



# Grievance Policy and Procedure

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## Whole Trust Grievance Policy and Procedure

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## **1. Policy Statement**

As a Trust, we believe that it is important that colleagues have the facility to raise any grievances relating to their employment and that these are dealt with promptly, fairly, consistently and without delay. The purpose of this policy and procedure is to give you the opportunity to raise grievances either informally or formally.

Any reference to 'the employer' refers to The de Ferrers Trust.

The 'appropriate level of authority' will be determined as the Principal in the majority of academies unless delegated authority has been given to a senior member of the academy leadership team. This policy applies to employees, referred to in this policy as colleagues.

The procedure applies to all colleagues, regardless of length of service, but does not form part of the contract of employment and can be varied from time to time and in consultation with the recognised trade unions. The procedure does not apply once you have left the employer.

## **2. General Principles**

- 2.1.** A grievance is a concern, problem or complaint that a colleague raises with the employer. If your grievance relates to bullying or harassment in accordance with the Harassment and Bullying policy then you must use this grievance procedure to address it.
- 2.2.** This procedure cannot be used as an additional means of appeal against a decision or sanction under another policy.
- 2.3.** If you raise a grievance, or support someone in raising their grievance, you will be protected from detriment and will not be victimised or placed at any disadvantage as a result of raising or supporting a grievance.
- 2.4.** If your grievance is proven to be knowingly malicious or vexatious, you will be subject to disciplinary action and formal action may be taken against you in line with the Disciplinary Policy and Procedure.
- 2.5.** You can use this procedure either on your own or collectively with colleagues, otherwise known as a collective grievance.
- 2.6.** We are committed to equality and diversity and will make reasonable adjustments to the application of this policy and procedure where necessary and in line with our Equal Opportunities Policy.

## **3. Link with Other Policies and Procedures**

- 3.1.** The employer has various procedures for dealing with complaints, it may be that the grievance procedure is not the most appropriate to address your complaint.

#### **4. Whistleblowing Policy**

- 4.1. If your complaint relates to possible malpractice, wrongdoing or illegal activities which you wish to report, the complaint should be made in accordance with the employer's Whistleblowing policy and procedure. However you may also raise the matter as a grievance under this procedure if you feel that you have been directly affected by the matter in question or believe you have been treated less favourably for raising the matter.

#### **5. Disciplinary/Performance Improvement Policy**

- 5.1. Where you raise a grievance during disciplinary/performance management proceedings
- The disciplinary/performance management proceedings may be temporarily suspended in order to deal with the grievance or
  - The grievance and disciplinary/performance management may be run concurrently where they are related

#### **6. Complaints related to pay and or grading**

- 6.1. There are separate policies and procedures for dealing with complaints about grading, pay or job evaluation as detailed in the Trust's policies.

#### **7. Managers Responsibility**

- 7.1. All managers should:
- Comply with the requirements set out in this policy and procedure and observe the time requirements
  - Ensure that at all times they treat the process as confidential
  - Promote and operate the grievance policy and consider any grievances fairly and thoroughly
  - Try to resolve the grievance without delay
  - Where appropriate, ensure that mediation has been explored and offered to parties as a way of resolving the grievance before it reaches the formal stages
  - Create and maintain a good working environment while the grievance is being handled
  - Personally support all parties affected by the grievance
  - Ensure that notes are kept and shared with the parties as appropriate

#### **8. Status Quo**

- 8.1. For the purposes of this procedure, 'status quo' means the working arrangements or practices in place immediately before the event causing the grievance.

- 8.2.** The status quo will apply (except where working practices are dangerous, where there would be a breach of statute, or where there would be a significant impact on colleagues welfare) until the issue has been resolved or the formal stages of the procedure have been completed.

