

# The Mercian Trust

# Grievance Policy

<b>Policy Owner</b>	<b>The Mercian Trust</b>
<b>Policy Author:</b>	<b>Insight HR Ltd</b>
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<b>Date to be Reviewed:</b>	This policy is currently under review as part of the Trust merger process with Q3 academies. The policy details contained within the document have previously been ratified by the board and remain in place whilst the merger review is being undertaken.
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## **1. Introduction**

- 1.1 This procedure applies to all employees. It is important that suitable rules and procedures are in place which will promote fairness and consistency in the treatment of individual employees, and which reflect the relevant policy on equal opportunities and appropriate legislation regarding individual employment rights.
- 1.2 This procedure should be followed when dealing with a grievance or dispute in relation to an individual's employment including bullying and harassment. The Trusts Anti bullying and harassment statement can be seen in Appendix 1. The procedure does not apply to matters relating to:
- Dismissal, disciplinary or capability matters
  - Allegations of health and safety issues, unethical conduct, conduct that is an offence, fraud, corruption or financial malpractice (Confidential Reporting (Whistleblowing) Procedure).
  - Applications for grading, re-grading and appeals (Job Evaluation and Grading Procedure)
  - Any situation where alternative appeal procedures exist
  - Complaints from parents or students
- 1.3 The procedure aims to ensure that grievances are dealt with promptly, in a fair and supportive manner, and as near as possible to the point of origin. The grievance must be raised within three months of the incident or action giving rise to it. Any grievance raised outside of that time limit will not be considered unless there are exceptional circumstances.
- 1.4 Grievances can arise from a variety of sources and it is important to recognise that many potential problems and difficulties can and should be resolved informally and as quickly as possible. Formal procedures are intended to be used for problems which are serious in themselves, or serious because they remain unresolved after informal steps have failed to achieve a satisfactory outcome. Grievances can arise due to many reasons and may include the following:
- terms and conditions of employment;
  - health and safety;
  - work relations;
  - new working practices;
  - working environment;
  - organisational change;
  - discrimination
- 1.5 The procedure should be made known to all employees including their statutory right to representation.

## **2. Equalities**

- 2.1 If any employee has difficulty at any stage of the procedure because of a disability, they should discuss the situation with their line manager.
- 2.2 An employee who requires assistance accessing a meeting should inform the person requesting their attendance and appropriate venues allowing access will be made available.
- 2.3 The Trust is committed to fairness and equality of treatment for all employees and will comply with the requirements of the Equality Act 2010 in the implementation of these procedures.

## **3. Managers Responsibility**

- 3.1 All appropriate managers in line with the scheme of delegation should:
- Comply with the requirements set out in this policy and procedure and observe the time requirements
  - Ensure that at all times they treat the process as confidential
  - Promote and operate the grievance policy and consider any grievances fairly and thoroughly
  - Try to resolve the grievance without delay
  - Where appropriate, ensure that mediation has been explored and offered to parties as a way of resolving the grievance before it reaches the formal stages
  - Create and maintain a good working environment while the grievance is being handled
  - Personally, support all parties affected by the grievance
  - Ensure that notes are kept and shared with the parties as appropriate

## **4. Mediation**

- 4.1 The investigating manager may decide to recommend mediation at any stage of the process, if appropriate. Mediation can only take place if all parties are in agreement. Mediation is a confidential process that seeks to help colleagues resolve disputes in the workplace. Mediation is an informal process where colleagues involved in a dispute or whose relationship is under strain, have the opportunity to air their differences in a voluntary, safe, confidential meeting with the other party, in the presence of a mediator. Mediation can be used at any point in the procedures, for example where, other informal approaches have been unsuccessful, or if you do not feel that the formal procedure is the right option, you may want to consider mediation as an alternative to the formal procedure. It should also be noted:
- If you go through mediation and it is not successful, you can then go through the formal grievance procedure.
  - If you have raised a grievance and decide to pursue mediation, the grievance may be paused while the mediation is taking place. If the issue is resolved informally or through mediation, the formal grievance will be closed.

- Sometimes a grievance can be addressed informally by mediation between the parties. Successful mediation requires the genuine co-operation of both parties and can only be done if both parties agree to mediation. Either party can request mediation.
- The purpose of mediation is to manage the process of bringing two parties together and to reach mutual agreement. The mediator should be someone who is impartial and trusted by all concerned and should ideally be someone who is distanced from the work situation and be trained in conflict resolution.
- If both parties agree to mediation the initial meetings will be arranged normally within 7 working days after the initial request or if this is not possible, both parties will be informed of the timescales.
- Ideally the mediator should meet separately with each party and then bring them together in a neutral location to reach a positive solution acceptable to both parties. However, the format of the meetings will depend on the situation and personalities involved. Sometimes several mediation sessions may be required.
- Meetings will be non-threatening, non-judgmental and non-confrontational and allow each party to discuss their perception of events and to air their views. The ultimate aim of the meeting should be to develop an action plan to make clear the required behaviours for future relationships.
- If mediation between the parties is not successful, the grievance will revert back to the relevant stage in the procedure. The investigating manager and/or Appeal Chairperson will be informed of the outcome of the mediation.

