

# Grievance, Bullying and Harassment Policy and Procedure

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| <b>Reviewed By</b>      | <b>R Leonard</b>              |
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| Title                     | Grievance, Bullying and Harassment Policy and Procedure  |
| Date                      | March 2021   |
| Supersedes                | Grievance Policy 2016 and Dignity at Work Policy 2016  |
| Amendments                | To take into account advice issued by the Department for Education (DfE) including Keeping Children Safe in Education (Sept 2020). Updated protected characteristics under the Equality Act 2010 |
| Related policies/guidance | Disciplinary Policy and Procedure, Safeguarding Policy, Acceptable use of ICT policy, Social media Policy, Code of Conduct, Equality Policy.   |
| Review                    | annually   |

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## **1. Introduction**

- 1.1. This Grievance, Bullying and Harassment Policy and Procedure (referred to as a procedure only hereafter) provides a process for addressing complaints by trust employees including grievances and also including dignity at work issues involving alleged incidents of bullying and harassment.
- 1.2. This procedure accords with education and employment legislation and also takes into account the provisions of the ACAS Code of Practice on disciplinary and grievance procedures, the related ACAS Guide, the ACAS Guide on bullying and harassment at work and the rules of natural justice.
- 1.3. The objective of this procedure is to ensure that, as far as possible, complaints are dealt with and resolved informally through discussion between the aggrieved employee and his/her line manager.
- 1.4. This procedure does not replace the normal interaction between management and employees and recognises that any complaint about the treatment an employee has received or about any aspect of his/her work should, in the first instance, be dealt with promptly and informally and without reference to formal procedures.
- 1.5. The formal stage of this procedure should only be used when it has not been possible to resolve an issue informally, when it is not reasonably practicable for the matter to be resolved informally or when the informal process is not being progressed at a reasonable speed.

## **2. Key Principles**

- 2.1 Every employee has the right to be treated with dignity and respect in the workplace and The Trust is committed to providing a supportive working environment. It is recognised and accepted however that there will be situations where employee complaints arise and accordingly, this procedure sets out a framework for the management of such complaints.
- 2.2 The Trust Board, Local Governing Body, Central leadership Team and Academy Lead will seek to:
  - Ensure that all employees are able to achieve their full potential at work by creating a working environment where everyone is treated with dignity and respect.
  - Increase awareness of the unacceptability of any form of unfair treatment including harassment and bullying.
  - Create a working environment in which employees feel confident to bring forward any complaints without fear of victimisation.
  - Ensure that complaints are dealt with effectively, investigated appropriately and without unnecessary delay.
- 2.3 The Trust recognises that employee disputes can be a stressful and upsetting experience for all affected parties. Everyone involved in the process is entitled to be treated with respect. The matters under investigation will remain confidential at all times throughout the procedure and putting pressure on or canvassing other parties to join in with a complaint will be seen as inappropriate and will be regarded as inconsistent with the key principles in this procedure. The Trust and its academies will not tolerate abusive or threatening behaviour at any time, including during the management of this process.

Any such behaviour will be treated as misconduct and will be dealt with in accordance with the trust's disciplinary procedure.

- 2.4 This procedure is intended to deal with matters of genuine concern and substance where no other procedure would be appropriate. It cannot be used to challenge formal outcomes from other procedures which have their own agreed appeal process. This includes, but is not limited to, the outcomes of disciplinary, capability, ill health dismissal, and/or redundancy proceedings.
- 2.5 Anyone who attempts to use this procedure to pursue a personal grievance not related to their employment or who raises a vexatious claim will be dealt with in accordance with the trust's disciplinary procedure.
- 2.6 All person(s) involved in the investigation of complaints under this procedure will be mindful of their obligations and duties under the Equality Act 2010. Reasonable adjustments will be made where required to assist an employee or his/her companion with a disability. If there are any language issues affecting an employee and/or his/her companion, these will be reasonably addressed so matters can proceed fairly.

