

# Mountjoy School

## Staff Grievance and Complaints Policy & Procedure

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This is a DCC Policy

Adopted by Resources Committee:

Date: 25<sup>th</sup> April 2018

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Signed: .....Name .....

# **Mountjoy School Employee Grievance Policy & Procedure**

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## GRIEVANCE POLICY

### 1 Introduction

- 1.1 Effective and harmonious day to day working relationships in Mountjoy School requires the commitment of everyone. The Governing Body, the Headteacher and senior management team are therefore committed to the resolution of problems encountered in the workplace as promptly and informally as possible.
- 1.2 In addition to promoting a common sense approach to solving problems, however, it is accepted that in some instances more formal measures may be necessary particularly where informal resolution of issues through day to day management does not satisfactorily resolve an employee's concerns and these are set out towards the end of the procedure.
- 1.3 It is recognised that a grievance procedure is a requirement of the school, but it must be emphasised that the procedure does not seek to replace day to day exchanges and management instructions between the Headteacher and staff. Every possible effort should be made to avoid recourse to the formal Grievance Procedure.
- 1.4 The aim of the procedure is to encourage a consistent and positive approach to resolving employee grievances, with the intention of achieving a mutually acceptable outcome.
- 1.5 Every effort should be made by all parties for grievances to be resolved at the informal stage of the procedure. The formal stages should be regarded as a last resort.**

### 2 Scope

- 2.1 This policy and procedure applies to all employees of Mountjoy School and has been recommended to all schools for adoption by the Local Authority (LA).
- 2.2 The LA is not able to accept liability for any actions, claims, costs or expenses arising out of a decision not to follow this recommended policy or procedure, where it is found that the Governing Body has been negligent or acted in an unfair or discriminatory manner in exercising its employment powers.
- 2.3 An employee may raise a grievance (see definition of grievance at paragraph 3) about any matter related to their employment at Mountjoy School although in the first instance the aim will be to resolve matters informally and promptly between themselves and the Headteacher or their line manager.
- 2.4 The Grievance Policy and Procedure may not apply in the first instance where the issue:
- (a) relates to a complaint about harassment, bullying or victimisation (the School's Fairness & Dignity at Work Policy will apply<sup>1</sup>)
  - (b) is already the subject of a collective grievance or dispute;

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<sup>1</sup> In the absence of a Fairness and Dignity at Work Policy, the Grievance Procedure will apply

- (c) relates to pay and conditions of a teaching employee (linked to the School Teachers Pay and Conditions Document) where there is a separate appeals process set out in the School's Pay Policy.
- (d) relates to a non teaching employee and is a pay and grading issue that can be resolved by means of the County Council's agreed job evaluation scheme;
- (e) relates to a non teaching employee and is about superannuation regulations where other appeal procedures apply;
- (f) is in relation to a matter which is covered by another school policy which contains a resolution procedure.

Early advice should be sought from Human Resources regarding whether the grievance procedure is the most appropriate to follow

### **3 What Constitutes a Grievance?**

3.1 Grievances are defined in the [ACAS Code of Practice](#) as concerns, problems or complaints that employees raise with their employers.

3.2 Grievances may arise from a wide variety of issues, for example:-

- Not applying school policies or procedures correctly or fairly
- Unfair working practices
- Unreasonable requests
- Unfair management practices
- Health & safety concerns

3.3 The following are examples of what will amount to a grievance in law:

- Complaints raised in a letter (where the sender can be identified)
- Complaints raised in an e-mail
- Complaints as part of a resignation letter
- Solicitor's letter (whether or not sent 'without prejudice')
- Other third party correspondence (where the sender can be identified)

3.4 Therefore if the complaint is in writing it is likely to qualify as a grievance. The word "Grievance" does not need to be used when the individual makes the complaint. If in any doubt the employee should be asked to clarify if they are raising a grievance.

### **4 Responsibilities**

4.1 Employees are expected to raise issues of concern as soon as possible after they arise as part of the normal day to day interactions with managers and to co-operate with the school by allowing an informal resolution where possible before initiating the formal procedure. Employees are encouraged to seek advice and guidance from trade union/professional association representatives at any stage of the procedure.

4.2 The Headteacher and senior leadership team should promote a culture of open communication in the school which encourages staff to raise issues at an early stage and ensure that the procedure is applied fairly and consistently throughout the school. The Governing Body will ensure that such responsibilities are fulfilled.

