

**JANUARY 2021**



# *Grievance Policy*

**Approved By:** The Trust Board

**Date Approved:** 19 January 2021

**Adopted by Trust Board on:** 19 January 2021

**Review Frequency:** Annual

In response to the Coronavirus pandemic in 2020-21, face-to-face meetings, informal and formal and including appeal panels and hearings, may be held virtually using video conferencing technology. Any face-to-face meeting must be pre-arranged subject to the agreement of the Headteacher or the Local Governing Body or the CEO or the Trust Board (depending on the nature of the meeting). All face-to-face meetings must adhere to the Systems of Control (protective measures) as set out in the DFE guidance and on which the Trust's Risk Assessment is based.

## **1. POLICY STATEMENT:**

- 1.1. It is the policy of the Horncastle Education Trust that all grievances raised by employees are dealt with in a fair and effective manner and at the appropriate level bearing in mind the nature of the complaint.
- 1.2. In particular, any form of harassment, discrimination, bullying or victimisation is unacceptable. This policy enables employees to raise problems or concerns that they may have about work or their working environment, including Dignity at Work issues.
- 1.3. Unless there are exceptional circumstances 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 may not be considered.
- 1.4. Any grievance must be raised only by an employee or ex-employee (subject to the time limits above). If an ex-employee wishes to raise a grievance they must indicate in writing that this is the case. Criticisms of individuals or of the School through, e.g. an exit questionnaire or interview will not be considered as a formal grievance for the purposes of this policy. There is no automatic right to a meeting in respect of a grievance by a person who raised a grievance as an ex-employee and any response to that grievance may be in writing only.
- 1.5. This policy aims to ensure that:
  - lawful, non-discriminatory and effective arrangements exist for dealing with employee concerns and grievances
  - all employees are aware of their responsibilities regarding raising problems and concerns and will not suffer detriment for doing so as long as the complaint is not malicious
  - Headteachers are aware of and supported in carrying out responsibilities for the resolving of issues as soon as possible
- 1.6. Some matters relating to employment do not fall within the scope of this policy and are dealt with under separate arrangements. These include:
  - Disciplinary outcomes (Disciplinary Policy)
  - Allegations of serious health and safety issues, unethical conduct, conduct that is an offence, fraud, corruption or financial malpractice (Confidential reporting policy)
  - Applications for grading, re-grading and appeals
  - Payroll matters affecting Income Tax, National Insurance, Pension, etc
- 1.7. Grievances raised by employees against Governors will be dealt with by the Trustees under the Complaints Procedure which is a requirement of all schools as detailed within Section 29 of the Education act 2002.

## **2. PROCEDURE:**

Every effort should be made to resolve grievances through an informal process.

### **2.1. Informal Stage**

- 2.1.1. Where an employee has a complaint or issue arising from their employment, they may use the Grievance and Dignity at Work Form (Appendix 1). They should initially raise the matter with their immediate supervisor, line manager or member of the Senior Leadership Team. The immediate supervisor, line manager or SLT member and employee should discuss the matter and notes should be taken by the line manager and agree these with the employee. The notes must include the date the issue was raised, the date of the meeting, the nature of the grievance, any advice given and the outcome.

- 2.1.2. If the grievance relates to an employee's supervisor, line manager or SLT member, the employee should raise the matter with the next level of management within the school, who will seek to resolve the matter informally. Before the meeting that level of management may need to gather facts in order to resolve the matter.
- 2.1.3. As the matter is informal any meetings will involve the employee and supervisor / line manager or SLT member only.
- 2.1.4. All issues should attempt to be first resolved at the informal stage, but if an employee goes to the formal stage, then consideration may be given by the Headteacher hearing the matter for this to go back to the informal stage first.
- 2.1.5. If the matter remains unresolved the employee may go to the formal stage.

