

8.3 Management

When a complaint has been raised verbally or in writing in the first instance the line manager must offer a meeting to discuss the details of the complaint, and seek to gain the employee's agreement to address the complaint informally. The line manager may decide to address the complaint by one or more of the following options:

- Offer the complainant a meeting with their manager and the person whom they have a complaint against to openly discuss any issues and agree a way forward
- Speak to the person whom the complaint is made against on the employee's behalf
- Refer the complainant and the person whom the complaint is made against to Occupational Health for support (if necessary)
- Arrange external mediation subject to agreement by both parties

8.3.1 In all circumstances, managers should try to resolve the underlying problem informally as part of good management practice. However, the decision to attempt to achieve an informal resolution ultimately rests with the complainant.

9. Mediation

9.1 Mediation is a voluntary process where the mediator helps two or more people in dispute to attempt to reach an agreement without recourse to the formal procedures. Mediation should be undertaken by a neutral third person who is trained in mediation techniques. Mediation, where it is successful, can produce quicker and more satisfactory results for the parties involved and may reduce the damage caused to working relationships and the health and wellbeing of both parties. Employees may be offered mediation at any stage of the complaints process. Equally, either party or their trade union representatives may make this suggestion.

9.2 Even if mediation is not initially agreed by the parties, the offer of a mediated process can be re-offered as the case progresses.

9.3 Mediation may be used for:

- Resolving conflict between colleagues of a similar job or grade, or between a member of staff and their line-manager
- Rebuilding relationships after a formal dispute has been resolved
- Addressing personality clashes, communication problems and bullying and harassment

9.4 Please note, where disciplinary action is required; this process should be completed prior to mediation.

- Interview the complainant, any witnesses and the person complained against
- Establish the facts of the case
- Submit a written report setting out the findings of the investigation

13.2.1 The investigating officer must not decide on the outcome of the complaint.

13.3 NOTE: In some cases it may be appropriate to suspend the person whom the complaint is made against in order to conduct the investigation.

13.4 Please refer to the Managing Investigations document and contact your Human Resources Business Partner for further support.

14. Step 4 – Feedback on the findings of the investigation

14.1 Once the investigation has been completed the case manager should arrange a meeting with the complainant to give feedback on the findings. If the case manager is not the investigating officer then the investigating officer may also be present. The complainant can be accompanied by a trade union representative or a work colleague. A meeting should then be arranged with the person whom the complaint is made against to provide feedback on the investigation. The person whom the complaint is made against may also be accompanied by a trade union representative or a work colleague. The meetings with both complainant and the complained against will be held consecutively.

14.2 If the findings of the investigation support the complaint then the case manager will inform the employee of this.

14.3 If the findings of the investigation do not support the complaints made by the employee because there is contrary evidence, or if there is insufficient evidence to support the complaints, then the employee can be given this information and advised that if s/he wants to take the matter further then s/he will need to inform the Headteacher/Chair in writing that s/he now wants to have the matter considered at a grievance hearing. Consideration may be given to disciplinary action at this stage.

14.4 Where there is reason to believe that the employee has been treated inappropriately or if there is evidence that the employee has been bullied, harassed or discriminated against then management action should be considered, using the school's Disciplinary Procedure where appropriate.

15. Step 5 – The Hearing

15.1 If the complainant remains dissatisfied then s/he may request that a formal hearing is arranged for the complaints to be considered.

- 15.2 The person against whom the complaint is made will normally be required to attend any formal hearing or appeal hearing and may be accompanied at the hearing by up to two trade union representatives or work colleagues. S/he may be present solely as a witness or, at the discretion of the management representative, may be present throughout the hearing.
- 15.2.1 For complaints made against the Headteacher see paragraph 23
- 15.3 Where a Governors' Committee is used, its members will be convened by the Clerk to Governors from members of the Governing Body who (where possible) have not previously been involved in the case.
- 15.4 The complainant and the person whom the complaint is made against should be given ten working days written notice of the formal hearing.
- 15.5 The person against whom the complaint is made will be entitled to attend any formal hearing or appeal hearing and may be accompanied at the hearing by up to two trade union representatives or work colleagues. S/he may be present solely as a witness or, at the discretion of the management representative, may be present throughout the hearing.
- 15.6 Both parties will receive copies of the procedure and a full set of the evidentiary documentation for the hearing, including any material submitted by the other party. Should either party wish to present additional documentation they should do so by providing it to the Clerk to Governors (for Governor hearings or to the Headteacher/Deputy Headteacher for Headteacher/Deputy Headteacher hearings) by five working days prior to the hearing. Again, any additional material will be copied to the other party.
- 15.7 The nominated manager or Chair hearing the case may wish to adjourn the hearing pending further investigation.
- 15.8 A Human Resources representative will normally be present at hearings to advise on the procedure. The hearing will take place as soon as is reasonably practicable. If possible, a verbal decision will be given after the hearing. The decision will be confirmed in writing within ten working days.

