



# Grievance Procedure (Staff)

July 2016

## **Introduction**

The aim of this procedure is to enable employees of the County Council in schools to raise concerns about their own employment. It has been drawn up following consultation with all the recognized Trade Unions and Associations.

If an employee wants to raise a concern about the alleged behaviour of someone who is not employed by the governing body of their own school, they may use this procedure. If, as a result, the governing body concludes that action is necessary which is outside their power but within the power of the County Council, the governing body may require the County Council to take this action. For example, they can require that the Director for Children, Young People & Families initiates a disciplinary investigation.

If a school employee wants to raise a concern about other aspects of the school's or the Council's operations, the appropriate route is likely to be the "Raising Concerns at Work ("Whistleblowing") Procedure".

## **Raising Concerns about your Employment**

Oxfordshire County Council aims to promote good employee relations by encouraging employees to raise concerns about matters affecting their employment at an early stage. As a general principle you should raise concerns about matters affecting your employment first with the person you believe is causing you concern and, if this does not resolve the matter, next with your usual manager. S/he will treat these concerns seriously and deal with them promptly.

The Council recognises that in special circumstances it may be inappropriate for you to approach your usual manager with your concern. A number of alternative routes may be appropriate depending on the nature of the concern (e.g. a more senior manager, your school's adviser, the Children, Young People & Families HR Section, Health & Safety adviser).

If you are the head teacher the usual route will be to the chair of governors unless s/he is already involved.

You may choose to be supported and accompanied by your Trade Union or professional association representative or a friend who should normally be a work colleague, at any step.

You should notify your manager within three months of any event which gives rise to a grievance. A grievance which is not notified within this timescale will be disregarded unless you can provide a good reason why it should still be considered. One example of a "good reason" could be a lengthy period of sickness absence. Another could be where you feel that a number of events over a period of time have had a cumulative impact on you and it is only the most recent one which is within the three month time limit; your manager or governors may then agree that earlier incidents may also be taken into account.

## **The Grievance Procedure in Operation**

### **General Note**

The purpose of this procedure is to address employee grievances. In presenting your concern you should identify (a) what your concern is (b) how you are disadvantaged and (c) what redress you are requesting. The purpose of the procedure is not to instigate disciplinary action against any other employee. If, as a result of this procedure, it appears necessary to investigate the actions of another employee, the panel or the individual hearing the grievance could recommend that a disciplinary investigation take place.

### **Step 1**

If you have a concern about the behaviour of a colleague or any action or omission by a colleague, you should first try to resolve it informally with that individual.

### **Step 2**

If you have failed to resolve your concern under Step 1, you should then discuss it informally with your usual line manager as soon as possible (but see paragraph 5, page 2). S/he may need to consult or involve other employees and/or managers in order to try to resolve your concern. She/he will respond to you as soon as possible, and in any case, within 10 working days.

You should note that this procedure aims to ensure that concerns are addressed promptly so that there is an opportunity for appropriate action to be taken. A concern that has not been notified to your manager within three months of the events which gave rise to it, without good reason, may be disregarded.

### **Step 3**

If you still feel that your concern has not been addressed or you do not receive a response within 10 working days, you should inform your manager (or other appropriate person: see paragraph 5, page 2) in writing, within fifteen working days (unless there is good reason why this cannot be done, for example because of sickness absence).

Your manager will then arrange a meeting at an early date with the head teacher or her/his representative. The aim of this meeting will be to resolve outstanding issues. Where the head teacher has already been involved, the meeting will be with the chair of governors, or another governor nominated for this purpose by the governing body. Where appropriate, and with the agreement of both parties to the grievance, an external mediator may be brought in.

### **Step 4**

If you still feel your concern has not been resolved, or if your manager fails to carry out the actions set out in Step 2, you may request a hearing before a panel of the governing body. This panel should consist of three governors appointed by the governing body to act on their behalf. Any governor with a personal interest in the grievance will not serve on the panel and the head teacher may attend in an advisory capacity only, if the head teacher is not already a party to the grievance. The meeting will be convened as soon as possible but all parties will receive five working days' notice of the date of the hearing. See Annex 1 for a suggested programme for conducting such a hearing. See also Annex 2, the "Frequently Asked Questions" section, for further advice.

## Step 5

You may appeal against any outcome of this hearing, to an appeal panel of the governing body, which will be at least as large as the original panel. If you wish to appeal, you should do so within ten working days of receiving written notification of the decision of the panel. You will need to give reasons in writing as to why you wish to appeal. Examples could be:

- faults in procedure;
- new evidence which could not have been available at the first hearing;
- a perverse decision.

The appeal panel will not include the head teacher or any governor with a personal interest in the grievance. No-one will serve on the appeal panel who has served on the original panel. See Annex 1 for a suggested programme for conducting such an appeal and Annex 2 for further advice.

## Further Right to Appeal

Using this procedure does not affect your right to refer issues to an Employment Tribunal. However, you should be aware that your right to take a case to a Tribunal may be affected if you do not first raise the grievance, in writing, with your governing body and then wait a further twenty eight days before presenting the tribunal claim. You must do so not later than three months after leaving the Council Council's employment. The governing body will respond to your grievance in writing.

## Other Relevant Procedures

Other procedures which may be relevant are available from your head teacher. They are also published on the Intranet. They include:

- **The Comprehensive Equal Opportunity Policy**

Managers must ensure that all employees are aware of their responsibilities under this policy and must lead their teams in a manner that promotes equality. Every employee must ensure that she/he does not practice unlawful or otherwise unjustifiable discrimination in carrying out her/his duties and in her/his dealings with customers. All employees are expected to be sensitive to the needs of our diverse population. Employees will be encouraged to use the County Council's Raising Concerns at Work to report any breaches of this policy.

