

OLDHAM COUNCIL

Grievance Policy and Procedure

For School Based Staff Under the Purview of A Governing Body

This Policy and Procedure have been approved in line with the Public Sector Equality Duty

Applies to

Head teacher

Teachers

Locally managed support staff

CONTENTS		PAGE
	Introduction	3
	Employees Covered	3
	Definitions and Abbreviations	3
	Scope	3
	General Principles	4
	Mediation	5
	Grievance Procedure	6
	Informal Stage	6
	Formal Procedure	7
	Stage One	7
	Stage Two	8
	Supporting Notes	8
	Records	9
	Sources of Information	10
	Interpreting the Policy	10
APPENDICES		
A	Standard letter	11
B	Notification of Outcome	12
C	Grievance forms	13 - 20
D	Public Interest Disclosure Act (1998)	21 -22
E	Format of Grievance (Stage One)	23
F	Format of Grievance Appeal (Stage Two)	24

INTRODUCTION

The Grievance Procedure provides a support mechanism for employees to raise concerns related to their employment. It aims to maintain good working relations between managers and employees and to resolve individual grievances as quickly as possible in an equitable way.

EMPLOYEES COVERED BY THIS PROCEDURE

This procedure applies to all school employees whose employment is under the purview of a Governing Body

DEFINITIONS AND ABBREVIATIONS

Trade Union Representative means any representative of a trade union or any other staff representative.

SHRA means a Senior Human Resource Adviser and includes another member of the HR team who may be providing support

SCOPE

The procedure is designed to ensure that employee's complaints arising out of their employment can be resolved in a fast, fair and consistent manner. The procedure applies to all members of staff regardless of grade or position, hours worked per week or whether the contract is permanent or temporary or fixed term.

The Grievance procedure can be used to resolve any problems with the exception of the following:-

- Disciplinary matters;
- Grading matters;
- Selection for redundancy;
- Matters relating to income tax;
- Matters relating to national insurance;
- The rules relating the local government, pension scheme, or the Teachers Superannuation Scheme;
- Retirement on the grounds of ill health; or
- Any other matter where there is already a laid down procedure for resolving problems

The procedure is designed to enable employees to exercise their right to raise grievances relative to their employment and have them heard and settled.

Where the grievance is against the head teacher, the Chair of Governors will be responsible for the operation of these procedures and should consult with the schools delegated Senior Human Resource Adviser.

Where it can be established that an employee has raised a vexatious grievance, the employee may be subject to disciplinary action.

This policy and procedure has been locally adopted by the Governing Body of the school

GENERAL PRINCIPLES

- This policy and procedure is to be operated in accordance with the ACAS Code and the principles of natural justice.
- Where situations arise that are not anticipated by this policy, and where the ACAS Code does not offer specific guidance the principles of natural justice will be followed in reaching a conclusion.
- Any employee who raises a grievance must be given a copy of this policy and procedure.
- The grievance policy and procedure is not an appropriate means of settling differences of opinion between employees unless they feel that their terms and conditions of service have been adversely affected by such circumstances.
- A member of staff who raises a grievance, or against whom a grievance has been raised, has the right to be accompanied and represented at any hearing which they are required or invited to attend under the procedure. They may choose to be accompanied by a trade union representative or a work based colleague.
- A group of employees who raise a grievance have the right to be accompanied by a trade union representative or work based colleague, or they may elect a spokesperson or form a small committee (no more than 3 members) to present the grievance themselves.
- Work based colleagues are entitled to reasonable paid time off from work to prepare for and to attend such a hearing.
- Employees making a disclosure under the Public Interest Disclosure Act (Whistle blowing) are not required to follow this policy in making such a disclosure.
- There is no compulsion on work based colleagues to attend hearings at the request of colleagues and individual employees must not be pressurised to act in such a capacity for a colleague against their will.
- Whilst any grievance is subject to this procedure the status quo shall apply, i.e. whatever lawful practice, instruction or agreement existed prior to the grievance being formally raised. No action by either party to this agreement shall be taken until the grievance has been resolved or all stages have been exhausted.

