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Code of Practice for

Settling Staff Grievances

2024-2025

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Code of Practice for Dealing with Staff Grievances

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1. Preamble

1.1 The purpose of this Code is to provide a mechanism for staff employed in Wandsworth Borough Council Schools to raise and resolve grievances, and to outline the steps to have the grievance dealt with in a fair and timely manner by the School/Council. This Code incorporates ACAS guidance on discipline and grievances.

1.2 Where the complaint concerns another school or employing department of the School/Council then the matter should be referred to the Head of Schools Support and Traded Services. The procedure set out in this Code is not intended to replace the usual good practice whereby an employee raises any concern or grievance quickly and informally with his/her immediate supervisor, but is available for use should that approach fail to resolve the complaint or is clearly inappropriate in the circumstances. An employee may at any stage take a matter up personally or consult with his/her trade union representative for advice or representation.

1.3 This Code was last updated in February 2020 and supersedes and replaces all previous policies, procedures and guidelines in relation to dealing with employee grievances.

2. Legislation and guidance

2.1 We are required to set our grievance procedure under general employment law.

2.2 We are required to set out grievance procedures under The School Staffing (England) regulations 2009, in particular regulation 7. (*Maintained Schools only)*.

2.3 This grievance procedure takes account of the "Acas code of practice on disciplinary and grievance procedures" and its accompanying guidance.

3. Definition

3.1 For the purposes of this procedure, a grievance is defined as a complaint, concern or issue raised by a member of the school's staff arising out of his or her employment with the School, and may include action which the School has taken or is contemplating taking in relation to that employee.

3.2 Examples of issues that may be considered a grievance and which may be raised under this Code include; terms and conditions of employment; health and safety issues; work relations; bullying or discrimination; new working practices; working environment.

4. Scope of the Procedure

4.1 The procedure applies to all staff in schools where the governors have formally adopted this as the Code.

4.2 This Code does not apply to matters which may be dealt with under any disciplinary, sickness, poor performance or probationary codes; unless there is a complaint under this procedure that the action being considered or taken under those codes or procedures would amount to unlawful discrimination, or if there is a complaint that the real reason for the action being considered or taken is unrelated to the reason given. In such cases, the Head of Schools Support and Traded Services must be consulted as to the arrangements to be put in place to deal with the requirements of both the Code and/or procedure under which action is being considered or taken and this procedure.

4.3 Complaints that you may have about any disciplinary action taken against you should be dealt with as an appeal under the **Disciplinary Code of Practice**. Grievances raised while you are subject to disciplinary proceedings will usually be heard only when the disciplinary process has been completed. Insofar as a grievance has any bearing on the disciplinary proceedings, it can be raised as a relevant issue in the course of those proceedings.

4.4 Issues not covered by this Code are:

a. The complainant is not an employee of the School;
b. The issue being raised is over six months old (or, if it relates to a continuous issue, the most recent occurrence happened more than six months ago);
c. The complainant is an agency worker (it is for the agency to investigate grievances raised by agency workers);
d. The complaint is about a dismissal or threatened dismissal; this should be dealt with in accordance with the relevant Code;
e. The employee complains about a warning or a suspension or other action short of dismissal under another Code. Any such complaint should be dealt with under the relevant Code unless the complainant states that the action being contemplated or taken under the relevant Code would amount to unlawful discrimination, or that the real reason for the action being contemplated or taken is unrelated to the reason given;
f. The complaint is about grading for Support Staff; appeals will be dealt with under the Schools Pay Policy appeals procedure;
g. The complaint is about the outcome of an appraisal and pay award decision for Teaching Staff; appeals will be dealt with under the School's relevant Pay and Appraisal policies and procedures;
h. The grievance is of a collective nature e.g. if it is being raised by a recognised trade union as a collective dispute on behalf of two or more employees, in which case it should be dealt with in accordance with the agreed joint consultative machinery;
i. The complaint is related to public interest in which case the Whistleblowing Code should be used.

5. Confidentiality

5.1 Any individual involved with this Code is expected to maintain confidentiality at all stages, except as required or permitted by the Code. Nothing in this Code shall prevent or restrict an individual who is raising a grievance under this Code from confidentially seeking legal advice, or union advice or representation.

