

# EQUITAS ACADEMIES TRUST



## GRIEVANCE POLICY & PROCEDURE

**Review Date:** November 2020  
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**Agreed:** F & GP Board  
**Policy Lead:** HR Manager

**GRIEVANCE POLICY & PROCEDURE**

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## **GRIEVANCE POLICY & PROCEDURE**

### **1. POLICY STATEMENT**

- 1.1 It is the Trust's policy to ensure that all employees have access to a procedure to help deal with any grievances relating to their employment fairly and without unreasonable delay. Where you make us aware that you have a complaint we will investigate any formal grievance that you raise, hold a meeting to discuss it with you, inform you in writing of the outcome, and give you a right of appeal if you are not satisfied.
- 1.2 Issues that may cause grievances include:
- a) Terms and conditions of employment;
  - b) Health and safety;
  - c) Work relations;
  - d) New working practices;
  - e) Working environment;
  - f) Organisational change, and
  - g) Discrimination.
- 1.3 This procedure does not form part of an employee's contract of employment and it may be amended at any time following consultation. The Trust may also vary application of this procedure, including any time scales for action, as appropriate.

### **2. WHO IS COVERED BY THE PROCEDURE?**

- 2.1 This procedure applies to all employees regardless of length of service. It does not apply to agency workers or self-employed contractors.

### **3. USING THIS PROCEDURE**

- 3.1 Complaints that amount to an allegation of misconduct on the part of another employee will be investigated and dealt with under the Disciplinary Procedure and you will be informed if this is the case.
- 3.2 This Grievance Procedure should not be used to complain about dismissal or disciplinary action or the outcomes of other procedures. If you are dissatisfied with any disciplinary action, you should submit an appeal under the Disciplinary Procedure.
- 3.3 Where an employee raises a grievance during a disciplinary process the disciplinary process may be temporarily suspended in order to deal with the grievance. Where the grievance

and disciplinary cases are related it may be appropriate to deal with both issues concurrently.

- 3.4 The Trust operates a separate Whistleblowing Policy to enable employees to report illegal activities, wrongdoing or malpractice. However, where you are directly affected by the matter in question, or where you feel you have been victimised for an act of whistleblowing, you may raise the matter under this grievance procedure.
- 3.5 There is a separate Anti-bullying and harassment policy that may be useful if you believe you have been the victim of bullying or harassment or wish to report an incident of bullying or harassment involving other people.
- 3.6 This procedure should not to be used in situations where the employee simply disagrees with a reasonable management instruction from a manager.
- 3.7 Written grievances will be placed on your personnel file along with a record of any decisions taken and any notes or other documents compiled during the grievance process. These will be processed in accordance with our Data Protection Policy.
- 3.8 Anonymous grievances will be assessed by the HR Manager promptly and without unreasonable delay. Where possible, reasonable steps will be taken to resolve the issues.

#### **Initial Assessment of Grievance**

- 3.10 The Trust will make an initial assessment of the cogency and potential seriousness of any grievance when it is submitted before significant resources are allocated to deal with the grievance through the formal procedure. The Trust reserves the right not to allow the pursuit of grievances that are frivolous or vexatious, or that merely repeat complaints that have already been made and dealt with.
- 3.11 Where the Trust's initial assessment of your grievance shows it to be essentially concerned with a trivial issues, we will discuss the matter informally with you to determine whether or not there is a real need to pursue the matter through the formal grievance procedure.
- 3.12 The initial assessment of your grievance will be undertaken by the HR Manager.

#### **Mediation**

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

#### **4. Confidentiality and data protection**

- 4.1 It is the aim of the Trust to deal with grievance matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat any information communicated to them in connection with grievance matters as confidential.

4.2 Employees, and anyone accompanying them (including witnesses), must not make electronic recordings of any meetings conducted under this procedure.

