**LANCASHIRE COUNTY COUNCIL**

**GRIEVANCE**

**A MODEL PROCEDURE (TEACHERS) IN SCHOOLS WITH DELEGATED BUDGETS (AUGUST 2016)**

1. **PURPOSE**
   1. This document sets out the procedures to be followed in situations where a member of the teaching staff has a grievance. This procedure is intended to:

* give clear guidance to all concerned in grievance situations;
* enable grievances to be resolved as efficiently and quickly as possible;
* minimise the prospect of damage to relationships at the school.
  1. This procedure has been agreed between the Authority and the recognised Teachers' Associations. It takes account of the statutory requirements arising out of the Employment Act 2008.
  2. This procedure has been adopted and is published as part of the staffing policies of the Governing Body of Hope High School.
  3. This procedure may be used to deal with claims of sexual, racial and other forms of harassment and bullying. Teachers may wish to seek advice from their trade unions.

1. **APPLICATION**
   1. Under the ACAS Code of Practice, a grievance is defined as ‘a concern, problem or complaint that an employee raises with their employer’.in relation to another member of staff, the Headteacher, the governors or the Local Authority and not a matter which has been raised for clarification.
   2. This procedure applies to all teachers employed in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ school.
   3. Where possible, grievances should be resolved informally (see informal stage, paragraph 4). Where the informal stage fails or is considered by the teacher to be inappropriate, the formal stage should be invoked (see formal stage, paragraph 5).
   4. The grievance procedure is entirely separate from discipline and competence procedures. The rights of teachers under the grievance procedure shall not be excluded by actions taken or proposed to be taken, under other procedures, for example, discipline, capability, complaints.
2. **GENERAL PRINCIPLES**
   1. All documentation and discussions at meetings within this procedure are confidential.
   2. All teachers will have access to a copy of this procedure and will be provided with an individual copy on request.
   3. All teachers will be made aware of the existence of the procedure and will receive a copy at the informal stage of any grievance.
   4. At any meeting convened under this procedure a teacher/Headteacher has the right to attend and be represented by a companion who may be a fellow worker, a trade union representative, or an official employed by a trade union. A trade union representative who is not an employed official must have been certified by their union as being competent to accompany a worker.
   5. At any meeting convened under this procedure, access to an adjournment should not be unreasonably refused.
   6. With the exception of a grievance against the Headteacher or Governing Body, governors are not involved prior to the formal stage of a grievance.
   7. The Clerk to the Governors, in setting a date for a meeting to consider the formal stage of a grievance, will inform the Governors that a full report is to be submitted to them. An attempt by any Governor to elicit further details, at that stage, would be inappropriate.

3.8 The formal stage of the grievance procedure against another member of staff will include a right of appeal.

**TEACHERS**

# When a teacher has a grievance relating to the actions of another member of the staff of the school, the teacher should, first of all, endeavour to resolve the matter by a personal direct approach to the member of staff concerned. Where such an approach does not succeed or is inappropriate the informal stage should be invoked.

1. **INFORMAL STAGE**
   1. The teacher should submit a note to the Headteacher initiating the informal stage of the procedure. The Headteacher or, if appropriate and agreeable to both parties, another senior member of staff will facilitate and chair a meeting between the teacher and the other member of staff.
   2. This meeting should take place within 5 working days\* of the initial note of grievance being received by the Headteacher.

\***Note -** For the purposes of this procedure, a working day is defined as one when a teacher (excluding members of the Leadership Group) would be required to be available for work under the Teachers' Pay and Conditions Document

* 1. If the other member of staff is the Headteacher, the teacher should submit a note to the Clerk to the Governors initiating the informal stage of the procedure, sending a copy to the Headteacher.

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* 1. The Clerk to the Governors should contact the Chair of Governorswho will facilitate and chair a meeting between the teacher and the Headteacher. Where appropriate the Chair of Governors will involve the Schools' HR Teamand/or a Diocesan Officer.
  2. This meeting should take place within 10 working days of the initial note of grievance being received by the Clerk to the Governors.
  3. If the grievance is not resolved, the formal stage may be invoked.

