

GRIEVANCE PROCEDURE

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1.0 **PURPOSE AND SCOPE**

- 1.1. The purpose of the procedure is to enable a problem or concern an employee may have about their work, working conditions or relationship with colleagues to be addressed and where possible resolved. The procedure applies to all BMBC employees including those employed in locally managed schools where the Governing Body have adopted the policy/procedure.
- 1.2. Employees should aim to settle most grievances informally with their line manager with many issues resolved during the course of the working relationship. However where issues/concerns are unable to be resolved in this way an employee should use this procedure. At the informal grievance stage employees have the right to inform their Trade Union (if relevant) in case the matter proceeds to a formal grievance.
- 1.3. Employees should utilise this procedure where they are unhappy about the treatment they have received and consider the Council/School has failed to adequately apply their rights.
- 1.4. The Managers Guidance Pack contains a suit of model letters and is best practice guidance for illustrative purposes to support Managers through the process.
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2.0 **KEY PRINCIPLES**

- 2.1. Grievances should be raised by an employee(s) within **3 months** of the incident/issue taking place.
- 2.2. An appropriate manager, who is not subject to the grievance, should deal with the grievance promptly considering where appropriate the need to allow an investigation of the facts (in such cases reference should be made to the Investigation Guidance and appropriate HR advice should be sought from the Human Resources Business Partner for the Service/School. See Appendix A – Grievance Flow Chart and Appendix B -FAQ's for guidance on the grievance process.
- 2.3. There will be matters outside of the control of the Council and the scope of the procedure that cannot be addressed via the Grievance Procedure:
- Statutory adjustments to pay and allowances (e.g. National Insurance, Income Tax, Pension Scheme). These must be discussed with Business Support Services, Pay Services.
 - Personal matters not directly related to employment. Employees may wish to discuss these with their Line Manager/Headteacher or Occupational Health Counsellor.
- 2.4. There are some issues which the procedure is unable to deal with and other Human Resources procedures should be utilised;
- Disciplinary Procedure,
 - Performance in Employment (Capability) Procedure,
 - Long Term Ill Health and Managing & Supporting Attendance Procedures,
 - Job Evaluation Scheme,
 - Dignity at Work Procedure however; this will follow the grievance process in relation to any formal investigations carried out.
 - Right to Request Flexible Working
 - Recruitment and Selection

- 2.5 An employee may during the course of a disciplinary process, raise a grievance. Where the grievance is related to the disciplinary case then it is appropriate that both matters are dealt with at the same time i.e. at one meeting. However it is advisable that another Manager is allocated responsibility for investigating the disciplinary aspect of the case. In instances where the grievance has no relationship to the disciplinary matter then both procedures may be dealt with concurrently.
- 2.6 An employee is entitled to be accompanied throughout the process at each meeting by a work colleague or designated Trade Union/Professional Association Official. However, this right does not extend to friends/family or professional persons such as solicitors and barristers.
- 2.7 Collective Grievances - Where two or more employees raise an identical grievance the employees may agree to have them addressed in the same grievance process. The employees may be represented throughout this process by a Trade Union Representative, one of the nominated employees or address the meeting individually. Collective grievances will follow the same process as an individual employee grievance.

3.0 **SCHOOL BASED EMPLOYEES**

- 3.1 The Governing Body has overall responsibility for the staff within the school. The Governing Body may delegate these responsibilities to the Headteacher, an individual Governor, or a group of Governors with or without the Headteacher. It should be noted however, that any Governor or Headteacher hearing the case must have had no previous involvement in the grievance process.
- 3.2 In the case of a grievance against the Headteacher, the Chair of Governors takes on the role of Manager as referred to throughout the procedure.
- 3.3 The Governing Body should ensure that all employees have the right to appeal at any of the formal stages to a panel of at least 3 Governors who have not been involved in the case or decision connected with the Grievance Procedure. Where there are not enough Governors available the appeal may be heard by 2 Governors. Where applicable there should be an equal number of Governors on the panel for the Grievance Meetings and Appeal Meetings.
- 3.4 The Investigator appointed to undertake the investigation should be of an appropriate managerial level/appropriate Governor and has had no prior involvement in the case and must not be an individual who is named in the grievance.

4.0 **MEDIATION**

- 4.1 The Manager/Headteacher should encourage mediation as a first resort to assist in resolving issues, concerns or misunderstandings that are being dealt with at the informal action stage or before matters escalate
- 4.2 Mediation is a voluntary and confidential process where the mediator helps two or more people in dispute to attempt to reach an agreement.
- 4.3 Further guidance about the mediation process and how it can be accessed is found in the [Council's Mediation Policy](#)

5.0 **ASSESSMENT OF THE INITIAL ISSUE/CONCERN**

When the issue/concern is raised with an appropriate manager, it is recommended that the appropriate manager obtains an overview of the situation promptly so that a decision can be made on whether they can address the issues/concerns or they need to forward the grievance to an Investigator at an appropriate level of management for consideration. A Grievance Flow Chart is attached at Appendix A to assist with the process.

