



# **GRIEVANCE POLICY**

## **For schools and educational settings in the London Borough of Hackney**

Version 6.0, August 2014

**Hackney Education**

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# About this policy

## Purpose

This document describes the Grievance policy and procedure. Refer to the table of contents, below, for a full list of topics covered.

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This document covers the following topics:

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## Version control

The table below shows the history of the document and the changes that were made at each version:

Version	Date	Summary of changes
1.0	January 2008	First published version.
2.0	June 2008	Corrected a typo to change Section 16 to be 'Conducting a Stage 2 Hearing', rather than 'Conducting a Stage 3 Hearing'.
3.0	July 2009	Minor amendments made re content of letter informing outcome of hearing and mediation in line with repeal of statutory dispute resolution procedures and new ACAS code.
4.0	May 2011	Policy rewritten and republished.
5.0	August 2011	Minor change to section 5.2 to clarify what happens if the grievance is against someone's line manager. Also a slight change to the Grievance Form.
6.0	August 2014	Policy review: Parts of policy re-written in order to further clarify informal and formal stages.
6.0 (Rebranded)	August 2014	Content remains unchanged. Document rebranded to reflect Hackney Education name change and branding.

## Next major release

Although this document will be updated as legislation or procedures change, the next major review date will normally be scheduled for three years after the last release.

## Distribution

This policy is available on the Hackney Education Services for Schools website.

## 1. Policy statement

The Governing Body is committed to encouraging and maintaining good employee relations.

Grievances are concerns, problems or complaints. They can relate to the employee's work, working conditions or working relationships. The aim of this procedure is to give employees a mechanism for raising issues with a view to resolving them.

Where grievances arise, they will be dealt with fairly, speedily and as closely as possible to the point of origin.

## 2. Scope of the policy

This policy applies to all teaching and support staff, regardless of grade, position, hours worked per week or whether their contract is permanent or fixed term. It does not apply to agency workers or ex-employees.

If an agency worker has a problem at work and the matter cannot be resolved informally, it should be referred back to the agency. The agency is the employer of the agency worker and will follow their own employment policies to address the matter.

Schools will seek assurances from the agencies they use that robust employment policies are in place.

Where a complaint of discrimination, harassment, victimisation or bullying is alleged then the Disciplinary Procedure may be invoked. Reference should be made to the Dealing with Harassment and Bullying at Work Policy, and a decision taken as to which procedure should apply.

Collective grievances about contractual entitlements, policies or procedures affecting groups of staff should be dealt with under collective bargaining arrangements, where applicable. Similarly, appeals against job evaluation, grading or redundancy will be dealt with under relevant separate procedures.

Any vexatious, malicious, trivial or excessively unreasonable complaint will not be heard under the grievance procedure.

## **3. Informal resolution**

If an employee has a complaint that involves another employee or other employees, they must first of all try to resolve the matter by direct approach to the employee or employees involved.

All parties should attempt to seek informal resolution by talking through the issue e.g. as part of day-to-day management, routine meetings between individuals and their managers or informal meetings between employees and/or their manager.

An employee can request an informal meeting with their manager if they have not had an opportunity to raise their concern. This meeting should be held within 5 working days of the initial request (within 10 working days maximum).

If the immediate line manager is the specific subject of the complaint it will be appropriate for another manager to try and resolve the matter. The line manager's immediate manager will decide on who the most appropriate person would be.

### **3.1. Mediation**

All parties should consider mediation if the complaint involves conflict or disagreement between employees or between a manager and an employee.

Mediation is a voluntary process where an independent mediator helps two or more people in dispute to attempt to reach an agreement. It requires agreement from both the employee bringing the complaint and the employee complained about. The role of the mediator is completely impartial – they would have had no previous contact with the parties and no previous involvement in the case.

Mediation can be used at any stage of the grievance procedure however it is essentially an 'informal' process, so it is often used prior to formal procedures. If mediation is used during the formal stages, the grievance procedure should be suspended whilst mediation is being used as an appropriate method of resolving the dispute.