## **GRIEVANCE PROCEDURE**

A brief summary of the procedure can be found at [Appendix 1 - Grievance Procedure Flowchart](#).

### **5 Raising a Grievance**

- 5.1 If it has not been possible to address concerns or issues through discussion, it may be appropriate to raise a grievance in writing.
- 5.2 An employee may raise a grievance which should be as soon as possible after the event or action which led to the grievance itself. Grievances should be submitted in writing and should include as much information about the grievance as possible. Any written grievance will ideally contain the following:-
- A description of the grievance itself;
  - The cause of the grievance;
  - The duration of the problem or issue;
  - Any actions already taken to try and resolve it.
  - The outcome sought.
- 5.3 Where grievances are sent direct to the Local Authority, they will be re-directed to the relevant school or in the case of grievances made against the Headteacher they will be sent to the Chair of Governors.
- 5.4 When a written grievance is received, the Headteacher should contact a Human Resources Officer from the Employee Relations service for advice.

### **6 Investigation**

- 6.1 A grievance investigation may be carried out at any time either as part of the informal or the formal grievance procedure. When an issue has been raised, the Headteacher or a member of the senior leadership team will consider whether an investigation needs to be conducted and by whom.
- 6.2 If it becomes clear during a formal hearing that further investigation is required, the hearing will be adjourned and once the investigation is complete the hearing will be reconvened and the findings considered.
- 6.3 An investigation is intended to be a fact finding exercise which is based on the actual grievance information provided by the employee. It can be used to establish the exact nature of the grievance or to substantiate or refute statements made by the employee. Where a grievance has identified possible witnesses, these people will need to be interviewed as part of the process.
- 6.4 Any investigation should be carried out promptly to avoid any unnecessary delay in resolving the employee's grievance.

### **7 Informal Stage**

- 7.1 Often problems can be resolved at an early stage by talking about them calmly and openly before they have had time to escalate. The hearing of a grievance under the formal procedure inevitably increases the possibility of delays, which may increase the employee's dissatisfaction. It also moves consideration of the grievance further away from the working situation in which it developed.

- 7.2 In the first instance, therefore, as soon as there is a problem, the employee should discuss it with the Headteacher, their line manager, or if the problem relates to a colleague, with the member of staff involved.
- 7.3 If the grievance is of a particularly sensitive nature, the employee may wish to present their grievance in writing prior to the informal discussion.
- 7.4 There will be some issues which will not be appropriate for any immediate line manager other than the Headteacher or Governing Body to deal with (e.g. a grievance against the line manager or a policy or action imposed directly by the Headteacher). In these cases the line manager may refer the matter directly to the Headteacher or if the complaint is against the Headteacher to the Chair of Governors.
- 7.5 At the informal stage of the procedure it may be appropriate for the employee to seek assistance from whatever source they feel may help improve the situation. This may include a trade union/professional association representative or a work colleague, either of whom may be able to act as an intermediary.
- 7.6 The line manager should arrange to meet with the employee to consider the grievance and respond at the end of the meeting or by the end of the next working day (or within a reasonable timescale agreed with the employee but not more than 5 working days).
- 7.7 Should the line manager need to investigate the issue further, the employee should be informed and arrangements made for an appropriate time to reconvene the meeting.
- 7.8 A management note will be made of the outcome of the discussions and any resolutions to be implemented.

## **8 Formal Stage**

### **8.1 Raising a Formal Grievance**

- 8.1.1 Where informal resolution of a problem is not possible or where an employee continues to be aggrieved despite attempts to resolve the matter informally, they should submit their formal grievance, in writing, to the Headteacher. The written grievance should detail the exact nature of the grievance and if possible, what resolution the employee is seeking.
- 8.1.2 If the grievance is against the Headteacher the employee should write to the Chair of Governors. In this instance the Chair of Governors or other previously nominated governor will assume the role assigned to the Headteacher in the formal stages of the procedure. The standard procedure will apply to all other aspects of the grievance.
- 8.1.3 The Headteacher or Chair of Governors will consider whether an investigation or further investigation is required prior to any formal hearing taking place.