4.3 During any action, including any decisions taken under this procedure, the Trust will collect, process and store personal data in accordance with our data protection policy. The data will be held securely and accessed by, and disclosed to, individuals only for the purposes of completing the grievance procedure. Records will be kept in accordance with our Privacy Notice – Staff, and in line with the requirements and in line with the requirements of the **Data Protection Legislation** (being (i) the General Data Protection Regulation ((EU) 2016/679) (unless and until the GDPR is no longer directly applicable in the UK) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then (ii) any successor legislation to the GDPR or the Data Protection Act 1998, including the Data Protection Act 2018).

#### 4.4 **Recording proceedings**

4.4.1 All formal stages of this procedure shall be minuted by a note taker or an appropriate substitute. Minutes will be made available to the employee who has raised a grievance and/or their representative, if requested. These will usually be provided within five working days of a meeting, other than in exceptional circumstances.

4.4.2 If the content of the minutes is questioned, the person who wrote the minutes will be asked to check their notes from the relevant meeting and, if no reason is apparent for altering them, refer the discrepancies to the person or committee who was chairing the meeting for verification. If a disagreement over the content remains, then the employee contesting the original minutes will be asked to mark up a copy of the minutes with proposed changes and both shall be filed and considered by the person(s) hearing the grievance and/or appeal before any decisions are taken about the outcome of the grievance.

4.4.3 Nobody should make a sound or video recording of a meeting under this procedure without the consent of all participants.

4.4.4 Written grievances will be placed on your HR file along with a record of any decisions taken and any notes or other documents compiled during the grievance process. This will include original grievances, supporting evidence and any letters written in response to the grievance. These records will be processed in accordance with the Data Protection Act 1998 and having regard to the possibility that records will have to be disclosed during any subsequent litigation, including a claim in an employment tribunal.

## 5 **RAISING GRIEVANCES INFORMALLY – STEP 1**

5.1 We believe that most grievances can be resolved quickly and informally through open communication and discussion with your line manager or Headteacher. We would always aim to resolve your grievance informally where possible following the initial assessment of grievance as outlined above. If you feel unable to speak to your manager, for example, because the complaint concerns them, then you should speak informally to the Headteacher or another senior manager. If this does not resolve the issue, you should follow the formal procedure below.

- 5.2 However, the Trust acknowledges that the ACAS Code encourages grievances to be resolved informally but does not say how this should happen. However, the Trust recognises that informal resolution is likely to involve:

5.2.1 direct discussions between an aggrieved employee and the person or persons perceived to be the source of the grievance; or

5.2.2 the aggrieved employee seeking the support of an appropriate third party from within the Trust, who you perceive to be best placed to support in this process and to help you seek an informal resolution on your behalf e.g. a manager, mentor, middle leader or head of department; or

5.2.3 mediation, whereby an independent and impartial trained mediator works with the aggrieved employee and the person or persons perceived to be the source of the grievance to try and reach a mutually agreeable solution to the grievance.

## **6 FORMAL WRITTEN GRIEVANCES – STEP 2**

- 6.1 If your grievance cannot be resolved informally you should put it in writing and submit it to the HR Manager indicating that it is a formal grievance by using the Formal Grievance Statement (see appendix 1). If the grievance concerns, or is raised by, the Headteacher / Chief Executive Officer, it should be submitted to the Chair of the Trust Board via the Clerk to Trust Board.

- 6.2 As your written grievance will form the basis of the grievance meeting and any investigation(s), it is important that it includes:

6.2.1 a full description of the nature of your grievance (including any relevant facts, dates/times and names of witnesses or relevant individuals involved; and where appropriate, impact that the perceived treatment or action has had on you;

6.2.2 confirmation of when and how you have attempted to resolve the matter informally and why, in your opinion, this has not resolved the situation that you are writing a grievance about;

6.2.3 what your desired outcome or resolution would be to resolve the situation;

- 6.3 If you wish to submit written evidence in support of your formal written grievance, it should be attached to the “Formal Grievance Statement” or letter. If your written grievance is unclear, you may be asked by the recipient to clarify it and to provide relevant supporting evidence before any formal grievance meeting takes place.

