Dispute resolution - Grievance Procedure for teaching and support staff in schools

September 2019

1. Introduction

This procedure has been developed with the underlying principle of working together to find solutions. There is an expectation that, wherever possible, employees raising concerns via this process have a willingness to explore an informal and early resolution approach to workplace issues. The main aim is to enable working relationships to be managed effectively and to ensure that an early intervention approach is adopted for dealing with disputes at work. Working with all internal partners, disputes (grievances) can be resolved quickly, making use of a range of approaches including discussion, mediation, restorative practice, coaching, team briefings and further training. This is not a traditional grievance procedure and will require employees, Trade Unions, line managers, Head Teachers and Governing Bodies to actively support and encourage an approach based on joint problem solving.

The Dispute Resolution – Grievance procedure, addresses workplace disputes raised by employees, which may be about working relationships, including issues regarding harassment and bullying, and concerns regarding recruitment and grading. Kirklees HR can provide advice throughout the process.

2. Scope

The procedure applies to all school based employees who are directly managed by the School.

Key Principles

- Where possible and appropriate, employees must, in the first instance try to resolve the issue informally and directly, and be able to evidence that they have done so. Where this does not resolve the issue the employee should raise their dispute with their Line Manager or Head Teacher. If the dispute is about the Head Teacher they should raise this with the Chair of Governors.

- By encouraging resolution via informal and early intervention approaches, the frequency of long, formal investigations will be kept to a minimum, as it is recognised that formal investigations are often a difficult and stressful process for all parties.

- Disputes should be dealt with quickly and where there are likely to be delays then all concerned should be kept informed and given reasons for the delay.

- Methods used to resolve disputes should be flexible and focus on resolution rather than retribution.

- Employees will be treated fairly and equality principles will be applied in respect of handling all disputes and this will be monitored and reviewed. Confidentiality will be maintained throughout.

- Where vexatious, malicious or misconceived disputes or appeals are raised then the Head Teacher reserves the right to dismiss such disputes (if the dispute is about the Head Teacher, this decision will be taken by the Chair of Governors). Disciplinary action will be considered for employees raising vexatious or malicious disputes.

3. Process

Step 1 – Informal

When an employee first becomes aware that there is a problem or issue in the workplace that they are unhappy with they must try to resolve the issue directly and informally, and be able to evidence that they have tried to do so.

Step 2 – Early Intervention

If the informal approach does not resolve the issue then the employee should raise the dispute with the Head Teacher within 15 working days of the dispute or incident taking place. A decision can be taken not to consider a Grievance which goes beyond a reasonable timeframe of 12 months, taking into account all the circumstances and nature of the grievance. If the dispute is about the Head Teacher then the employee should raise their dispute with the Chair of Governors. A pro forma is available at the end of this document to provide the details of the dispute, and how the employee has attempted to resolve the matters informally. The Head Teacher or Chair of Governors should contact Kirklees Human Resources for advice at this stage.

The school reserves the right to not accept a grievance at this stage where the employee is unable to demonstrate that they have tried to deal with the matter informally.

A meeting (informal grievance meeting) to discuss the employee's concerns will be set up as soon as possible between the Head Teacher, a representative of Human Resources, and the employee, who may be accompanied by a trade union representative or work colleague not involved in the issues. If the employee's concerns are regarding the conduct of the Head Teacher, the Chair of Governors will lead the meeting and consideration taken (in conjunction with the employee, HR and Trade Union) as to whether the Head teacher needs to attend as well as the employee. The expectations of those involved should be managed and all parties should work together to agree the most appropriate way to deal with the dispute.

If necessary, the Head Teacher/Chair of Governors will adjourn the informal grievance meeting and carry out a fact finding exercise, normally within 10 working days, the outcome of which will then be discussed further at a reconvened meeting with the employee.

By adopting an early intervention approach via an informal grievance meeting, methods such as mediation, coaching, restorative practice, team briefings or additional training can be put in place. During this meeting, attempts will be made to seek a resolution at the lowest level possible so as to maintain a positive working environment, without the need for a formal grievance investigation. However, there may be some disputes which are

considered so serious that the Head Teacher or Chair of Governors will automatically commission a formal investigation.

The outcome of the informal grievance meeting should be recorded, monitored and reviewed and the agreed actions communicated with the employee via discussion and in writing.

(Where disputes are raised by employees regarding recruitment then the Head Teacher should contact Kirklees Human Resources to agree any further action).

Mediation – is actively supported and encouraged to assist with resolving workplace disputes and needs to be considered before moving to any later steps within this procedure. There are trained mediators within the local authority and the role of the mediator is to help people work through disputes in a non- judgemental way. The mediators are independent and anything discussed during mediation is treated confidentially.

Mediation can also be effective at other stages of this procedure and should be considered as a supportive method to resolve disputes. Mediation can only take place with the agreement of both parties. It may not be appropriate in some circumstances, such as allegations of serious bullying and discrimination. Head Teachers can access the Mediation Service through Kirklees Human Resources.

Step 3 – Investigation

If the issue is not resolved using early intervention then a fuller investigation may be necessary either by the School or Local Authority. Kirklees Human Resources will be able to provide advice and support with this, or undertake the investigation on the school's behalf. The investigation will be commissioned by the Head Teacher (or chair of Governors where the compliant is regarding the Head Teacher).

The school reserves the right to refuse to accept a formal grievance at this stage or to commission a formal investigation where the school have not had the opportunity for the early intervention stage to be fully explored.