## **8.2 Grievance Hearing**

- 8.2.1 Depending on who the grievance is against, it will be heard by either the Headteacher or a panel of governors. If the grievance is against another individual at the school or is in relation to something that another individual has done, it will be heard by the Headteacher. If the grievance is against the Headteacher or in relation to general school issues, it will be heard by a panel of governors.
- 8.2.2 If the Headteacher is responsible for hearing the formal grievance they will be responsible for arranging the formal grievance hearing which should be heard within 10 working days of receipt of the grievance or as soon as practicable within 28 calendar days.
- 8.2.3 If a Panel of Governors will be hearing the formal grievance, the Chair will need to ask the clerk to the Governors to arrange the formal grievance hearing which should be heard as soon as practicable, but certainly within 28 calendar days.
- 8.2.4 The employee may be accompanied to the hearing by a work colleague or trade union/professional association representative (practicing solicitors are excluded). The Headteacher/Governor Panel Chair may seek advice from and/or attendance by, a HR Officer from the LA Schools' HR Employee Relations Team.
- 8.2.5 Any relevant documentation to be referred to as evidence at the hearing will be submitted no fewer than 10 working days before the date of the hearing to the Headteacher/Governor Panel Chair, who will arrange for copies of the documents to be circulated to all parties at least 3 working days before the hearing.
- 8.2.6 At the hearing, the Headteacher/Governor Panel Chair will invite the employee to put forward their case and refer to any documentary evidence as appropriate. In the event that witnesses are providing evidence, their submissions will be included in the hearing paperwork.
- 8.2.7 Once the employee has put forward their case, the Headteacher/Governor Panel Chair and any HR Officer in attendance will question the employee, their representative and any witnesses as necessary in order to gather as much information about the case as possible.
- 8.2.8 The Headteacher/Governor Panel Chair may decide that further investigations are necessary before being able to reach a decision in which case the hearing will be adjourned and reconvened.
- 8.2.9 The Headteacher/Governor Panel Chair will normally announce their conclusions at the end of the hearing and in any case, within 3 working days of the hearing.
- 8.2.10 The outcome of the hearing will be confirmed in writing to the employee, by the Headteacher/Governor Panel Chair, within 5 working days of the date of the hearing. The letter will summarise the hearing, advise the employee of the conclusions made and advise the employee of their right of appeal.

## **9 Appeal**

- 9.1 If the employee continues to be aggrieved in respect of their complaint, they may exercise their right of appeal and write to the person named in the Hearing

outcome letter (normally the Headteacher) within 10 working days of the hearing, requesting that their appeal is heard by a panel of governors or further panel of governors.

- 9.2 The timescales for arranging the appeal hearing will be in line with those for the grievance hearing. The employee once again has a right to be accompanied.
- 9.3 The Governing Body will nominate a panel of three governors who will act impartially to hear the appeal. Governors hearing appeals should not have heard any previous hearing in respect of the grievance raised.
- 9.4 The appeal hearing will follow the procedure as set out at Appendix B.
- 9.5 The decision of the appeal hearing will be final.

## **10 Handling grievances raised by the Headteacher**

### **10.1 Informal Stage**

- 10.1.1 Headteacher grievances should be resolved informally where possible by direct approach to the person(s) concerned. If it is not resolved they should discuss the matter with the Chair of Governors who in turn may, with agreement, discuss the grievance with all parties concerned eg. Governor Services. Head teachers are advised to consult with their trade union/professional association representatives as appropriate.
- 10.1.2 If the grievance is against the Chair of Governors, the Head teacher should consult with the Director for Children's Services (or representative such as Governor Services) in the first instance.

### **10.2 Formal Stage and Appeal**

- 10.2.1 Where the matter is not resolved by means of the informal process, the Headteacher should submit a formal written grievance to the governors. An HR Officer may be in attendance at formal stage hearings to offer advice to the panel hearing the appeal.
- 10.2.2 Grievances against the Governors
  - (a) A governor panel hearing will be arranged within 10 working days of receipt of the formal grievance or as soon as practicable thereafter. The Headteacher and any other teacher involved will be entitled to be accompanied at the hearing by a work colleague or trade union/professional association representative. The Headteacher will be notified in writing of the outcome of the hearing within 5 working days.
  - (b) If the Headteacher continues to be aggrieved they will have the right of appeal to a further (new) panel of governors. The decision of the appeals panel is final.
- 10.2.3 Grievances against the Chair of Governors
  - (a) A Governor panel hearing (excluding the Chair of Governors) will be arranged within 10 working days of receipt of the formal grievance or as soon as

practicable thereafter. The Headteacher and any other teacher involved will be entitled to be accompanied at the hearing by a work colleague or trade union/professional association representative. The Headteacher will be notified in writing of the outcome of the hearing within 5 working days.

