Learning Accord Multi Academy Trust

Grievance Policy

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1. Introduction

1.1 Employees are entitled to receive a written statement of particulars in relation to their employment. This statement must include reference to a grievance policy, and more specifically should clarify the arrangements in place for an employee to complain about (or appeal against) the outcome of a grievance process.

1.2 The ACAS Code defines grievances as "concerns, problems or complaints that employees raise with their employers". These may be either:

- matters affecting themselves as individuals; or
- matters affecting their personal dealings or relationships with other employees.

1.3 In relation to grievances, it is stated by ACAS that *'... fairness and transparency are promoted by developing and using rules and procedures for handling grievance situations.*' Such rules and procedures should be set down in writing and should be both clear and specific.

1.4 Staff grievances can arise from a variety of sources within the workplace and it is desirable therefore that a staff grievance procedure fulfils two key purposes:

- to enable a grievance to be resolved informally, and as near to the point of origin as possible
- to set out a formal procedure that can be followed where the informal approach is either inappropriate or has been explored but has failed to resolve the issue.

1.5 Grievances may therefore be raised either informally (not necessarily in writing) or formally (which must be in writing).

1.6 The staff grievance procedure must be followed by any member of staff having an employment-related grievance. Ideally, no grievance should be raised except through this procedure.

1.7 In the event of a grievance being submitted by a staff member against the headteacher in person, the role of the latter, throughout this policy, will be undertaken by the chair of governors (and the remainder of this policy should be interpreted accordingly).

2. Purpose and scope

2.1 This procedure applies to all staff employed at the academy, including those employed temporarily. It may be used to deal with allegations of bullying or harassment (the essential nature of which may be sexual, racial, or other) although in certain circumstances the academy's Bullying and Harassment Policy may be a more appropriate vehicle to address such issues.

2.2 Grievances may be about terms and conditions of employment, relationships at work or the behaviour of colleagues. These issues may (the following list is not exhaustive) relate to matters such as:

- working practices
- health and safety issues
- organisational change
- equal opportunities.

2.3 Some grievances are minor or straightforward while others may concern more complex or fundamental issues and accordingly may prove more difficult to resolve.

2.4 It is important to draw a distinction between concerns relating to a personal grievance and issues relating to whistleblowing. The latter is relevant **only** to matters which are 'in the public interest' and which warrant a 'protected disclosure' to an appropriate authority. Personal issues (such as, for instance, those involving allegations of discrimination, bullying, harassment etc) do not normally qualify as whistleblowing concerns as they are relatively unlikely to be covered by the relevant legislation.

2.5 The aim of this policy is to achieve a fair and prompt resolution to individual grievances and to do so (where feasible) at an informal level and, in all cases, as speedily as possible.

3. Matters beyond the scope of a grievance procedure

3.1 The grievance procedure cannot be used to challenge formal outcomes of other procedures which have their own appeal process.

3.2 These include (but are not necessarily limited to) the following formal processes:

- attendance management
- capability
- disciplinary
- flexible working request
- redundancy.

3.3 Similarly, the grievance procedure is not applicable to collective disputes (which are normally dealt with through a collective dispute process).

3.4 Other than in extenuating circumstances, all grievances should be submitted within three months of the causative event (the episode which has led to their presentation) and the employer is under no obligation to investigate matters which are not raised within this timescale.

4. General principles of a grievance procedure

4.1 All documentation and discussion at meetings within the grievance procedure is to be treated as completely confidential.

4.2 At all stages in the procedures, the member of staff raising the grievance should have the right to be accompanied by either a work colleague or a trade union representative.

4.3 An employee may not be represented by a person who has a conflict of interest.

4.4 The formal procedure for dealing with grievances is as follows:

- the employee should set out in writing the nature of the grievance
- the employer should hold a meeting with the employee (at which the latter must be permitted to be accompanied as detailed above)
- the employer must decide on appropriate action.

4.5 At any meeting convened under this procedure, reasonable adjustments may be indicated (and should always be considered) for an employee with a disability (for example, the provision of a support worker or representative with knowledge of the disability and its effects) and access to an adjournment (irrespective of disability) should not be unreasonably refused.

5. What constitutes a grievance

5.1 In considering whether the grievance procedure has been triggered, the following points should be noted.

5.2 A grievance may be raised in various ways, such as:

- in a letter from the employee, in an email, in an informal note (even a 'post-it' note), or in a letter from a relevant third party such as a union representative;
- in communication dealing with a separate matter or making an application of some kind (for example, a flexible working request);
- within the text of a resignation letter.

