

St John's Catholic Junior School

"Love one another as I have loved you."

Grievance Policy and Procedure



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Grievance Policy and Procedure

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Grievance Policy

1. Policy statement

The provisions of the Employment Act 2008 are the result of a consultation process started by the Department of Trade and Industry. The statutory dispute resolution procedures were repealed from 6 April 2009 and a revised Code of Practice issued by ACAS giving 'clear, simple and non-prescriptive guidelines on grievances and disciplinary procedures.'

In addition, changes to the employment tribunal rules give tribunals discretion to take into account the reasonableness of the parties' behaviour when assessing compensation.

This grievance policy applies to all school staff employed in a Community, Voluntary Controlled and Special School in Wirral, or any other school who adopts this policy.

This policy and procedure have been consulted and 'collectively agreed' with all recognised professional associations representing teachers and trade unions representing schools support staff.

It is essential that a fair and systematic approach should exist in every school whereby employees may air a grievance related to their employment and ensure that it is resolved speedily.

The grievance policy and procedure provide a framework and a structured mechanism for employee complaints to be dealt with. There are informal and formal procedures for dealing with grievances.

Its aim is to resolve grievances as quickly as possible and in an equitable way, which minimises the impact on the school and maintains professional working relationships between colleagues. Failure to deal with grievances in a timely manner has a detrimental effect on working relationships, performance, and absence.

2. Principles of the Grievance Policy

The grievance policy and procedure are based on the following principles:

- Where the circumstances are appropriate, and/or both parties agree. Ideally grievances should be dealt with through the informal process, including mediation, where appropriate.

- Any employee raising a grievance will be given the opportunity to explain their issues, and an appropriate person will fact-find or investigate their issues and respond. The outcome is confirmed in writing.
- The employee does not suffer any detriment in the form of victimisation for asserting their statutory right to raise a grievance.
- Any witnesses are protected against detriment and dismissal as a result of acting as a witness during a grievance hearing.
- All parties directly affected by the grievance should be kept informed of progress as appropriate.
- Any representative or work colleague is protected against detriment and dismissal in respect of their action in accompanying the employee and for addressing or seeking to address the hearing.
- Not to discriminate against any individual in the application of this policy and procedure under the Equality Act 2010.
- Confidentiality will be observed at all times by those involved in the grievance process and information shared on a need-to-know basis only.
- Any employee having a grievance related to his/her employment has the right to express that grievance and to be represented by a teacher professional association, a trade union representative or a colleague at all stages of the procedure and is advised to contact his/her representative at the earliest opportunity.

NB In normal circumstances it is considered that where a grievance relates to perceived poor working relationships, the complainant should be encouraged to use the Dignity at Work Policy in the first instance e.g. bullying and harassment, relationships at work. This would be considered as the informal stage, if it does not resolve the issue then the formal stage may be instigated.

This procedure is for use by individual employees (and collective grievances covered in para 9) who have a grievance with another employee, the Headteacher, or the Governing Body. Grievances can arise from a variety of sources. They can be of a relatively simple nature or be of fundamental importance. A grievance can be defined as an issue or concern about a range of issues affecting an employee at work.

Examples of potential grievance issues include:

- Terms and conditions of employment (except pay and grading)

- Health and Safety
- new working practices
- working environment
- organisational change
- discrimination (school may also have a separate policy for addressing this issue)

NB Working relationships and Bullying and Harassment should be addressed through Dignity at Work Policy and Procedure

The Grievance procedure **does not** apply to:

- Collective disputes between staff and Wirral Local Authority or any other employer, e.g. an Academy or Multi-Academy Trust (these grievances should be dealt with through the procedures described in the appropriate nationally and locally agreed documents relating to teaching [Burgundy Book] and support staff [Green Book] in schools)
- Pay disputes (refer to Whole school Pay Policy – pay appeals process)
- Whistleblowing concerns (dealt with under the schools Whistleblowing Policy and Procedure)
- Employees appealing against a dismissal or disciplinary decision (dealt with through the disciplinary appeal procedure)

It should be noted that it would be inappropriate for a grievance procedure to be used to make a complaint against a more junior member of staff; in such an event, reference should be made to the Disciplinary or Work Performance Procedures.