5.2 Any individual who knowingly breaches the high standard of confidentiality expected by the School may be subject to disciplinary action.

5.3 Individuals should be aware that, in addition to the grievance document, the subject of the grievance and/or witnesses will normally be shown additional paperwork and information related to the grievance, which may include relevant emails and letters.

6. Recording of the meeting

6.1 The employee, or any person acting on his/her behalf, is not normally permitted to record electronically any meeting held by the organisation as part of the grievance procedure. This is to encourage openness and full participation by all parties during meetings. Any breach of this provision may lead to disciplinary action against the employee, up to and including dismissal.

7. Data Protection (GDPR)

7.1 The organisation processes personal data collected during informal complaints and the formal grievance procedure in accordance with its data protection policy. In particular, data collected as part of informal complaints and the grievance procedure is held securely and accessed by, and disclosed to, individuals only for the purposes of responding to the complaints or conducting the grievance procedure.

7.2 Inappropriate access or disclosure of employee or pupil data in breach of GDPR should be reported in accordance with the organisation's data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under the organisation's Disciplinary Code of Practice.

8. Conducting the grievance procedure

8.1 The School/Council recognises that a formal grievance procedure can be a stressful and upsetting experience for all parties involved. Everyone involved in the process is entitled to be treated calmly and with respect. The organisation will not tolerate abusive or insulting behaviour from anyone taking part in or conducting grievance procedures and will treat any such behaviour as misconduct under the Disciplinary Code of Practice.

9. Your right to be accompanied

9.1 You have the right to be accompanied by a work colleague or trade union representative or official at a Stage 2 grievance meeting or subsequent appeal heard under Stage 3 (subject to role as defined by ACAS and section 10(3) of the Employment Relations Act 1999). The trade union official need not be an employee of the organisation, but if he/she is not a fellow worker or an employee of his/her union, the organisation may insist on him/her being

certified by the union as being experienced or trained in accompanying employees at grievance meetings/hearings.

9.2 The choice of companion is a matter for you. Please note that individual workers are not obliged to agree to accompany you. Companions will be given appropriate paid time off to allow them to accompany colleagues at a Stage 2 grievance meeting or Stage 3 appeal hearing if appropriate notice has been given to the School/Council to make suitable arrangements for cover.

9.3 At any Stage 2 meeting or Stage 3 appeal hearing, your chosen companion will be allowed to address the meeting/hearing, respond on your behalf to any view expressed in the meeting/hearing, and sum up the case on your behalf. However, both the meeting and appeal hearing are essentially meetings between the organisation and you, so any questions put directly to you should be dealt with by you and not your companion.

9.4 Where your chosen companion is unavailable on the day scheduled for the Stage 2 meeting or Stage 3 appeal, the meeting/hearing will be rescheduled, provided that you can propose an alternative time within five working days of the scheduled date.

10. Stage 1 – Informal

10.1 Employees should make every effort to resolve their grievance informally with his/her immediate line manager/supervisor. When an employee wishes to raise a grievance, they should initially do so with their line manager.

10.2 The employee must provide their line manager with details of the complaint and outline how they think it could be resolved. The written statement will form the basis of the subsequent investigations and meetings, so it important the employee clearly sets out the nature of the grievance and indicate the outcome sought.

10.3 The manager shall meet with the employee to discuss the grievance in a timely manner. The manager should consider the issues raised by the employee and outline any immediate and/or long-term action may be taken to resolve the grievance. The manager shall confirm the action/s to be taken orally, as soon as possible. Should there be a delay in responding to the grievance the manager will keep the employee informed of any delays in responding to the grievance and a likely time scale for the outcome.

10.4 Where a grievance brought by an employee relates to the employee's immediate line manager, the employee shall be entitled to raise the grievance with the next most senior member of staff within the School

10.5 Where appropriate, mediation may be considered as a suitable remedy to resolve an issue. In this circumstance, all parties must be free and willing to participate and not feel pressurised into taking part. Cases where mediation is unlikely to be appropriate include issues of alleged discrimination, harassment or bullying.