### 3. Scope

- 3.1 This procedure applies to all Bolton Impact Trust employees. It does not apply to self-employed staff, contractors, external consultants, agency staff and school governors or trustees.
- 3.2 The procedure applies to all **complaints** made by an employee relating to his/her employment which may be either:-
  - A **grievance** regarding a relevant issue arising in the workplace, or
  - Any dignity at work issue involving alleged incidents of **bullying and/or harassment**
- 3.3 For ease of reference in this procedure, references to complaints will include grievances and bullying and/or harassment issues.
- 3.4 This procedure also applies to collective grievances concerning workplace issues and to collective dignity at work issues involving alleged incidents of bullying and/or harassment.

### 4 Definitions

#### 4.1 Grievance

A grievance is defined within the ACAS Code of Practice on Disciplinary and Grievance Procedures as "*concerns, problems or complaints that employees raise with their employers*".

A grievance under this procedure could relate to any of the following:-

- Terms and conditions of employment
- Working environment
- Working conditions
- New working practices
- Organisational change

- Health and safety
- Working relationships
- Discrimination
- A breach of statutory employment rights

## 4.2 Bullying and Harassment

In the ACAS Guide on the management of bullying and harassment at work, bullying and harassment are defined as follows:

**Bullying** is characterised as:-“*offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient*”.

**Harassment** is defined by reference to the definition in the Equality Act 2010, as: “*unwanted conduct relating to a relevant protected characteristic, which has the purpose or effect of violating an individual’s dignity or creating an intimidating, hostile, degrading humiliating or offensive environment for that individual*”.

- 4.3 The relevant protected characteristics under the Equality Act 2010 are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation.
- 4.4 Behaviour which constitutes bullying and/or harassment may occur on a single occasion; it may be sporadic or it may take the form of a continuing process.
- 4.5 The ACAS Guide makes clear that bullying and harassment does not necessarily occur face to face. It may occur for example through written communications, social media, and visual images (for example pictures of a sexual nature or embarrassing photographs of colleagues) by email or by telephone.
- 4.6 It should be noted that it is inevitable that there will be instances where an employee dislikes or disagrees with an instruction given by his/her manager. Notwithstanding the above, where a manager is legitimately carrying out his/her management responsibility in an appropriate and reasonable manner this will not constitute bullying and/or harassment.
- 4.7 Examples of unacceptable behaviour as detailed in the ACAS Guide include, but are not limited to, the following:
- spreading malicious rumours, or insulting someone by word or behaviour;
  - copying memos that are critical about someone to others who do not need to know;
  - ridiculing or demeaning someone – picking on them or setting them up to fail;
  - exclusion or victimisation;
  - unfair treatment;
  - overbearing supervision or other misuse of power or position;
  - unwelcome sexual advances – touching, standing too close, display of offensive materials, asking for sexual favours, making decisions on the basis of sexual advances being accepted or rejected;

- making threats or comments about job security without foundation;
- deliberately undermining a competent employee by overloading and constant criticism;
- preventing an employee's progress by intentionally blocking promotion or training opportunities.

## 5 Informal Resolution

- 5.1 Individuals may wish to try to resolve the matter by a direct approach to the individual(s) involved with the aim of resolving the complaint informally. Managers should be willing to deal with an employee's complaint at an early stage.
- 5.2 An informal complaint should be raised as soon as possible (and within a reasonable time frame) following the act or decision complained about or following the last act or decision complained about if the complaint relates to a series of linked events.
- 5.3 The employee's line manager may be able to resolve a complaint informally as part of his/her day-to-day management responsibilities. It may be beneficial for the parties involved to explore the informal route to encourage them to communicate and agree a way of working together for the future.
- 5.4 If an employee has a complaint and a direct approach is considered inappropriate or if the direct approach has failed and the matter remains unresolved, the employee may ask his/her line manager to look into matters and try to resolve the issue informally within a reasonable timeframe.
- 5.5 Employees, who feel they are being harassed, bullied or made to feel uncomfortable at work and who feel confident enough, may choose to explain to the individual(s) involved that their conduct is unwelcome and offensive, and ask for it to cease. Employees may do so on their own or ask for a third party to accompany them, for example, a colleague, who may be able to help to resolve the complaint informally.
- 5.6 Mediation through an independent third party or mediator is a possible option as an alternative way to resolve employee complaints before invoking the formal procedure. Mediation is a voluntary process where the mediator helps two or more people in dispute to attempt to reach an agreement. It is not the place of the mediator to judge, to say one person is right and the other wrong, or to tell those involved in the mediation what they should do. The mediator will facilitate the process of seeking to resolve the problem. The overriding aim of workplace mediation is to restore and maintain professional working relationships. Any Mediation Guidance adopted by The Trust should be referred to. The Trust will contact One Education HR for advice and guidance.
- 5.7 Where an informal approach is not possible or where it is not appropriate or has been unsuccessful in resolving the complaint, then formal action may be necessary.