## **9. Mediation Service**

- 9.1.** Mediation is a confidential process that seeks to help colleagues resolve disputes in the workplace. Mediation is an informal process where colleagues involved in a dispute or whose relationship is under strain, have the opportunity to air their differences in a voluntary, safe, confidential meeting with the other party, in the presence of a mediator.
- 9.2.** Mediation can be used at any point in the procedures, for example where, other informal approaches have been unsuccessful, or if you do not feel that the formal procedure is the right option, you may want to consider mediation as an alternative to the formal procedure. Mediation is a voluntary option and it can only be used when both parties agree to take part. There is no penalty or detriment if you choose not to participate in a mediation process.
- 9.3.** If both parties agree to engage in the mediation process as a way of resolving their issues, then the manager must contact HR direct as soon as possible so that a mediator can be arranged. Your manager will also be able to provide you the details of this service.
- 9.4.** If you go through mediation and it is not successful, you can then go through the formal grievance procedure.
- 9.5.** If you have raised a grievance and decide to pursue mediation, the grievance may be paused while the mediation is taking place. If the issue is resolved informally or through mediation, the formal grievance will be closed.

## **10. Right to be Accompanied**

- 10.1.** You have the right to be accompanied by a companion at any meeting as part of the grievance procedure. The companion may be a fellow colleague, a trade union representative or an official employed by a trade union.
- 10.2.** The companion is allowed to address the meeting, to put and sum up your case, respond on your behalf to any views expressed at the meeting and confer with you during the meeting. They are not permitted to answer questions on your behalf.

- 10.3.** Under this procedure, you do not have the right to be accompanied by anyone else (such as a spouse, partner, other family member or legal representative) apart from those people already referred to above.
- 10.4.** It would not normally be reasonable for you to insist on being accompanied by a companion whose presence would prejudice the meeting nor would it be reasonable for you to ask to be accompanied by a companion from a remote geographical location if someone suitable and willing was available on site.
- 10.5.** Where appropriate, eligible colleagues, for example those with disabilities or language difficulties, may have the attendance of a supporter or interpreter.

## **11. The Grievance Stages**

### **11.1. Stage 1 - Informal Procedure**

Many issues or concerns can be dealt with on an informal basis, outside of the formal grievance procedure through discussion with your line manager and we would encourage this. You should make it clear to your manager that you are raising your grievance informally and you should clarify what outcome you are seeking. You must give your manager reasonable time to deal with your complaint informally.

If your complaint is about your line manager then you can discuss the matter with your manager's manager in the first instance. No action will normally be taken unless agreed with you first.

### **11.2. Stage 2 – The Formal Procedure**

- 11.3.** If your grievance has not been resolved informally or you feel that the informal process is not appropriate, then you can raise the matter formally. To do this, must put your complaint in writing to your line manager making it clear that you wish to raise the matter as a grievance. If the grievance concerns your line manager, then you should send your grievance to your manager's manager.
- 11.4.** Your complaint should explain the basis of your grievance, and it will be helpful to include any relevant dates, facts and any thoughts you may have on the outcome you are seeking.
- 11.5.** If you choose to follow the formal route, on receipt of the grievance your line manager will:
  - arrange a meeting with you to discuss the grievance
  - ensure the meeting is in private
  - respect your confidentiality
  - take notes of your grievance at the meeting

- carefully consider all the points raised and agree with you any steps or actions to try and resolve the grievance.

**11.6.** Where reasonably practicable, the meeting will be held within **10 working days** of receipt of the written grievance and sooner where the grievance is related to harassment or bullying.

**11.7.** Depending on your grievance, your complaint may need to be investigated (following the Investigation Procedure if required,) and the meeting may need to be adjourned. A further meeting will be arranged with you following the investigation. You will be kept informed of the progress of the investigation. Investigations will be dealt with as confidentially and sensitively as possible, in line with the Investigations Procedure.

**11.8.** Once your grievance has been considered your line manager will write to you with the outcome within **10 working days** and where appropriate, set out action to be taken to resolve the grievance. You will also be advised of your right of appeal should you be dissatisfied with the decision and to whom your appeal should be made.

### **11.9. Stage 3 – The Appeal**

**11.10.** If you are not satisfied with the outcome at stage 2, you may appeal the decision. Your appeal must be in writing and set out the grounds of your appeal in line with the list below and include all the information you wish to rely on at the appeal meeting. You must send your appeal to the Appeal Deciding Manager within **5 working days** of the date you received the letter notifying you of the grievance decision.