- (b) If the Headteacher continues to be aggrieved they will have the right of appeal to a further (new) panel of governors. The decision of the appeals panel is final.

#### 10.2.4 Grievances against the LA (Only applies to Community/V.C schools)

- (a) The Headteacher will be advised that the matter will be referred to the LA in writing within 5 working days of receipt of the written grievance. The governors should then forward the grievance to the Director for Children's Services together with the reasons for the referral.
- (b) The Director for Children's Services (or their representative) should arrange by letter a hearing with the Headteacher and their work colleague or trade union/professional association representative within 10 working days of receipt of the written grievance or as soon as practicable thereafter. The letter should also include the reasons why the Governing Body has referred the grievance to the local authority. The outcome of the grievance hearing should be sent by the Director for Children's Services (or their representative) within 5 working days to the Headteacher and copied to the Governing Body.
- (c) If the Headteacher remains aggrieved they would have the right of appeal to the LA Personnel Appeals Committee.

## 11 Mediation

- 11.1 Good practice suggests that mediation can be a helpful accompaniment to resolving employee grievances at various times throughout the process particularly where there may be relationship difficulties. Mediation is voluntary and as such should not be forced on individuals involved in any grievance.
- 11.2 Nothing in this procedure should prevent the school engaging in a mediation process to overcome any difficulties for the benefit of the school.
- 11.3 The HR Employee Relations team may provide mediation where appropriate either directly (the school may be charged for this facility if they do not purchase the employee relations SLA) or through external bodies (schools will need to pay for this facility) to assist in the resolution of grievances.

## 12 Handling grievances raised during the course of disciplinary action

- 12.1 An employee may raise a grievance after disciplinary or capability procedures have begun, on the grounds that the disciplinary or capability action amounts to unlawful discrimination or that the employee believes that disciplinary or capability action has been taken for some other reason than conduct or capability or that they believe the process has been flawed.
- 12.2 If the grievance is related to the disciplinary matter, the grievance will be heard as part of the disciplinary proceedings.

- 12.3 In cases where an employee raises a grievance during the course of the disciplinary procedure that is unrelated to the disciplinary matter under investigation, the grievance will be heard in parallel with disciplinary proceedings. The raising of a grievance will not delay disciplinary proceedings. Advice should be sought from the Schools' Human Resources Employee Relations team in these cases.

### **13 Handling collective grievances**

- 13.1 In cases where a group of employees at <School name> wish to make the same complaint, the grievance can be heard as a collective grievance, unless it is already the subject of an Authority wide collective grievance.
- 13.2 The group may nominate an appropriate representative to make the grievance on the employees' behalf. The appropriate representative should be a member of the group of employees, nominated by the group.
- 13.3 The same procedure will apply as detailed in section 5, but it will be the responsibility of the representative to inform all employees involved of progress.
- 13.4 In any of these cases, an employee may not raise the same grievance individually.

### **14 Record keeping / monitoring**

- 14.1 The Headteacher will maintain a summary record of any grievance raised in the school. In all cases, written records of the grievance will be kept in accordance with the Data Protection Act 1998. Employees have the right to request access to the records.
- 14.2 The records will include:
- The nature of the grievance;
  - A copy of the written statement made by the employee;
  - A copy of the Headteacher's response;
  - Any action(s) taken and the reason(s) for the action(s);
  - Investigation notes
  - Whether the employee exercised their right of appeal;
  - The outcome of the appeal;
  - Any subsequent developments.