## **2.2. Formal Stage**

- 2.2.1. Any complaint should be in writing and a Grievance and Dignity at Work form is included as Appendix 1, for that purpose. It is not necessary for the employee to only use this form to raise a grievance. The form, letter or E-mail setting out the grievance, the actions taken so far and what outcome is required to satisfactorily resolve the issue, should be given to the immediate supervisor, line manager or SLT member who will forward it onto the Headteacher.
- 2.2.2. The Headteacher will arrange a meeting to seek to resolve the matter with the complainant. Any meeting arranged must give a minimum of 5 working days' notice and the employee will have the right to be accompanied by a recognised trade union representative, trade union officer or work colleague of their choice, subject to management agreement of that person being an appropriate supporter. The Headteacher hearing the grievance may be accompanied by a Human Resources Adviser or CEO. A draft of the letter asking the employee to attend the meeting is attached as Appendix 2.
- 2.2.3. The supervisor, line manager or SLT Member who has met with the employee to resolve the matter at the informal stage will also attend, with their notes of the previous informal meeting.
- 2.2.4. As this is a formal meeting, the process to be followed at that meeting can be found at Appendix 12. However the Headteacher may determine a process that best meets the needs of the circumstances to resolve the matter.
- 2.2.5. The Headteacher hearing the matter and employee will seek to resolve the grievance at this meeting. Possible outcomes may be:-

## **2.3. Headteacher moves the matter back to the informal stage**

- 2.3.1. The Headteacher hearing the matter will notify the employee and supervisor, line manager or SLT member of the outcome within 5 working days of the meeting. The Headteacher will keep notes of the meeting and outcome and a template outcome letter is attached as Appendix 3 for the Headteacher's use.
- 2.3.2. If the employee raising the grievance is dissatisfied with the outcome they can appeal to Local Governing Body (see Appeal Stage).

## **2.4. Headteacher upholds or rejects the grievance**

- 2.4.1. The Headteacher hearing the matter will notify the employee and the supervisor, line manager or SLT member of the outcome within 5 working days of the meeting. The Headteacher will keep notes of the meeting and outcome and a template outcome letter is attached as Appendix 3 for the Headteacher's use.
- 2.4.2. If the employee raising the grievance is dissatisfied with the outcome they can appeal.

## **2.5. Initiate an investigation**

- 2.5.1. After hearing the full nature of the grievance the Headteacher hearing the matter may decide that it needs to be investigated. They will inform the employee of this within 5 working days of the initial meeting (draft letter Appendix 4) and arrange for a person

not connected with the case to carry out the investigation. They will investigate the matter, produce a written report and deliver this to the Headteacher hearing the grievance.

- 2.5.2. The report will look into the facts surrounding the grievance and the investigator will interview all relevant parties involved before writing the report. This is a fact gathering exercise so the investigator will not make conclusions or recommendations for action as this is for the Headteacher hearing the matter to decide. The investigator will not normally need to be present at the subsequent meeting.
- 2.5.3. The Headteacher will recall the meeting, using the template letter attached (Appendix 5). The written report will be made available to the employee and supervisor or senior teacher who heard the matter at the informal stage, prior to the meeting, at the same time. The Headteacher hearing the grievance will then seek to resolve the matter at this meeting, notifying both parties at the same time using the template letter attached (Appendix 6).
- 2.5.4. After seeing the report and meeting with both parties the Headteacher hearing the matter may resolve to consider mediation (see below).

## **2.6. Mediation**

- 2.6.1. The Headteacher hearing the matter may decide to initiate mediation. This may be after a report has been prepared or may be a resolution in its own right.
- 2.6.2. Mediation can only take place if all parties are in agreement. The Trust's HR provider will make arrangements for the mediation to take place and this outcome is notified to all employees involved in the mediation – template letter attached (Appendix 7 & 8).
- 2.6.3. The outcome of any mediation is confidential between the parties concerned and the Headteacher hearing the grievance will only be notified of whether agreement has been reached or not. Mediation seeks agreement by both parties to act in a manner that is acceptable so there is no appeal against this outcome so long as the mediator confirms that agreement has been reached.
- 2.7.4. If there is no agreement between the two parties at mediation, the mediator will confirm this to the Headteacher hearing the matter who will take this into account when coming to a decision. If dissatisfied with this decision the employee raising the grievance can appeal.