- Grievances should be dealt with as quickly and efficiently as possible.
- The aim of this policy is to operate within the time limits specified however it may not always be possible to achieve this due to the availability of relevant individuals and the occurrence of school holidays. Failure to adhere the time limits shall not render the operation of the policy invalid.
- With the agreement of all parties the procedure can be used flexibly e.g. it may be agreed to dispense with a stage in the procedure in order to settle the matter quickly.
- Where it is not possible to keep to the time limits set out in the procedure the employee raising the grievance must be informed of the reason for the delay and the anticipated length of the delay.
- This policy may operate during school holidays subject to the agreement and availability of the relevant parties, for example if a grievance reaches the second stage of the process shortly before the summer break with the agreement of the parties the appeal hearing need not be delayed until the start of the autumn term.
- Where TU representation is requested the employer must take reasonable steps to allow for this representation, as this is a statutory right. If the TU or professional association representatives are not available for the first date suggested, the school or their representative will seek to negotiate a mutually agreeable date and time for the meeting/hearing. In the event that a mutually agreeable date and time cannot be agreed (within a timescale regarded as reasonable under the policy by the school) the school may set a date and time for meeting/hearing.
- An employee or representative who cannot attend a meeting because of illness or another unforeseen circumstance should notify the head teacher at the earliest opportunity and give full reasons. The meeting will be rearranged but if the employee or representative fails to attend a second time then the meeting may proceed in their absence if having been informed of the reasons for non attendance the head teacher is satisfied it would be reasonable to proceed. The reasons for non attendance will be recorded.

MEDIATION

It may be appropriate for the matter to be dealt with by way of mediation, depending on the nature of the grievance. An independent third party or mediator can sometimes help resolve grievance issues. The role of a mediator is to discuss the issues raised in the grievance with all parties involved and seek to facilitate a resolution. Mediation is a voluntary process and will only be used if all parties involved in the grievance agree.

GRIEVANCE PROCEDURE

Informal Stage:

Where a member of staff has a grievance which involves a colleague or colleagues he/she should initially endeavour to resolve the matter by a direct approach to the member of staff concerned or raise the matter with their line manager or head teacher.

Where a head teacher has a grievance with either a colleague or the Governors he/she should attempt to resolve the matter by a direct approach to the colleague or the Governors.

If an employee has a grievance against their head teacher, he/she should attempt to resolve the matter by a direct approach to the head teacher.

Where an employee seeks to secure a meeting with their line manager or head teacher to seek assistance in resolving the grievance informally, the request for such meeting shall be made in writing and a meeting arranged within **five working** or **seven consecutive days** of the request being made.

The senior person identified as the appropriate person to respond to the grievance at this stage should endeavour to resolve the problem personally, or by mutual agreement, in consultation with other employee(s). It may also be appropriate, by agreement, to consult the Head Teacher, Chair of Governors, officers of the LA or trade union representatives.

The appropriate senior manager will advise the employee bringing the grievance of his/her decision and any action required, verbally within two working days and, if requested in writing within five working days of the discussion (This letter must also inform the employee of the steps he/she should take to raise the matter under the formal procedure if they are dissatisfied with the outcome, using the form contained in Appendix C).

If the grievance is not resolved and the matter is not directly related to the Head Teacher, he / she must write to the Head Teacher stating the nature of their dissatisfaction and requesting that the grievance move to stage one of the formal procedure, using the form given in Appendix C.

If the employee's grievance is not resolved but it is not appropriate to make a direct approach to the Head Teacher because of:

- a) His/her involvement
- b) He/she has already made a decision on the matter at the informal stage
- c) It is a grievance relating to Head Teacher

The employee should write to the Chair of the Governing Body requesting that the matter proceed to Stage One of the formal procedure, using the form given in Appendix C. The form must be received by the Chair of Governors within 5 working days of the employee receiving written/verbal notification of the decision at the end of the informal stage.