## **5. Informal Procedure**

- 5.1 Every effort should be made to resolve grievances through an informal process in the first instance.
- 5.2 Where an employee is aggrieved on any matters involving other staff, they should discuss the matter initially with the individual concerned, if appropriate. If they feel unable to do this or this fails to resolve the matter, it should be raised with their line manager.
- 5.3 If necessary, an approach may be made to another senior member of staff and/or to a representative of a professional association/trade union in order to assist in trying to resolve the situation informally. If the matter is being addressed in the informal stage any meetings will normally involve the employee and line manager only. The employee will need to confirm what their desired outcome is in order to resolve their grievance.
- 5.4 If the matter remains unresolved the employee may then move to the formal stage.

## **6. Formal Procedure**

- 6.1 Where the informal stage of the procedure has failed to resolve the matter or the matter is sufficiently serious, the employee should submit details of the grievance in writing to the Principal/Headteacher or appropriate manager, including details of any attempt to resolve the matter informally within three months of the incident occurring. (Appendix 2)

- 6.2 The Principal will appoint an appropriate member of staff to investigate the grievance. This should not be the manager who met with the employee at the informal stage. If the grievance is against the Principal/Headteacher, or the Principal/Headteacher is the aggrieved party, the written grievance should be submitted to the appropriate manager as referenced in the scheme of delegation.
- 6.3 The appropriate manager will arrange to meet with the employee without unreasonable delay in order to try and resolve the matter. It may be necessary to convene a meeting, or series of meetings, with those involved in the grievance
- 6.4 The appropriate manager should invite the individual to attend a formal meeting in order to discuss the grievance. The individual should be informed in writing of the date, time and place of the meeting and confirmation of the right to be accompanied by a work colleague or representative of their professional association/trade union.
- 6.5 During the meeting the individual should explain their grievance and say how they think it should be resolved. The appropriate manager and the employee will seek to resolve the grievance at this meeting if it is possible. Possible outcomes may be to move the matter back to the informal stage if this option has not been exhausted. Further options are to uphold or reject the grievance, to recommend further investigation or to recommend mediation.
- 6.6 If the full nature of the grievance has been established and further investigation is required the meeting should be adjourned to allow an investigating manager to be appointed and for the investigation to start. Where a full investigation is necessary then any meetings arranged with the subject of the grievance or witnesses should be carried out as soon as possible. The individuals should be informed in writing of the reason for the meeting and be given the date, time and place of the meeting and the right to be accompanied by a work colleague not already involved in the grievance or representative of their professional association/trade union.
- 6.7 Employees should be reminded that the procedure and issues discussed are confidential and that their statement may be used in the report and at any future disciplinary hearing that might arise out of the grievance. Witnesses may be required to attend any hearing as a witness, if appropriate.
- 6.8 On completion of the investigation, the investigator will produce a report which will be presented to the manager who commissioned the investigation who will then make a decision based upon its contents. The outcome of the grievance investigation will either be to uphold the grievance or reject it. The outcome should be provided in writing to the employee, where appropriate setting out what action they intend to take to resolve the grievance if it is upheld. The employee should also be informed in writing of their right of appeal. The employee who is the subject of the grievance should also be informed in writing of the outcome. The whole process should be completed within 40 working days unless a mutual extension is agreed.
- 6.9 Employees who abuse the grievance policy and process by making vexatious complaints will be liable to disciplinary action.

## **7. Rights of Appeal**

7.1 The aggrieved employee has the right to appeal. The appeal will be heard by someone who has not been involved in any prior stages of the grievance procedure. An aggrieved employee should give notice of their intention to appeal in writing within five working days of receiving written notification of the outcome of the grievance. The grounds of appeal should be clearly stated in line with following reasons:

- the finding that your grievance was not upheld where the evidence does not support this finding
- the fact that you don't feel the correct procedure was followed
- the fact the new evidence has come to light that would change the outcome
- the outcome is inconsistent with how others have been treated

7.2 The appeal should take place where reasonably practicable within 10 working days of written notification of an appeal being received. Copies of all relevant documents should be provided in advance of the meeting to all parties involved. The aggrieved employee may be accompanied by a work colleague not directly involved in the grievance matters or representative of their professional association/trade union and will be given an opportunity to present their case during the hearing. The outcome of the hearing will ordinarily be advised at the end of the meeting and confirmed in writing at the earliest opportunity.

There is no further right of appeal and the findings of the Appeal hearing will be final.

## **8. Collective Grievances**

A collective grievance is a grievance which is common to more than one employee. Collective grievances will be dealt with in line with the grievance procedure.

## **9. Link to Other Policies**

The Trust has various procedures for dealing with complaints, it may be that the grievance procedure is not the most appropriate to address your complaint.

### **9.1 Whistleblowing Policy**

If your complaint relates to possible malpractice, wrongdoing or illegal activities which you wish to report, the complaint should be made in accordance with the employer's Whistleblowing policy and procedure, a copy of which can be provided by the Trust Office. However, you may also raise the matter as a grievance under this procedure if you feel that you have been directly affected by the matter in question or believe you have been treated less favourably for raising the matter.

