

Employee Grievance Policy & Procedure

History of policy changes/review

Author: HR Officer

Authorising Body: Operations Committee

Review: Annual

Date	Page	Details of Change
September 2013		Para 4 clarification that procedure applies to current employees
		Withdrawal of Delegation
20 th September 2016		Removal of requirement to submit monitoring form
March 2017	All	Procedure reviewed - ratified 21 st March 2017 at FGB
July 2024	Throughout	Reviewed and updated

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Introduction

This procedure is for employees of Briarwood School who may have grievances about their working conditions, application or non-application of policies and procedures, environment, relationships with colleagues, duties and responsibilities. Every effort must be made by employees and managers to resolve grievances as a priority issue. Grievances may arise from discrimination, harassment, bullying or victimisation on the basis of age, gender, disability, race or religion or sexual orientation.

The school will strive to prevent you from being victimised as a result of the grievance or any subsequent investigation/management action. However, if your grievance is frivolous, vexatious or malicious, or without justification, it could lead to disciplinary action against you.

You cannot use this procedure to raise grievances after you have left the school's employment, or about an event(s) that occurred more than three months ago, unless in the following exceptional circumstances:

- You can show in a harassment or discrimination grievance that the events were directly related to the current incident that has led to your grievance/complaint.
- You were unable to raise your grievance until you had returned to work after sick leave or maternity/paternity leave.

Some issues are best dealt with under specific policies and procedures. These should be used wherever possible by employees and managers. They include:

Issue	Policy / Procedure
Improving Performance	Capability Procedure for Teachers
Improving Performance	Improving Performance Support Staff
Organisational change	Managing Change Policy
Pay and grading	Pay Policy
Sickness absence	Managing Sickness and Supporting Attendance

Legal Framework

This policy has due regard to all relevant legislation and guidance including, but not limited to the following:

- Employment act 2002
- Data Protection Act 2018
- The UK General Data Protection Regulation (UK GDPR)
- Equality Act 2010
- ACAS (2015) 'Code of Practice of disciplinary and grievance procedures'

This policy operates in conjunction with the following school policies:

- Disciplinary Policy
- Code of Conduct
- Data Protection Policy
- Whistleblowing Policy
- Equalities Policy
- Pay Policy

Roles and Responsibilities

The governing body is responsible for:

- Ensuring the effectiveness of this policy by monitoring and reviewing it annually.
- Ensuring that all members of staff read and understand the provisions in this policy.
- Assuming the Executive Headteacher's responsibilities, where a grievance is in relation to the Executive Headteacher.
- Determining the outcome of a grievance appeal.
- Ensuring no member of staff is discriminated against in accordance with the Equality Act 2010.
- Handling any incidents of malicious grievance reporting.

The chair of governors is responsible for:

- Assuming the role of grievance and investigation officer in the event that the grievance is against the Executive Headteacher, or appointing a suitable representative to fulfil this role.
- Where they are the investigating the officer, receiving assistance from Bristol City Councils HR department.

The clerk to governors is responsible for:

- Forming an appeal panel, where is necessary.

The Executive Headteacher is responsible for:

- The day to day implementation of this policy.
- Handling any grievances that are brought to their attention.
- Overseeing any grievances raised by employees.
- Acting as the grievance officer, unless the grievance concerns them, or assigning the role to another suitable member of the schools Executive or Senior Leadership Team.
- Assessing information during grievance meetings and investigations, and assisting the investigations officer in determining the best course of action.
- Writing and delivering grievance outcome letters.
- Handling any disciplinary hearings as a result of grievances

Heads of School and Line managers are responsible for:

- Monitoring the working environments of colleagues to identify any conflicts.
- Promoting positive working environments.
- Managing the informal stages of the grievance procedure.
- Working with the investigating officer and Executive Headteacher to investigate any grievances within their department.

The grievance officer is responsible for:

- Resolving employees' formal grievances promptly.
- Assisting with grievance investigation.

- Presenting information at grievance meetings and during the appeal hearings.
- Making any reasonable adjustments to ensure employees are able to attend meetings.
- Remaining unbiased and listening to all sides of the grievance to uncover the truth.
- Appointing an impartial investigation officer.
- Being a witness at appeal hearings.
- Determining what the grievance outcome will be – unless the grievance goes to an appeal, in which case the governing body is responsible.
- Working with the Executive Headteacher and keeping them informed of developments, as appropriate.

The investigation officer is responsible for:

- Investigating the facts of a grievance, as directed by the grievance officer and Executive Headteacher where applicable.
- Providing evidence at grievance meetings.
- Standing as a witness during any appeals hearings.