The Investigating Officer will endeavour to meet with the employee within 10 working days as part of the investigation, with their Trade Union or work colleague not involved in the matters accompanying them if required. However, in circumstances where trying to organising the meeting with the employee is delaying matters, such as where the employee is off work due to illness and is finding it difficult to attend, or where the person the employee wishes to accompany them is not available for a lengthy period, then it may be necessary to progress with the investigation without meeting the employee, whereby the investigating officer will consider the employee's written grievance and/or ask the employee to provide written responses to questions. There is an expectation that the employee will fully cooperate with the investigation process and timescales.

The investigating officer will ensure that all parties are kept informed of progress and timescales.

On conclusion of the investigation, the commissioning manager (either the Head Teacher or Chair of Governors) will meet with a HR Advisor to discuss the findings. A meeting will be arranged with the employee (formal grievance meeting/hearing), normally within 10 working days, at which they may be accompanied, to feedback the outcome of the investigation into their concerns, and what aspects of the grievance have or have not been upheld, at which the employee may provide responses.

The Head Teacher (or Chair of Governors) will, with HR support, consider all the information presented and decide upon the appropriate outcome, including any action to be taken. This will be confirmed in writing to the employee. Mediation may also be considered at this stage.

Where it is proving difficult to arrange the above feedback meeting with the employee within the timeframes outlined above and matters are being delayed, the employee will be provided with written feedback from the investigation, what has and has not been upheld and any actions to be taken, and will have the opportunity to appeal the decision.

Step 4 – Appeal

If the employee raising the dispute is dissatisfied with the outcome, they have the right to appeal. The employee should write a letter to the Chair of Governors within fifteen working days of receiving written notification of the decision. The matter will then be referred to the Governing Body's Appeals Panel. Within the letter of appeal, the employee should include:

- Their name and job title
- Grounds for their appeal
- Name of their trade union representative or work colleague.
- A copy of their original dispute resolution form.

The Appeals Panel will convene a hearing (normally within ten working days of receiving the appeal) to consider the case. The employee has the right to be accompanied at the hearing by a trade union representative or work colleague.

4. Support and Advice

Support Available

For employees raising a complaint, or who have a complaint raised against them, their first line of support in most cases will be their Head Teacher/line manager. Additional support is also available from the following groups.

Trade Union

Trade unions can provide advice, support, and representation for an employee who is a member of their union. This will include offering advice on the situation to their member, and also accompanying them to meetings. Trade union representatives may also be copied into correspondences if their member requests it.

Care First and Employee Healthcare

If the school buys into the Local Authority's healthcare services, employees can be offered 24/7 telephone advice and support via Care First (Telephone number 0800 174319) as well as 1:1 counselling/well-being support via Employee Healthcare (01484 226424, wellbeing@kirklees.gov.uk). Head Teachers may also access support via Head Teacher Support Services.

5. Additional information

- Where vexatious, malicious or misconceived disputes or appeals are raised, then the Head Teacher reserves the right to dismiss such cases and these will not be heard (if the dispute is about the Head Teacher, this decision will be made by the Chair of Governors). Disciplinary action will be considered for employees raising vexatious or malicious disputes or appeals.

- Nothing in this procedure shall prejudice the legal rights of the employee or employer.

- The Dispute Resolution Procedure will not delay the operation of any other procedure. Disputes in connection with the Disciplinary or Capability Procedures will be examined prior to those procedures continuing and a decision will be made by the Head Teacher/Chair of Governors regarding which should be heard first or whether they should be heard concurrently.

- **Status Quo** - When a dispute is raised the principle of 'status quo' will apply. This means that if the dispute concerns something that is shortly going to happen the action will be delayed pending the outcome of the dispute (this does not include Disciplinary or Capability processes as outlined above). However, if the dispute concerns an action that has already happened, then this action will not normally be reversed, despite the outcome of the dispute.

- **Disputes raised by former employees** - If a dispute is received from a former employee, the Head Teacher should seek advice from Human Resources, and the matter will be dealt with as a complaint rather than a grievance. The principles of this procedure therefore will not apply.

Dispute resolution pro-forma

This form should be completed by the employee raising the dispute and returned to the Head Teacher (or the Chair of Governors if the dispute is about the Head Teacher). This form should normally be returned within 15 working days of the dispute or incident taking place.

Within this pro-forma, you will need to complete, and evidence, occasion/s when you have attempted to resolve the dispute directly, and informally. Once you have completed this document, consideration will be given as to whether early intervention is appropriate. This may include a meeting to discuss the matters further at which you may be accompanied by a Trade Union representative or work colleague not involved in the matters. The purpose of this meeting will be to resolve matters at the lowest level possible.

In exceptional circumstances, it may be appropriate to instigate Step 3 of this process, and commence a formal investigation where it is evident Step 2 has been exhausted, with no satisfactory conclusion.

Within the form on the following page, you will need to show how you have attempted to resolve the issues informally. You should also explain why the outcome hasn't, in your view, resolved the matters raised, and your preferred outcome.

Dispute resolution pro-forma

Name:	**Post:**
School:	**Manager:**
***I do not wish to be represented / *My representative is:** **(*Please delete as appropriate)** **How have you already raised this dispute informally? - complete below**	

Date	Detail of discussion, with whom, & resolution sought	Outcomes – did anything change, if not, was the rationale explained?

What is the dispute against? Eg. Was it a decision? If so who made the decision?

Why are you unhappy?

What would be your preferred outcome?

Are there any witnesses who you feel could support your case? If so, please state their names.

Any additional information:

Employee Signature……..

Date…….