- **Pay Policy**

Head teachers and governing bodies should consult staff and unions on their pay policy and review it each year or when changes occur in the School Teachers Pay and Conditions Documents (a copy of which is available at <http://www.teachernet.gov.uk/paysite>). The 'Green Book' contains terms and conditions of employment for support staff. A job evaluation scheme was chosen in Oxfordshire as a method for reviewing pay for all 'Green Book' employees. Governing bodies should develop pay policies for support staff that take account of both.

- **Dignity at Work Policy and Procedure**

The policy outlines employees' responsibilities to ensure that they do not contribute to the creation of a working environment in which affronts to dignity, bullying or harassment are accepted. It also places responsibility on all managers to prevent infringements of people's dignity, harassment and bullying and to take action as appropriate.

- **Health & Safety Policies, Procedures/Specifications and Action Bulletins**

Within the Health and Safety Section of the Children, Young People & Families Directorate, policies, practice and procedures have been developed which ensure schools compliance with statutory Health and Safety requirements. They can be found on the County Council's Intranet.

- **Model Redundancy Policy for Teaching Employees/Model Redundancy Policy for School Employees/Redundancy in Schools : a programme of action**

Where redundancy is unavoidable, governing bodies will seek to handle those redundancies fairly, consistently and sympathetically in line with the model policies. They will follow the programme of action that has been set out by the Children, Young People & Families Directorate.

- **Raising Concerns at Work (Whistleblowing) Procedure**

The procedure outlines what an employee can do if they come across malpractice in the workplace. It encourages employees to inform someone with the ability to do something about the problem, following the guidance issued in this document.

**GENERAL NOTE: A governing body has the right to decide that an individual employee is a "vexatious litigant" and further grievances will not be allowed from her/him. Such a decision will be made only after advice has been sought from the Children, Young People & Families HR Section and the County Solicitor in relation to the new grievance. The Courts have deemed that those who raise numerous, ill-founded allegations which have no prospect of success can be described as "vexatious".**

### **Dissemination**

The Policy is available on the school web site and a paper copy is held in the main school admin office. The policy and schemes of work will be available on request to parents, LA, OFSTED and others working for the school, through the Head teacher.

### **Reviewing the Policy**

This policy will be reviewed annually by the Governors Personnel Committee and changes made to ensure that the Policy is relevant and up to date.

## Annex 1

### Model Grievance Procedure

#### Conduct of an Initial Hearing or Appeal Hearing

1. The Chair introduces those present.
2. The Chair invites the person raising the concern (the applicant) or his/her representative to introduce their case statement, to make any relevant comment on any written material and to bring forward any witnesses or witness statements.
3. The Chair invites the management representative to address questions to the applicant or his/her representative on the submissions made on behalf of the applicant, and to question any witnesses.
4. The Chair invites the management representative to introduce the management side's written observations, to make any relevant comment on the submissions made on behalf of the applicant and to bring forward any witnesses or witness statements.
5. The Chair invites the applicant or his/her representative to address questions to the management's representative on the management submission and to question any witnesses.
6. The Chair invites the members of the panel to address questions to the representatives of either party. The opportunity is given to the representatives of either party to address to the Chair any comment arising from the question or on the reply given.
7. The Chair invites the management representative to summarise the management case. No new evidence can be presented at this stage.
8. The Chair invites the applicant or his/her representative to summarise the case for the applicant. No new evidence can be presented at this stage.
9. The Chair then asks both the parties to withdraw while the panel gives consideration to the case. If the panel needs to clarify any point with one or both of the parties, both parties should be recalled.
10. Chair will call back both parties either to announce the decision of the panel, or to advise that a decision will be communicated in writing within three working days.

## **Annex 2**

### **Frequently Asked Questions How much notice of a hearing should we give?**

Enough time should be allowed, when setting a date and time, for the employee to arrange suitable representation and for anyone against whom an allegation is made to seek representation if they wish it.

Notice of the hearing must also allow sufficient time for written evidence to be circulated well beforehand. Notice to both parties must be at least five working days unless agreed otherwise by mutual consent. It is wise to be flexible about the date, in order to fit in with any reasonable request by the employees concerned.

### **How do we make sure that the evidence is handled fairly?**

It is important that all parties should have the opportunity to challenge any evidence which is being used. That is why all written evidence must be made available beforehand – preferably a week before the hearing. If new evidence appears at the last moment, an adjournment of the hearing must be considered.

Hearsay evidence (i.e. evidence which relies on quotation from a third party who cannot give evidence in person or by written statement) should not be used.

Anonymous evidence should not be used. The only exceptions to this would be (a) where the allegations are serious and can be verified through independent investigation or (b) if a potential witness had a real fear, reasonably held, that they would suffer substantial detriment if they were to sign their statement. The latter case would be very rare and, if the situation arose where this was alleged, the County Solicitor should be asked for advice through the Children, Young People & Families Directorate HR Section.

Statements can be obtained from children under 16 only with the agreement of the parent or guardian, who should be given the opportunity to be present when the evidence is being collected. However, there could be an exception where children are witnesses to an incident and their version of events needs to be obtained as quickly as possible before memory fades and before they have discussed it with others. In this case, if parents cannot be informed immediately, it may be advisable to ask the children to make their statements in the presence of a second adult whose express responsibility it is to look after their best interests. Their parents will be advised as soon as possible afterwards. Children should not be called to give evidence to a hearing in person.

### **What if the employee raising the grievance does not arrive?**

It is advisable to adjourn the hearing and write to the employee setting another date and making it clear that, if s/he does not attend and has no reasonable excuse for not attending, it will be assumed that s/he no longer wishes to pursue the grievance.