Employees are responsible for:

- Raising grievances without unreasonable delay.
- Submitting formal grievances in writing to the grievance officer within four months using the employee grievance form.
- Ensuring any grievances that they raise are truthful and fair

When to Raise a Grievance

Grievances can be raised when employees have issues with the following (this list is not exhaustive):

- Terms and conditions of their employment
- Health and safety at the school
- Work relationships
- Bullying or harassment
- Working practices
- Discrimination

Staff will be made aware of the difference between this policy and the Whistleblowing Policy and will ensure that they report concerns and grievances appropriately.

This policy does not apply to:

- Personal disagreements between employees that are not connected with their duties within the school.
- Restarting grievances that have been closed unless the facts of the matter have changed. If there has been a change in facts, this policy should be followed.
- Pay gradings – these are addressed by the Pay Policy.
- Collective grievances.

Initial Handling of a Grievance

All information processed during a grievance will be kept in accordance with the Data Protect Policy and the Confidentiality Policy.

Employees will have the right to be accompanied at all stages of a formal procedure and may choose to bring a work colleague or trade union representative to meetings.

Companions will not:

- Answer questions on the employee's behalf.
- Address the hearing if the employee does not want them to.
- Pose a conflict of interest to the grievance being raised.
- Prevent the employee from explaining their case.

Procedure

Stage 1

If you have a grievance you should raise it informally (either orally or in writing) with your Executive Headteacher or Trade Union.

You have the right to be accompanied by your trade union representative or a work-based colleague at this stage and you are encouraged to seek their support.

It is important that you advise your Executive Headteacher by email or letter that you have a grievance, which you are attempting to resolve informally.

You may ask (in writing) that an informal meeting takes place to discuss the nature of the grievance and the steps you have taken or are taking to seek to resolve the grievance. The informal meeting will take place within 5 working days of the grievance being raised. Your Executive Headteacher may request your school's HR Adviser to be present at this meeting.

If the grievance cannot be resolved informally or if it is more serious, you can request that it is considered under "stage 2". In this event, you should use the Employee Grievance Form (Appendix A) to state your grievance and the remedy you are seeking. You may seek assistance from your trade union representative to do this. If you wish to submit written evidence in support of your grievance, include it with the form.

Send the completed grievance form to your Executive Headteacher. If your grievance relates to your Executive Headteacher, send it to the Chair of Governors.

Stage 2

Your Executive Headteacher will invite you to a meeting, within 10 working days, to enable you to explain your case and to consider how to deal with your grievance taking account of:

- What you have done so far to resolve the issue

- Have you clearly identified a reasonable remedy on your completed Employee Grievance Form. If you have not they will ask you to do so.
- Does your grievance require any immediate action to be taken.

The grievance officer will lead the meeting and they will ensure that the employee has an opportunity to explain their grievance. The grievance officer will attempt to resolve the grievance at this meeting, so long as no investigations are required. A suitable member of staff will take minutes during the formal stage meeting, these minutes will be kept confidential and safe, in line with the Data Protection Policy. An electronic copy of the minutes will be shared with the employee.

The aim of the meeting is to find a way forward. Success is far more likely if a potential solution can be identified and agreed. Your Executive Headteacher will consider the options set out below, and will inform you of the way they intend to resolve the matter.

Options for the Executive Headteacher or Line Manager

- Take any appropriate immediate action to resolve the grievance.
- Speak to the subject (perpetrator) of your grievance and/or other parties involved on your behalf.
- Decide (with your agreement) that both sides should meet further to discuss the issue.
- Call in a third person (for example an HR Adviser or a mediator) to help resolve the problem. Before this starts a commitment to accept mediation will be required from everyone involved, otherwise it will not work. If mediation does not resolve your grievance, the grievance procedure will resume to find an alternative resolution.
- Advise you, and any third parties, that a formal investigation will be required. This action will be taken when the manager considers, that by the nature of the allegations, some formal action may be necessary against the perpetrator, you and/or a third party. If an investigation is necessary, the Executive Headteacher will arrange for it to take place in accordance with the Code of Practice for Investigations. The Investigating Officer will advise you in writing of the arrangements for the investigation, which should commence within 15 working days of receiving the grievance.

Once your Executive Headteacher has taken the appropriate action and made their decision on your grievance, they will confirm the outcome to you in writing, ideally within 28 working days of receiving your grievance, setting out:

- Whether your grievance has been upheld, either fully or in part.
- What action they have decided to take to resolve your grievance.
- Your appeal rights under this procedure.