## **2.7. Appeal Stage**

- 2.7.1. If an employee is dissatisfied with the response from the Headteacher or the mediation has not secured agreement, they may appeal to the CEO. This must be in writing and within 10 working days of receipt of the outcome of the meeting or confirmation from the mediator that mediation has not secured agreement.
- 2.7.2. A grievance appeal must be heard by a panel and the CEO will arrange for a panel comprising of three to five Trustees and Local Governing Body members not previously involved in the matter. The employee will be given 5 working days' notice of the hearing and will have the same rights of representation as at the formal stage.
- 2.7.3. The Appeal Panel may be advised by an HR Adviser. Where a trade union official is unable to attend on the date arranged, then an alternative date will be arranged to take place within 5 working days of the original hearing date, or as soon as reasonably practical.
- 2.7.4. As this is a formal meeting, the process to be followed at that meeting can be found at Appendix 13. However the Chair of the Appeal Panel may determine a process that best meets the needs of the circumstances to resolve the matter.
- 2.7.5. In attendance at the appeal hearing will be the Trustees and Local Governors hearing the appeal, the employee, their representative, the Headteacher who heard the matter at the formal stage and an HR Adviser. All of the Headteacher's notes of the previous

meeting, reports and outcome letters will be provided to the Local Governors and Trustees hearing the appeal prior to the meeting.

2.7.6. The decision of the Appeal Panel hearing the appeal is final and the outcome will be notified to the employee and Headteacher within 5 working days of the meeting.

## **2.8. Grievances against a Headteacher**

If the grievance is against the Headteacher then the employee will raise this directly with the Chair of Governors in conjunction with the CEO, who will seek to resolve the matter with the employee and Headteacher informally. If this is not possible then the matter will go directly to the Appeal Panel for final resolution. The Appeal Panel will comprise of three Trustees or Members not previously involved in the case, as set out in the Trust's Scheme of Delegation.

## **2.9. RECORD KEEPING**

2.9.1. Supervisors, line managers or SLT members will retain their own notes of the outcome and discussions of any informal discussions. These will be kept securely and not on an employee's personal file.

2.9.2. The Headteacher will retain papers on any formal grievance or appeal for a period of 6 months

**Appendix 1: GRIEVANCE AT WORK FORM**

**Name :**

**School:**

**Area Employed:**

**Supervisor, line manager or SLT member:**

**Job Title:**

What is your grievance?

What action has been taken so far, who has considered it and what was the result?

What is the outcome that you require to resolve your grievance?

Signed

Date

Please retain a copy and forward this onto your line manager

## **Appendix 2: Suggested letter to Employee inviting them to attend a formal meeting**

Dear (Employee)

### **GRIEVANCE**

I am in receipt of your grievance form/letter/E-mail, dated (date) in connection with your employment.

I understand that you have attempted to resolve this with (name and job title of supervisor or senior teacher) and that your grievance remains unresolved.

You are invited to attend a meeting with me on (date, time and location) to discuss the issues you have raised and how these can be resolved. You are entitled to be accompanied by a recognised trade union representative, trade union officer or School colleague of your choice. (I will be supported by a (name) a Human Resources Adviser). Also present will be your supervisor or senior teacher, (name as above).

(If relevant) The notes taken by your (supervisor or senior teacher) taken at the time of the informal meeting and agreed at that time will be available at the meeting.

If you are unable to attend the meeting you must inform me as soon as possible. Alternatively, if your chosen companion is not available, the meeting will be re-arranged.

I attach a copy of the Trust's Grievance Policy and Procedure for your information.

Yours sincerely

Headteacher

### **Appendix 3: Suggested letter to Employee on the outcome of the Grievance Meeting**

Dear (Employee)

#### **GRIEVANCE**

Thank you for attending the meeting about your grievance on (date, time and location). I note that you were accompanied by (name of TU Rep or fellow employee). Also present were (name) HR Adviser and your supervisor or senior teacher (name).