There is the option of directly raising a grievance in the formal procedure.

FORMAL PROCEDURE

Stage One

Where the grievance has not been resolved under the informal procedures described above, the member of staff concerned should complete and submit a formal stage one grievance statement form (Appendix C) to the head teacher, together with any relevant documents without unreasonable delay. The employee should clearly state both why he/she is raising a formal grievance (including the nature of the grievance) and the resolution/outcome sought.

The Head teacher / Chair of Governors will convene a meeting normally within ten working days of receiving the stage one grievance statement form. All documents to be considered at the meeting and the names of any witnesses will be exchanged beforehand, normally five working days before the meeting, and made available to members of the committee at the meeting.

Present at the meeting will be the employee, his/her representative and the senior officer /head teacher who initially heard the grievance at the informal stage

At the meeting the employee (or his/her representative) must explain:

- Why he/she is still aggrieved;
- What the suggested solution to the grievance is; and/or
- What the employee wants management to do in order for the grievance to be suitably resolved

The Head teacher/Chair of Governors will advise the employee of the decision and any action required, in writing, normally within five working days of the meeting. The letter will explain how the member of staff should proceed if the grievance is not resolved to his/her satisfaction, by requesting an appeal using the form in Appendix C.

If the employee is dissatisfied with the decision, the employee has the right to progress the matter to a stage two hearing under the formal procedure. The employee must notify the head teacher/Chair of Governors of this by completing and submitting a stage two grievance statement form within ten working days of receiving the committee's written response. If this does not occur the grievance will be considered as suitably resolved and the employee will not be able to raise the grievance again.

Stage Two

In those cases where the formal written appeal is received by the Head Teacher, the Head Teacher will forward it to the Chair of the Appeals Committee. The stage two grievance statement form must contain full details of the grievance, including copies of all documentation submitted in relation to stage one of the procedures.

In those cases where the formal written appeal is received by the Chair of Governors, the Chair will forward it to the Chair of the Appeals Committee. The stage two grievance statement form must contain full details of the grievance, including copies of all documentation submitted in relation to stage one of the procedures.

The Chair of the Appeals Committee will convene a meeting of the Committee, normally within ten working days of receiving the stage two grievance statement forms. All documents to be considered at the meeting and the names of any witnesses will be exchanged beforehand, ideally five days before, and made available to members of the committee at the meeting.

Present at the meeting will be the employee, his/her representative and the Head teacher or Chair of Governors who initially heard the grievance at the stage one.

At the meeting the employee (or his/her representative) must explain:

- Why he/she is still aggrieved, following stage one;
- What the suggested solution to the grievance is; and/or
- What the employee wants management to do in order for the grievance to be suitably resolved

The Chair of the Appeals Committee will advise the employee of the Committee's decision and any action required, in writing, within five working days of the hearing.

The decision of the committee is final and there is no further right of appeal.

SUPPORTING NOTES

Once a Grievance has commenced additional issues cannot be added as the grievance progresses through the stages. New grievance issues must commence at the appropriate stage.

If the grievance relates to the employee's immediate Supervisor/Line Manager, the employee should submit the grievance in the first instance to the Head teacher but still at the informal stage.

Where a grievance involves an employee being aggrieved with a colleague, the Chair of the hearing may suggest meeting with each employee (and his/her representative) individually in the first instance.

Where a grievance is deemed to have been suitably resolved because the employee did not progress the grievance within the specified time limit, the employee will not be able to re-submit the same grievance.

Once the Grievance procedure has been completed, in line with this procedure, the employee will not be able to re-start the procedure in respect of the same grievance, unless the action decided upon by management to resolve the grievance has not been implemented.

Any changes to the timescales identified in this procedure must be by mutual agreement. If not, the procedure will automatically progress to the next stage, unless already at Stage 2, where the Chair will assess the reasonableness of the failure to agree the delay, at the hearing .

If grievances are submitted during periods of absence by any party involved, the time limits for the responses will not commence until all the parties are back in work unless agreed otherwise by all parties involved.

Records

The school will keep appropriate records of grievances that are presented by employees. The ACAS code recommends that such records will include:

- a) The nature of the grievance raised
- b) A copy of the written statement of grievance
- c) School Management's response
- d) A record of the action taken
- e) A record of the reasons for the action taken
- f) Whether there was an appeal, and if so the outcome.
- g) A record of any relevant subsequent developments.

It is recommended that schools use the pro-forma in Appendix C to keep a permanent record of grievances raised. These must be kept together in a file for such records, along with all relevant documents, and must NOT be placed on employees personal files.

All paperwork relating to a grievance must be kept either by the school or centrally by the Advisory & Consultancy Service for a period of 6 months from conclusion of the process.

All minutes of committees of the governing body that have considered a grievance will be forwarded to the next full governing body as a private and confidential matter (once the deadline or opportunity to appeal has been exhausted).

Sources of information

ACAS Code of Practice on Disciplinary and Grievance Procedures 2009, available from www.acas.org.uk

Interpreting the Policy

In the event of a dispute regarding the interpretation of the policy advice must be sought from the LA Advisory & Consultancy Service. The LA may seek national or local employers' organisation advice before issuing any guidance.

Any advice regarding interpretation will automatically become incorporated into this policy and will be binding on all schools that have adopted it. This is to ensure consistency in practice across all schools.

POLICY ADOPTION AND REVISION DETAILS			
LEAD ADVISER	Jay M Bailey	LA REVIEW	2013
SIGNED OFF BY LA DATE	2012	GOVERNORS REVIEW	
ADOPTED BY SCHOOL ON			
EFFECTIVE DATE			

Appendix A Standard Letter 1

Inviting an employee to attend a Grievance Hearing

Dear **(name)**

Invite to Hearing under the Provision of the Grievance Procedure (Schools)

I refer to your **Stage One (Two)** Grievance Statement Form which I received on **(date)** and write to inform you that a hearing has been arranged to take place at **(time)** on **(date)** at **(venue)**.

I will hear the grievance, and **(name)**, the schools Senior Human Resource Adviser will be in attendance in an advisory capacity **(1)**. I have also made arrangements for **(name)** your Line Manager/Head teacher **(2)** to attend to respond to your grievance.

You have a right to be accompanied at the grievance hearing by your trade union representative or a work based colleague of your choice.

Appendix B

Notification of Outcome

Dear <Name>

Further to the recent meeting with <name> or letter of <date> where you raised the following grievance

<State the grievance as clearly as possible>

I can now confirm that I have considered the matter and concluded that the following action is appropriate

<State what action you intend to take or if there are no grounds for the grievance inform the employee that you are not upholding their complaint.>

I hope that this now concludes that matter, however if you are not satisfied with this decision you have the right to progress your grievance to **<stage one/ Stage two>** of the process. If you wish to progress to **<stage two >** you must inform **<Head Teacher / Chair of Governors>** in writing within 5 working days of receiving this letter, using the attached form **<attach a copy of the form to progress to stage one or stage two as appropriate>**. This should be returned to **<specify appropriate return address for Head Teacher, Chair of Governors, and Chair of Appeals Committee>**

On receipt of your request I will arrange for a meeting with **<Head Teacher / Chair of Governors/ Appeals Committee>** to consider your complaint. At this meeting you have the right to be accompanied by a trade union representative or a work colleague.

I would be grateful if you could contact me at your earliest opportunity to inform me whether you are satisfied with this outcome.

Yours Sincerely

<Senior Manager / Head Teacher / Chair of Governors>

Appendix C Grievance Forms

- Request to move to Stage 1
- Request to Move to Stage 2 (Appeal)
- Grievance Record

STAGE ONE GRIEVANCE STATEMENT

Name(s)

School

Post Title

Length of Service in Post

Date of Informal discussion

Officer who heard Informal Grievance

COMPLETE ALL SECTIONS

What are you aggrieved about? Please be specific.