5.3 In other words, **a communication does not have to be specifically flagged as a 'grievance' for it to be considered as such**.

5.4 The intention of the employee is not directly relevant, and the employee is not required to indicate that the complaint may be taken further. It is therefore recommended that senior management and governors treat all written complaints from employees (or their representatives) as potential employee grievances (not least as failure to do so could result in an increase in any compensation subsequently awarded to the claimant at an employment tribunal, should the matter progress to that level).

5.5 If the complaint is set out in a resignation letter the employee should be invited to a meeting to discuss the issues raised. However, if the employee does not attend such a meeting the employer should still write to the employee with an outcome, based on the available evidence (and where appropriate this may be following an investigation into the issues raised).

6. Overlapping grievance and disciplinary cases

6.1 If a grievance is raised by an employee after disciplinary proceedings against them have commenced, and the grievance relates to the disciplinary case (unrelated cases can proceed in parallel), a decision will be taken **either** to suspend the grievance until after the disciplinary issue has been dealt with **or** to hear the grievance at the disciplinary hearing.

6.2 Only in exceptional circumstances will a disciplinary hearing be suspended to deal with a grievance that has been raised after disciplinary process has commenced.

6.3 Depending upon the nature of the grievance, the headteacher may need to consider bringing in another manager to continue to hear the disciplinary case.

6.4 It is advisable that an HR advisor is present at all formal grievance (and/or disciplinary) hearings to support management and/or governors as appropriate.

7. Grievance procedure – informal stage

7.1 If a member of staff has a grievance with a colleague, they should endeavour to resolve the matter by direct approach to that colleague, or by arranging a meeting (which has no formal status) through their head of department or other appropriate senior colleague and making it clear that a concern is being raised informally.

7.2 Where the grievance is against the headteacher, deputy headteacher or other manager, the member of staff should similarly attempt to resolve the matter by a direct approach to that individual, or by bringing it to the attention of a senior manager.

7.3 As and when deemed appropriate, the headteacher may elect to appoint an investigating officer to look into the matter more deeply. The person appointed to this role must, whenever possible, complete their investigation within a maximum of ten working days.

7.4 The headteacher may also arrange for mediation should this be felt appropriate (although it must be noted that this cannot proceed without the agreement of all parties concerned).

7.5 Following an informal meeting (and, if deemed appropriate, investigation and/or mediation) an outcome letter will be provided to the employee who submitted the grievance. This should be supplied no later than five working days after the initial informal meeting took place (unless there is a delay to allow an investigation, or mediation, to take place).

7.6 Every attempt should be made by those involved to resolve a grievance at an early stage and through normal line management processes. Only when such an attempt has proved unsuccessful should formal process be followed. If an issue cannot readily be resolved informally it may be appropriate for the employee to seek advice and/or assistance from a senior manager prior to progressing to the formal stage.

7.7 If a written grievance is received where there has been no attempt to resolve the issue on an informal basis, it may be appropriate to enquire of the aggrieved individual whether there is a reason why they have not attempted to do so. In certain circumstances there may be benefit from requiring them to do this before escalating the matter to formal process, unless there is good reason (such as fear of victimisation or the seriousness of the issue) to omit this stage.

7.8 However, if the employee is dissatisfied with the outcome of the informal stage (or if the complaint is regarded as being sufficiently serious) it may be in order to proceed to the formal stage without unreasonable delay (and in all cases this should be no later than three months after the relevant event/incident occurred).

8. Grievance procedure – formal stage

8.1 Where the grievance has not been resolved at the informal stage (or the informal grievance procedure is deemed inappropriate) the aggrieved employee should be requested to submit formal written notice of the grievance (preferably on the form provided at Appendix 1) to the headteacher.

8.2 It is highly desirable that the recipient of the grievance (and/or the person delegated to deal with the matter) has a full understanding not only of the aggrieved employee's concern(s) but also of their perception as to how the grievance might be satisfactorily resolved (which may include an insight into their desired mechanism of redress).

8.3 To this end it is constructive for the aggrieved employee to complete the appropriate form as requested. However, the academy undertakes to address all grievances appropriately (even in the absence of the preferred official form being completed).

