

	POLICY TITLE:	Grievance and Disputes Procedure
Kingsmead Academy T/A Kingsmead School		
Committee/Person Responsible for Policy:		Finance, Strategy & Personnel sub-committee Head Teacher
Date Approved by Governing Body:		February 2021
Date of Last Review:		Term 3 2020/21
Next Review Due:		Term 3 2022/23

1. INTRODUCTION

- 1.1 This procedure is based on the ACAS Code of Practice that came into force on 11 March 2015 and all relevant employment legislation and is based upon Somerset County Council's recommended grievance procedure for schools.
- 1.2 It is also based on two of the core values of Kingsmead School – **care and respect**:
 The purpose of the grievance procedure is to allow the Governors to deal with any grievances (a concern or complaint relating to employment) fairly, consistently and speedily. The School wants to ensure that when an employee raises a concern or a grievance, it will be dealt with fairly and promptly and an effective conclusion reached.

2. THIS PROCEDURE WILL APPLY TO:

Concerns or complaints relating to an individual's employment. Some examples could include:-

- concern over work relations with other colleagues or manager (but not bullying and harassment) where there is a separate procedure (see below)
- new work practices i.e. working patterns, new systems
- perceived unfair application of school policy or practice
- organisational change
- healthy working environment
- and safety

This procedure will not apply where the school already has well established alternative procedures for dealing with such matters as:

- pay or grading
- capability matters
- bullying or harassment
- redundancy
- ill health retirement
- requests for flexible working
- whistleblowing
- disciplinary matters
- Non-renewal of fixed term contracts

3. METHOD OF OPERATION:

- The employee should be able to express their concern or complaint and explain how they would like to see it resolved.
- The majority of concerns or grievances are best dealt with informally and this should be viewed as the preferred route.
- Mediation can be a very effective way to deal with issues and should always be considered as an option at an early stage.
- Where applicable an investigation will take place which may involve witnesses being interviewed.
- When hearing a grievance, the Headteacher or Governor Committee must consider any investigation report prepared and must see each party to the dispute and exercise discretion as to the most appropriate way forward. This may include speaking to the parties separately or talking to them together.
- Either party may seek adjournments at any time during any meeting.
- The parties may, by mutual agreement, modify the time scales referred to in the grievance procedure or vary the approach where it is agreed by both sides that this would be more conducive to resolving the grievance.
- If the employee is not satisfied with the outcome of the report or hearing, then the procedure can move to an Appeal.

4. PRINCIPLES

Individuals must be reassured that they will not be victimised for bringing a grievance or acting as a witness or companion for another employee. If there is an allegation of victimisation against an employee by the complainant or witness, the matter will be dealt with through the disciplinary procedure.

The School expects that all grievances are made in good faith. Any employee bringing a grievance, which is considered to be vexatious or malicious, will be dealt with through the disciplinary procedure.

It is important that it is recognised that there is frequently more than one party in a workplace dispute:

- The person who experiences the problem (the complainant); and
- The person or persons identified as being the cause of the problem (the subject of the complaint).

In seeking a resolution, it is important that no party is pre-judged.

The school expects as far as possible all parties to be involved in the process of seeking a resolution and expects all parties to co-operate with the process of achieving a resolution of the conflict.

All parties should be provided with support/contact from a school leader who is not involved in the process.

Formal Grievance Hearings will be heard by the Headteacher, or designated member of SLT. If the Headteacher is the source of the complaint the Formal Grievance Hearing will be heard by a Governor or a panel of 2 or 3 Governors.

Employees, or their representatives, are not permitted to record electronically any meeting held under this grievance procedure including investigation meetings. This is to encourage openness and full participation by all parties during meetings. Any breach of this provision may lead to disciplinary action against the employee, up to and including dismissal.

5. DISCIPLINARY ACTION

During the procedure of trying to achieve a resolution, if at any time it is identified that a breach of the Dignity at Work Code of Practice has occurred, or other breaches in procedures by staff they should consider applying the Disciplinary Procedure and undertaking a formal investigation under that Procedure.

Where it is decided to invoke the Disciplinary Procedure, management reserves the right to determine the level of confidentiality to be maintained regarding the outcome of the hearing. While it would be considered appropriate for the complainant to know there has been a disciplinary hearing / disciplinary action, in most cases, it would not be considered appropriate to report to the complainant the details of the disciplinary action taken.