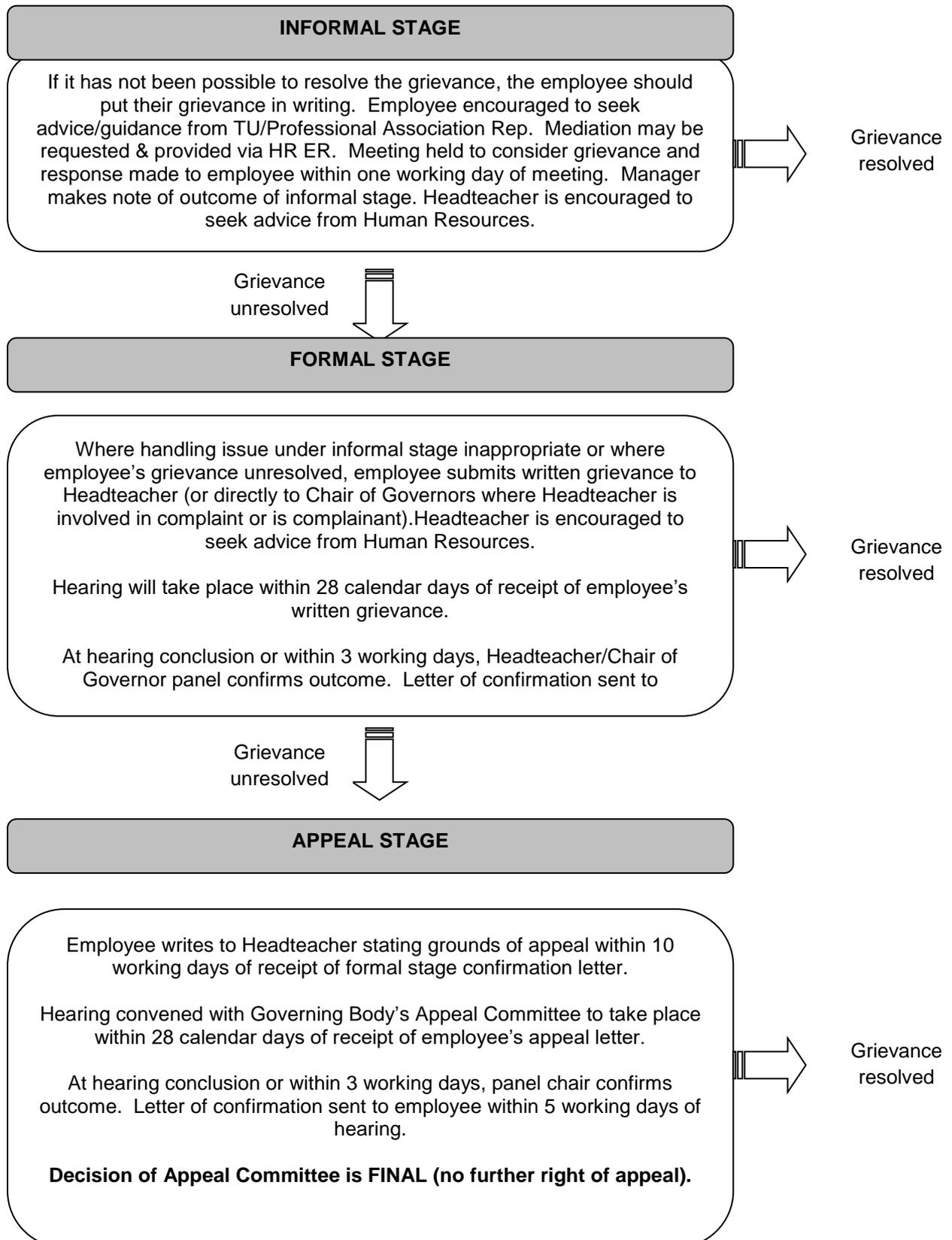
### **15 Review of Procedure**

- 15.1 This procedure will be reviewed periodically to ensure that it meets with statutory requirements and best practice guidance provided by ACAS

## Appendix A Grievance Procedure Flowchart

Employee seeks personal resolution to avoid moving to a formal grievance in first instance by directly approaching member of staff concerned, with intermediary if required. If issue not resolved move to:-

An investigation can be conducted during either the informal or formal stages of the procedure where required.



## **Appendix B      Appeal Hearing Procedure**

The appeal hearing will follow the procedure below (unless varied by mutual consent of all parties).

- A statement will be made by or on behalf of the employee, outlining the nature of the grievance and why the resolution to the grievance has been appealed against;
- The Headteacher will present the school's management response;
- Both parties will be given the opportunity to question one another;
- Members of the governors panel and any HR Officer in attendance may question either party at any stage during proceedings;
- If required, both parties will summarise their case with the employee, or their representative, having the final say;
- The hearing will adjourn whilst the Governors consider their conclusions;
- Both parties may be called back if further clarification is required;
- The Governors panel will normally announce their conclusions at the end of the appeal hearing, but in all cases will confirm the conclusions within 3 working days of the date of the appeal hearing. A letter confirming the conclusions will be sent to both parties within 5 working days of the date of the hearing.