This may involve:

- Speaking to the employee concerned.
- Speaking to any witnesses
- Ensuring other evidence is considered e.g. documentary evidence etc.
- Sharing the grievance with an alleged transgressor to obtain their views

5.1 Following this initial investigation it is advisable that the Manager/Headteacher provides a summary of their findings and agrees with the individual submitting the grievance the appropriate course of action:

- The issues/concerned can be dealt with by a discussion with the Manager. This would negate the need for a formal Grievance Meeting. Should the employee be dissatisfied with the findings they would have the right to a formal Appeal Meeting.
- Mediation is appropriate should all parties agree.
- Enough information is available to proceed immediately to a formal Grievance Meeting.
- An investigation, as outlined in the Investigations Guidance is necessary to establish facts before presenting these at a formal Grievance Meeting.

6.0 **FORMAL GRIEVANCE**

6.1 Where the grievance is of such a serious nature that an informal process **cannot** be followed the employee is required to submit their issues/concerns in writing to their Head of Service/Headteacher by completing a [Grievance Notification Form \(GN1\)](#). This should include as much detail as possible about the issues/concerns raised and the outcome the employee is seeking as remedy of the situation.

6.2 On receipt of a grievance the Manager should confirm receipt and where necessary an Investigator identified. The Investigator should be sufficiently senior to enable them to carry out a thorough assessment of the situation and make recommendations to any Grievance Panel on their findings. Account should be taken of the level of the officer bringing the complaint and any other parties involved to allow appropriate questioning. It is recommended that the Investigator refers to the Investigation Guidance and/or seeks advice from their HR Business Partner.

6.3 It is important that the investigation is carried out without unreasonable delay. The Investigator appointed to undertake the investigation should be of an appropriate managerial level/appropriate Governor and has had no prior involvement in the case and must not be an individual who is named in the grievance. The remit of the manager undertaking the investigation is to ascertain the appropriate evidence whilst maintaining an unbiased position. This usually requires the holding of investigatory meetings with the employee and where appropriate witnesses. Further guidance on how to undertake a investigation can be found in the Investigations Guidance.

- 6.4 Following completion of the investigation the Investigator should arrange a formal Grievance Meeting.

7.0 **INITIATING THE FORMAL GRIEVANCE MEETING**

- 7.1 If the employee submits a formal grievance - GN1 Form and wished to proceed to a formal Grievance Meeting the Investigator should:

- Notify the employee in writing of date, time and location of the formal Meeting and details of panel members.
- Send the employee all documentation they intend to refer to during the Meeting, along with an overview of the case. These will be provided to the employee/representative not less than 10 working days in advance of the date of the Meeting.
- Where the grievance relates to a colleague(s), advise them on the route being undertaken. If the alleged transgressor(s) feel sufficiently justified they may request to be in attendance for the full Meeting. **NB** It will be for the Panel to determine the outcome of this request at the commencement of the Meeting.

- 7.2 The employee/representative must also provide the Investigator and panel members with copies of all documents which the employee intends to rely on together with an overview of their case no less than 5 working days in advance of the date of the Meeting.

- 7.3 If the employee's representative is unable to attend on the specified date, the employee may request that the Meeting be postponed. They may then offer a reasonable alternative date without unreasonable delay. This will only be accommodated once. Where the employee is unable to attend the rescheduled Meeting without a justifiable reason then the Investigator will assume the employee no longer wishes to progress their grievance.

In normal circumstances the Panel conducting the Grievance Meeting should consist of:

- 7.4 **Non Schools** - an appropriate Manager. For meetings where the issues/concerns are of a complex nature this should be a Head of Service or above and a Human Resources Advisor should also be available to advise the panel.

Schools - The Headteacher or appropriate Panel of Governors who have been delegated this function in accordance with the School Staffing Regulations 2009 (refer to Section 3 and point 10.3) and who have not been involved in the investigation and are impartial to the process.

7.5 **The role of the Panel**

At the outset of the Grievance Meeting the Panel will need to consider whether to grant any request made by an interested party, which may include an alleged transgressor(s) or witness, to attend for the duration of the Grievance Meeting. Each request should be considered on its own merits and in particular the circumstances of the grievance, which would include the allegations being made, the employee bringing the grievance, the position of the alleged transgressor(s) and any other relevant consideration. The Panel, having consulted with either the Executive Director, Core Services or Service Director, Human Resources will then confirm its decision and reasoning to the interested party and the employee bringing the grievance.

The Panel should also consider whether any reasonable adjustments are necessary for the attendees.

- 7.6 The Panel will consider the evidence presented and make a determination of the issues based on the evidence. The Panel shall make recommendations it believes are appropriate.