10.6 Where the employee is not satisfied with the outcome of the informal Stage 1 process, they may wish to make a formal grievance by following Stage 2 of this Code. In this circumstance, the employee must raise the grievance formally within 5 working days from receiving the outcome of Stage 1.

11. Stage 2 – Formal

11.1 Employees can only proceed with a formal grievance under Stage 2 of this Code once he/she has raised the complaint informally under Stage 1 of this Code.

11.2 If the employee has raised the grievance informally with his/her line manager under Stage 1 of this Code but is not satisfied that it has been resolved, he/she should make a written request for the grievance to be dealt with formally using the appropriate request form within 5 working days of receiving the outcome of the Stage 1 informal meeting. Forms for this purpose may be found on the School's HR website or may be obtained from the school's office upon request.

11.3 The Headteacher (or senior member of staff nominated to act on behalf of the Headteacher) will act as Investigating Officer for the formal grievance. The Headteacher (or nominated person) may wish to have the support and guidance of Human Resources during Stage 2 of the grievance procedure and, if necessary, at Stage 3.

11.4 The Headteacher (or nominated person) will acknowledge receipt of the grievance and will arrange to meet with all interested parties individually as soon as possible after the grievance is received. The Headteacher will write to all interested parties confirming the date and time of their investigation meeting, advising them that they have the right to be accompanied by a work colleague or a recognised trade union representative or official. Where an employee raises a grievance relating to the actions of another employee, the

employee against whom a grievance has been raised will be notified in writing of the process to be followed and will have the right to representation at any investigation meeting.

11.5 At the meeting the employee will be given every opportunity to explain their case fully. The employee should confine their explanation to matters that are directly related to the grievance. Focusing on irrelevant incidents that took place long before the matters in hand are not helpful and can hinder the effective handling of the grievance. The Headteacher (or nominated person) may intervene if he/she thinks that the discussion is straying from the key issue/s. They may also intervene to ensure the meeting can be completed within a reasonable timeframe depending on the nature and complexity of the grievance.

11.6 The Headteacher (or nominated person) will consider the reason/s for the grievance including obtaining facts, timeline of events if appropriate or material evidence (e.g. emails, letters) and why the outcome at Stage 1 was deemed unsatisfactory by the employee. The employee must outline how they think the complaint should be resolved.

11.7 In more complex cases, it may be necessary for the Headteacher (or nominated person) to interview employees whom the grievance is against and any material witnesses. The Stage 2 formal investigation meeting will take place as soon as practicable after these investigation meetings are concluded.

11.8 The Headteacher (or nominated person) will arrange for a note taker to be present at such meetings to keep a record of the discussion. A copy of the record taken will be sent to the parties as soon as reasonably practicable, giving them the opportunity to check the notes of what was discussed and make note of any amendments if they wish and only according to their recollection of the meeting, within a specified timescale. If any party fails to return a signed record of the notes by the stated deadline, it will be taken that the records have been accepted as an accurate reflection of the meeting.

11.9 On completion of the Stage 2 investigation meetings, the Headteacher (or nominated person) will write to the employee confirming the findings and recommendations and detailing whether the employee’s suggested remedies are acceptable in whole or in part. The letter should address the grievance, including any attempts to resolve the grievance and, where possible, set out timescales for implementing any recommendations and appropriate action.

11.10 The employee shall be informed of their right of appeal under Stage 3 of this Code, if they are not content with the findings, outcome and any proposed recommendations and action under Stage 2.

11.11 Where the grievance relates to the actions of another employee then the Headteacher (or nominated person) should also write to the employee against whom the grievance was raised to advise them of the outcome of Stage 2 and any action to be taken. Where witnesses have been interviewed as part of the investigation, they should be advised in writing once the investigation is completed, although they should not be given any detail.

12. Stage 3 – Appeal

12.1 Where the employee considers that his/her grievance has not been satisfactorily resolved at Stage 2, they have the right to appeal at Stage 3 of this Code. The appeal must be submitted within ten working days from the receipt of the Stage 2 decision letter.