6. COUNTER CLAIMS

School leaders / Governors should be aware of the potential for counter claims to be made by those against whom the original complaint has been made.

A process to seek a resolution to the original complaint should not be discontinued merely because a counter claim is raised subsequently. If possible, the two complaints should be considered together when seeking a resolution.

7. CONFIDENTIALITY

As a general principle, confidentiality will be agreed and maintained wherever possible throughout the process of dealing with a complaint.

However, there may be circumstances where it will be necessary in order to achieve the required resolution for other employees/clients to be made aware of the nature of the complaint.

In exceptional circumstances, evidence given by individuals during an investigation into a complainant's concerns may have to remain confidential. Where confidentiality is necessary, this will be explained to the complainant and an appropriate summary of the evidence gathered will be given to them.

Although a complaint may have been made in confidence, the school will not knowingly aid unlawful behaviour or cases where there is violence or an existing threat of violence and may have no alternative but to breach that confidence in order to comply with its duties under the law.

The school processes personal data collected during informal complaints and the formal grievance procedure in accordance with its data protection policy. In particular, data collected as part of informal complaints and the grievance procedure is held securely and accessed by, and disclosed to, individuals only for the purposes of responding to the complaints or conducting the grievance procedure. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the school's data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under the school's disciplinary procedure.

8. INTERNAL ADVICE AND SUPPORT

Trade Unions and Professional Associations can play an important role in assisting all parties to a complaint. The school welcomes the clearly stated support for this policy and procedure from the recognised Trade Unions and Professional Associations.

5. THE INFORMAL STAGE

5.1 If an employee has a grievance relating to their employment they have the right to express it. In the first instance they should try to resolve the matter by discussion with the colleague concerned informally as this is usually the best way to resolve problems satisfactorily and quickly. Informal processes must not be used in the event of a serious allegation of racial or sexual bullying or harassment, or of an abusive or violent attack, as potentially a criminal act has taken place.

The Health and Safety Executive "Violence at Work Guidelines" recognise that "violence includes any incident in which a person is abused, threatened or assaulted in circumstances that relate to their work".

5.2 If the grievance is unresolved, they should raise the matter informally with their Line Manager. If the grievance relates to the actions or decisions of the employee's Line Manager, they should raise the matter informally with the Headteacher or, if the grievance is against the Headteacher, the Chair of Governors. The employee may find it helpful to complete the "Employee Concern Form" (see Appendix 1). This form enables the employee to set out the nature of their concerns, and what, if anything, they have done to resolve them, and to describe the resolution they are now seeking. The Line Manager will reply orally to the grievance within five school days and may, at their discretion, confirm the decision in writing.

5.3 Although meetings at this stage are informal, the employee may request to be accompanied by a work colleague or work place Trade Union Representative and this should not be unreasonably refused.

5.4 The complainant may choose to talk directly to the person who is seen to be causing the problem. This may be appropriate when there are times when the working relationship is acceptable and the problems are recent, however this may not be appropriate when there have been threats or threatening behaviour.

- 5.5 Before the meeting, the complainant should prepare by setting out in writing the behaviour/working practice/dispute that is the source of the grievance as well as specific times and dates. The complainant may find completing the Employee Concern Form (Appendix 1) a helpful guide when setting out the problem in writing.
- 5.6 At the meeting, the complainant should be prepared to clearly describe the behaviour/working practice/dispute that they are aggrieved about, explaining why it is unacceptable and seek a resolution. The benefits of this approach are that issues can be resolved quickly and relationships can be improved.
- 5.7 The complainant may prefer to talk directly to the person who is seen to be causing the problem, but with a Line Manager or member of SLT in attendance to facilitate the discussion. This provides both parties with a third party who can help to ensure an open and fair dialogue.
- 5.8 If the grievance is about the actions or decisions of a Governors Committee or the full Governing Body, the matter will be dealt with immediately at the “formal stage”, otherwise every effort should be made to resolve matters informally where possible.
- 5.9 If, having raised the grievance informally, the employee considers that the grievance has not been resolved to their satisfaction, they have the right to invoke the formal stage.

NB: As a decision to invoke the formal stage would be because the employee regards the unresolved grievance to be significant to their situation at work, it is reasonable for the Governors to expect that the formal stage would be invoked with a minimum of delay. Normally this would be within ten school days of the Line Manager’s oral response to the grievance. This time period may reasonably be extended in extenuating circumstances e.g. where the employee is absent from work, or otherwise unavailable for reasons not directly related to the unresolved grievance.