8.4 Following receipt of a formal grievance the headteacher may wish to arrange a meeting with the aggrieved employee to discuss the grievance and how they think it should be resolved. The employee is not obliged to meet with the headteacher (in which case the grievance must still be explored in accordance with policy) but if any formal meeting does take place (whether at this stage or later) the employee is entitled to be accompanied by either a work colleague or a trade union representative.

8.5 The headteacher may, at their discretion, choose to delegate a senior manager to undertake the task of dealing with the grievance (and accordingly the term 'headteacher' in the following paragraphs should be interpreted as including any person to whom this responsibility has been delegated). This option is not open to the chair of governors who may not delegate this responsibility although the governing body may, in the absence or indisposition of the chair, nominate another governor to deal with a grievance against the headteacher.

8.6 At this point, an investigation may be appropriate in which case the headteacher is responsible for appointing an investigating officer who should be impartial and who has had no previous involvement in matters related to the grievance (this may be an individual external to the academy). This is most often indicated in matters considered to be complex and/or sensitive.

8.7 The investigating officer will not be party to any decision on either the grievance or any related disciplinary procedure. The investigation must be completed as soon as is practically possible and a report prepared and sent to the headteacher.

8.8 At this point it will normally be appropriate for the headteacher to arrange a formal grievance meeting with the aggrieved employee in which the investigation report will be presented. This meeting gives the aggrieved employee the opportunity to discuss the content of any investigation report (which should be provided to them in advance of the meeting) before the headteacher reaches a final decision. A detailed record should be kept of any such meeting.

8.9 After full consideration of the issues (including, if appropriate, any further investigation that may be indicated) the headteacher will then communicate their conclusions to the aggrieved employee in writing. This correspondence should include any recommendations or proposals designed to resolve the issue(s).

8.10 Where the aggrieved member of staff does not accept the outcome of the grievance they may appeal against the decision to a separately constituted appeal panel. Any appeal should be submitted in writing within five working days.

8.11 The employee's written submission should explain the basis of the appeal by identifying:

- the specific element(s) of the outcome which they wish to dispute
- the grounds on which they are disputing such element(s)
- how they wish the grievance to be resolved.

8.12 Ideally, the form provided at Appendix 2 (entitled Grievance appeal proforma) should be completed and sent to the headteacher who will then arrange an appeal hearing.

9. Appeal hearing

9.1 On receipt of a written appeal from the employee, a hearing will be arranged, in which the aggrieved employee may appeal in person to one or more governors who have had no

previous involvement in the matter. (For clarity, hereinafter the words 'panel' or 'chair' should be taken to include a governor who may be hearing the case alone.)

9.2 The panel should be provided with the written outcome of the grievance, and the headteacher (or other person delegated to deal with the matter) should be invited to attend the appeal hearing.

9.3 Every effort should be made to accommodate the presence of the employee's trade union representative or work colleague, including rescheduling of the grievance appeal hearing if the original date proposed is not acceptable to all parties. Any rearranged appeal hearing should take place within five working days of the original date proposed.

9.4 The appeal will focus on specific reasons for not accepting the previous decision. Appeals which fail to identify any actual legitimate grounds for appeal should be rejected.

9.5 Appeals against grievance decisions will usually only be considered by the panel in relation to one or more of the following grounds, and accordingly the appeal submission should detail how:

- (*in relation to* ***procedure***) procedural irregularities prejudiced the grievance decision
- (*in relation to* ***facts***) the facts do not support the decision or were misinterpreted or disregarded – the appeal should also detail any new evidence to be considered in cases where this is admissible*

  **Additional written evidence should only be admissible at the appeal stage if it could not reasonably have been submitted for consideration at the formal stage*
- *(in relation to* ***proposed action or sanction)*** the proposed action or sanction is inappropriate given the circumstances of the case.

9.6 The order of the appeal hearing should be as follows:

i. the chair of the panel explains the process (advised by the HR Advisor)
ii. the employee presents their appeal
iii. questions may be asked (through the chair) by the headteacher (or other management representative) and/or the panel
iv. the headteacher (or other management representative – possibly the investigating officer) gives their response
v. questions may be asked (through the chair) by the employee and/or the panel
vi. both employee and management are entitled to call witnesses (who should be held available for questioning)
vii. once all the evidence has been presented, the chair will close the hearing to allow the panel to deliberate before reaching a decision
viii. before making their decision the panel will also consider, in addition to oral evidence, any written evidence presented (where this is admissible*).