Although the projected timescale for resolution is within 28 days of the grievance being received, grievances frequently take much longer to resolve, owing to problems of obtaining evidence, scheduling the availability of all involved and conflicting priorities. Where the grievance is complex and/or where a formal investigation is commissioned, it may take much longer to reach a conclusion.

Once the conclusion is reached, your Executive Headteacher will inform you, and the subject of the grievance of their decision, and any follow-up action which may be required. This written notification will include your appeal rights.

Grievance Outcomes

Once the investigation report has been received, the grievance officer will call a grievance meeting to which the employees concerned, and their companions, will be invited. At this meeting, employees will be given an opportunity to answer any questions that arose from the investigation.

At the grievance meeting, the grievance officer may decide to invite witnesses, eg the investigating officer, to answer questions. The grievance officer and the employees concerned will be permitted to ask witnesses questions. Employees will also be permitted to invite witnesses to this meeting.

Once all the information has been presented, the grievance officer will adjourn the meeting to make their decision. The grievance officer will consider each side of the grievance and make a decision, this will be recorded in the outcome letter. The outcomes possible following a grievance are as follows:

- The grievance is upheld in full
- The grievance is rejected in full
- The grievance is partially upheld, eg there is validity to some of the grievance
- Mediation

A 'partially upheld' outcome will not be used as an outcome when a decision cannot be reached. Sometimes, mediation will be used as an outcome. This will involve all parties collaborating to find an acceptable outcome.

The grievance officer will write an outcome letter within five working days and provide a copy of this to the employee. This letter will include information on:

- The chosen outcome.
- The reasons for the decision.
- Any facts that the grievance officer can ascertain in coming to their decision.
- Any recommendations or agreed actions to take.
- The employees right to appeal the decision.

If it is necessary and appropriate to take disciplinary action, the grievance officer, Executive Headteacher and governing body will meet to determine what action is appropriate in the Disciplinary Policy. Disciplinary action will be proportionate and may include, but not be limited to, the following actions:

- Re-training
- Verbal warning
- Written warning
- Suspension with pay
- Termination of employment

Gross misconduct will result in the employee's contract of employment being terminated. If an employee has already received a written warning, suspension with pay may be considered.

Where a grievance is raised against an employee during a disciplinary process, the disciplinary process may be temporarily suspended to deal with the grievance. Where the grievance and disciplinary cases are related, the grievance officer will deal with both issues concurrently.

Stage 3

If you wish to appeal against the decision which has been made you must do so in writing, setting out the grounds of your appeal, within ten working days of receiving the written confirmation of the decision. You must do this in writing to the clerk to governors.

Your appeal will be heard by a panel of Governors who have not been directly involved in the matters connected with this grievance to date. The panel will elect a chair.

The purpose of the appeal will be to:

- Review the reasonableness of the original decision and, if necessary, determine an alternative outcome (if the original decision is unreasonable and/or if it would resolve the grievance).
- Consider whether the procedure has been followed correctly.

Appeals

- You (the appellant) or your trade union representative, will state the grounds for appeal and call witnesses you feel will support your position. A different grievance or grievances cannot be raised at this stage. If any new evidence relating to your original grievance is raised at the appeal, which is considered by the panel to be material to the outcome, the panel may determine to continue with the hearing or to suspend the hearing to enable these matters to be considered by both parties.
- You, or your representative, and your witnesses can then be cross-questioned by the presenting manager or their representative, (the manager who made the original decision) and the appeal panel to obtain further clarification.
- The presenting manager responds and may also call witnesses.
- The presenting manager and any witnesses they may have called are cross- questioned by you (the appellant) or your representative and the appeal panel.
- Both parties sum up evidence - firstly the presenting manager and then the appellant or their representative.
- The appeal panel adjourns to consider the outcome.

Outcomes available to the panel are:

- To uphold the appeal in full and propose an appropriate way forward;
- To uphold the appeal in part and propose an appropriate way forward;
- To reject the appeal and propose an appropriate way forward, if necessary.
- The decision and the reasons will be confirmed in writing to you and as appropriate to any other parties named in this grievance.

Counter Claims

Occasionally you may submit a grievance in response to formal action being taken against you. This “counter claim” must be considered. If the Executive Headteacher receives a counter claim they will consider and decide upon the following course of action/options:

- Agree that the counter claim should be considered simultaneously with the formal action already being taken, which means that you will be able to refer to it as part of your defence; or

- Determine that the nature of the “counter claim” means that the formal action will be deferred pending an investigation into your lodged grievance. After this investigation is completed, the Executive Headteacher may recommence the formal action taking into account the findings from the investigation; or
- Postpone the formal action, to allow the grievance to be considered first, returning to the formal action thereafter, as appropriate.