12.2 In exceptional circumstances, this time limit may be extended upon request to the chair of the Management Board stating the reason. An extension may be agreed at the discretion of the chair of the Management Board, but any extension must not cause unnecessary delay.

12.3 The appeal must be in writing and state the grounds for appeal. An appeal may be made on one of the following grounds;

a. A reasoned belief that the Headteacher (or nominated person) did not follow the Code properly and that this significantly affected the decision (i.e. a small procedural flaw which would not have significantly influenced the decision is not sufficient grounds for appeal).

b. A reasoned belief that the outcome of the Stage 2 investigation was one which no reasonable person could have come to. The fact that the employee disagrees with the Headteacher's (or nominated person's) decision is not sufficient grounds for upholding an appeal.

c. There is new evidence which supports the grievance that was not available or able to be considered or investigated at Stage 2 and it should therefore be considered by the Appeal Committee. Employees will be asked to demonstrate why this new evidence/information was not available or presented at the time of the Stage 2 investigation.

Appeals on any other grounds will not be allowed. If an appeal is disallowed the employee will be informed of this in writing.

12.4 If an appeal is lodged, the employee shall be invited to attend a Stage 3 appeal hearing before an Appeal Committee of governors. The procedure for this is as follows:

a. A meeting of the Appeal Committee shall be called as soon as practically possible, and wherever possible not more than twenty working days from the date of receipt of the employees request for an appeal under Stage 3 of the Code. The employee shall be notified in writing, giving at least five working clear working days notice of the date, time and place of the hearing and provision for representation. The letter shall be delivered by hand to the employees' workplace or residence, or posted recorded delivery.
b. The grievance shall be heard by three governors, forming the Appeal Committee, who have not previously been involved with the case, with the Head of Schools Support and Traded Services (or nominated person) present to give the Appeal Committee such advice as may be necessary relating to areas such as procedure, the requirements of employment law, conditions of service and codes of practice. (Wherever possible, three governors are preferred for the Appeal Committee. However where there are not three governors available for the Appeal Committee, it is permitted for two governors to sit on the committee).
c. All present shall have a copy of the written statement prepared by the Headteacher (or nominated person) responsible for the Stage 2 decision. This shall state the nature of the employees grievance, a summary of any investigations and actions taken under other stages of the Code and the decision taken at the Stage 2 meeting.
d. The employee or their companion shall be asked to state and explain the nature of the grievance and may also produce a written statement for consideration and call witnesses as necessary.
e. The Headteacher (or nominated person) may wish to have the support and guidance of Human Resources during Stage 3 of the grievance procedure. They may wish to call any member of staff who has had direct involvement in the case, may then question the employee, any representative and any witnesses called by the employee.
f. The members of the Appeal Committee hearing the case may also question the employee, any representative and any witnesses called by the employee or Headteacher (or nominated person).
g. The Headteacher (or nominated person) shall then be asked to respond, by reference to the written statement, explaining the circumstances which have been heard at Stage 2 and the reasoning behind the decision on the grievance that was taken at this stage.

h. The employee or the representative may then ask questions of the Headteacher (or nominated person) and/or other members of staff present.
i. The Headteacher (or nominated person) will then be given the opportunity to sum up.
j. The employee or their representative will then be given the opportunity to sum up.
k. Discussion may follow as necessary with the object of achieving to settle the grievance if possible, but it may be necessary having tried for that agreement, for the parties to withdraw for the Appeal Committee to consider all information and to formulate a decision.
l. If that occurs, the parties shall be recalled and informed of the Appeal Committee's decision on the grievance and such further action as the Appeal Committee may determine on behalf of the School.
m. The decision shall be confirmed to the employee in writing delivered by hand to the employees' workplace or residence or posted by recorded delivery.

12.5 The decision of the Appeal Committee on the grievance shall be final.

12.6 Where an important issue of principle arises, it may be referred to the appropriate joint consultative machinery for the employees appropriate staffing group (Teaching or Support).