### **Timescales for making a formal complaint**

- 6.4 You should do all that you reasonably can to lodge a formal grievance within 20 working days of the incident or treatment, taking place. However, it is recognised that grievances of this nature may relate to a series of actions or behaviour taking place over a period of time. If this is the case, whilst these may be detailed in the grievance, the formal process may only be entered into if you do all you reasonably can to lodge a formal grievance within 20

working days of the latest incident, or from the informal meeting which did not lead to a satisfactory resolution to your concern(s).

## **6.5 Who should my grievance go to?**

6.5.1 If your grievance is about a manager or colleague other than your Headteacher, and does not involve your Headteacher, it should go to your Headteacher.

6.5.2 If your grievance concerns your Headteacher, it should go to the Chief Executive Officer (“CEO”) of the Trust.

6.5.3 If your grievance is about the COO, it should go to the CEO, if it also concerns the CEO, in which case it should be passed to the Chair of the Trust Board or the vice-chair of Trustees.

6.5.4 If your grievance is about the CEO, it should go to the Chair of the Trust Board, if it also concerns the Chair of the Trust Board, in which case it should be passed to the vice-chair of Trustees or to another impartial Trustee.

6.5.5 If the COO has a grievance, s/he should submit it to the CEO, if it also concerns the CEO, in which case it should be passed to the Chair of the Trust Board or the vice-chair of Trustees.

6.5.6 If the CEO has a grievance, s/he should submit it to the Chair of the Trust Board, or to the vice-chair of Trustees if that grievance is also against the Chair of the Trust Board.

6.5.7 If a Headteacher has a grievance, they should submit it to the CEO, unless it also involves the CEO, in which case it should go to the Chair of the Trust Board.

6.5.8 In the event of a grievance being received against the whole of the Equitas Academies Trust Board (including the CEO), the grievance should be submitted to the HR Manager for Equitas Academies Trust in the first instance, who subject to the nature of the grievance being made, will commission an impartial investigation.

6.13 If for any reason, you feel uncomfortable raising a formal grievance about the CEO or other SLT of Equitas Academies Trust with the chair or vice chair, you should take advice from your trade union representative or workplace colleague and/or discuss this confidentially with the HR Manager

6.14 In very serious cases, e.g. if the grievance that you are making is also a potential criminal offence, you may also wish to report matters directly to the police and/or to appropriate external agencies.

6.15 If you raise several grievances in one letter but it is unclear from your letter or “Formal Grievance Statement” whether the concerns that you have raised should be dealt with under this Procedure or another (for example Code of Conduct), you will be asked to clarify under which Procedure you wish the grievances to be dealt with. However, the same grievance cannot be heard under this procedure and the Code of Conduct procedure or any other procedure.

## **7 INVESTIGATIONS**

7.1 In some cases it may be necessary for us to carry out an investigation into your grievance. The nature and scope of any investigation required will depend on the nature of the complaint and will vary from case to case. It may involve interviewing and taking statements from you and any witnesses, and/or reviewing relevant documents. The investigation will usually be carried out by the HR Manager or someone else appointed by the HR Team. If the grievance is about the HR Manager the investigation will be carried out by someone appointed by the Chair of Trust Board.

7.2 You must co-operate fully and promptly in any investigation. This may include informing the investigating officer of the names of any relevant witnesses, disclosing any relevant documents to the investigating officer and attending interviews, as part of the investigation.

7.3 The person in receipt of the grievance will promptly discuss the grievance with HR so that the nature and level of investigation can be agreed before it is started.