16. Step 6 – The Decision

There are two possible outcomes:

16.1 Complaint - not upheld

The Discipline, Grievance and Dismissal Committee or Headteacher (as appropriate) may conclude that the complaint is not upheld, i.e. because the behaviour complained of did not occur or because there is insufficient evidence to support the

complaint. If, in such a case, the Committee or Headteacher is nonetheless satisfied that the complainant's distress is genuine and/or that there has been a serious breakdown in relationships the college will offer support to the colleagues in the restoration of their working relationship through mediation or other methods as appropriate.

16.2 Complaint upheld or upheld in part

If the outcome of the hearing is that the complaint is fully or in part proven on the balance of probabilities then consideration should be given to appropriate actions to prevent reoccurrence of the matters complained of. Disciplinary action may be recommended in appropriate circumstances as a separate procedure.

17. Step 7 – Issuing the decision

17.1 The complainant should be informed of the outcome, in writing, normally within five working days. The reason(s) for the outcome should be included as part of the response. If the complaint is not upheld (at a first hearing), the employee must be informed of the right to take the complaint to an Appeal Hearing.

The decision letter should be copied to the:

- Management representative who presented the case
- Headteacher
- Complainant's trade union representative

17.2 The person whom the complaint is made against should receive written confirmation of the outcome of the complaint against them.

18. Step 8 – The Appeal

18.1 If the complainant is dissatisfied with the decision from the first hearing, s/he should notify the Clerk to Governors within ten working days of receipt of the decision letter of his or her decision to appeal. The complainant must give specific reasons why they are dissatisfied with the outcome. An appeal can be made on the grounds of:

- Perceived unfairness of the decision
- Disputing the facts of the case including new evidence coming to light
- Procedural non-compliance

18.3 The Appeals Committee will hear the complaint. The Committee will be convened by the Clerk to Governors. The committee will comprise of Governors not previously involved at the first hearing. A Human Resources representative will be present to advise the Governors. The hearing will take place as soon as is reasonably practicable. If possible, the Chair of the Committee may be able to give a verbal

decision after the hearing. The decision will be confirmed in writing normally within ten working days. The decision will be final; there is no further right of appeal.

19. Disciplinary Implications on the outcome of complaints process

- Where a complaint of bullying, harassment or discrimination is upheld, management may take action under the disciplinary procedures
- Where the behaviour complained of is found to be inappropriate but not meriting formal disciplinary action, management may work with the person whom the complaint is made against to modify their behaviour through the use of management instruction, coaching, training, mentoring and mediation
- The making of vexatious or false complaints may result in disciplinary action being taken

20. Restoring Working Relationships

20.1 Whatever the outcome of a complaint, it is management's responsibility to re-establish effective working relationships amongst the employees involved; it is the employees' responsibility to co-operate to achieve this. The college may seek agreement from both the complainant and the person who the complaint has been made against for the case to be referred to mediation.

21. Occupational Health Support

21.1 The college has a duty of care to both parties involved in the case and should recognise that the process may be stressful and have an impact on the health and wellbeing of both parties. Schools are advised to seek Occupational Health support for either party where required.

22. In-college arrangements

22.1 In some cases it may be difficult for employees to work closely together and if possible schools may offer suitable alternative employment within the college if able to do so. (Further advice should be sought from your Human Resources Business Partner).