3. Commitment to equality

This policy addresses the following equality duties:

- to eliminate unlawful discrimination, harassment, and victimisation
- to advance equality of opportunity
- to foster good relations between different groups of people

One of the main purposes of the policy and procedure is to ensure that employees who wish to raise a grievance may do so in the knowledge that management decisions follow a standard process which affords a fair, rigorous, consistent, transparent assessment.

Grievance Procedure

4. Roles and Responsibilities

4.1 Context – pecuniary interests

Any person involved in investigating or hearing a grievance, must declare any pecuniary interest and take no further part in the grievance process.

4.2 Employee

The employee should co-operate fully in the grievance process, raise concerns in good faith, and work with the Headteacher or Governing Body genuinely to seek a resolution. In the first instance, all employees should try to resolve the grievance informally by a direct approach to the person(s) with whom they have a grievance, which may include mediation.

Employees must co-operate in any investigation and hearings in relation to the grievance, specify the details of the grievance and the preferred outcome. The employee is responsible for contacting and liaising with trade union, professional association representatives or work colleague.

The employee should be aware that a copy of a formal grievance will be provided to the member(s) of staff with whom they have the grievance and copies of any appendices submitted.

Employees should be encouraged to seek advice from their representative before submitting a grievance, where they wish their support through the grievance process.

NB Any grievance should be addressed as soon as possible but should be raised or submitted within 3 months of the last alleged incident or issues arising.

4.3 Headteacher

The Headteacher may assist in trying to deal with issues before a formal grievance is lodged by an employee.

1. The Headteacher should have a meeting with the employee to try to clarify and seek a resolution (Stage1).
2. Where necessary, a Headteacher may appoint an investigating officer to undertake an investigation into more complex grievance issues.

Headteachers should ensure that grievances are treated seriously, in a timely manner, and that procedures are followed correctly, and consider options to resolve the issues, such as mediation.

Where a formal grievance is submitted, the headteacher (or in the case of a grievance against a headteacher the chair of Governors) must ensure that the formal grievance with any appendices is provided to the employe(es) who the grievance(s) is/are against.

4.4 Governing Body

The Governing Body is responsible for implementing appropriate grievance procedures, including constituting relevant committees to hear formal staff grievance and staff grievance appeal hearings. The Governing Body should ensure that grievances are treated seriously, in a timely manner, and that procedures are followed correctly, and consider options to resolve the issues, such as mediation.

Where a grievance is not resolved informally or formally, a committee should hear the grievance. The Committee will normally consist of three Governors but may consist of two in certain circumstances.

Should the employee be dissatisfied with the outcome of the grievance hearing they have the right to appeal to a committee of 3 further governors, who have not had any previous involvement in the case.

4.5 Chair of Governors

Where the grievance lodged is in relation to actions of the Headteacher, the Chair of Governors may appoint a nominated governor or external investigator to investigate the grievance.

Wherever possible, the Chair of Governors is responsible for trying to deal with issues informally before a formal grievance is lodged by an employee against a Headteacher, having first tried to resolve the issue with the Headteacher. The Chair of Governors should advise the respondent of the grievance to try to resolve the issue firstly with the Headteacher.

The Chair of Governors should have a meeting with the employee to try to clarify and seek a resolution, and when necessary, may appoint an investigating officer to undertake an investigation into more complex grievance issues.

4.6 Investigating Officers

Where required, the role of the investigating officer is to gather information and/or take statements to establish the facts surrounding grievance, produce a fair, balanced, and objective report detailing the evidence collected. They will present or support the presentation of the report to an appropriate person or committee. Please seek HR advice from your HR provider.

NB The investigating officer should undertake the investigation without any unreasonable delays.

4.7 Professional Association/Trade Union/Work Colleague

Where appropriate, the Professional Association, Trade Union representative or work colleague is responsible for supporting employees through the grievance process, including representing employees at relevant meetings, including formal meetings arranged under the grievance procedure.

NB Any grievance should be addressed as soon as possible but should be raised or submitted within 3 months of the last alleged incident or issues arising.

4.8 Human Resources

The role of HR Consultancy Team is to provide HR advice and guidance to:

a) Headteacher on potential courses of action to address concerns about the conduct of an employee, and provide HR advice at grievance hearings convened by the Headteacher, and liaise with TU or Professional Association representatives, on behalf of the Headteacher, to try and facilitate an early resolution, where possible

b) Investigating Officer

Conducting and/or supporting them to undertake an investigation and produce a report (with appendices), and support in the presentation of the case.

c) Governors

On the possible courses of action to take in respect of grievance hearings and appeals convened by the school.