**11.11.** You must be appealing against either:

- the finding that your grievance was not upheld where the evidence does not support this finding
- the fact that you don't feel the correct procedure was followed
- the fact the new evidence has come to light that would change the outcome
- the outcome is inconsistent with how others have been treated

**11.12.** You will be invited to the meeting in writing in accordance with the Formal Meeting/Hearing/appeal Procedure. You will be given at least **10 working days'** notice of the appeal meeting to consider your appeal and any suggestions you have for resolving the grievance. You have the right to be accompanied at the appeal meeting by your companion.

## **12. Outcome**

**12.1.** The outcome of the appeal may be to overturn or confirm the original decision or apply a different resolution. The Appeals Panel/Manager will either recall the colleague to the appeal hearing or will write to the

colleague confirming their decision. The appeal outcome will be confirmed in writing within **10 working days** of the appeal hearing. There is no further right of appeal.

- 12.2.** In some circumstances and with the agreement of both parties the employer may agree to appoint an independent mediator or conciliator which may include ACAS or another person acceptable to both parties.

### **13. Managing Attendance at Work**

- 13.1.** Where you are absent due to sickness whilst a grievance matter is pending, the managing attendance at work procedure will apply as normal. However those responsible for keeping in touch would not normally be the same people involved in the handling of your case. Under these arrangements due regard will be had for what is said by Occupational Health and any information you may wish to provide from your GP. We will arrange for you to see Occupational Health as soon as possible for them to assess your health generally and whether or not you are fit to participate in these procedures. Being absent from work due to sickness will not automatically stop the grievance procedure progressing.

### **14. Records**

- 14.1.** At the end of each formal stage of the grievance procedure, the manager hearing the case will send you written confirmation of the decision, within **10 working days** following the meeting. The letter will record the outcome and any terms of any agreement reached in resolving the grievance/dispute. At stage 2 the letter will also explain who you can appeal to if you are still not satisfied.
- 14.2.** A copy of the outcome letter and any formal meeting notes will remain on your personnel file.

### **15. If a Grievance is raised against you**

- 15.1.** You will be informed by the employer that a Grievance has been raised against you which will be confirmed in writing.
- 15.2.** Even if you immediately suspect that such a grievance has been made in bad faith and is untrue, the employer still has a duty to investigate and go through the same formal investigation per the Investigation Procedure.
- 15.3.** You should be given a copy of the grievance or at least the parts that relate directly to you.

- 15.4. As part of the investigation, you will be able to respond to the allegations and as for further clarity if required. Supporting evidence should be provided in support of your position
- 15.5. If you have been suspended there are likely to be restrictions on who you can have contact with so be sure to check what you can and can't say to other colleagues.
- 15.6. Once the investigation is concluded you informed of the outcome of the grievance, within 10 working days, in writing, insofar as it relates to you. If the grievance is not upheld remember that your colleague will have the right to appeal.
- 15.7. A copy of the outcome letter and any formal meeting notes will remain on your personnel file.

## **16. Collective Grievances**

If you and another employee (or more than two of you) have identical grievances and you all wish them to be addressed in the same grievance process, you and your colleagues can raise a grievance via this collective grievance procedure where an informal approach has not worked.

- 14.1 You and all your colleagues raising the collective grievance must agree (without any pressure being exerted on staff members to join the collective process) to do this. You and your participating colleagues will be entitled to only one grievance hearing and (if applicable) one appeal hearing. You and your participating colleagues will be notified individually of the outcome at each stage of the process. If you and your colleagues do not entirely voluntarily agree to this arrangement or if your grievances are not identical, the council will arrange to hear your grievances using the council's Grievance Policy and Procedure on an individual basis.
- 14.2 If you and your colleagues are members of the same trade union, a trade union representative can (if you all wish him or her to do so) raise the grievance on your behalf. Alternatively, you and your colleagues can agree to nominate one of you to act on behalf of all of you. This number could vary dependant on the size of the collective group but should be agreed in advance. The nominated spokesperson (or people) may bring a representative with them in an advisory capacity.

## **17. Effective Date**

- 17.1. The Director of HR or delegated person will periodically review this procedure with the trade unions following changes in employment law or at the request of the business or the Trade Union Consultative Committee.