## 6 Initiating a Formal Complaint

- 6.1 Where, for whatever reason, it is not possible to resolve a complaint informally then the employee may initiate a formal complaint. A formal complaint should be raised without unreasonable delay and in any event, **within three months** of the incident or decision which gives rise to the complaint. Employees should raise formal complaints in the first instance with the Academy Lead. The Academy Lead may investigate the complaint or may nominate a member of the Academy/Trust senior leadership team to investigate the complaint. If the complaint concerns the Academy Lead or a member of the Central

Leadership Team, the formal complaint should be raised with the Executive Principal who may investigate the complaint or who may appoint a governor or trustee to investigate the complaint. If the complaint concerns the Executive Principal, the formal complaint should be raised with the chair of trustees.

- 6.2 In this procedure, the employee raising a formal complaint is referred to as the Complainant. The person with responsibility for investigating and considering the Complainant's complaint is referred to as the Nominated Manager. The person(s) against whom the complaint(s) has/have been made is/are referred to as the Respondent(s).
- 6.3 The Nominated Manager may be assisted in the investigation process by the trust's HR provider, One Education.
- 6.4 In all cases, to initiate the formal process the Complainant will be required to put his/her complaint in writing (see Appendix 1 - Statement of Complaint pro-forma). The written Statement of Complaint will form the basis of the formal complaint, the subsequent investigations and decision-making process, so it is important that it clearly sets out:
- The nature of the complaint – what is alleged to have occurred, where and when;
  - The reason for dissatisfaction with the informal solution (if the complainant has attempted to resolve the matter informally);
  - The remedy the Complainant is seeking;
  - Any witnesses to the matter(s) complained about.
- 6.5 Following receipt of the written Statement of Complaint further attempts may be made to resolve the matter informally if this is considered appropriate and depending on the nature of the complaint.

## 7 The formal investigation

- 7.1 On receiving a formal Statement of Complaint the Nominated Manager should contact the Complainant **within five school working days** to arrange a date, time and venue for an initial investigation meeting with the Complainant to explore the nature of the complaint. The meeting should take place as soon as is reasonably possible. The Complainant is entitled to be accompanied at the meeting by a colleague or trade union representative. The Nominated Manager may be accompanied at the meeting by the school's HR adviser. The purpose of the meeting will be to clarify the nature of the formal complaint and any issues in relation to the information submitted. The Complainant should confine his/her explanations to matters which are directly relevant to the complaint. Focusing on irrelevant issues or incidents that took place long before the event(s) leading to the complaint is not helpful and can hinder the effective handling of the complaint.
- 7.2 In the case of collective complaints about the same issue, the initial investigation meeting should be held with a representative nominated by the Complainants. The representative may be one of the Complainants or may be a colleague or a trade union representative. A decision will be taken at the initial meeting on how to approach the collection and presentation of evidence to the Nominated Manager.
- 7.3 At the initial investigation meeting the Complainant (or the Complainants' representative in the case of collective complaints) will be asked to confirm what the Complainant(s) is/are seeking by way of a resolution. The Nominated Manager will give serious consideration to the resolution sought by the Complainant(s) when looking at possible outcomes and recommendations.