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

Relevant Background to the Grievance

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

What remedy do you want? What do you think Management should do to resolve the grievance to your satisfaction?

.....
.....
.....
.....
.....
.....
.....
.....
.....

What was the outcome of your Informal Grievance Meeting? (Attach any correspondence you have received)

.....
.....
.....
.....
.....
.....
.....
.....

Signed Dated.....

Please retain a copy of this document along with any written responses you receive for your records and future reference.

STAGE TWO GRIEVANCE STATEMENT

Name(s) _____

School _____

Post Title _____

Length of Service in Post _____

Date of Stage One Grievance Hearing _____

Officer(s) who heard Stage One Grievance Hearing _____

COMPLETE ALL SECTIONS

What was the outcome of your Stage One Hearing? (attach any correspondence you have received)

.....
.....
.....
.....
.....
.....
.....
.....



What do you continue to be aggrieved about? Please be specific.

.....
.....
.....
.....
.....
.....
.....
.....

What remedy do you want? What do you think Management should do to resolve the grievance to your satisfaction?

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

Signed Dated.....

Please retain a copy of this document along with any written responses you receive for your records and future reference.

A copy of the letter confirming the outcome of the Stage One for the employee should be attached to this form.

Grievance Record

Brief Description of the Grievance raised		
Brief Descriptions of the schools response		
Stage One	Response by	
Stage Two	Response by	

Action Taken, including reasons for action

Subsequent Developments

Any other Comments

Check list of Documents (To be attached to this record)

- Original written notice of grievance (Stage One – If appropriate)
- Initial Response (Stage One – If appropriate)
- Form Requesting to proceed to stage Two
- Stage Two response
- Notes of appeal hearing (stage two)
- Notification of outcome of appeal (stage two)

Record Completed by**Name****Job Title****Date****Signature**

Appendix D

Public Interest Disclosure Act (1998)

1. What is Whistle blowing?

- 1.1. The following definitions have been put forward by the Chartered Institute of Personnel & Development as definitions of whistle blowing.

“raising concerns about misconduct within an organisation or within an independent structure associated with it” (Nolan Committee on Standards in Public Life)

“bringing an activity to a sharp conclusion as if by the blast of a whistle” (Oxford English Dictionary)

“giving information (usually to the authorities) about illegal and underhand practices” (Chambers Dictionary)

2. What is a protected disclosure?

- 2.1. A disclosure will qualify for protection if, in the reasonable belief of the individual, it relates to one or more of the following

2.1.1. A criminal offence

2.1.2. A failure to comply with a statutory obligation

2.1.3. A miscarriage of justice

2.1.4. The endangering of an individuals health and safety

2.1.5. Damage to the environment

2.1.6. Deliberate concealment of information relating to any of the above.

3. What the legislation covers

- 3.1. The legislation applies to the following three categories of disclosure.

3.1.1. Disclosure to the **employer** will be protected, provided it is made in good faith and the whistleblower has a reasonable suspicion that the alleged malpractice has occurred, is occurring, or is likely to occur.

3.1.2. Disclosure to a regulator (e.g. Health and Safety Executive, Environment Agency etc.) will be protected, provided that the whistleblower honestly and reasonably believes that the information and any allegations in it are substantially true.

3.1.3. Disclosure to other bodies (e.g. the media) is protected as long as it meets the requirements for the previous two forms of disclosure **AND** it is reasonable to do so in the circumstances **AND** it is not made for personal gain.

4. Requirements to secure protection under the act

4.1. In order to qualify for protection the disclosure must meet the above criteria, depending on whom the disclosure is to. In addition the whistleblower must also meet at least one of the following preconditions.