7.3.1 For more straightforward grievances – the person in receipt of the grievance will normally investigate it personally as soon as the grievance has been received, ensuring, where possible, that the investigation is completed prior to inviting you to a formal grievance meeting, and by no later than 10 working days from receipt of your grievance, unless there are exceptional circumstances such as illness, holidays etc.; or

7.3.2 For more complex grievances – where a more lengthy/detailed investigation is deemed appropriate by HR, because the grievance is complex and/or contains serious allegations, the person in receipt of the grievance (the Commissioning Officer) will arrange for the grievance to be investigated promptly by a trained and sufficiently senior member of the Equitas Academies Trust senior leadership team; or commission a suitably trained and experienced external investigator to complete the investigation on their behalf prior to inviting you to attend the formal grievance meeting. In these circumstances, they shall seek support from HR to prepare terms of reference i.e. the investigator's brief and should ensure that they keep the person who has put the grievance in, updated on next steps and likely timescales. They should also: a) send a letter to the employees concerned (including witnesses) to confirm that they will be contacted by an independent investigator and invited to an investigation meeting where they can be accompanied by a workplace colleague who is not already involved in the case or by a Trade Union representative; and b) send a copy of the draft terms of reference for the investigation to the person who has raised the grievance in order that they may comment within a reasonable period.

## **8 RIGHT TO BE ACCOMPANIED**

8.1 You may bring a companion to any grievance meeting or appeal meeting under this procedure. The companion may be either a trade union representative or a colleague. You must tell the person holding the grievance meeting who your chosen companion is, in good time before the meeting.

- 8.2 Should you choose to bring a companion to the hearing, you will be responsible for making these arrangements and for providing your companion with any paperwork that they require for the meeting.
- 8.3 At the meeting, your companion may make representations to the investigating officer and ask questions, but should not answer questions on your behalf. You may request an adjournment to speak to them privately at any time during the meeting.
- 8.4 Acting as a companion is voluntary and your colleagues are under no obligation to do so. If they agree to do so they will be allowed reasonable time off from duties without loss of pay to act as a companion.
- 8.5 If your chosen companion is unavailable at the time a meeting is scheduled, you may propose an alternative time for the meeting to take place and, so long as the alternative time is reasonable and within five working days after the original scheduled date, the meeting will be postponed. If your chosen companion will not be available for more than five working days afterwards, you may be asked to choose someone else.
- 8.6 The investigation officer may exercise his or her discretion and allow you to bring a companion who is not a colleague or union representative (for example, a member of your family) as a reasonable adjustment if you have a disability, or if you have difficulty understanding English.

## **9 GRIEVANCE MEETING**

- 9.1 The Trust will arrange a grievance meeting, normally within 5 working days of receiving your written grievance.
- 9.2 You and your companion (if any) should make every effort to attend the grievance meeting. If you or your companion cannot attend at the time specified, you should inform the investigating officer immediately and efforts will be made, within reason, to agree an alternative time.
- 9.3 The purpose of a grievance meeting is to enable you to explain your grievance and how you think it should be resolved, and to assist the investigating officer, on behalf of the Trust, to reach a decision based on the available evidence and the representations you have made. Everyone involved in the process is entitled to be treated calmly and with respect. The Trust will not tolerate abusive or insulting behaviour from anyone taking part in grievance procedures and will treat any such behaviour as misconduct under the disciplinary procedure.
- 9.4 After an initial grievance meeting further investigations may be carried out and further grievance meetings held as considered appropriate. Such meetings will be arranged without unreasonable delay.
- 9.5 The Trust will write to you, usually within 5 working days of the final grievance meeting, to inform you of the outcome of your grievance and any further action that we intend to take to resolve the grievance. You will also be reminded of your right of appeal. Where appropriate we may hold a meeting to give you this information in person.

## **9.6 Possible outcomes**

9.6.1 Whatever the outcome, the Commissioning Officer should meet with you and then the person allegedly causing the unacceptable treatment or behaviour individually to discuss the findings/outcome of the grievance meeting.

9.6.2 In addition, if the matter leads to a disciplinary hearing against the person allegedly causing the unacceptable treatment or behaviour, they will be entitled to receive a full copy of the investigation report and appendices in advance of the hearing.