Hackney Education has a group of employees who are trained as workplace mediators and can offer this as a traded service. Please consult HR if you feel that mediation could be beneficial.

If the employee is still dissatisfied after informal resolution has been fully explored, they may proceed to the formal stage of the procedure.

## 4. Procedure: Formal action

The formal stages of the procedure involve some key features which are outlined below. Read this section before starting to follow the procedure.

Until all stages in the procedure have been exhausted, the 'status quo' must be maintained where possible, that is the working and management arrangements that applied before the grievance was submitted.

**Note:** There is a toolkit on Hackney's [services for schools website](#) which contains additional guidance on the Grievance Procedure and provides supporting report and letter templates.

### 4.1. General principles

The following general principles apply to the formal stages of the procedure:

#### 4.1.1. Right to be accompanied

A member of staff has the right to be accompanied by a trade union representative or work colleague at formal stages of this procedure.

If the accompanying person is not available at the proposed time, the member of staff or trade union representative may request a reasonable alternative time within five working days. The five day time limit may be extended in exceptional circumstances but the meeting should not usually be delayed by more than ten working days.

#### Role of the accompanying person

Accompanying persons are entitled (with consent of the member of staff) to:

- Put the case forward on behalf of the member of staff.
- Confer with the member of staff during the meeting.
- Sum up the case for the member of staff.
- Respond on behalf of the member of staff to any view expressed at the meeting.

However, accompanying persons are not entitled to:

- Answer questions on behalf of the member of staff.
- Address the meeting if the member of staff does not want them to.
- Prevent the line manager from explaining the case, or any other person at the meeting making a contribution to it.

#### 4.1.2. Confidentiality

Confidentiality should be maintained by all those involved, including the member of staff, at all stages throughout the procedure by ensuring that only those people who need to know have access to details e.g. trade union representative or work colleague.

Written records of issues will be treated as confidential and kept no longer than is necessary in accordance with the Data Protection Act 2018. Please refer to HR Records Policy.

#### **4.1.3. Non-attendance at meetings**

If the member of staff who submitted the grievance and/or accompanying person cannot attend a grievance meeting or appeal hearing, they should inform the manager in advance. If the member of staff fails to attend through circumstances beyond their control, another meeting should be arranged. However, a decision may be taken in their absence if the member of staff fails to attend the re-arranged meeting within five working days without good reason.

#### **4.1.4. Sickness absence management**

If an employee goes on long-term sickness absence after submitting a grievance, all reasonable steps should be taken to resolve the grievance whilst the employee is absent.

If necessary, these steps could include home visits or a request for a detailed written submission. Alternatively, and by agreement with the employee, their trade union representative may present their case.

Advice on how to proceed in such cases should be sought from HR.

## **4.2. Stage 1 - Formal grievance**

If it has not been possible to resolve the grievance at the informal stage and an employee wishes to proceed to the formal stage of the grievance procedure, they must set out in writing the nature of their complaint and the reasons why they are dissatisfied with the outcome of any attempts at informal resolution. The employee should also explain how they think it should be settled.

Employees are guided as follows:

- Grievances should normally be made within 3 months of the event/issue (or the last event/issue where there is a chain of events).
- The nature of the complaint should be clear; and focused on resolution. The information included should be factual and relevant (e.g. names, dates, witnesses, etc.)
- Employees bringing grievances should bear in mind the principles of fairness and transparency. If the grievance is a complaint about a named employee, then the grievance will be disclosed to them.
- Any employee who feels unfairly treated as a result of raising a complaint should raise it as part of the original complaint and not as a new complaint wherever possible.
- Grievances should not be raised against Directors or senior managers purely because they have overall responsibility for the service.
- Employees who abuse the grievance process by making complaints (either singular or multiple) that are false and not made in good faith will be liable to disciplinary action.

A grievance will not be accepted where:

- the events have previously been heard through the grievance procedure involving the same parties;

- the complaint is against the final decision made at a grievance appeal (i.e. where the grievance procedure has been exhausted); or
- the complaint is against employees who are already subject to a disciplinary sanction for the same complaint; or
- the complaint is about the outcome of a process which already has an appeal mechanism.