The outcome of the matter is (give full detailed explanation of the decision and the reasons for it)

I hope that this resolves the matter to your satisfaction. You have the right to appeal against this decision. If you wish to do so you should write to the Chair of Governors or the Trust's CEO within 10 working days of receipt of this letter.

Yours sincerely

Headteacher

**Appendix 4: Suggested letter to Employee that the outcome of the Grievance Meeting was an investigation**

Dear (Employee)

**GRIEVANCE**

Thank you for attending the meeting about your grievance on (date, time and location). I note that you were accompanied by (name of TU Rep or fellow employee). Also present were (name) HR Adviser and your (supervisor, line manager or SLT member (name)).

I believe that this matter requires further investigation and I have asked (name and job title) to look into this matter for me and to produce a fact finding report.

Once this has been completed I will contact you again to re-arrange a meeting and provide you with a copy of the report

Yours sincerely

Headteacher

**Appendix 5: Suggested letter to Employee inviting them to attend a further meeting once the investigation report has been completed**

Dear (Employee)

**GRIEVANCE**

Further to my letter of (date of letter re investigation) I am now in receipt of the report which I commissioned from (name of investigator). I attach a copy for your information and invite you to attend a re-convened meeting with me on (date, time and location)

I would remind you that you are entitled to be accompanied by a trade union representative, trade union officer or School work colleague of your choice. I will be accompanied by (name) a HR Adviser. Also present will be your (supervisor, line manager or SLT member (name), who will also have been provided with a copy of the report.

Yours sincerely

Headteacher

**Appendix 6: Suggested letter to Employee on the outcome of the Grievance Meeting, following an investigation**

Dear (Employee)

**GRIEVANCE**

Thank you for attending the meeting about your grievance on (date, time and location). I note that you were accompanied by (name of TU Rep or fellow employee). Also present were (name) HR Adviser and your supervisor or senior teacher (name).

I considered the report prepared for me by (name and job title of investigating officer) and the comments that you have made.

The outcome of the matter is (give full detailed explanation of the decision and the reasons for it)

I hope that this resolves the matter to your satisfaction. You have the right to appeal against this decision. If you wish to do so you should write to the Chairman of Governors within 10 working days of receipt of this letter.

Yours sincerely

Headteacher

## **Appendix 7: Suggested letter to Employee on the outcome of the Grievance Meeting, which is Mediation**

Dear (Employee)

### **GRIEVANCE**

Thank you for attending the meeting about your grievance on (date, time and location). I note that you were accompanied by (name of TU Rep or fellow employee). Also present were (name) HR Adviser and your (supervisor or senior teacher (name)).

(If relevant) I considered the report prepared for me by (name and job title of investigating officer)

The outcome of the matter is that I recommend that you and (fellow employee(s) consider mediation. The purpose of mediation is to find a solution that is acceptable to both parties. However it is voluntary and both/all parties have to agree to this prior to a mediator becoming involved. Both parties also have the right to withdraw from mediation at any time.

Please note that the mediator is independent and has no power to impose a decision.

If both parties agree to mediation, this is on the basis that you agree to abide by the outcomes. A right of appeal can only be exercised if you withdraw from mediation at any time before the conclusion of the process.

If you do not agree to mediation and wish to appeal against this decision, you should do so, in writing to the Chairman of Governors within 10 working days of receipt of this letter.

If you withdraw at any time prior to agreement being made at mediation, you should exercise your right of appeal within 10 working days of that withdrawal

Please let me know in writing, that this outcome is acceptable to you. I attach a form asking for your agreement on the principles of mediation, which you need to return to me and I will arrange for a suitably qualified and experienced mediator to contact you.

Yours sincerely,

Headteacher

## **Appendix 8: Suggested letter to other employee on the outcome of the Grievance Meeting, which is Mediation**

Dear (Employee)

### **GRIEVANCE**

(Name of person with grievance) has stated that they have a grievance which involves you. This is (nature of grievance). Having heard their complaint I have concluded that the outcome should be that mediation between you both takes place.