6. FORMAL STAGE

- 6.1 If the employee is dissatisfied with the informal response they can raise the same concerns formally, by registering their grievance in writing to the Head Teacher (or the Chair of Governors if the grievance is against the Head Teacher). This is the first formal stage of the process. See appendix 2 for form to be completed.
- 6.2 The Manager/Governor dealing with the complaint must see all parties to the dispute as soon as possible separately or talking to them together. On receipt of a Grievance Form – Formal Stage (Appendix 2), the Manager/ Headteacher/ Chair of Governors must meet with the complainant as soon as possible, and usually within 10 working days. The purpose of this meeting is for the complainant to explain the nature of their complaint and what action they feel should be taken to resolve the matter. If another employee is the subject of the complaint, they will need to be advised of the specific concerns raised against them in writing and invited to a meeting to discuss this and the proposed resolutions. The recipient of the grievance should establish with the complainant that they are happy for the details of their grievance to be shared,

in full, with the subject of the complaint prior to providing this. At these meetings, the option to resolve the matter informally (see Informal Resolutions above) can be discussed with all parties and, depending on the nature of the complaint, without the need to proceed to a formal grievance hearing. This is particularly important when the grievance appears to be concerned with a potentially minor issue which may not require pursuance through the formal grievance procedure.

6.3 Before proceeding to a full grievance hearing, the Manager/Headteacher/Chair of Governors dealing with the grievance may decide that an investigation needs to be undertaken and they should identify an appropriate person not involved in the case to investigate the concerns which the employee has raised, including the events surrounding or leading up to the submission of the grievance. This investigation may include interviewing witnesses.

6.4 If the matter is not successfully resolved informally, or if the grievance is in relation to a more serious matter, the grievance will proceed to a full grievance hearing to be held by the Headteacher, designated member of SLT or a Governor.

6.5 If a decision is taken to proceed to a full grievance hearing, the Manager/Headteacher/Chair of Governors of the grievance will invite the employee in writing to a grievance hearing. The hearing will be held as soon as is reasonably practicable and, subject to the need to carry out any prior investigations, normally within 15 working days of receipt of the formal grievance. Any evidence gathered in the course of an investigation into the concerns will be provided to all parties in advance of the hearing and will be used as a basis for the discussion at the hearing. The hearing will be conducted by the Headteacher or a Governor/panel of Governors. If an investigation has been undertaken into the concerns raised, the Investigating Officer should attend the hearing to respond to any questions relating to the process or the report that any of the parties might have.

The purpose of the Grievance Hearing, is to provide the complainant with the opportunity to respond to the findings and any recommendations within the investigation report and raise any key points they wish to be considered prior to a final decision being made regarding whether the grievance is upheld or not.

If the subject of the grievance is another person or persons, the Headteacher/SLT/Governor/s hearing the grievance should also invite them to a separate meeting to provide them with the same opportunity to respond to the findings and any recommendations within the investigation report. This should take place before the Headteacher/SLT/Governor/s decides upon the outcome to the grievance and any action to be agreed.

Employees have the right to be accompanied to a grievance hearing by a trade union official or a work colleague. All parties must take all reasonable steps to attend the hearing at the specified time. If the complainant or their representative is not able to attend the hearing at the specific time, the hearing should be rearranged for a date normally not more than 5 working days after the date originally proposed. If the complainant fails to attend the hearing without explanation, or if it appears that they have not made sufficient attempts to attend, the hearing may take place in their absence.

The school does not allow meetings or investigatory interviews to be electronically recorded and adjournments may be sought by any party at any time during the meetings.

6.6 . The employee must be informed in writing of the decision, normally within 5 days of the meeting. The letter should detail any actions that the employer intends to take or, if the grievance is not upheld, explain the reasons for this. The employee should be advised that they have a right of appeal if they remain unsatisfied with the outcome of the grievance hearing and should forward their appeal in writing to the Clerk to the Governors within 10 days of receiving the outcome.

6.7 During any investigation it may become apparent that the grievance is best resolved through more informal / other routes or via mediation. In addition the investigation itself may have helped to resolve the grievance. In these circumstances, with agreement, it may be possible to conclude the grievance without progressing to a formal hearing. In these circumstances the outcome should still be communicated in writing.