There is a standard Grievance Form available for employees wishing to submit a formal grievance.

The Grievance Form must be submitted to their line manager, who will normally investigate and decide the outcome of the grievance. A copy of the Grievance Form should also be given to the Headteacher and HR representative.

If the complaint involves their line manager, the employee should write to the next level in the line management chain who may hear the grievance themselves or nominate a manager who has not previously been involved in the case.

If the complaint involves the Headteacher, the Grievance Form should be sent to the Chair of Governors in the first instance. They may choose to hear the grievance themselves or appoint an appropriate person (usually a Governor) who is not involved in the case to hear the grievance.

The person hearing the grievance must acknowledge receipt of the grievance in writing, usually within five working days. The acknowledgement will also set out the proposed timetable for considering the grievance and the course of action.

#### **4.2.1. Meeting with aggrieved employee**

The person hearing the grievance will arrange a meeting with the aggrieved employee to listen to the complaint and explore possible resolution.

The meeting should be arranged without unreasonable delay. Employees should be given at least five working days written notice of the meeting and be informed of the right to be accompanied by a colleague or trade union representative.

The person hearing the grievance is responsible for the conduct of the grievance meeting. Grievance meetings are not the same as disciplinary hearings, they can be relatively informal to encourage an open and frank discussion. The meeting must, however, remain purposeful. The manager should:

- explore the issue and not assume they already know what the problem is.
- listen carefully as the employee may just want to be listened to; and/or the issue being presented may not be the real problem.
- understand that the meeting may be a stressful experience for the employee, and take account of this when encouraging the discussion.



The typical format of a meeting is likely to include:

- stating the purpose of the meeting, outlining its format and checking that participants have received all relevant documentation;
- consideration of any preliminary points (e.g. relating to procedural matters);
- inviting the aggrieved employee to explain the issue and the resolution they seek;
- considering whether anyone else is affected by the issue and in what way;
- considering what remedy is possible, appropriate and reasonable;
- deciding on action (if any) and the timescale.

At or after the meeting, the person hearing the grievance will consider the case, which may include interviewing witnesses and try to find resolution.

Depending on the circumstances of the grievance, the person hearing the grievance may decide to:

- investigate and consider any evidence/issues before or after the meeting; or
- adjourn and reconvene the meeting following further investigation if there are matters which require further clarification or exploration.

The outcome of the grievance is likely to be that all, some, or none of the remedy sought is possible and/or reasonable given the circumstances. Where the remedy sought is not possible, consider whether any other action is possible and appropriate.

The decision should be communicated to the employee in writing within five working days.

The outcome should also be communicated to the individual who is the subject of the grievance within the above timescale, if relevant.

In exceptional, more complex cases, an Investigating Officer may be appointed at any stage of the formal procedure. In such circumstances, the Investigating Officer will compile a report containing a written summary of their findings and details of witnesses interviewed.

If, following an investigation which has involved a meeting to discuss the complaint, the grievance is not upheld, both parties will be notified of the outcome and the right of appeal.

**Note:** Refer to guidance on Handling Grievances.

## 4.3. Stage 2 - Appeal

The purpose of an appeal is for the member of staff to request the overturning of a decision, which they deem as unfair or unreasonable. This may be because they feel the procedure was not appropriately followed or new evidence has come to light.

If an employee wishes to appeal against the outcome of the grievance at stage one, they should write to the Chair of Governors within five working days of being notified of the decision. The Grievance Form can be used by employees wishing to progress their grievance to the appeal stage – please see the grievance toolkit.

The member of staff should clearly state on the form the grounds for appeal i.e. why they were not satisfied with the outcome at stage one and what outcome they wish to see by taking the grievance to stage two.

Appeals will usually be heard by the Appeals Committee of the Governing Body, all members of which should have had no previous involvement in the case. The decision of this committee is final, subject to the employee's legal rights.