13. Time Limits

13.1 The School is committed to completing all employee management processes within a reasonable timescale and not subjecting the employee to any undue delay. The periods given for the completion of stages of the Code are provided to ensure prompt resolution of the grievance in the interest of both the School and the employee.

13.2 At the request of the employee, the meeting (Stage 2) and hearing (Stage 3) may be postponed on one occasion. The employee must give the Headteacher (or nominated person) or Chair of Governors the reasons for the postponement, who will then decide whether to agree the postponement. If agreed, the employee should suggest an alternative date no later than 5 working from the original date.

13.3 Alternatively, it may be considered necessary for the School to extend a time limit. In such a case the Headteacher (or nominated person) or Chair of Governors will consult with the employee and any representative concerned as appropriate and provide details of the estimated timescales.

14. Absence

14.1 If the employee is off sick during any stage of the process, they may be referred to Occupational Health to provide the school with information about their fitness to take part in an investigation, attend a hearing or participate in any other way.

15. Malicious and Vexatious Grievances

15.1 Where, following the investigation, the allegations in the grievance are found to be without foundation and the view is taken that they have been brought maliciously or in bad faith, formal disciplinary action may be recommended against the person who brought the grievance.

15.2 The School recognises the right of employees to raise grievances relating to their employment. However, if an employee continues to raise grievances, which appear to be unfounded or repetitive, this may be regarded as vexatious and could lead to disciplinary action being taken against them. In such a situation, advice will be sought from the Head of Schools Support and Traded Services as to whether a grievance should be treated as vexatious.

16. Counter-grievances

16.1 Where an employee raises a grievance as a result of formal action being taken against them under another of the School's Codes of practice then the grievance will normally be treated separately and will not be dealt with until any action being considered under the other Code has been completed. See paragraph 3 of this Code for further details of the scope of the grievance procedure.

17. Grievances against Headteachers

17.1 If an employee's grievance relates to the Headteacher, then the Chair of Governors will call meetings under Stages 1 and 2 of this procedure. If the employee still remains aggrieved, the grievance may be referred by request of the employee for a Stage 3 hearing by the Appeal Committee of the Management Board.

18. Grievances against Council staff not employed in the School

18.1 If a grievance relates to the action of a member of staff from another School or a centrally based member of staff then the matter will be referred to the Head of Schools Support and Traded Services in the first instance. He/she will make such arrangements as are necessary for the steps contained in this procedure to be complied with.

19. Post-Employment Grievances

19.1 A grievance can only be raised by an employee of the School whilst in

employment; any such document received by a former employee of the School referred to as a grievance will be treated as a complaint. Any such complaints should be addressed to the Head of Schools Support and Traded Services, Town Hall, Wandsworth SW18 2PU, and the former employee must set out in writing the complaint and the basis for it. The written complaint must clearly state the desired resolution. In these cases, the Head of Schools Support and Traded Services will agree the appropriate arrangements for considering the complaint if able to and respond to the complainant concerning these arrangements as soon as possible after receipt of the complaint. In most circumstances it may be necessary for the Head of Schools Support and Traded Services to defer the complaint to the Chair of Governors to be handled under the School's normal complaint's procedure. If this is the case both the former employee and the Chair of Governors will be notified. Where a grievance is lodged before the employee's last day of service, but the procedure has not been started or completed before employment has ended, the School will consult the Head of Schools Support and Traded Services as to the arrangements to be used.

20. Support for employees involved in the grievance

20.1 Headteachers' recognise that whether an employee is raising a grievance or is the subject of a grievance, it is likely to be a stressful time for them and appropriate support should be offered. The School may offer the employee the support of the School's Employee Assistance Programme if the School buy into this service. Employees may also seek support as appropriate from their Trade Union.

21. Reasonable Adjustments

21.1 The school will consider requests for reasonable adjustments for any disabled employees in line with the Equality Act 2010. For further information the Investigating Officer will refer to current ACAS guidance.

22. Details of Process

22.1 Where the School/Council wish to amend this Code, it will seek to consult with recognised Trade Unions with a view to reaching agreement over any proposed changes. Where agreement cannot be reached, the School/Council reserve the right to implement the changes by giving employees one month's notice of the new Code.