1. **FORMAL STAGE**
   1. Where a grievance has not been resolved informally or, given the nature of the grievance, the informal stage is considered by the teacher to be inappropriate, the teacher should submit a formal written notice of grievance to the Headteacher, sending a copy to the other member of staff if this is not the Headteacher.
   2. If the other member of staff is the Headteacher, the teacher should submit a formal written notice of grievance to the Clerk to the Governors, sending a copy to the Headteacher.
   3. This written notice should set out the details of the grievance and should be accompanied by any supporting documents. The school will provide, on request, secretarial assistance to the teacher for this purpose.
   4. If the other member of staff is not the Headteacher, the Headteacher will, within 5 working days of receipt of the written notice of grievance, make a written report to the Clerk to the Governors. This written report will briefly outline the steps taken under the informal stage of the grievance procedure. It will indicate that the Headteacher has asked the other member of staff to provide, within 10 working days, a written response to the notice of grievance, accompanied by any supporting documents, to the Clerk to the Governors, the teacher and the Headteacher. The school will provide, on request, secretarial assistance to the other member of staff for this purpose.
   5. If the other member of staff is the Headteacher, they will provide, within 10 working days of receipt of a copy of the notice of grievance, a written response accompanied by any supporting documents.
   6. The Clerk to the Governors will arrange for a meeting of the appropriate Committee of Governors to be called and confirmed, in writing within 5 working days of receipt of the report mentioned in paragraph 5.4. Any attempt by Governors to elicit further details at this stage would be inappropriate. The meeting will normally take place no later than 20 working days after receipt by the Clerk to the Governors of the report mentioned in paragraph 5.4. The Clerk to the Governors will send copies of the written statements of grievance and response, any supporting documents together with a copy of this grievance procedure to all interested parties[[1]](#footnote-2)\*\* no later than 5 working days prior to the meeting.

No Governor may serve on both the Grievance Committee and the Appeal Body. The Disciplinary/Dismissal Committee hearing any case which is a direct result of the grievance should not comprise any members of the Grievance Committee or the Appeal Body.

* 1. **Procedure at the Governors Hearing**

1. The teacher and the other member of staff are entitled to be present at all times except when any matter falls solely to the Governor's Committee to consider.
2. Both parties may be accompanied by a representative as outlined in Paragraph 3.4and a scribe and all references to the teacher and to the other member of staff shall be taken to include their representatives.
3. The Chair will invite the teacher and the other member of staff, in that order, to make submissions to the meeting and invite cross examination.
4. The introduction of relevant additional documentary evidence will be allowed.
5. The teacher and the other member of staff, in that order, will have the right to call witnesses, who will be available for questioning by both the teacher and the other member of staff and by the Governors.
6. The Chair will invite the members of the Committee to ask questions of the teacher and/or other member of staff and witnesses.
7. Witnesses will only remain at the meeting for so long as they are giving evidence or being questioned.
8. The teacher and the other member of staff will, in that order, have the right to make a final or closing statement to the Committee.
9. All other parties will then withdraw and the Committee will consider the grievance and reach a decision.
10. The Clerk to the Governors, if present, should take no part in the proceedings, but will remain with the Committee to provide procedural advice. He/she may also make available any notes taken of the evidence and will record the decision of the Committee.
11. If the Chair decides that further questions need to be asked, or clarification is required, the full meeting will be resumed.
12. Any Local Authority or Diocesan officer present will provide advice, as requested, to assist the Committee in coming to a decision.
13. When the Committee of Governors have reached a decision the teacher and the other member of staff will be asked to return to the meeting and the Clerk to the Governors will communicate the decision.
14. The Clerk to the Governors will document the proceedings of the meeting and will confirm the decision in writing to the teacher, the other member of staff their representatives and the Headteacher and the Governors who heard the case within three working days of the conclusion of the meeting. The Clerk to the Governors will indicate the rights of appeal and the procedure for exercising those rights.

**NOTE**

Where the Clerk to the Governors is not present, the clerking function will be carried out by the Local Authority Officer, if present, or a member of the Committee.