The committee will be supported by a HR representative who has not previously been involved in the case.

In some cases based in larger schools, it may be appropriate for a senior manager at the school to hear the grievance appeal (supported by a HR representative). They should be more senior than the manager who dealt with the grievance at stage one and should not have previously been involved in the case.

The appeal hearing is a review of the decision made at stage two on the basis of the specified grounds for appeal. It is not a full re-hearing of the case.

**Note:** Refer to guidance on Handling Grievances.

### 4.3.1. The appeal hearing

The Clerk to the Governors is normally responsible for grievance appeal hearing arrangements.

They should write to the employee to acknowledge receipt of the grievance appeal within five working days of the date on the appeal form.

The employee should be given written notification of at least five working days before the appeal hearing is to take place and should be informed of the right to be accompanied by a trade union representative or work colleague.

The Chair may also invite the manager who heard the grievance at stage one and supporting HR representative to attend the appeal hearing to present evidence and the outcome of the grievance. They should be given the opportunity to present documentation and provide details of any witnesses two days before the appeal hearing.

If it is appropriate to call witnesses to the appeal hearing, give at least two days notice.

The Chair of the Appeals Committee will lead proceedings, which may be in line with the following:

1. State the purpose of the hearing, outlining its format and check that participants have received all relevant documentation;
2. Individual or representative presents their grounds for appeal and any new evidence, introducing witnesses, where relevant/appropriate.
3. If an individual is the subject of the grievance, allow them or their representative to ask any relevant/pertinent questions of aggrieved party/witnesses.
4. Where an individual is the subject of the grievance, allow them to make a statement in response, introducing witnesses where necessary.
5. Allow the aggrieved party to ask relevant and pertinent questions arising from step above.
6. The Chair and other members of the panel ask any remaining questions of clarification.
7. The parties make closing statements, the aggrieved individual or representative speaking second.
8. The Chair summarises the major points raised and confirms them with the parties.
9. The parties withdraw but can be recalled if the panel requires clarification.
10. At or after the appeal hearing, the panel will consider the case and reach a decision. The options available to the panel are to:
  - confirm the grievance outcome at stage one; or
  - substitute a different decision and decide on a remedy.
11. Convey the outcome of the grievance orally to both parties and confirm it in writing within five working days. Where appropriate, the employee should be informed of what action the school intends to take to resolve the grievance.

The Chair of the Appeals Committee is responsible for writing the letter, with the support of the HR representative on the appeal panel.

The outcome should also be communicated to the individual who is the subject of the grievance within the above timescale, if relevant.

Notes of the hearing will be circulated by the HR representative to be agreed by the employee and Appeals Committee.

The decision of the Appeals Committee will be final and binding on all parties concerned. No further appeals are allowed and there is no further recourse under this procedure.

#### **4.3.2. Record keeping**

Managers dealing with grievances must keep a written record that includes:

- the nature of the grievance;
- what was decided and actions taken;
- the reason for the actions;
- whether an appeal was lodged;

- the outcome of the appeal;
- any subsequent developments.

Copies of formal meeting records will be provided to the employee. In exceptional cases, information may be withheld from the employee where necessary (e.g. to protect a witness).

## 5. Headteacher grievances

Where the Headteacher has a grievance, they should endeavour to resolve the matter informally by discussing it with the Chair of Governors. In exceptional circumstances it may be appropriate for a representative from Hackney Education (where they are the provider of HR services) to assist the school in order to try and find a solution to the grievance.

If the matter remains unresolved the Headteacher has the right to put the complaint in writing to the Head of Human Resources and formally to the Chair of Governors, who will arrange for an appropriate Committee of the Governing Body to hear the grievance in line with the formal stage of the procedure. If the Headteacher is dissatisfied with the response then they have the opportunity to appeal to the Appeals Committee of the Governing Body.

In exceptional circumstances, if the grievance is against the Governing Body and all appropriate stages of the procedure have been exhausted, with the agreement of all the parties the grievance may be referred to the Head of Hackney Education for resolution. The Head of Hackney Education will nominate an appropriate manager to deal with the case.