8.0 **GRIEVANCE MEETING**

- 8.1 A recommended protocol for use when an employee wishes to attend a Grievance Meeting can be found at Appendix C.
- 8.2 It is expected that all witnesses attend the Meeting to be questioned. However, in some circumstances it may be impracticable or unacceptable for the witness to be present at the Meeting and in which case a copy of the signed written statement may be provided. Where witnesses are unable to attend the circumstances for their non attendance should be assessed and other methods may be utilised to ensure their evidence is considered i.e. written questions, video links etc. These alternative methods should be discussed on a case by case basis with the HR Business Partner/HR Provider. Witnesses can be accompanied but not represented by a Trade Union representative or Professional Association Representative or work colleague.
- 8.3 The Panel will fully consider the evidence and decide whether to uphold none/some/all elements of the grievance and then consider and make any necessary recommendations. These should be noted on the Grievance Procedure Action Plan (Appendix D)
- 8.4 The decision should normally be given verbally to the employee at the conclusion of the Meeting and confirmed in writing, within 5 working days. However, in some circumstances it may be necessary to communicate the outcome in writing rather than verbally. All parties should be advised of any changes to the method of communication and extension to timescales at the closure of the Meeting.

Where external witnesses do not attend for whatever reason, it is for the panel to determine the weight placed on the evidence presented in the witness statement.

9.0 **RIGHT OF APPEAL**

- 9.1 An employee who wishes to appeal against the decision following a Grievance Meeting should inform the appropriate Chair of the Grievance Panel, setting out in writing, the grounds for their appeal and the resolution the employee wishes to achieve. This should be submitted within 10 working days of receipt of the letter notifying them of the decision of the grievance panel. Arrangements should then be made for the Appeal Meeting.
- 9.2 **For Non Schools employees**, an appeal will be to the next level of Management. The only exception being a decision issued by an Executive Director. In such cases the Executive Director of another Directorate/ Department should hear the appeal. The Panel will include a Trade Union representative and Human Resources Business Partner who has had no previous involvement in the case.
- 9.3 **For Schools based employees**, the rights of the employee and the procedure for the convening an appeal shall be the same as for the initial Grievance Meeting. Section 3 details the responsibilities of the Headteacher/Governors in respect of the Grievance

Process.

- 9.4 The Appeal shall consider the matters and may include new evidence applicable to the issues/concerns raised but NOT relating to any new issues/concerns.
- 9.5 It is recommended that the Investigator should make arrangements for the Grievance Meeting and inform the employee in writing, giving 10 working days notice, of the requirement to attend the Appeal Meeting. The Investigator should inform any interested party of the appeal to enable the interested party to make a request to attend the Appeal Meeting. The Appeal Panel should give the same considerations to such a request as at paragraph 7.5.
- 9.6 A recommended protocol for use at the Appeal Meeting can be found in the Guidance pack.
- 9.7 The decision should normally be given verbally to the employee at the conclusion of the Meeting and confirmed in writing, within 5 working days. However in some circumstances it may be necessary to communicate the outcome in writing rather than verbally. All parties should be advised of any changes to the method of communication and extension to timescales at the closure of the Meeting.
- 9.8 The Appeal Panel may confirm or revoke the original outcome or substitute its own decisions and recommendations.

10.0 **GRIEVANCES RECEIVED IMMEDIATELY PRIOR TO EMPLOYMENT TERMINATING**

- 10.1 An employee may submit a formal grievance immediately prior to termination of their employment. The grievance must be in writing and could relate to issue(s) relating to their employment possibly detailed within their resignation letter. Pre termination grievances should be dealt with in accordance with the formal grievance procedure above.
- 10.2 It is recommended a grievance investigation is undertaken and the employee offered either a written response or formal Meeting to be held where possible before the employees last date of employment.

11.0 **GRIEVANCES AFTER EMPLOYMENT HAS ENDED**

- 11.1 If an employee raises a formal grievance within 14 days of leaving their employment it is recommended the Senior Manager/Headteacher investigates the issues raised and provides a written response to the former employee as soon as practicably possible.

12.0 **COMPLETING THE GRIEVANCE PROCESS**

- 12.1 On conclusion of the case:
- The Grievance Procedure Action Plan should be completed where appropriate identifying any recommendations.
 - A copy of the Plan, when the actions are complete, should be placed on the employee personal file and a copy kept securely within the Service.
 - A Policy Implementation Monitoring Form should be completed and submitted to the Policy Monitoring (HR) Inbox. [Guidance notes](#) for completing the form are available.

- The Investigator must ensure that all documents/evidence relating to the investigation is placed in a sealed envelope marked 'to be opened by Human Resources only' and should indicate that the contents relate to a grievance investigation and should be placed on the employee's personal file.

13.0 **EQUALITY AND DIVERSITY**

- 13.1 This policy has been impact assessed by Human Resources, if on reading this policy you feel there are any equality and diversity issues, please contact your Directorate Human Business Partner who will if necessary ensure the policy is reviewed.

14.0 **INCOME TAX AND NATIONAL INSURANCE CONTRIBUTIONS**

- 14.1 There are no income tax or national insurance contribution implications arising as a result of the Grievance Procedure.
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