* 1. **Appeals**

1. Where the Committee is unable to resolve the grievance to the satisfaction of the teacher who initiated the grievance, there will be a right of appeal to the Appeals Committee of the Governing Body.
2. Notice of appeal, stating the grounds thereof, should be submitted to the Clerk to the Governors within 10 working days of receipt of the confirmation of the decision in writing. Arrangements will be made by the Clerk to the Governors to forward all papers previously considered by the Committee of Governors to the Appeals Committee.
3. The procedure in respect of an appeal will be in accordance with that set out in paragraph 5.7. In particular, a meeting of the Appeals Committee should be called within 10 working days of receipt by the Clerk to the Governors of the appeal, and should normally take place no later than 20 working days after receipt of the notice of appeal.
4. A Local Authority and/or Diocesan Officer may be present to advise the Committee.
5. The Appeals Committee will re-hear the case and will convey its decision orally to both parties and confirm the decision in writing within 5 working days. The decision of the Appeals Committee will be final and no further rights of appeal or hearing will be allowed under this procedure.
6. **GRIEVANCE AGAINST THE GOVERNING BODY**
   1. **Informal Meeting Stage**
7. Where a teacher's or Headteacher's grievance relates to the functions of the Governing Body, there is provision under the School Standards and Framework Act (Schedules 16 and 17) and the Articles of Government for members of staff to make representation to the Governing Body on matters of concern.
8. The teacher or Headteacher should submit a note initiating the informal stage of the procedure to the Clerk to the Governors who will contact the Schools' HR Team.
9. A meeting will be arranged between the teacher/Headteacher and Chair of Governors or members nominated by the Governing Body to attempt to resolve the grievance, to be called within 20 working days of the matter being raised. Arrangements will also be made for a record of the meeting to be taken.
10. Advice and support will be available to both parties from the Authority/Diocese, as appropriate.
11. Where the Headteacher is not cited in the grievance, it must be clear in what capacity he/she is present at the meeting.
12. The record of the meeting, together with any recommendation for the resolution of the grievance, will be shared with all parties. A report on the recommendation will be made to the Governing Body, normally within 20 working days.
13. The grievance may be withdrawn at this informalstage, in which case there is no need to report the details to other Governors.
14. The Governing Body will determine whether to ratify any recommendation for resolution and will communicate this, in writing, to the teacher/Headteacher and his/her representative.
15. Where the grievance is not resolved, the details should not be reported to other Governors, at this stage, in order to avoid tainting and to preserve the ability of Governors to deal with the matter formally.
    1. **Formal Hearing Stage**
16. Where the informal meeting stage in 6.1 above does not resolve the grievance there will be a right to a hearing by the Governing Body or a Committee of the Governing Body.

This may be an existing Committee which may comprise the members of the Grievance/Complaints Committee, but should not involve any governors who have taken part in the informal meeting stage (6.1) or any member of staff who is both a governor and has an involvement in the matter which is the subject of the grievance.

1. Where the Headteacher is not cited in the grievance it must be clear in what capacity he/she is present at the hearing.
2. With the agreement of boththe Governing Body and the teacher/ Headteacher, an independent person will be invited to chair the meeting. This could be an appropriate senior officer of the Authority. The independent Chair will not withdraw with either side at stage 6.2(g)(viii) but will not be entitled to vote.
3. The teacher/Headteacher will submit a formal written notice of grievance together with any supporting documents to the Clerk to the Governors.
4. A submission will be prepared by/on behalf of the Governing Body in response to the formal written details of the grievance.
5. The Clerk to the Governors will arrange for a meeting of the Governing Body/Committee to be called and to take place no later than 20 working days after receipt, by the Clerk to the Governors, of the formal written details of the grievance.

No later than 5 working days prior to the meeting, all interested parties will receive a copy of the written details of the grievance, the Governing Body submission and any supporting documents, together with a copy of this Procedure.

1. **Procedure at the Hearing**
2. The procedure at the hearing will provide for the teacher/Headteacher and the presenter of the Governors' case to be present at all times except when any matter falls solely to the Governing Body/Committee to consider or adjudicate upon.
3. The Chair will allow the teacher/Headteacher and the presenter of the Governors' case, in that order, to make submissions to the meeting, and for questioning to occur.
4. The introduction of relevant additional documentary evidence will be allowed.
5. The teacher/Headteacher and the presenter of the Governors' case will in that order, have the right to call witnesses, who will be available to be questioned by both sides and by the Governing Body/Committee.
6. The Chair will ensure that the members of the Governing Body/Committee may ask questions of the teacher/Headteacher and/or the presenter of the Governors' case and witnesses.
7. Witnesses will only remain at the hearing for so long as they are giving evidence or being questioned.
8. The teacher/Headteacher and the presenter of the Governors' case will, in that order, have the right to make a final or closing statement to the Governing Body/Committee.
9. All other parties will then withdraw and the Governing Body/Committee will consider the grievance and reach a decision. The Chair will not withdraw with either side. Advice offered by the Director, Children'sServicesorrepresentative will be available to the Committee (a different officer from the one who may be acting as an independent chair).
10. If, for any reason, the Chair or either side wishes to ask further questions, or clarification is required, the Chair will reconvene the full hearing.
11. The Chair and/or advisers to either side may act as an intermediary during the course of the deliberations.
12. When the Governing Body/Committee has a proposed resolution for an agreement the Chair will reconvene the hearing and will facilitate the communication of the proposal.
13. The Clerk will document the proceedings of the hearing.
14. Within 3 days of the hearing the Clerk will write to the parties involved, the teacher/Headteacher, their representatives and any other interested parties, to communicate the Governing Body/Committee's proposal.
15. 15 working days will be allowed for any views to be expressed by staff, their representatives and any other interested parties about the proposal in 6.2h(i) above. A report will be made to the full Governing Body, normally within a further 5 working days, of the proposal for the resolution of the grievance and any views expressed.
16. The full Governing Body will then meet to determine whether to accept the proposed resolution of the grievance.
    1. **Conciliation/Mediation Stage**

Where the Governing Body is unable to resolve the grievance then the assistance of a third party may be sought by either party. This could be an appropriate member of the Schools' HR Team, Diocesan Officer or some other agreed, suitable person.

