

## **Resolution and Grievance Procedure for Schools – Guidance**

This Guidance is intended to be read alongside Resolution and Grievance Procedure.

It is in two parts:

### **Part A – General Guidance**

### **Part B – Harassment, Discrimination, Victimisation and Bullying**

#### **Part A      GENERAL GUIDANCE**

##### **1            Who this policy applies to**

**Employee** – a person with a contract of employment showing that they are directly employed at the school either on a permanent or fixed term basis.

##### **This policy does not apply to**

**Centrally employed City Council employees contracted to the school** – for example, some catering, cleaning and site management colleagues, who are contracted to the school from central Council departments. Those who are central employees of the Council will be covered by a similar procedure which they can obtain from their manager.

**Casual worker** - a person who is not an employee, does not have a contract of employment with the school/Council and works only as and when required, usually intermittently. The school/Council are not obliged to offer work nor is the worker obliged to accept the work

**Consultant** – a non-employee working in an advisory capacity

**Agency worker** – a person engaged through a third party agency and assigned temporarily to the school/Council to undertake specific work, for example, supply teachers.

**External contractor** – a person contracted to undertake work at the school from an external company, usually in a specialist role and/or for a limited duration.

##### **2.            Scope of the Resolution and Grievance Procedure**

###### **Definitions**

**Manager** – is used in most cases to refer to the direct line manager, however it can also mean a suitable, alternative manager in cases where it is not appropriate to involve the direct line manager. In schools, the role of manager is likely to be performed by the Headteacher or, on some occasions, another SLT member or a governor.

**Manager's manager or alternative manager** – this term is used to identify another manager who may become involved in the process where it is not considered appropriate to involve a line manager who is implicated in the concern, they may not necessarily be senior to the direct line manager. In schools, this may also include members of the governing body.

**ACAS** – the Advisory, Conciliation and Arbitration Service which provides information, advice, training, conciliation and other services for employers and employees to help prevent or resolve workplace problems

**Companion** – either a trade union representative or work colleague, who may

accompany employees at Stages 2 and 3 of the procedure

**HDVB** – Harassment, Discrimination, Victimisation and Bullying, definitions for each of these can be found in Part B

### **Trust and open communication**

All employees have a role in helping to create a positive working environment in which everyone is respected, good relationships are built and maintained and teaching and learning for children is not disrupted. It should be in everyone's best interests to ensure that any issues that arise are resolved quickly, fairly, amicably and to the satisfaction of all concerned, wherever possible.

### **Cooperation**

At all steps of the process, managers and employees are expected to act quickly and not to delay the resolution unnecessarily. Whilst no time limits are imposed, in reflection of issues such as availability, it is the intention that managers will not delay resolving employees' concerns or releasing employees to attend meetings, nor will employees or their representatives restrict their availability.

### **Concerns of a serious nature**

Examples of concerns of a serious nature include:

a) **Safeguarding**

All employees have a responsibility with regards to the safeguarding of children. If employees are aware of any situation where a child is put in a position of danger, or could potentially be placed in danger, they have the duty to raise this immediately. All schools should have Designated Safeguarding Leads (DSLs) and safeguarding procedures. Staff should ensure that they are aware of procedures for addressing such concerns. Out of school hours or in emergencies, the City Council's 24/7 Emergency Duty Team can be contacted on 0115 876 1000 if an employee has a concern about a child or vulnerable adult. If the situation is serious or potentially life threatening, the police should be contacted immediately.

b) **Health and Safety**

All employees have a duty to look after their own health and safety and that of their colleagues, pupils and the public. If they see anything that they consider to be dangerous or potentially dangerous to anyone, they must report this immediately to a member of the leadership team.

c) **Harassment, discrimination, victimisation and bullying (HDVB)**

Further guidance in relation to HDVB can be found in Part B of this document. Employees are advised to read this first before speaking to their manager, or an alternative manager, who will seek further advice from the school's HR advisor to determine the most appropriate process to manage the HDVB concern.