The Executive Headteacher is advised to take HR advice before deciding which course of action should be taken. If the Executive Headteacher is implicated in the counter claim, the chair of governors may decide to nominate a different manager or a governor to consider the complaint. (Note: a counter claim does not mean that the formal action will be set aside or discontinued).

A counter claim may also be lodged against you by the alleged perpetrator of the problem. The Executive Headteacher must respond to the counter claim and should decide which of the above "options" they wish to follow. The Executive Headteacher must notify both parties that a counter claim has been received.

Malicious Grievances

Disciplinary action may be taken against employees making malicious grievances. Bullying, harassment or victimisation will not be tolerated.

All employees will be made aware of the school’s Code of Conduct and act in accordance with it. All employees will adhere to the Equalities Policy.

Withdrawal of Delegation

In the event that the governors’ delegated authority is withdrawn this procedure will remain in place but the decision-making authority will return to the Local Authority. The Executive Headteacher will remain responsible for the day to day management. Appeals will be heard by a Joint Appeals Panel of the LA. The Joint Appeals Panel will be chaired by an independent Service Director (or his/her nominated representative) and will include an HR Adviser and a trade union representative, who have had no previous involvement in the case. Where appropriate (e.g. for a grievance involving discrimination) a Legal Adviser will attend to provide guidance.

Where a grievance is against the Executive Headteacher this should continue to be raised with the chair of governors who will liaise with the relevant officer of the LA.

Appendix A

Where a grievance is against the Executive Headteacher this should continue to be raised with the chair of governors who will liaise with the relevant officer of the LA.

Employee Grievance Form

Your name		
Job title		
Grievance <i>(please give a full description of your grievance, use this form to help a shared understanding of your grievance and what is needed to put things right)</i>		
Remedy We encourage you to say what you think needs to happen to resolve your grievance. You may wish to take advice from your trade union representative on what might be an appropriate remedy. Remember, once the grievance is dealt with, the outcome will be at the discretion of the manager or the appeal panel and it may not reflect the remedy you have proposed.		
Declaration I confirm that the details above are true and that I have read and understood the Employee Grievances Procedure. I also understand that a copy of this form will usually be given to the people I name in it.		
Signature	Date	

Appendix B

Does the procedure apply to me?

Yes, if you are an existing school employee.

When can I NOT use the procedure?

You cannot use this procedure to raise grievances regarding a matter that has already been dealt with under the grievance procedure or a matter/event or matters/events which occurred more than three months ago. You should consider that some issues are best dealt with under separate policies and procedures that deal specifically with the matter concerned (see Introduction - paragraph 4 of the procedure).

Where can I get advice/guidance about the procedure?

You can get advice/guidance about the procedure from the Executive Headteacher, and your trade union representative.

Can you give examples of misapplication of policies and procedures?

This may relate to the incorrect interpretation of a policy or procedure or failure by another person to follow a reasonable request. If applicable, you should use the appropriate appeal procedures of other policies (see Introduction of Procedure).

Can I use this procedure when formal management action is being taken against me?

Yes. You should refer to the counter claims part of the procedure.

Can I use this procedure if I perceive there to be organisational or institutionalised bullying?

No. You should use the Council's Whistleblowing policy and procedure,

Does anyone else need to be told about my grievance?

No. If you wish for certain people to be called as witnesses within the grievance statement, then you will need to approach them in strict confidence and secure their support. If you refer to other individuals within the statement of your grievance and attribute them knowledge of your allegation, then any information which relates to them will be made available by the Executive Headteacher on a strictly confidential basis.

Is it appropriate for me to continue working with the person I have complained about?

Your Executive Headteacher will take into account your views, those of the person you have complained about and possibly other members of your team. Your manager may take advice on possible ways forward from an HR adviser. If the person you have complained about is your manager, then their manager will take into account your views. You are advised to raise your concerns with your trade union representative or departmental HR adviser.

What happens if my grievance is upheld?

Where the subject of the grievance's behaviour/actions have been found to be serious, the Executive Headteacher will be responsible for taking any appropriate action. If a disciplinary hearing is held, you will be called as a witness, but you may not know the outcome of the disciplinary action. Copies of meeting records and/or statements may be used at the hearing. In addition, or alternatively to disciplinary action, the manager may consider taking some other action to resolve any outstanding concerns. This could mean, for example, extra training, re-clarification of accepted standard of work, reallocation of tasks, office relocation.

May I appeal if my grievance has not been upheld?

Yes. See Stage 3.

What happens once my appeal has been heard?