It would be open to the third party to seek technical assistance from Schools' HR Team and an officer of a recognised Teacher Association.

1. **GRIEVANCE AGAINST THE AUTHORITY**
   1. **Informal Stage**
2. Where a grievance relates to the functions of the Authority, the teacher/Headteacher will submit a written notice of grievance setting out the details thereof, together with any documents felt to be helpful at this stage, to the Director, Children's Services.
3. The Director will arrange a meeting(s) between appropriate officers/members and the teacher/Headteacher to attempt to resolve the grievance, to be called normally no later than 20 working days after receipt of the written notice of the grievance.

Note This stage may be replaced by direct meetings between nominated officers and the teacher/headteacher and his/her representative.

* 1. **Formal Stage**

1. Where the meeting in 7.1(b) does not resolve the dispute the Director will refer the grievance to the next appropriate level of management.
2. The Manager will normally meet no later than 30 days after receipt by the Director of the written notice of grievance and will be called so that 5 working days notice is given in writing to the teacher/Headteacher. At least 10 working days prior to the meeting, a written submission in response to the grievance, prepared on behalf of the Director, Children's Services, any supporting documents and a copy of this procedure will be forwarded to the teacher/Headteacher.
3. The procedure to be followed at the meeting will be as follows:-
4. The procedure at the hearing will provide for the teacher/Headteacher and the presenter of the Authority’s case to be present at all times except when any matter falls solely to the Manager to consider or adjudicate upon.
5. The Manager will allow the teacher/Headteacher and the presenter of the Authority’s case, in that order, to make submissions to the meeting, and for questioning to occur.
6. The introduction of relevant additional documentary evidence will be allowed.
7. The teacher/Headteacher and the presenter of the Authority’s case will in that order, have the right to call witnesses, who will be available for questioning by both sides and by the Manager.
8. The Manager may ask questions of the teacher/Headteacher and/or the presenter of the Authority’s case .
9. Witnesses will only remain at the hearing for so long as they are giving evidence or being questioned.
10. The teacher/Headteacher and the presenter of the Authority’s case will, in that order, have the right to make a final or closing statement to the Manager.
11. All other parties will then withdraw and the Manager will consider the grievance and reach a decision.
12. If, for any reason, the Manager or either side wishes to ask further questions or clarification is required, the Manager will reconvene the full hearing.
13. When the Manager has a proposed resolution for an agreement s/he will reconvene the hearing and will communicate the proposal.
14. The proceedings of the hearing will be documented.
15. The Manager will write to the parties involved and any other interested parties, to communicate the proposal.
    1. **Conciliation/Mediation Stage**
16. There is nothing to prevent further consultation involving officers/members of the Authority and the teacher/Headteacher and his/her representative with a view to resolving the matter without recourse to further stages.
17. Where the grievance is not resolved reference may be made to ACAS for conciliation. ACAS can be invited to make a determination if both parties to the grievance agree to such a course of action.
18. **GRIEVANCES RAISED WHERE DIFFERENT PROCEDURES HAVE ALREADY COMMENCED**
19. Where a grievance is raised during the formal stages of a different procedure and the grievance relates to matters already under consideration as part of that procedure, this would normally be dealt with as part of that procedure.
20. Where the grievance is deemed not to be related to the matters being considered under different procedure, the provisions of this grievance procedure will apply.
21. **GRIEVANCES RAISED WHERE AN EMPLOYEE IS LEAVING/HAS LEFT EMPLOYMENT**

There is no legal requirement for employers to hear grievances from ex-employees. However, where an employee who has formally raised a grievance leaves employment prior to their grievance being considered they should be asked to confirm in writing whether or not they wish to pursue their grievance.

1. **REVIEW**

This procedure will be reviewed after 1 year of operation and, thereafter, as required.

1. \*\* Note - For the purposes of this procedure, the two parties to the hearing, the Committee, any Local Authority/Diocesan advisers and the Headteacher, if the grievance is not against the Headteacher. [↑](#footnote-ref-2)