### **Confidentiality**

It is the intention of those managing the process that all information is dealt with and retained confidentially. In some cases, it may be necessary for information to be shared in order to resolve concerns.

### 3. **The Resolution and Grievance Procedure**

#### **Retaining records**

It is the manager's responsibility to ensure that all information in relation to concerns is recorded on the employee's file. This includes details of discussions and informal resolutions, together with information relating to the formal process, including copies of any RGP-1s, RGP-2s and RGP-3s. This will safeguard both the employee and employer to ensure that accurate records are maintained and will enable successive managers to ensure that issues are dealt with consistently.

#### **Stage 1 – Employee responsibilities**

The Resolution and Grievance Procedure is intended to help employees to resolve their concerns as quickly as possible to avoid disruption to business and to work relationships.

Employees are expected to raise concerns as soon as they arise to prevent them escalating. Issues occurring more than 3 months ago, will not normally be considered. Therefore, it is in the employee's best interests to attempt to resolve their concerns at the earliest opportunity.

Employees are expected to do this by meeting with the colleague(s) involved individually and privately to discuss any concerns calmly and professionally, with a view to resolving the matter amicably. Often people will not be aware that their behaviour has caused others concern. Making them aware will often bring about a stop to the unwanted behaviour.

Where Stage 1 concerns are raised with a manager, they may wish to seek advice from their HR advisor. (City Council HR Advisory customers are able to access a toolkit to help with the early resolution of concerns.)

Whilst there is no procedural right for employees to be accompanied at Stage 1, managers should consider the benefits of engaging with a trade union representative to assist the early resolution of concerns.

#### **Engaging in Stage 2 – Formal resolution process**

In submitting an RGP-2 form, employees should clearly set out, in as much detail as possible, the concerns that they wish to raise formally. They should also provide evidence and names of witnesses (e.g. those present at the time, or involved in relevant email correspondence).

In submitting this information, they are now formally engaged in a grievance process and will be expected to cooperate fully with those trying to support them to resolve their concerns. This may involve attending meetings, giving evidence and cooperating willingly to resolve the matter speedily.

Employees raising a concern at Stage 2 will be called to attend a formal meeting with the manager (see Appendix 1- Conducting a Resolution Meeting). They should ensure that they make themselves available. This will be an opportunity for the employee to present any additional information or evidence.

Managers need to be satisfied that they have sufficient information to be able to resolve the matter. This may lead to the appointment of an investigator to gather the facts. Alternatively, the manager may determine that they can do this for themselves.

Where the manager considers that they are in receipt of sufficient relevant information/evidence on which to formulate a resolution decision, the manager will close the meeting and review all of the information/evidence.

The manager will then write to the employee with their resolution decision/outcome and ensure that they give a right of appeal against their decision, without unreasonable delay, usually within five working days of the meeting. Where additional time is required in order to obtain further information, it is good practice to notify the employee.

### **Gathering additional information/evidence as part of the Stage 2 meeting**

Where the manager considers it necessary to gather additional information or evidence into the employee's concern(s), the manager may undertake this task themselves, ask an appropriate person to conduct a fact finding exercise or commission an Investigator to do this on their behalf. Where an Investigator is commissioned, evidence gathered in the course of their investigation will usually be compiled into a report.

Depending on the circumstances of the case, a copy of any findings or the report, if commissioned, may be provided to the employee raising their concern(s) and the third party being complained about. The disclosure of any notes, findings, report or documentation under the Resolution and Grievance Procedure, will be made at the manager's discretion.

Once the additional information/evidence has been gathered in relation to the employee's concerns, the manager may reconvene the Stage 2 meeting. Alternatively, where the manager considers that it is not necessary to reconvene the Stage 2 meeting, they will provide the employee with their resolution decision outcome in writing.

Where the Stage 2 meeting is reconvened, it may be necessary for witnesses to attend the meeting to provide clarification of their witness account. The manager will confirm the names of any witnesses they wish to attend the reconvened Stage 2 meeting with the employee in advance of the meeting. Similarly, where the employee wishes to clarify the evidence provided by a witness, they should inform the manager of their intention to request that person's attendance. Requesting the attendance of witnesses at the Stage 2 meeting should only be in exceptional circumstances or where there is a

discrepancy over the evidence provided.

Witnesses will be called in turn where there is a discrepancy over the evidence they have provided. The witness may be questioned by the manager, HR Advisor, the employee or their chosen companion on the content of their statement.

Once the manager is satisfied that they are in receipt of the relevant information/evidence on which to formulate a resolution decision, the manager will close the meeting.

The manager will then write to the employee with their resolution decision outcome and ensure that they give a right of appeal against their decision.

### **Failure to attend the resolution meeting(s)**

Employees should ensure they attend the meeting at the specified time. If an employee is unable to attend due to circumstances outside their control they should inform the manager conducting the resolution meeting as soon as possible and a further meeting date will be provided. If the employee fails to attend without reasonable explanation, or if it appears that the employee has not made sufficient attempts to attend the initial or subsequent invites, the manager may consider the matter closed.

### **Stage 3 – Appeal**

The Appeal Committee should consist of three governors wherever possible, but an absolute minimum of two governors. The governors appointed to the Appeal Committee should not have had any prior involvement in the case. In some circumstances, it may be appropriate to involve governors from another school, to ensure impartiality.

The Stage 3 appeal will consider the employee's grounds for appeal and assess whether or not the conclusion reached in the original hearing was appropriate. The appeal is not intended to be a re-hearing of the original concern, but rather a consideration of the specific areas with which the employee remains dissatisfied. The appeal manager may therefore limit the discussion to the specific areas of appeal.

The appeal manager will write to the employee with their outcome/decision within five working days. There is no further right of appeal.

## **4. Accessibility and support**

### **Equality & Diversity**

The Council wants to ensure that all employees have fair and equal access to all policies and procedures relating to their work. It is important that employees ask for assistance at the point at which they raise their concern, if they have any specific needs that would help them to participate fully. This could include, for example, access and mobility issues in relation to the location of meetings, format of correspondence, etc. They should discuss their needs confidentially with their manager, who will assist them.

### **Mediation**

Where a concern cannot be resolved informally, the manager may wish to consider purchasing mediation support prior to moving to the formal process, where all parties involved agree to engage. (The HR Advisory team can provide schools with further information on this.)

### **Health & Wellbeing**

The health and wellbeing of employees is very important to the school and where it is felt that other services could support them, the school reserves the right to make use of these. This could include a referral by their manager to, for example, the Employee Wellbeing service or for relevant training to support them. The Council's confidential support service, PAM Assist, is also available if this is helpful to employees. Similarly, trade unions and employee networks may also offer support.

### **5. Right to be accompanied**

At all formal meetings (Stages 2 and 3 of the Procedure), employees are entitled to be accompanied by a companion e.g. a work colleague or a trade union representative. However, there may be times when an employee feels isolated or worried about raising concerns and may need the support of an independent person to assist them. The school recognises the constructive role that the trade unions can play; therefore, managers are encouraged to work cooperatively with trade unions to resolve employee concerns, where they feel this may be beneficial.

The role of the companion can be to address the meeting, to put the employee's case, to confer with the employee during the meeting, to sum up the case and to respond on the employee's behalf to any views expressed at the meeting. However, the companion is not permitted to answer questions on behalf of the employee, address the hearing if the employee does not wish it or prevent the employee from explaining their case.

### **6. Determining the appropriate procedure to use**

Should the concern be routed through the Disciplinary Procedure, the complainant will still receive an outcome to their concern under the Resolution and Grievance Procedure; however, they will not be entitled to details of any disciplinary action or outcome from the disciplinary process.

## **Part B**      **HARASSMENT, DISCRIMINATION, VICTIMISATION AND BULLYING**

### **2.1**      **Introduction**

- 2.1.1 This guidance is designed to be read in conjunction with the Resolution and Grievance Procedure by those employees who consider that they may have been subjected to harassment, discrimination, victimisation or bullying (HDVB) in the course of their work for the school and wish to raise this with an appropriate manager.
- 2.1.2 The school will not tolerate any form of HDVB and will take decisive action against those found to be responsible for such behaviour.
- 2.1.3 Similarly, the school does not expect any employee or worker engaged in activities for the Council to harass, discriminate, victimise or bully anyone else, whether a colleague, pupil or visitor. The school will take action to address this, which could result in disciplinary action and potentially dismissal and/or legal action, where the behaviour is unlawful.
- 2.1.4 Managers will treat any information disclosed as confidential; however, those considering making a complaint should understand that it will be necessary to share the name of the complainant and nature of the concern with those involved in the process, along with the subject of the complaint. Where there is a serious risk to the employee raising the concern, the manager will be sensitive to the circumstances and seek the advice of the HR advisor prior to progressing the matter.

### **Definitions**

#### **2.2**      **Harassment**

- 2.2.1 ACAS defines harassment as ‘unwanted conduct’ and must be related to a relevant protected characteristic (see 2.2.2 for definition) or be ‘of a sexual nature’. It must also have the purpose or effect of violating a person’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.
- 2.2.2 Protected characteristics include age, disability, gender re-assignment, race (including colour, nationality or ethnic/national origins), religion or belief, sex and sexual orientation, and can also include such characteristics as marriage and civil partnership, pregnancy and maternity.
- 2.2.3 The individual perceived to be harassed may have a protected characteristic or a connection to a protected characteristic, i.e. they may associate with someone with a protected characteristic or are wrongly perceived to have a protected characteristic. For example, a heterosexual male who is harassed because he is wrongly perceived to be a gay man.
- 2.2.4 Harassment may also apply where an employee witnesses actions or behaviours that are perceived to be offensive, which are not directed at them, but relate to a protected characteristic of a third party (e.g. derogatory language used at a workplace). This may create an environment that is considered to be offensive. This is irrespective of whether or not they

themselves have the relevant protected characteristic.

- 2.2.5 Examples of harassment could include unwelcome physical, verbal or non-verbal conduct and action contrary to equal treatment, whether or not the harassment was intentional. The harassment may not necessarily be experienced in person and may include visual images, for example, posts on social media. It may be directed at individuals or groups of individuals. It may be persistent or an isolated incident. The harassment may come from someone who does not work for the school, such as a visitor. The most important factor is that the actions or comments are reasonably viewed as demeaning or unacceptable to the person receiving them.

## 2.3 **Discrimination**

- 2.3.1 Everyone is guilty of making quick and unconscious judgments about people, known as 'unconscious bias'. These judgments can originate from our familial backgrounds, personal experiences, societal stereotypes and the culture in which we are raised. These become discrimination when they form the basis of actions and decisions.

Discrimination can be direct or indirect. It can be an individual act or a series of acts. The person doing the discriminating may do this intentionally or unintentionally.

- 2.3.2 **Direct discrimination** is where a person is treated less favourably than another person because of a 'protected characteristic' e.g. because of their age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race (including colour, nationality or ethnic/national origins), religion or belief, sex or sexual orientation). Direct discrimination cannot be justified and is illegal.
- 2.3.3 **Direct discrimination** may also occur because an individual is perceived to have a protected characteristic, or because they associate with someone who has a protected characteristic, for example, a person who is treated less favourably than another person because they are a carer for a disabled person. An example of this could be denying someone a training opportunity because they are disabled, or female, or possess another protected characteristic.
- 2.3.4 **Indirect discrimination** may occur where a provision, criterion or practice is equally applied but systematically disadvantages a group of people sharing a characteristic i.e. people of a particular age, race, religion or belief, sex, sexual orientation, disability, gender re-assignment and marriage and civil partnership. Indirect discrimination may be justifiable where it is a proportionate means of achieving a legitimate aim.
- ## 2.4 **Victimisation**
- 2.4.1 Victimisation occurs when a person is treated less favourably than another person because they have asserted their rights under a relevant statutory provisions (e.g. Equality Act 2010) or raised a complaint under the school's procedures. This may apply to those either bringing proceedings or acting as a witness to proceedings.