7. APPEAL STAGE

7.1 If the employee is still dissatisfied they can appeal the decision within 10 working days of receipt of the written notification of the outcome of their formal grievance. The complainant must clearly state the grounds of their appeal using the form in Appendix 3 and include the basis on which they believe that the outcome of the grievance was wrong or that the action taken as a result was inappropriate.

An appeal hearing should be arranged to take place normally within 5-15 working days of receipt of the appeal wherever possible. As soon as practicable and in any event within 10 working days after this meeting the Chair of the panel will confirm the decision in writing.

7.2 As an appeal is the last stage of the procedure. A panel of at least 2 Governors will deal with hearing the appeal. to provide a degree of objectivity and will follow the same procedure as in the first formal stage. The purpose of the appeal will be to consider the grounds of appeal that the complainant has put forward and to assess whether or not the conclusion reached in the original grievance hearing was appropriate.

The Appeal hearing will be conducted in accordance with the Appeals Procedure. The Appeal Panel must inform the complainant, and any person who is the subject of the complaint, in writing of the outcome of the appeal and any action they propose to take as a result of this, normally within 5 working days of the meeting. The complainant and the subject of the complaint may discuss the outcome informally with their Manager.

The matter will end at this stage unless it is agreed between the school and the Trade Unions concerned that an important matter of principle has arisen which should be considered in accordance with the appropriate negotiating machinery.

8. POST EMPLOYMENT GRIEVANCES

8.1 Wherever possible a grievance should be dealt with before an employee leaves employment. There is no legal requirement to deal with grievances

raised by ex-employees. However, the school may want to consider dealing with such grievances in order to identify possible employment tribunal complaints and, where possible and appropriate, prevent those grievances from becoming tribunal complaints. If an employee has already left employment and the grievance procedure has either not been completed or has not been started prior to them leaving, the employee should write to their Head Teacher, Chair of Governors or Chair of relevant sub committee setting out the grievance as soon as possible after leaving employment.

- 8.2 Where a grievance is received after an employee has left employment and it is decided to deal with this, the concerns raised should be investigated prior to the Headteacher/Chair of Governor/another appropriate Governor sending a written response to the complainant. There is no requirement for the ex-employee to be invited to an investigation meeting or for a formal grievance hearing to be held. There will be no right of appeal in these situations.

9. **ROLE OF THE COMPANION**

The companion may be **only** one of the following:

- A fellow employee
- An official employed by a trade union
- A workplace trade union representative who is certified in writing by the trade union as having experience of, or having received training in, acting as a worker's companion at disciplinary or grievance hearings.

The companion is permitted to address the hearing in order to:

- Put the employee's case
- Sum up the employee's case
- Respond on the employee's behalf to any view expressed in the hearing
- Confer with the employee during the hearing

An employee who has agreed to act as a companion is entitled to take a reasonable amount of paid time off to familiarise themselves with the case and to confer with the employee both before and after the hearing.

10. **THE DISPUTES PROCEDURE**

- 10.1 Where a recognised Professional Association/Trade Union is in dispute with the Governing Body, on behalf of its members, regarding a decision taken by the Governing Body, which cannot be resolved in discussions between the Chair of Governors, the Headteacher and the Association/Union representatives, the matter should be referred to the Governors Personnel Committee and then, if appealed, onto the full Governing Body. From the outset the Headteacher or Chair of Governors, should seek advice from the School's HR adviser. Professional Associations/Trade Unions should set out, in writing, the dispute that their members have with the Governing Body. They should also state what resolution they are seeking on behalf of their members.
- 10.2 Where a dispute has arisen out of an attempt to change practices, other than in accordance with normal notice provisions, no change in the arrangements shall take place before the matter has been resolved to the satisfaction of both parties or until the procedures have been exhausted.
- 10.3 If the disputes procedure fails to resolve the issue, it may, by mutual agreement, be referred to, the Advisory, Conciliation and Arbitration Service with a view to conciliation. If the dispute has not been resolved by conciliation, the matter may, by mutual agreement between employer and Professional Association/Trade Unions, be referred to arbitration. The decision shall be final and binding on both parties.