The purpose of mediation is to find a solution that is acceptable to both parties. However it is voluntary and both/all parties have to agree to this prior to a mediator becoming involved. Both parties also have the right to withdraw from mediation at any time.

Please note that the mediator is independent and has no power to impose a decision.

Please let me know in writing, that this outcome is acceptable to you. I attach a form for you to sign agreeing to the principles of mediation, which needs to be returned to me and I will then arrange for a suitably qualified and experienced mediator to contact you.

I enclose a copy of the Trust's Grievance Procedure.

Yours sincerely

Headteacher

## **Appendix 9: Request for Mediation Services**

Name and contact details of employee 1

Name and contact details of employee 2

Brief details of mediation request

Name and contact details of HR Adviser

Name and contact details of referring Headteacher

**NOTE – The mediator will invoice the Headteacher directly for the service provided**

**Return this form to Headteacher**

**Appendix 10: Agreement to Mediation**

1. I undertake to listen to others point of view
  
2. I undertake to be co-operative towards resolving the complaint
  
3. I agree to remain respectful towards the other party
  
4. I acknowledge the process is reliant on goodwill and commitment to acceptance in good faith.

Signed ..... Date .....

**Return this form to Headteacher**

## **Appendix 11 - What is Mediation?**

### **THE MEDIATION PROCESS EXPLAINED**

#### **What is Workplace Mediation?**

Workplace Mediation is a confidential and informal way to resolve disagreements or disputes between people who work together. The process is assisted by a trained mediator who acts as a facilitator. The process works by encouraging the parties to speak to each other and reach a mutually acceptable agreement that will sort out their problems. It gives the parties a chance to talk about the situation, express their concerns to each other and come up with some practical ideas about how things could change for the better. The dispute could be between two or more people.

#### **Mediation is:**

- **Voluntary** – It cannot work unless all parties agree to mediation. It is therefore essential that the parties are not put under pressure to attend mediation or feel that it will count against them if they decide not to participate.
- **A means for reaching agreement** – The parties will be asked to identify their issues and concerns and from this an agenda will be set to help them jointly work towards an acceptable agreement. The mediator will encourage open communication and will help the parties to generate options and ideas that will improve the situation. The aim of mediation is to achieve a win/win outcome with the parties taking responsibility for making changes and agreeing a more positive way of working for the future.
- **Confidential** – The process is carried out on the basis of agreed confidentiality between the parties and the mediator. The exception to this would be if a party raised issues of harm to self or others or issues of serious misconduct. The content of mediation is not fed back to Human Resources staff or managers, nor is it recorded on the employee's personnel file. However, the parties may find it helpful to share some or all of details of their agreement with people outside of the process.
- **Quick** - The aim of mediation is to resolve issues at the earliest opportunity. Mediation can be arranged in a few days and the process can usually be completed in one or two days.

#### **What types of disputes can be resolved through Workplace Mediation?**

Mediation can be an effective method of resolving all types of workplace disputes. These could include:

- Communication issues
- Personality clashes
- Unresolved or ongoing grievance issues
- Perceived discrimination, harassment or bullying
- Differences of working style or approach
- Inappropriate use of power, status or position

#### **What is the mediator's role?**

The mediator's role is to act as an independent and impartial facilitator. They will not take sides or judge what is right or wrong. They will coordinate the process by making sure that each party has an equal voice, is heard and is able to respond.

There will be an agreement of willingness to undergo mediation from each party before the process begins.

The mediator will establish the ground rules and ensure that all parties comply with these. They will also encourage the parties to discuss their issues of concern and help them look for realistic solutions. Where appropriate, the mediator will assist the parties to draw up a mutually acceptable agreement that can be signed by all parties.

The parties can talk to the mediator openly because he or she will not pass on anything said without the agreement of the person who said it.