## **2.5 Bullying**

2.5.1 There is no legal definition of bullying but, for practical purposes, the school defines bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient. In some cases, bullying may constitute unlawful harassment or discrimination where it is perpetrated on certain protected grounds (e.g. race, sex, disability, etc.). Bullying in all its forms is unacceptable to the school.

2.5.2 Examples of bullying may include occurrences of the following behaviours or actions targeted at individuals or groups:

- constant unfair criticism, fault finding or undermining
- being excluded, marginalised or isolated
- being treated less favourably than everyone else
- being threatened, shouted at or humiliated
- being either over-burdened with work or denied work
- being set unreasonable targets and deadlines
- denial of annual leave or compassionate leave or opportunities to earn additional income e.g. overtime
- distorting or misrepresenting actions
- cyberbullying and stalking

## **2.6 Management responsibility**

2.6.1 Managers should take allegations of bullying seriously and act promptly, and be aware of their duty of care to all engaged in the process (this includes the complainant, those who are the subject of the complaint and any witnesses). Managers should stay alert to any underlying HDVB through the alleged bullying and take appropriate steps to manage this in such instances. Managers should also ensure that they are supportive towards employees with concerns of HDVB and act decisively to address the concerns. In these cases, managers may require advice from their HR advisor in order to respond to the concerns raised appropriately.

2.6.2 Where an employee raises a concern which they perceive to be HDVB, the manager will consider, having taken advice from their HR Advisor, whether it is appropriate to manage the matter under the Disciplinary Procedure.

2.6.3 Where the manager decides that it is appropriate for the concern to be routed through the Disciplinary Procedure, the complainant will still receive an outcome to their concern under the Resolution and Grievance Procedure; however, they will not be entitled to details of any disciplinary action or outcome from that process.

2.6.4 At the conclusion of the formal resolution stage, where HDVB has been found, the manager will consider, with HR advice, if it is appropriate to raise allegations under the disciplinary procedure, where there is a misconduct concern.

## **2.7 Mediation**

2.7.1 Where a concern of HDVB cannot be resolved informally, the manager may wish to consider purchasing mediation support prior to moving to the formal process, where all parties involved agree to engage. The HR Advisor can provide further information on this.

## **2.8 Employees considering raising an HDVB concern**

2.8.1 In bringing a formal complaint of HDVB under the Resolution and Grievance Procedure, the employee will need to complete the RGP-2 including the following information:

- the name of the person(s) whose behaviour they believe amounts to HDVB;
- the type of behaviour that is causing offence, together with specific examples;
- the dates, times, where and when incidents of HDVB have occurred;
- the names of any witnesses to the alleged HDVB;
- any action that the employee or their manager have already taken to deal with the concern.

2.8.2 All information provided will be treated sensitively and handled in accordance with the school's Data Protection provisions; however, in order to resolve the concern, employees should be aware that it will be necessary to disclose details to those implicated.

2.8.3 Employees should be aware that vexatious claims of HDVB will be considered a misconduct matter and may be dealt with under the Disciplinary Procedure.

2.8.4 The manager will be responsible for notifying the employee who is the subject of the concern that a complaint has been made against them. Any employee alleged to have carried out an act of HDVB, will have an opportunity to explain matters from their perspective under the Resolution and Grievance or Disciplinary Procedure.

2.8.5 In cases where it is necessary to look into the matter more thoroughly, the school's HR advisor can advise on an appropriate investigation process.

2.8.6 Where it has been considered appropriate to instigate an investigation into concerns of HDVB, the investigation report, including copies of witness statements, will inform the Stage 2 resolution hearing. The report will be made available to the complainant and the subject of the complaint, at least 5 working days in advance of the hearing, in order for them to consider the information. Timescales can be waived with the agreement of all parties.