The general principles and time limits set out in this procedure should be observed wherever practicable.

## 6. Procedure: Grievance during a disciplinary case

During the disciplinary procedure a member of staff might raise a grievance. When the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently. For example, where a grievance is raised in direct response to the disciplinary procedure, the disciplinary procedure should be expanded to include the grievance issue, dealt with during the investigation and/or at the disciplinary hearing.

If it is found that the grievance issue should “stand alone”, then the grievance procedure should be undertaken and it may be appropriate to suspend the disciplinary procedure for a short period. This may apply where there is possible discrimination or bias is alleged in the disciplinary proceedings, for example.

Advice should be sought from HR regarding the appropriate course of action in the specific circumstances.

## **7. Grievance resulting in disciplinary action**

If an employee's grievance results in disciplinary proceedings against another employee, these will be handled in accordance with the disciplinary procedure. The employee raising the grievance has no right to influence or be informed of the outcome of disciplinary proceedings. However, the employee raising the grievance may be called as a witness to a disciplinary hearing which may subsequently occur.

## **8. Summary of roles and responsibilities**

### **8.1. Employees**

Members of staff are individually responsible for:

- Familiarising themselves with this Grievance Policy and understanding their rights and obligations under it.
- Resolving any conflicts as quickly and as close to the point of origin as possible.
- Co-operating with any investigation including attending meetings and hearings when requested and obeying all lawful and reasonable directions of the management.
- Co-operating with the application of the grievance procedure.

### **8.2. Headteachers, Governors and Line Managers**

All Headteachers, Governors and line managers involved in the grievance procedure have responsibility to:

- Ensure that all employees are aware of the grievance procedure and the rights and responsibilities contained therein.
- Ensure that the employee is made aware of their rights to trade union representation and ensure that such representation, if requested, is facilitated, including compliance with the statutory requirement to consider a postponement of the hearings in certain circumstances.
- Be sensitive to the feelings and emotions of those involved but remain objective and focused on resolution.
- Be consistent and treat cases alike.
- Ensure that the employee is made aware of their rights to trade union representation.
- Ensure that allegations are thoroughly investigated before any decision is reached.
- Ensure that wherever possible they comply with the recommended timescales contained in the procedure and where delays are inevitable all parties are kept fully informed.
- Ensure that complaints are heard as set out in the procedure.

- Be aware that a complaint alleging harassment could be a potential disciplinary matter and consider whether a full investigation under the Disciplinary Policy is required.
- Ensure that complete and accurate records are maintained in a manner that is secure and confidential.

### 8.3. Human Resources

- Attend any meeting held under this procedure and be fully conversant with this policy/procedure.
- Support and advise appointed managers responsible for handling grievances and appeals through the grievance process.
- Ensure that the correct procedure under the grievance procedure is followed.
- Ensure that allegations are thoroughly investigated.
- Report any concerns about the grievance case to the Head of HR immediately.
- Keep accurate records throughout the grievance process and support managers to keep to the timescales stated in the policy at each stage.
- Ensure that any records are held in a confidential manner and in accordance with the principles contained within the Data Protection Act 2018.

## 9. Toolkit

There is a toolkit on the Intranet that supports the procedures in this document. The toolkit contains:

- |                         |   |
|-------------------------|---|
| <b>Guidance notes</b>   | <ul style="list-style-type: none"><li>● Handling Grievances</li></ul>   |
| <b>Forms</b>            | <ul style="list-style-type: none"><li>● Grievance Form</li></ul>  |
| <b>Letter templates</b> | <ul style="list-style-type: none"><li>● Outcome of grievance (stage one)</li><li>● Invitation to grievance appeal</li><li>● Outcome of grievance appeal</li><li>● Meeting minutes</li></ul> |

## 10. Further information

For further information, refer to the [ACAS website](#) for Advice on dealing with disciplinary matters and the ACAS Code of Practice on Discipline and Grievance.