4.1.1. They had a reasonable belief that they would suffer from victimisation if they raised the matter internally.

4.1.2. They reasonably believed that the matter related to a criminal offence.

4.1.3. There was no prescribed regulator and they reasonably believed that the evidence was likely to be concealed or destroyed.

4.1.4. The concern had already been raised internally or with a prescribed regulator.

4.1.5. The concern is of an “exceptionally serious” nature

4.1.6. They had suffered an identifiable detriment

Appendix E Format of Grievance (Stage One)

1. Membership of Panel

- Head teacher/Chair of Governing Body
- Senior Human Resources Adviser, as required in an advisory capacity.

2. The Parties & Witnesses

- The employee bringing the grievance and their representative.
- The respondent (author of the Statement of Case under consideration) and their representative
- Witnesses as required.

3. Procedure

- The Head teacher/Chair of Governing Body introduces the panel and explains the purpose of the meeting, which is to make a decision at stage one of the grievance procedure
- The Head Teacher/Chair of Governing Body asks the employee bringing the grievance, or their representative, to explain why
 - He / she is aggrieved
- The employee bringing the grievance may call witnesses in support of their case who may have questions put to him / her by all parties before he / she leaves the room.
- The Head teacher/Chair of Governing Body and the Senior HR adviser have the opportunity to ask any questions of the employee bringing the grievance
- The respondent puts forward their case.
- The respondent may call witnesses in support of their case who may have questions put to them by all parties before he / she leaves the room.
- The employee bringing the grievance or their representative has the opportunity to ask any questions of the respondent.
- The Head teacher/Chair of Governing Body and the Senior HR adviser have the opportunity to ask any questions of the respondent.
- The respondent sums up.
- The employee bringing the grievance sums up.
- All parties withdraw except for the Head teacher/Chair of Governing Body and the Senior HR Adviser whilst a decision is made. If possible, a decision will be given verbally – shortly after the hearing and in all cases the decision must be confirmed in writing within 10 working days of the meeting.
- All parties will be recalled to hear the decision and the aggrieved will be informed
 - a) The employee will be informed of the right of appeal to the appeals committee of the Governing Body and that if they wish to exercise this right, they should write to the Head teacher/Chair of Governing Body within 10 working days of receiving written notification of the decision.

Appendix F Format of Grievance Appeal Hearing (Stage Two)

1. Membership of Panel

- Members of the Appeals Committee of the Governing Body.
- Senior Human Resources Adviser, as required in an advisory capacity.

2. The Parties & Witnesses

- The employee bringing the grievance and their representative.
- The respondent (author of the Statement of Case under consideration) and their representative
- Witnesses as required.

3. Procedure

- The Chair of the Committee introduces the panel and explains the purpose of the meeting, which is to consider an appeal against the decision at stage one of the grievance procedure.
- The Chair asks the employee bringing the grievance, or their representative, to explain why:
 - He / She wish to appeal against a decision at stage one
- The employee bringing the grievance may call witnesses in support of their case who may have questions put to him / her by all parties before he / she leaves the room.
- Members of the committee and the Senior HR adviser have the opportunity to ask any questions of the employee bringing the grievance
- The respondent puts forward their case.
- The respondent may call witnesses in support of their case who may have questions put to them by all parties before he / she leaves the room.
- The employee bringing the grievance or their representative has the opportunity to ask any questions of the respondent.
- Members of the Committee and the Senior HR adviser have the opportunity to ask any questions of the respondent.
- The respondent sums up.
- The employee bringing the grievance sums up.
- All parties withdraw except for the Committee and the Senior HR Adviser whilst a decision is made. If possible, a decision will be given verbally – shortly after the hearing and in all cases the decision must be confirmed in writing within 10 working days of the meeting.
- All parties will be recalled to hear the decision and the aggrieved will be informed
 - a) That there is no further right of appeal to the Governing body or the LA. If the member of staff still feels aggrieved, they may seek advice from their trade union representative regarding recourse to Employment Tribunal.