4.9 Legal services (where appropriate)

The role of legal services is to provide:

- advice and guidance on legal matters pertaining to the case
- specific advice on complex employment law matters
- advice to governors, where necessary, at grievance hearings or appeals

5. Informal Grievance Procedure – Stage 1

5.1 Resolving issues or concerns informally

An attempt should ideally be made to resolve a grievance as quickly as possible before it gets to the formal stages. This maximises the opportunity for the issue to be resolved peacefully and should help to preserve good employee relations.

When dealing with this informally the manager should act as quickly as possible to:

- Acknowledge the 'informal' grievance.
- make a judgement on it;
- inform employee of proposed actions and way forward

Where another person is involved in trying to resolve the issue informally, they should normally and go through the following stages:

- listen to employee
- if appropriate speak to the other affected party(ies)
- explore the detail
- establish the employee's desired resolution for the grievance
- consider the information that has been presented
- assess the impact
- respond
- explain the subsequent stages of the procedure
- record the details/ outcome of the informal stage.

If a grievance involves another employees, the school encourages employees to seek personal resolution by making a direct approach to the employee(s) concerned. If this is not possible, or the grievance does not involve another employee, they may discuss the issue with the headteacher or any other relevant employee/line manager to see if the matter can be resolved informally without invoking the formal grievance procedure.

NB Where the employee is dissatisfied with the proposed informal resolution, they should submit a formal grievance normally within 15 working days.

Employees should consider seeking further advice from their representative before submitting the formal grievance.

5.2 Option for resolving a grievance informally – Use of third-party mediation

It may be appropriate for the matter to be dealt with by way of mediation, depending on the nature of the grievance. This involves the appointment of a third-party mediator, who will discuss the issues raised in the grievance with all those involved and seek to facilitate a resolution. Mediation can be used only where all parties involved in the grievance agree.

6. Formal Grievance Procedure – Stage 2

6.1 NB *When grievances are not resolved to an employee's satisfaction at the informal stage **or** if the complaint is considered sufficiently serious, the employee can raise a formal grievance.*

6.2 Formally lodging the grievance

If the employee is dissatisfied with the outcome of an informal grievance, he/she must submit a formal written notice of the grievance to the Headteacher (or Chair of Governors, where the grievance is in relation to the Headteacher)

The complainant should ensure a copy is provided to the member(s) of staff with whom they have the grievance and appendices submitted.

The employee should provide:

- The nature of the grievance – what is alleged to have occurred, including specific issues that they wish to raise i.e.
 - relevant dates and times (where appropriate)
 - details of relevant incidents
 - details of witnesses
 - any supporting documentation
- Actions taken to resolve the matter informally and the reason for dissatisfaction with the informal solution (if appropriate).
- The outcome the employee is seeking and how this might be achieved.

All formal grievances should be submitted on the attached form (Appendix 6).

6.3 Management of straightforward grievance matters

Following receipt of a formal grievance the Headteacher (or Chair of Governors where the grievance is in relation to the Headteacher) shall normally arrange a formal grievance hearing with the employee and the TU, Professional Association Representative, or work colleague. This should normally be within 10 working days and will be heard by a committee of governors. Where this time frame is not possible, all parties should be informed in writing of a proposed date.

6.4 Management of more complex grievance matters

6.4.1 Formal investigation into grievance

In some circumstances the Headteacher or Chair of Governors may need to carry out an investigation into the issue or concern raised, and/or where necessary may appoint an investigating officer to undertake an investigation into more complex grievance issues.

6.4.2 Investigation process

An investigating officer should draft an investigation plan (See Appendix 1), outlining the key issues to the investigated and the process to be followed.

The investigating officer should (in most circumstances):

- meet with the employee who raised the grievance
- meet with any witnesses to the alleged issue
- meet with the employee who the grievance is about
- prepare an investigation report with relevant appendices

6.5 Formal Grievance Hearing Process

The Headteacher (or Chair of Governors) will arrange a meeting with the employee, normally **within five working days** of receipt of the grievance, where the Headteacher or Chair of Governors have not been involved in the informal stage.

NB If the Headteacher or Chair of Governors has been involved in the informal stage the formal grievance should be considered by a Committee of Governors.

The respondent of the grievance needs to receive all information and have had sufficient time and opportunity to respond.