Having heard the appeal and considered all the evidence presented, the appeal panel may decide to:

- uphold your appeal;
- uphold your appeal in part and propose an appropriate way forward;
- reject your appeal and propose an appropriate way forward, if necessary.

They will meet with you (and your trade union representative) to advise you of their decision and any proposed way forward. They will then also meet with the respondent(s) to inform them of their decision and any proposed way forward. All relevant parties will receive written confirmation of the panel's decisions and proposed follow-up action within five working days of meeting with them.

What if I am still not satisfied?

You have a statutory right to take certain grievances (for example those related to unlawful discriminatory practices or breach of contract) to an Employment Tribunal. Information on Employment Tribunals can be found on www.employmenttribunals.gov.uk.

Appendix C

Definitions

What are discrimination, harassment, victimisation and bullying?

They are actions or attention from a person or group of people, which may be open, implied or suggestive. If these actions or attentions are unwanted, unwelcome and not returned by the person receiving them, they will amount to some form of discrimination, harassment, victimisation or bullying.

Discrimination

Discrimination is about actions: people may hold a number of prejudices, which become discrimination when their actions are based on those prejudices. Discrimination can be direct or indirect. It can be an individual act, or a series of acts, or it can be institutionalised. Examples of evidence will be required. Direct discrimination occurs when a person or group of people receives less favourable treatment, which is unjustified, on grounds of age; disability; gender; HIV status; sexuality; race; or religion. Indirect discrimination occurs when an unjustifiable requirement or condition is applied, which has a disproportionate impact on a person or group of people.

Harassment

Harassment is unwanted, offensive or humiliating conduct affecting the dignity of those at work. It includes unwelcome verbal, non-verbal and physical conduct that could amount to unlawful discrimination. A person or group of people may harass someone deliberately or unknowingly. It is the harassed person's perception of the behaviour that is important. Harassment may be an isolated incident or a series of events. The European Commission's Code of Practice on measures to combat sexual harassment also considers harassment on grounds of sexual orientation (that is, whether you are gay, lesbian, bisexual or transsexual) as sexual harassment.

Victimisation

Victimisation is treating a person less favourably than others in the same circumstances because that person has:

- made a grievance or allegations of discrimination, harassment, victimisation or bullying;
- acted as a witness in any proceedings;
- been involved in the matter in any other way.

Victimisation may also occur as a result of a person's participation in trade union activities or membership.

Bullying

A single incident, or a series of incidents, can amount to bullying. Bullying may include:

- Persistent criticism;
- Personal abuse and/or ridicule;

- Ignoring someone;
- Excluding someone;
- Other behaviour, either in public or private, that humiliates and demeans the person involved, and which has the effect of eroding their confidence and performance.

Bullying may involve:

- The abuse of authority;
- The exercise of unfair disciplinary measures;
- Unreasonable changes in an employee's responsibilities;
- The exclusion of an employee from normal social, consultative and decision-making processes.

Examples of inappropriate and unacceptable behaviour

Inappropriate physical conduct ranges from touching another employee to serious assault, including the threat of such actions.

Inappropriate verbal conduct includes:

- Sarcastic comments;
- Unwelcome advances, propositions and/or jokes;
- Lewd comments or abusive language;
- Innuendoes and jokes that are of an offensive nature.

Inappropriate non-verbal conduct includes:

- Threatening or intimidating behaviour (including aggressive body language);
- The display or circulation of offensive or suggestive pictures, objects or written material;
- Graffiti;
- Any conduct which degrades someone else.

Other unacceptable conduct includes:

- Isolation or non-cooperation at work;
- Exclusion from group social activities;
- Coercion;
- Abuse of power.

Mediation

Mediation is a method of helping people resolve disputes and find ways of working together more effectively and can be beneficial at either the preliminary or the formal stage. Everyone who is involved in conflict, either directly or indirectly, is affected and for some people this might be in the form of feeling stressed or emotionally distressed, performance at work suffering, poor morale amongst teams, loss of enjoyment of work, or sickness absence. A mediator will use specific skills which are impartial and they will facilitate a process that aims for a workable agreement between the parties. Other benefits of mediation are:

- It helps people learn or improve their skills for interacting with others in a positive way;
- It improves relationships and encourages co-operation between colleagues and managers;
- It can reduce and change a culture of blame, harassment and bullying.

Mediation is most effective before people begin to feel extremely angry or distressed because of the conflict, and before tension, low morale, poor job performance and disillusionment permeate the team.

Frivolous, Vexatious, Malicious

The use of the procedure for a reason other than a genuine concern about wrong actions/behaviour in the workplace, e.g. to upset someone, or to cause disruption in the workplace.