- 7.4 If the Nominated Manager feels that a wider investigation is required following the initial meeting then the scope of that wider investigation should be explored. An estimated and realistic date should be set for the completion of the wider investigation and confirmed to the Complainant(s) in writing. The Nominated Manager may be assisted in the investigation by the school's HR adviser.
- 7.5 If a wider investigation is required, the Nominated Manager should explain to the Complainant or to the Complainants' representative that the details of the formal Statement of Complaint will need to be shared with the Respondent(s) in order to allow the Respondent(s) the opportunity to reply.
- 7.6 In normal circumstances, the investigation carried out by the Nominated Manager will include interview(s) with the Respondent(s). The investigation may also include conducting interviews with other individuals including members of staff and/or witnesses external to the trust.
- 7.7 The Respondent(s) shall be notified of the date, time and venue for the investigation meeting in writing and be provided with details of the complaint made against him/her. These details should be provided to the Respondent(s) at least **five school working days** in advance of the investigation meeting. The Respondent(s) has/have the right to be accompanied at the meeting by a colleague or trade union representative. The Respondent(s) should confine responses to matters that are directly relevant to the complaint.
- 7.8 If further allegations or information come to light during the course of the investigation process the Nominated Manager will investigate them appropriately and document his/her findings.
- 7.9 The Nominated Manager will consider whether it is appropriate to hold a meeting jointly with both parties present during the investigation in order to allow both parties the opportunity to present their complaint/response directly to one another.
- 7.10 Meetings should be held privately, in confidence and without interruptions and should be fully documented by the Nominated Manager.
- 7.11 If during the investigation process, counter allegations are made by the Respondent(s), where the counter allegations concern the same issues raised by the Complainant(s) in the Statement of Complaint, the matter will be investigated as part of the same process. If the counter allegations are unrelated to the issues raised in the Statement of Complaint, the issues will be dealt with separately. Advice should be taken from the school's HR provider in cases where counter allegations are made.

## 8 The Outcome

- 8.1 Following the completion of the formal investigation, the Nominated Manager, with appropriate advice, should give the matter serious consideration and may wish to consider a number of possible options focusing on how best to resolve the complaint. This will take into account the impact on the Complainant(s) and the Respondent(s) and on the school/trust as a whole.
- 8.2 The Nominated Manager should consider any action that may help to re-establish positive working relationships for all parties to a complaint and the Complainant(s) and the Respondent(s) are expected to agree to any resulting recommendations.
- 8.3 The Complainant(s) should be notified of the outcome of the complaint within **ten school working days** of the conclusion of the investigation or within alternative timescales as

previously agreed with the Complainant(s). If for any reason it is not reasonably possible to respond within the timescales detailed in this paragraph, the Complainant(s) should be advised when a written response can be expected.

- 8.4 The outcome may be given verbally to the Complainant(s) but should always be confirmed in writing along with the reasons for the decision reached. The written outcome letter will summarise the findings, will set out any recommendations and further action to be taken and will outline the right to appeal to an Appeal Manager or to an Appeal Committee as appropriate.
- 8.5 Where the Respondent(s) has/have been interviewed as part of the formal investigation process, the written outcome will also be copied to the Respondent(s) as appropriate.

## 9 Appeal

- 9.1 If the Complainant(s) is/are dissatisfied with the outcome, there is a right of appeal to an Appeal Manager/Appeal Committee as appropriate. Confirmation of the position will be detailed in the outcome letter.
- 9.2 The Appeal Manager will be the Academy Lead or the Executive Principal. In cases where the Academy Lead or Executive Principal has been involved in the investigation of the complaint as the Nominated Manager or where the complaint concerns the Academy Lead or Executive Principal, the appeal will be heard by an Appeal Committee.
- 9.3 The Appeal Committee will be a committee of three trustees/local governors (at least 1 trustee) from the academies local governing body and trust board. None of the representatives sitting on the Appeal Committee will have had any prior involvement in the investigation of the complaint as Nominated Manager or otherwise.
- 9.4 The Appeal Manager/Appeal Committee may request the assistance of the school's HR adviser in connection with the appeal.
- 9.5 Detailed grounds for appeal should be submitted in writing to the Appeal Manager/Appeal Committee within **ten school working days** of the date of the outcome letter. The Complainant should use the Appeal Form attached to this procedure at Appendix 2.
- 9.6 When lodging an appeal the Complainant(s) should state the grounds for the appeal. Appeals will be considered on the following grounds:
  - procedural irregularities prejudiced the outcome of the complaint;
  - there was bias amongst the original decision maker(s);
  - new information/evidence has come to light that should be investigated;
  - the proposed action (e.g. mediation) is inappropriate in all the circumstances.
- 9.7 If the Appeal Manager/Appeal Committee considers it appropriate for an appeal meeting to be held, an appeal meeting will be arranged as soon as is reasonably practicable following receipt by the Appeal Manager/Appeal Committee of the written appeal.
- 9.8 There may be cases where the Appeal Manager/ Appeal Committee considers that it is appropriate for the appeal to be dealt with without the need for an appeal meeting.
- 9.9 Any appeal meeting will, in normal circumstances, be held no later than **twenty school working days** following receipt by the Appeal Manager/Appeal Committee of the written appeal. If it is not possible for an appeal meeting to be held within this timeframe, the Complainant(s) should be advised when the appeal meeting can reasonably be expected