### **How does mediation work?**

#### **Stage One: Separate meetings with the parties**

The mediator will meet with the parties individually to:

- Explain the mediation process, including confidentiality, and the role of the mediator
- Explore the core issues and identify the ideal outcome for both parties

The mediator may need to meet with either of both parties on more than one occasion to clarify any further issues arising from Stage One.

#### **Stage Two: Face-to-face mediation**

The mediator will ensure that a suitable venue has been arranged where there will be no interruptions and confidentiality can be maintained. The mediator will:

- Set the scene:
- Establish the ground rules for the meeting (e.g. the need to respect and listen to each other's views, confidentiality, etc)
- Provide uninterrupted time for each party to set out the issues as they see them
- Agree an agenda of issues to be explored and discussed further

#### **Explore the issues:**

- Explore the issues with both parties
- Encourage open communication
- Identify people's concerns about the issues
- Encourage a mutual understanding of the issues
- Encourage a change of focus from the past to the future
- Summarise areas of consensus and disagreement

#### **Build an agreement**

Mediation will work towards:

- Generating and assessing options
- Encouraging problem solving
- An acceptance or acknowledgement of conciliatory gestures
- Constructing a mutually acceptable agreement for a more positive way of working for the future and create fall back arrangements
- Identifying what happens next if no agreement can be reached

#### **Closure and Follow-Up**

- The session will conclude when both parties agree that they have dealt with the dispute and have reached a mutually acceptable agreement, with a clear understanding of what has been agreed
- If an agreement is reached, it will be written down in clear, unambiguous language and both parties will be asked to sign it
- Reach an agreement about who retains copies of the agreement (e.g. just the parties or do the parties agree to others, such as their manager, having a copy?)
- Reminder of the confidential nature of the process

## **Appendix 12: GUIDANCE ON CONDUCTING A FORMAL GRIEVANCE MEETING**

The Headteacher hearing the matter arranges for the parties to enter at the same time and take designated seats

Headteacher conducts introductions if this is necessary

N.B. If the employee is unaccompanied, the Headteacher checks that he/she is happy to proceed without representation and makes a note to that effect.

If the matter has been the subject of an investigation, the Headteacher hearing the matter will ensure that all parties have read the report prior to the meeting.

When directed by the Headteacher hearing the matter

- The employee or representative states the nature of the grievance and what has been done to resolve the matter.
- The Headteacher hearing the matter may ask questions to clarify details
- The HR Adviser hearing the matter may ask questions to clarify details
- The supervisor or senior teacher who has dealt with the matter up to now is asked to respond
- The Headteacher hearing the matter may ask questions to clarify details
- The HR Adviser hearing the matter may ask questions to clarify details
- The Headteacher will ask both parties to withdraw and notify the employee and supervisor or senior teacher of his/her decision, in writing within 5 working days of the meeting

The decision is that of the Headteacher hearing the matter and the HR Adviser acts in an advisory capacity only.

### **Appendix 13: GUIDANCE ON CONDUCTING A FORMAL GRIEVANCE MEETING FOR GOVERNORS**

The Chair of the Appeal Panel hearing the matter arranges for the parties to enter at the same time and take designated seats

The Chair of the Appeal Panel conducts introductions if this is necessary

N.B. If the employee is unaccompanied, the Chair of the Appeal Panel checks that he/she is happy to proceed without representation and makes a note to that effect.

When directed by the Chair

- The employee or representative states the nature of the grievance and what has been done to resolve the matter.
- Any members of the Appeal Panel hearing the matter may ask questions to clarify details
- The HR Adviser may ask questions to clarify details
- The Headteacher who has dealt with the matter up to now is asked to respond
- Any members of the Appeal Panel hearing the matter may ask questions to clarify details
- The HR Adviser may ask questions to clarify details
- The Chair of the Appeal Panel will ask both parties to withdraw and notify the employee and Headteacher of his/her decision, in writing within 5 working days of the meeting

The decision is that of the Appeal Panel hearing the matter and the HR Adviser acts in an advisory capacity only.

The decision of the Appeal Panel is final and there are no further rights of appeal.