EMPLOYEE CONCERN FORM – for use at the Informal Stage

- Please read the Grievance Procedure prior to completing this form.
- If you have a concern relating to your employment, we want to deal with it quickly and fairly. You are encouraged to resolve the issue by talking it through with the person or people concerned before taking formal action.
- Please use this form to write down your concern. Having a written record helps those involved to understand your concern and the resolution that you are seeking.

Personal and Confidential	
RAISING A CONCERN WITH A COLLEAGUE OR YOUR EMPLOYER	
Name:	Department/ Faculty:
<p>In your own words, please summarise the issue that is concerning you. Please use an additional sheet of paper if you need to. <i>Please include details such as dates and times, what issue is concerning you, who is involved and what is their relationship to you, e.g. Colleague, Line Manager or Headteacher.</i></p>	
<p>Please state who you have already spoken to about this issue in order to seek to resolve the concerns, include brief details of the outcome of these discussions.</p>	
<p>Please explain the actions you wish to be taken to resolve your concerns and the resolution you are seeking.</p>	
Signed:	Dated:

You should now pass a copy of this form to your Line Manager or Headteacher or, if the concern is about the actions or decisions of the Headteacher, the Chair of Governors.

GRIEVANCE FORM - Formal

PERSONAL AND CONFIDENTIAL

- Please read the Grievance Procedure prior to completing this form
- If you have a grievance relating to your employment please use this form to write down your grievance. Having a written record helps those concerned to understand your grievance and the resolution that you are seeking.
- If you have difficulty or are uncomfortable in completing this form you can ask to see your Headteacher (or Chair of Governors if the grievance is against the Headteacher) who will be able to help you complete the form. The Headteacher should be the main reference point in School for addressing such concern. However, if the matter relates to the Headteacher then the Chair of Governors should be your point of contact. You may also want to seek help from a work colleague or your Trade Union representative.
- Your Headteacher (or Chair of Governors) will ask to meet you to explain how your grievance will be dealt with in accordance with the Grievance Procedure and will provide you with a copy of it.
- The response to your grievance will be written on this form, discussed and returned to you. (a separate and more detailed letter may be issued by the person or Committee that decides the response to your grievance).
- If you are not satisfied with the response, you have the right to appeal.
- If you wish to provide any documents/statements with this form you may do so.

To: Headteacher/Chair of Governors

From:(Please print)

.....(Job Title)

My grievance is that: Please set out the issue/s. Please use an additional sheet of paper if you need to. You may wish to submit relevant documents in support of your case as you feel are necessary.

Please state who you have already spoken to about this issue: include details of the outcome of these discussions.

Please explain the actions you wish to be taken to resolve your concerns and what outcome/s you are seeking:

At any meeting you may be accompanied. If you wish to be so, please tick the appropriate box

A School Colleague of my choice or my Trade Union representative

OUTCOME OF FORMAL GRIEVANCE HEARING - Meeting/Hearing

(to be completed by the Headteacher or Governors Committee hearing the grievance)

The outcome of the meeting held on/...../..... (Date) was that

- I/we have upheld the grievance
- I/we have not upheld the grievance
- Some other conclusion

Because:

The agreed actions were:

Signed:.....(Headteacher/Chair of Committee)

Date:.....

(Please return this form to the employee with a copy to the Headteacher)

DECISION BY EMPLOYEE RAISING GRIEVANCE

- I am satisfied with the outcome.
- I am still dissatisfied and have decided to appeal.
- Any other comments (Please use to record all other outcomes, including withdrawing the grievance due to resolution outside this process).

Signed:(Employee)

Date:

(Please return a copy of this form to the Headteacher/Chair of Committee)

GRIEVANCE FORM – Appeal

PERSONAL AND CONFIDENTIAL

To:..... Clerk to the Governors

From:.....(Please Print)

.....(Job Title)

Date:.....

The unresolved issue related to my grievance is that: Please set out the issue(s) and use an additional sheet of paper if you need to. You may submit as many documents in support of your case as you feel are necessary.

OUTCOME OF FORMAL GRIEVANCE HEARING - Appeal

(to be completed by the Chair of the Appeals Committee hearing the grievance)

The outcome of the meeting held on/...../..... (Date) was that

We have upheld the grievance

We have not upheld the grievance

Some other conclusion

Because:

The agreed actions were:

This decision is final

Signed:.....(Chair of the Appeals Committee)

Date:.....

(Please return this form to the employee with a copy to the Headteacher)