to take place.

- 9.10 In the case of an appeal concerning collective complaints about the same issue, there should be a meeting with the representative nominated by the Complainants about how the appeal process will be managed and in particular whether an appeal meeting should take place and if so, who should attend the appeal meeting.
- 9.11 Where the Appeal Manager/Appeal Committee determines that further investigation(s) is/are necessary in order for the appeal to be considered, the Complainant(s) will be advised of this along with an estimated timescale for completion of the further investigation(s). If there has been an appeal meeting, the appeal meeting will be adjourned pending the outcome of the further investigation(s) and will be reconvened once the further investigation(s) has/have been completed.
- 9.12 The Appeal Manager/Appeal Committee will consider the grounds of appeal put forward by the Complainant(s) and will consider whether or not to uphold the grounds of the appeal. The appeal process will **not** involve a reconsideration of the original complaint(s), but will focus on the specific areas with which the Complainant(s) is/are dissatisfied
- 9.13 The Appeal Manager/Appeal Committee will give the appeal serious consideration and following the conclusion of the appeal process, will write to the Complainant(s) without unreasonable delay to inform the Complainant(s) of the outcome of the appeal and of any action proposed.
- 9.14 The Complainant(s) will be informed that the decision of the Appeal Manager/Appeal Committee is final and that there is no further right of appeal.
- 9.15 Where appropriate, the written appeal outcome will also be copied to the Respondent(s).

**Statement of Complaint**

|   |  |
|---|--|
| Employee Name   |  |
| Job Title   |  |
| Academy   |  |
| Outline of issues including what is alleged to have occurred, where and when.<br><b><i>(Please continue on a separate sheet if necessary)</i></b> |  |
| Name(s) of any witness(es)  |  |
|   |  |
|   |  |
| Supporting documents attached (if any)  |  |
|   |  |
|   |  |
| Outcome sought:-  |  |

This form should be submitted to the Academy Lead no later than **three months** of the issue/decision concerned for investigation and action. If the complaint concerns the Academy Lead or a member of the Central Leadership Team this form should be submitted to the Executive Principal. You will be contacted within **five school working days** to arrange an initial investigation meeting to discuss your complaint. .

Signature ..... Date .....

Appeal Form

**APPEAL AGAINST OUTCOME OF COMPLAINT**

Please complete this form in full if you are dissatisfied with the outcome of your complaint. You may complete it personally or with your permission, your representative may complete it on your behalf.

Please return this form, together with any supporting documents to the Appeal Manager/ Appeal Committee **within 10 school working days** of the date of the letter advising you of the outcome of your complaint.

You must clearly state why you wish to appeal and specify why you disagree with the outcome of your complaint .Please indicate below the grounds for your appeal:

- a) procedural irregularities prejudiced the outcome
- b) there was bias amongst the original decision makers
- c) new information/evidence has come to light that should be investigated
- d) the proposed action (e.g. mediation) is inappropriate in the circumstances

In all cases, you must give full details for your reasons. If you are appealing on the grounds that new information/evidence is available you should also explain why this information/evidence has only just become available.

**Please note that appeal process will focus on the specified grounds of appeal and will not be a reconsideration of the original complaint.**

|  |
|--|
| I wish to appeal against the outcome of my complaint because .....         |
| <b><i>Please continue on a separate sheet if more space is needed.</i></b> |
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Signature .....  
Date.....