2.8.7 In exceptional circumstances, it may be appropriate to anonymise witness statements where there is a request to protect the identity of witnesses.

2.8.8 Witnesses who are employees are expected to attend the Stage 2 formal meeting, if required, as this is considered a reasonable management request. It is acknowledged that some witnesses may be reluctant to do so and, in sensitive circumstances, the manager may make adjustments to facilitate

their contribution at the time of the meeting.

- 2.8.9 Dependent on the circumstances of the case, the manager may decide to meet with the parties separately as part of the Stage 2 meeting.
- 2.8.10 Confidentiality is to be maintained at all times by all involved and the failure of any party to do this may lead to disciplinary action being taken.
- 2.8.11 The school may make arrangements for either the complainant or subject of the complaint to be temporarily moved to alternative work whilst the concerns are addressed, where this is considered in the interests of the school or the individuals involved. In some cases it may be necessary to temporarily change reporting lines if the concern is between a manager and a direct report.
- 2.8.12 In determining who will transfer to an alternative location/work duties, an appropriate manager will need to assess the situation according to risk and operational requirements. The wishes of those involved will be taken into account before any decision is acted upon; however, ultimately, this is a management decision. The move to an alternative location or work duties does not imply guilt for either party.
- 2.8.12 Suspension can only be considered where the concern is viewed as potential gross misconduct under the [Disciplinary Procedure](#). There is no facility to suspend an employee under the Resolution and Grievance Procedure.
- 2.9 Returning to normal**
- 2.9.1 It is important that, following the conclusion of a resolution process, all parties acknowledge that they should restore professional working relationships and be committed to accepting the final outcome and moving forward.

## **Appendix 1 – Conducting a resolution meeting**

Managers are encouraged to conduct a Stage 2 formal resolution meeting as follows where appropriate:

### **1. Introduction**

The manager will introduce the people present and ask that they explain their respective roles at the meeting. The employee is entitled to be accompanied by a companion at the meeting i.e. a trade union representative or a work colleague.

### **2. Purpose of the meeting**

Open the meeting by explaining:

- that the meeting has been convened under Stage 2 of the school's Resolution and Grievance Procedure
- the purpose of the meeting is to listen to the employees concern(s), review the available evidence underpinning their concern(s) and establish the facts of the matter
- that they will decide on an appropriate resolution outcome decision once they are satisfied that they have sufficient information to do so

### **3. Housekeeping**

Advise that:

- the manager will keep a copy of their own notes of the meeting
- the employee or their companion may make their own notes, should they wish
- the manager will confirm that recording the meeting (electronically or by other means) is not permitted
- ask that all mobile phones are switched off for the duration of the meeting

### **4. The meeting**

The manager will set out the nature of the employee's concern(s) as disclosed on form RGP-2, which will be considered at the meeting.

The manager will invite the employee to give a full account of their concern(s) and provide any underpinning evidence.

Witnesses (including the subject of the complaint) may be invited to attend to clarify their evidence and respond to questions.

Adjournments may take place, as necessary, in order for information to be considered.

The manager will sum up the key points of the concern(s) and confirm with the

employee:

- the reason why they remain dissatisfied with the resolution provided at Stage 1 of the procedure (where applicable)
- their understanding of the employee's concern(s)
- confirm that they have provided all substantial and relevant information about their concern(s) at the meeting
- listen to the resolution that the employee is seeking
- Close the meeting to consider the information/evidence

Where the manager determines that further information or evidence is required, they will adjourn the meeting to gather this themselves, or they may commission an Investigator to do this on their behalf (see Resolution and Grievance Procedure - Guidance – Gathering additional information/evidence as part of a Stage 2 meeting).

Once the manager considers that they are in receipt of sufficient relevant information/evidence on which to formulate a resolution decision, the manager will review this and will then write to the employee with their resolution decision/outcome. They may decide to meet with the employee to give them the resolution verbally, following this up with a written copy.

Managers must advise employees of the Stage 3 right of appeal within 10 working days and this should always be included in the resolution decision/outcome letter.