### **9.2 Disciplinary/Performance Improvement Policy**

Where you raise a grievance during disciplinary/performance management proceedings

- The disciplinary/performance management proceedings may be temporarily suspended in order to deal with the grievance or

- The grievance and disciplinary/performance management may be run concurrently where they are related

### 9.3 Complaints related to pay and or grading

There are separate policies and procedures for dealing with complaints regarding grading or job evaluation, these processes are detailed in the Model Pay Policy and are available from The Mercian Trust.



## **Appendix 1**

### **Anti-harassment and bullying statement**

We are committed to ensuring that staff are treated with dignity and respect and treat others in the same way. We believe that all staff have the right to work in an environment which is free from any form of harassment and/or bullying.

All staff are required to read this statement in conjunction with the grievance policy and to ensure that they understand what types of behaviours are unacceptable.

### **Harassment**

The harassment of any employee is unacceptable behaviour. Anyone found to have engaged in such conduct will be liable to disciplinary action.

Harassment can take a number of forms (including bullying) it can occur on a variety of different grounds and be directed at one person or a number of people. Harassment does not have to be directed at the complainant and can occur if the complainant witnesses another person being harassed.

Harassment involves subjecting an individual to conduct which is unwanted and where the conduct has the purpose or effect of:

- Violating the victim's dignity: or
- Creating an environment that is intimidating, hostile, degrading, humiliating

Harassment can occur when the perpetrator engages in unwanted conduct of a sexual nature and as a result that conduct has the purpose or the effect referred to above. An individual of any gender may be the victim of sexual harassment.

Conduct usually becomes harassment if it continues even though it has been made clear that it is regarded by the recipient as offensive or unwanted. However, a single incident may amount to harassment if it is sufficiently serious.

Harassment may relate to matters such as:

- Age
- Disability
- Gender reassignment
- Race
- Religion or belief
- Sexual orientation
- Sex, Marriage or Civil Partnership
- Pregnancy and Maternity
- Trade Union membership (or non membership)
- Part time or fixed term status
- Power or hierarchy
- Willingness to challenge harassment (leading to victimisation)

## **Bullying**

Bullying may be behaviour that is offensive, intimidating, malicious or insulting, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient. Bullying may be physical, verbal or non-verbal conduct.

Bullying can take place via numerous means such as face to face, by letter, e-mail, phone or social media communications.

Behaviour that is considered bullying by one person may be considered firm management by another. Most people will agree on extreme cases of bullying and harassment, but it is sometimes the 'grey' areas that cause most problems. In our Trust, unacceptable behaviour includes the points as outlined below (this is not an exhaustive list):

- Spreading malicious rumours or insulting someone (particularly because of age, disability, gender re-assignment, pregnancy and maternity, race, religion or belief, sex or sexual orientation)
- Ridiculing or demeaning someone, picking on them or setting them up to fail
- Deliberately excluding a person from communications or meeting without good reason
- Unfair treatment
- Overbearing or intimidating supervision or other misuse of power or position
- Making threats or comments about job security without foundation
- Deliberately undermining a competent worker by overloading and constant criticism
- Preventing individuals progressing by intentionally blocking promotion or training opportunities

Legitimate, reasonable and constructive criticism of performance or behavior, or reasonable instructions given in the course of employment will not, on their own, amount to bullying.

Informal and formal procedures for dealing with complaints of harassment or bullying should be made via the Grievance Policy. All allegations of harassment and/or bullying will be dealt with seriously, promptly and in confidence. Employees who feel they have been subject to harassment and/or bullying must not hesitate in using the grievance procedure nor fear victimisation. Retaliation against an employee who brings a complaint of harassment and/or bullying could be a serious disciplinary offence which may constitute gross misconduct and could result in dismissal.

Malicious complaints of harassment and/or bullying can have a serious and detrimental effect, any unwarranted allegation of harassment and/or bullying made in bad faith may be dealt with via the disciplinary policy.

## **Employee Grievance Form**

This form is intended for use by an employee who wishes to raise a formal grievance about the behaviour of a colleague, his/her manager or a third party, or any other workplace issue.

Employee Name:		Employee Job title:	
School:		Date Grievance Raised:	

Trade Union Representative / Workplace Colleague	
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<b>If your complaint is against an individual - please provide their name and job title</b>

<b>Summary of complaint: Set out the details of your complaint (providing as much detail as possible, particularly dates, times, locations and the identities of those involved). You may attach additional sheets or supporting documents if required.</b>

<b>Individuals involved in the alleged incident/complaint: Provide here the names and contact details of any people involved in your complaint, including witnesses.</b>

Informal action to resolve the issue: Please provide details of any action that you have already taken to your grievance/ complaint and why this did not work.

Declaration: I confirm that the above statements are true to the best of my knowledge, information and belief. I understand that making any false, malicious or untrue allegations may result in disciplinary action being taken against me by the School. (In the most serious cases, making false, malicious or untrue allegations can be treated as gross misconduct).

Name:

Date:

Signature: