possible that all the person wanted to do was to let off steam – begin to look for constructive solutions to the problem by:
 - encouraging the person to suggest constructive solutions;
 - making your own suggestions to solve the problem;
 - seeking an adjournment if necessary;
 - thinking carefully before taking a decision;
 - considering whether or not the issue should go to the Headteacher (if the meeting is being conducted by a line manager);
 - accepting that it may not be possible to satisfy everything the employee wants.
- Follow up the session by writing a summary of the key points and the agreed actions to the employee and, subsequently, by checking that actions promised (if any) actually took place

What the law says

On 6th April 2009 the statutory dispute resolution procedures were repealed in their entirety and there is no legal requirement now to follow a set statutory procedure when dealing with grievances. However, it is recommended to follow the basic practical guidance which is provided by the Acas Code of Practice on Discipline and Grievance. This sets out principles for handling grievance situations in the workplace, and has been adopted in these procedures. A failure to follow the Code does not, in itself, make a person or organisation liable to proceedings. However, employment tribunals will take the Code into account when considering relevant cases. Tribunals will also be able to adjust any awards made in relevant cases by up to 25 per cent for unreasonable failure by either party to comply with any provision of the Code.

Headteachers should ensure that all grievances are dealt with whether or not the grievance is presented in writing. Headteachers should also be aware that almost any document is capable of amounting to a grievance, e.g. a flexible working request, resignation letter, a letter of complaint or a letter from the employee's solicitor. It doesn't have to be on a form to count as a grievance.

If a Headteacher receives a letter of resignation from an employee which states what he/she considers to be a grievance, the Headteacher should write to the employee and ask him/her whether they would like a response to their grievance.

Support for employees

When an employee is setting out their grievance in writing, help should be given to those whose first language is not English, or those who have difficulty expressing themselves on paper. In these circumstances, the employee should be encouraged to seek help from a work colleague or trade union representative.

Managers requesting or arranging a meeting of any nature relating to a grievance must ensure that they give consideration to any special arrangements that the employee might require in order to ensure their full involvement in the meeting. For example, special allowance may need to be made for employees whose first language is not English, employees who have any disabilities or employees with little experience of working life.

Selecting a Governor Panel

A useful model for the selection of a panel is as follows:

The Governing Body formally resolves that a first panel will be chosen on each occasion from the membership of the Personnel (or equivalent) Committee by the Chair of that Committee who may also be a member of the panel.

The Governing Body also resolves that any subsequent (including appeal) panel will be chosen on each occasion from the membership of the Governing Body, excluding members of the Personnel (or equivalent) Committee, by the Chair of Governors.

In all cases, governors selected for a panel must have had no previous involvement in the case.

Record keeping

At any interview at the informal stage or any hearing at the formal stage , the Headteacher, manager or the chair of the panel (as appropriate) will be responsible for ensuring that, as a minimum, a written record of the main points and of any actions that are agreed or determined is kept. The written record will be copied to the aggrieved party and to the person who is the subject of the grievance within 3 working days of the hearing. Either party may, if there is disagreement with the record, suggest amendments in writing. Such suggestions will be considered by the Headteacher, manager or chair of the panel (as appropriate); if agreed, an amended record will be sent to all parties. If there is no agreement on the suggested amendments, then the suggestions will be attached to each copy of the authorised record.

The Headteacher, manager or chair of the panel (as appropriate) may choose that a note-taker attend the hearing in order to record the main points and actions.

All written records are confidential to the parties involved and will be held securely in confidential files

APPENDIX 4 – GUIDANCE FOR EMPLOYEES ON HOW TO RAISE A GRIEVANCE

What is a grievance?

Anyone working in a school may, at some time, have problems or concerns about their work, working conditions or relationships with colleagues that they wish to talk about with management. Examples of a grievance include (but are not limited to): conditions of employment, health or safety, relationships at work and new working practices. If you are a member of a trade union or professional association, you should seek advice from your representative at the earliest stage some concerns are dealt with through different procedures, and you need to check section 2.3 of this procedure before setting out on a formal procedure.

What should I do if I have a grievance?

Always try to resolve the grievance at source, if necessary by talking it through with your line manager. This allows for problems to be resolved quickly and normal working relationships to resume.

What is the informal process for handling a grievance?

Talk to your line manager at one of your regular one-to-one meetings or, if such a meeting is a long way off, by requesting a special meeting for this purpose.

What do I do if the grievance cannot be resolved informally?

Complete the Notice of Grievance (Appendix 1) and follow the instructions.

What information should I include in the Notice of Grievance?

- What the grievance is about. (Be clear and specific)
- Who is involved and when
- Why the grievance has not been resolved at an earlier stage
- How you think the grievance can be resolved

What happens once I have submitted the Notice of Grievance?

A meeting will be arranged at which you have the opportunity to set out your grievance and the other party will do the same. This is Stage 1 of the procedure. Both parties may be accompanied or represented by their trade union or professional association representative or by a work colleague and no one else. The chair of the meeting will tell you what the outcome is.

What happens if I don't like the outcome of this meeting?

The job of the panel at a formal meeting is to reach a conclusion that is fair and equitable to all sides. If either party feels that the outcome is not fair, then a further meeting (with a different panel) can be requested. This is an Appeal. The decision of the panel at this stage is final: there are no further hearings.