Copies of documents which are submitted to the Committee by one party should be sent to the other party, to the committee members and to the

Director of Children's Services (or their nominated representative) where the school is a community or voluntary controlled school **not less than five working days before the hearing.**

The Headteacher or Chair of Governors may have an HR representative in attendance at the meeting to provide advice and guidance.

NB The Headteacher (or Chair of Governors) should seek advice from the Director of Children's Services (or her/his representative), where the school is a community or voluntary controlled school.

6.6 Formal Grievance Hearing considered by governors

6.6.1 Governing Body Grievance Process

The Grievance Committee shall **normally** consist of **three** governors, but may consist of two in certain circumstances, dependant on governor availability.

Each affected party shall have the opportunity to make written representations to the committee and the right to appear in person to make oral representations.

Where an investigation has been undertaken the investigating officer **may** present findings to the committee for consideration.

They **must** be available to answer questions presented by both parties and the committee, relating to the nature and content of the investigation report and appendices

Each party is entitled to be accompanied by a teacher professional association, trade union representative or workplace colleague if they so wish.

The format of the grievance hearing should follow the same format as that set out in Appendix 4.

6.6.2 Potential Outcomes of Grievance Hearing

The outcome of the grievance hearing should be in writing to the employee, usually within 5 working days. A copy of the outcome letter should be sent to both parties. **However only the complainant(s) can appeal the outcome**

A grievance hearing may conclude on of the following options

- The Grievance is upheld in whole - all issues raised by the complainant
- The Grievance is upheld in part - some issues raised by the complainant
- The Grievance is not upheld - no issues raised by the complainant

- The Grievance is considered to be *vexatious - the employee who has raised the grievance **may be subject to disciplinary proceedings**

NB In some circumstances there may be lessons learned and recommendations made as a result of the investigation on what steps should be taken to resolve it and what (if any) management recommendations should be implemented .

NB In the case of community and voluntary controlled schools the Director of Children's Services (or his/her representative) should be invited in order to give advice.

7. Formal Grievance Appeal – Stage 3

7.1 Governing Body Grievance Appeal Process

Appeals should be notified in writing to the Clerk to Governors normally **within ten working days** of receipt of the decision on the appeal form attached Appendix 7.

An **appeal will be to a different Committee of governors** and should not involve any governors who have previously considered the case.

The Grievance Committee and Grievance Appeal Committee shall **normally consist of three governors.**

The format of the Grievance Appeal Hearing should follow the same format as that set out in Appendix 5.

7.2 Potential Outcomes of Grievance Appeal Hearing

The Grievance Appeal committee may, after considering all the facts presented, including *any new evidence, may come to the conclusion to

- The Grievance is upheld in whole – all issues raised by the complainant
- The Grievance is upheld in part – some issues raised by the complainant
- The Grievance is not upheld. – no issues raised by the complainant
- The Grievance considered to be *vexatious – the employee who has raised the grievance **may be subject to disciplinary proceedings**

*In these circumstances the panel would be required to reach a new grievance outcome/resolution in light of the new information/findings. The Appeal Committee's decision will be final.

8. Vexatious Grievance(s)

A vexatious grievance is defined as follows:

- The investigation has shown the original grievance to be without foundation and that the grievance has been submitted vexatiously or as means of frustrating another process

and

- The investigation can demonstrate that the complainant in making his/her grievance, knowingly lied to the investigating officer.

If the finding from the grievance investigation/appeal process is that the grievance is vexatious, it may result in the school's disciplinary procedure being instigated against the employee and/or a decision to no longer respond to repeated grievances raised by the employee that are viewed as vexatious.

The Headteacher/Chair of Governors should explain in writing why in their opinion the grievance is vexatious, referring to the evidence used to reach this decision, and confirm that the matter may be to be referred back to the school to consider under the Disciplinary Policy and Procedure.

Information gathered as part of the grievance investigation may form part of the disciplinary investigation/procedure.

Making a false, vexatious or malicious grievance under this procedure can entail a serious disciplinary matter that may result in dismissal for gross misconduct.

9. Handling Collective Grievances

9.1 What is a collective grievance?

A collective grievance is grievance lodged by a group of employees who have the same or very similar issues. The procedure will normally follow the same stages outlined for individual grievances.