  **Additional written evidence should only be admissible at the appeal stage if it could not reasonably have been submitted for consideration at the formal stage*

9.7 Notes should be taken of the hearing (clerk to governors may perform this role), and during the hearing either employee or management may request an adjournment at any point.

9.8 The decision of the appeal committee will be communicated in writing to the employee within a reasonable timescale following the appeal hearing (usually within five working days).

9.9 The decision of the appeal committee is final, and this represents the conclusion of the grievance process.

10. Non-attendance during grievance investigation or appeal

10.1 If an employee is unable or unwilling, without good reason, to attend meetings concerning the resolution of a grievance and/or to communicate with the headteacher, the latter may proceed to reach a decision (in determining the grievance) based on the available evidence.

10.2 If an employee is unable or unwilling, without good reason, to attend a grievance appeal hearing, the panel may proceed to reach a decision (in determining the appeal) based on the available evidence.

11. Grievance submitted at the end of employment contract

11.1 Technically, a grievance can only be submitted by, or on behalf of, an employee. (The essential purpose of a grievance procedure is to constitute a mechanism whereby an employee may raise a problematic issue with their employer, with a view to resolution of that issue, and accordingly if the individual is no longer an employee then that procedure is no longer germane.)

11.2 If an employee raises a grievance and subsequently gives notice that they are leaving, or their employment is to be terminated, every effort should be made to investigate the grievance before they leave. Even if it is not possible to fully investigate the matter before the end of their employment contract a written response should nonetheless be sent to the employee.

12. Other policies and procedures

12.1 This policy will be supported by the following policies and procedures:

- Bullying and Harassment Policy

Appendix 1: Grievance proforma (formal submission)

Section 1: Employee details

Name: .....

Post: ..... Location: .....

Contact details: Telephone: ..... Email: .....

Section 2: Employee representation details

Please provide contact details for your trade union representative (you are entitled to be represented by a trade union representative or work colleague at any stage of the formal procedure).

Name: .....

Name of trade union: .....

Contact details: Telephone: ..... Email: .....

Section 3: Grievance details

Please detail your grievance giving full details of dates, incidents, parties involved, witnesses, circumstances etc.

Additionally, where possible, please ensure that you include or reference the following specific details:

- the date that this issue commenced
- whether this is a one-off issue, or part of a sequence of events
- which policies, procedures or employment terms you believe to have been breached
- what action/steps you have taken to resolve the issue informally, and with whom and when
- copies of any relevant documentary information
- what you are looking for in terms of a redress/satisfactory outcome

Note: this procedure is intended to support the resolution of any grievance(s) as quickly and fairly as possible to avoid any minor issues developing into more serious matters.

Please state your grievance:

(continue on a separate sheet if necessary)

Please state what you are seeking as a satisfactory outcome to your grievance:

Signed: ..... Date: .....

Name (Printed): .....

Appendix 2: Grievance appeal proforma

Section 1: Employee details

Name: .....

Post: ..... Location: .....

Contact details: Telephone: ..... Email: .....

Section 2: Employee representation details

Please provide contact details for your trade union representative (you are entitled to be represented by a trade union representative or work colleague at any stage of the formal procedure).

Name: .....

Name of trade union: .....

Contact details: Telephone: ..... Email: .....

Section 3: Appeal

As you are appealing against the outcome of the formal stage of the grievance procedure, you must ensure that you state why you are dissatisfied with the manager's decision. Your appeal should focus on specific reasons for not accepting the previous decision.

Appeals which fail to identify any actual grounds of appeal may be rejected, and appeals against grievance decisions will usually only be considered by the panel in relation to one or more of the following grounds, and accordingly the appeal should detail how:

- (*in relation to **procedure***) procedural irregularities prejudiced the grievance decision
- *(in relation to **facts)*** the facts do not support the decision or were misinterpreted or disregarded – the appeal should also detail any new evidence to be considered in cases where this is admissible*

  **Additional written evidence should only be admissible at the appeal stage if it could not reasonably have been submitted for consideration at the formal stage.*
- *(in relation to **proposed action or sanction)*** the proposed action or sanction is inappropriate given the circumstances of the case.

Please state your reasons for appealing against the previous outcome:

Please state what you are seeking as a satisfactory outcome:

Signed: ..... Date: .....

Name (Printed): .....