23. Complaints against the Head-teacher

23.1 Informal

An employee who wishes to make an informal complaint against the Headteacher with a view to resolving an issue may use any of the following approaches:

- Approach a Deputy Headteacher or another member of the leadership team
- Contacting the trade union representative who may contact the Headteacher's trade union representative or the Headteacher directly.
- Approaching the Chair of Governors - The Chair of Governors may delegate the matter to a Governor with the particular skills to enable him or her to provide assistance in this type of problem. Whoever undertakes this role cannot subsequently be a member of the Discipline and Complaints Committee or the Appeals Committee dealing with the matter.

23.2 Where the situation cannot be resolved through mutual discussion, consideration should be given to the use of mediation.

23.3 It must be noted that this is the INFORMAL part of the process and that any person the employee chooses to contact to assist in resolving the problem must deal with the matter on a confidential basis.

23.4 Formal

The employee may contact the Chair of Governors to raise a complaint against the Headteacher. The complainant must put the details in writing outlining their specific complaint to the Chair of Governors/Clerk to Governors. The same steps outlined within the Complaints Procedure will apply with the exception that the investigation and any subsequent hearing(s) will be heard by the Discipline, Grievance and Dismissal Committee.

23.5 Only an external investigating officer or one or more Governors may carry out an investigation into complaints against the Headteacher.

23.5.1 The formal procedure is set out in paragraphs 10 to 22 of this procedure.

24. Complaints made by the Headteacher

24.1 A Headteacher may raise a complaint against a member of staff on the grounds of bullying, harassment or discrimination. A Headteacher may raise a complaint against the Governing Body but not against an individual Governor unless s/he is exercising a delegated power or function or one conferred by law.

25. Allegations against the Governing Body

- 25.1 Please contact the school's Human Resources Business Partner (who will liaise with the Governors Support Service) for advice before taking action.

26. Collective Disputes

- 26.1 Where more than one member of staff has lodged a complaint relating to the same or substantially the same issue, the college may deal with the complaints together in the interests of fair and consistent decision-making. The trade union may initiate a collective grievance on behalf of more than one named employee where the issues are the same.

27. Overlapping complaints and disciplinary cases

- 27.1 Where an employee raises a complaint during a disciplinary process, the disciplinary process may be temporarily suspended in order to deal with the complaint, at the discretion of the Governing Body. Where the complaint and disciplinary cases are related it may be appropriate to deal with both issues concurrently.

Appendix A

Procedure when conducting staff Complaints Hearings and Appeals

Complaints hearings should follow a systematic sequence, achieving a balance between structure and informality in order to ensure that the participants' views are fully explored.

In chairing the meeting, the person responsible for hearing the grievance should:

- Check that everyone has the appropriate papers;
- Explain the way that the meeting will be structured, including any time constraints;
- Provide an opportunity for clarification before commencement of the meeting;
- Advise that should it become necessary to adjourn the meeting, a target timescale for this will be agreed at the meeting.

Hearings must be clerked and for Governor Hearings - this a regulatory requirement.

The Chair/Headteacher (and through him/her the other Governors) may question either side and any witnesses called at any time. If new evidence is brought out both sides will have an opportunity to comment.

The Headteacher/Deputy Headteacher (with acting delegated authority)/Governor chairing the hearing should ensure that the following procedure is observed:

1. The Chair shall introduce those present and explain the procedure to be used and ensure that it is agreed by the employee and/or his/her representative
2. The employee or his/her representative shall present his/her case and may call witnesses to clarify the evidence
3. The management representative (see note at end of procedure) may question the employee and any witnesses s/he had called
4. The management representative shall present his/her case and may call witnesses to clarify the evidence
5. The employee and/or his/her representative may question the management representative and any witnesses s/he has called
6. The management representative shall be given an opportunity to sum up his/her case
7. The employee or his/her representative shall be given an opportunity to sum up the case

8. The Chair shall ask both parties to leave while the decision is made; only recalling the two parties to clear points of uncertainty on evidence already given. If recall is necessary both parties will return, notwithstanding if only one party is concerned with the point giving rise to doubt

9. The Chair shall recall the two sides to:
 - Give the decision and explain the reasons for the decision, and that the decision will be confirmed in writing within ten days

 - or

 - Inform the employee that the decision will be made known to him/her later both verbally and in writing within ten days

Staff Complaints and Grievance Procedure for Schools