The stage in the procedure at which it commences will be appropriate to the nature of the grievance and the authority of the Headteacher /Governing Body to implement any necessary resolution. ***You may want to discuss this with your HR Provider.***

NB If there are slight differences in their collective grievance, then individual hearings may take place

9.2 Who can attend a collective grievance meeting?

For collective grievances it may be necessary to have one or two representatives of the whole group with the same grievance, and their trade union or professional association representative or an agreed work colleague.

It may also be appropriate to seek external mediation as outlined above paragraph 5.1, where all parties agree this approach.

10. Grievance against governor(s)

10.1 Informal resolution

Where an employee (including the Headteacher) has a grievance with a Governor(s), he/she should first endeavour to resolve the matter by informal discussion with the person(s) concerned, as per paragraph 5 above.

10.2 Formal grievance against governor(s)

Where any member of staff has a grievance against Governor(s), he/she should first discuss the matter with the Chair of Governors (unless the grievance is against the Chair of Governors) with a view to resolving the matter informally. If the Grievance is against the Chair of Governors, the member of staff may seek advice from any of the following:

- Dioceses or Education Representative for VA Schools
- Trade Union Representative
- HR Provider
- Academy Sponsor
- Local Authority Education Representative

Either party may seek the involvement of the Director of Children's Services (or his representative) to help resolve the matter.

If it is not possible to resolve the matter informally, the member of staff concerned should submit a **formal written notice** of the grievance to the Clerk to Governors, on the attached form (Appendix 6).

The Chair of Governors should, normally within ten days of receiving the written notification, convene a Committee of governors to consider the matter.

10.3 Formal Grievance Hearing against Governor(s)

The Committee shall comprise of normally three governors, but in certain circumstances two, and shall exclude any member of the Governing Body who may have a pecuniary interest in the case. If 3 eligible governors are not available, then consideration should consider appointing associate governors.

All parties should have the right to submit written statements in connection with the case and to appear in person to make oral representations. Copies of documents which are submitted to the committee by one party should be sent to the other party, to the committee members and to the Director of Children's Services (or their nominated representative) not less than 5 working days before the hearing.

All parties should be entitled to be accompanied by a teacher professional association, trade union representative or a work colleague if they so wish.

The Director of Children's Services (or their representative) should be invited in order to give advice. Where the grievance is against the Chair of Governors in a maintained school the Director of Children Services may seek to support the resolution of the grievance such as providing an investigating officer or arranging mediation between the parties (where there is mutual agreement).

11. Grievance from former employees of the school

There is no necessity for the school to investigate a grievance raised by a former employee if it is submitted after their last day of service. If an individual leaves the employment of the school then decides they wish to make a formal grievance regarding their employment, this should be confirmed in writing to the Headteacher/Chair of Governors and considered via the schools complaints procedure.

12. Any costs associated with outcome of a grievance

All costs arising out of this procedure should be met from the school's delegated budget.

13. Grievances during a disciplinary process

The ACAS Code provides that where an employee raises a grievance during the disciplinary process, the disciplinary process may be temporarily suspended, on the advice of the Legal Services Team, to deal with the grievance when:

- the grievance relates to a conflict of interest that the manager holding the disciplinary meeting is alleged to have
- bias is alleged in the conduct of the disciplinary meeting
- management have been selective in the evidence they have supplied to the manager holding the meeting
- there is possible discrimination

NB However, where the grievance and disciplinary cases are related, it may be appropriate to deal with both issues concurrently.

14. Employment tribunals

Before an employee applies to the employment tribunal, they should try to resolve the problem by using this grievance procedure.

If an employee is considering making an employment tribunal claim against their employer, they should notify ACAS that they intend to submit a claim.

ACAS will offer to assist in settling differences between employee and employer. Employers intending to make a counterclaim against an employee must follow a similar procedure.

15. ACAS early conciliation

The process for agreeing settlement is called early conciliation. Early conciliation focuses on resolving matters on terms that employee and employer agree.

Early conciliation may not resolve matters in every claim. When this is the case ACAS will issue a certificate that is now required for a claim to be submitted to an employment tribunal.

Early conciliation extends the time an employee has to make a claim. This is because while the employee is taking part in early conciliation, the “time limitation stops”. If negotiations fail, the clock starts running again from the date the employee is deemed to have received the early conciliation certificate (referred to as ‘Day B’). Time is added to the original time limit for making a claim to make up for the pause during the early conciliation period.

However, the employee will not know the exact new time limit until conciliation has ended and the employee has received his/her early conciliation certificate.