9.6.3 The outcome and the next steps are entirely the decision of the person who received your grievance. Their decision will be based on a) the investigation findings and/or b) representations made by relevant parties at the grievance meeting and c) advice from HR as appropriate.

9.6.4 Outcomes may be:

- a. Your grievance is upheld and appropriate management action is taken against the person causing the unwanted behaviour. This may be formal action, such as disciplinary or capability procedures; or may be informal, such as training or a management discussion.
- b. Your grievance is not upheld and no further action will be taken.
- c. There may be instances where some points are upheld, and others not. In these cases, they are partially upheld. Management action may or may not be deemed necessary depending on the circumstances

9.7 If the person who received your grievance/Commissioning Officer considers, having regard to the investigator's report or their own investigation, that there is a case to answer for disciplinary action against the person allegedly causing the unacceptable treatment or behaviour, these findings should be discussed with HR and next steps agreed. It is good practice for them to keep you and the person allegedly causing the unacceptable treatment or behaviour updated so as to avoid any surprises. There should not be a requirement to commission a further investigation.

9.8 Following the grievance meeting, the Commissioning Officer in receipt of the written grievance shall summarise the conclusions of the grievance in a letter, including whether or not each part is upheld, not upheld or partially upheld. They should also summarise any action that the Trust proposes to take as a result of your grievance. The person who raised the grievance should be informed of the right of appeal, both at the meeting and subsequently in writing.

9.9 There may be some circumstances where you are unable to attend a meeting, or that you request to not attend. In these circumstances, you may request to only receive feedback in writing.

**10 APPEALS – STEP 3**

- 10.1 If the grievance has not been resolved to your satisfaction you may appeal in writing to the HR Manager stating your full grounds of appeal, within 5 working days of the date on which the decision was sent or given to you.
- 10.2 An appeal meeting will be held without unreasonable delay, normally within 15 working days of receiving your written appeal. This will be dealt with impartially by the Local Headteacher or a nominee of his/her choice who has not previously been involved in the case (although they may ask anyone previously involved to be present). Where the Headteacher has made the decision at the grievance meeting a panel of Trustees will hold the appeal meeting. You have a right to bring a companion to the meeting (see paragraph 8).
- 10.3 The Trust will confirm a final decision in writing, usually within 5 working days of the appeal hearing. This is the end of the procedure and there is no further appeal.

**11. FALSE OR MALCIOUS ALLEGATIONS**

- 11.1 Should the Trust reasonably believe and conclude that any employee has used this procedure to make deliberately false or malicious allegations; the Trust may treat this as an act of misconduct (potentially gross misconduct) and instigate an investigation in accordance with the disciplinary procedure.

**12. REVIEW OF POLICY**

- 12.1 This policy is reviewed and amended annually by the Trust. The Trust will monitor the application and outcomes of this policy to ensure it is working effectively.

<b>Reviewed and approved by:</b>	<b>Approval date:</b>	<b>Next Review date:</b>
F&GP	23/11/2020	Nov 2022

**Appendix 1**

**EMPLOYEE'S FORMAL GRIEVANCE STATEMENT**

Use this model letter if you wish to lodge a formal grievance under paragraph 6 of the grievance procedure.

Date.....

Dear.....

I am writing to advise you that I would like to raise a grievance. The details of my complaint are as follows (please include a full description of the nature of your grievance including any relevant facts, dates and times of issues and events giving rise to the complaint, and where relevant, impact that the perceived treatment or action has had on you):

The following people also witnessed the above incidents: [delete as appropriate]

[I have tried to resolve this matter informally, by....., but without success. I know that this has not been a success as...]

OR

[The reasons why I cannot attempt to resolve this matter informally are xxxx] I enclose copies of supporting emails/statements/photos etc to support my grievance.

I believe that my complaint could be resolved by [Explain necessary action e.g. mediation between me and X, moving my desk so that I am not sitting adjacent to X, me being line managed by a different manager].

I look forward to receiving an invite to a grievance meeting in line with the grievance procedure in due course.

Yours sincerely

[Name of employee]