

St Andrew's Maghull Grievance Procedure

Approved by Directors on: 6th July 2021

To be reviewed: July 2023

Jesus grew in wisdom and stature

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 THE CHURCH
OF ENGLAND

Our Trust Prayer

We thank you, God of Love, for the gift of children,
Bless the work of our Trust, that in all we do
young people may grow in wisdom and stature,
and so come
to know you,
to love you
and to serve you
as Jesus did.

We make this prayer in his name who is God
with you and the Holy Spirit, now and forever.

Amen

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1. Purpose

- 1.1 The purpose of this procedure is to ensure fair and consistent handling of employee grievances. Liverpool Diocesan Schools Trust recognises the right of every employee to express a grievance and be given a fair hearing.
- 1.2 This procedure is effective from the 7th July 2021 as approved by the Trust Board of Directors on 6th July 2021.
- 1.3 This procedure has been drawn up to comply with the ACAS Code of Practice on Grievance Procedures. It is intended to provide a system which can enable employee grievances to be resolved fairly, consistently and promptly in order to minimise any conflict or disruption in the workplace. Grievances can occur at all levels and this policy applies equally to management and employees.

2. Application

- 2.1 This procedure applies to all employees of the Trust, whether permanent or on a fixed term contract. It does not apply to agency workers, contractors or volunteers. Guidance on dealing with grievances from former employees can be found in section 10.
- 2.2 The Grievance Procedure does not apply when:
 - the employee wishes to complain about an actual or threatened dismissal or other matters under the disciplinary procedure. However, a grievance may be raised under the disciplinary procedure if it is regarding unlawful discrimination or that action under the disciplinary procedure is not genuinely on the grounds of conduct;
 - the employee raises a concern as a 'protected disclosure' such as whistle blowing in compliance with the Public Interest Disclosure Act 1998 (refer to the Whistleblowing Policy);
 - the employee wishes to complain about matters being dealt with under the capability procedure. These will normally be considered as part of the capability process.
 - the employee wishes to complain about matters related to selection for redundancy which would be dealt with by appeal under the redundancy procedure.
- 2.3 This procedure applies to complaints made by a group of employees (collective grievances) about a matter related to their employment. Where there is a collective grievance the case for the employees should be presented by one representative for the group. One representative from each trade union has the right to be in attendance at the hearing.

3. Roles and responsibilities

- 3.1 Headteachers/Principals, Senior Leaders, Governors and Trust Director (or the person to whom they have delegated responsibility) are responsible for:

- responding promptly and sensitively to complaints or concerns raised by employees;
- investigating grievance matters, if required;
- attending/chairing formal grievance and/or appeal hearings as required;
- ensuring that this policy is applied consistently and that staff are aware of this policy.

3.2 Employees are responsible for:

- making every reasonable effort to resolve their grievance at the earliest possible opportunity and the lowest level of the procedure;
- presenting a clear and detailed complaint, with a suggested resolution;
- co-operating with the management of the Trust and its academies so that complaints or concerns may be resolved.

3.3 The Trust's HR Officers are responsible for:

- providing advice and guidance to all parties on grievance procedures;
- advising on the management of individual cases;

4. Principles

4.1 Grievances are concerns, problems or complaints regarding their employment that employees wish to raise with their employer. This includes complaints against the employer, and matters arising between colleagues, including complaints of bullying and harassment (see Annex one).

4.2 Employees should try to resolve grievances informally wherever possible at the lowest level of concern. However, where an employee states in writing his/her wish to raise a formal grievance, this procedure must be followed.

4.3 A grievance must be raised by the employee personally. A grievance cannot be raised on behalf of someone else. Where an employee witnesses inappropriate behaviour of any kind in the workplace it must be reported to the appropriate Manager.

4.4 An aggrieved employee should submit their grievance as soon as is practical and at least within 3 calendar months of the last occurrence.

4.5 An employee raising a grievance has the right to be accompanied or represented by either a trade union representative or a work colleague at meetings held at any formal stage of this procedure. The companion should be allowed to address the meeting in order to:

- put forward the employee's case
- sum up the employee's case
- respond on the employee's behalf to any view expressed at the hearing
- confer with the employee during the meeting.

The companion does not, however, have the right to answer questions on the employee's behalf, address the hearing if the employee does not wish it, or prevent the employer from explaining their case.

4.6 Written records will be kept during the process and treated as confidential. Formal minutes will be given to the employee if taken (see section 11) and should be agreed by all parties. Where

minutes cannot be agreed, a record of any outstanding concerns will be added to the final version.

- 4.7 The timescales within this procedure may be changed by mutual agreement.
- 4.8 In the event that the Trust determines, in the course of following this Grievance Procedure, that there has been possible misconduct on the part of one or more employees it may be necessary to investigate these concerns separately under the Disciplinary Procedure.
- 4.9 Confidentiality should be maintained during all stages throughout the Grievance Procedure. This is to be done by ensuring that only those people who need to know through the course of their duties have access to the details of the grievance.
- 4.10 A postponement may be granted if the employee or their representative is unable to attend meetings on the proposed dates. A postponement should not be for more than 5 working days after the original date proposed (subject to management availability), however, an extension to this time limit can be made by mutual agreement.
- 4.11 Employees may, at any time, withdraw their grievance by confirming this in writing. Management may, at their discretion, continue to investigate the matter and take appropriate action on the outcomes.
- 4.12 Raising a complaint at work can be a very difficult time both for the employees involved and their colleagues, whether it is tackled informally or formally. The Trust is committed to supporting all members of staff and will ensure that additional support is provided if requested. Where employees choose to raise a grievance, it is recommended that they first contact their Trade Union or other representative for advice.

5. Informal resolution

- 5.1 It is expected that, wherever possible, employees will have attempted to address grievances informally before pursuing the formal procedure. This is because referral to the formal procedure can extend the process longer than necessary and increase feelings of conflict and anxiety for all parties.
- 5.2 It is expected that the employee will raise concerns at an early stage as part of normal management processes. If the complaint is about their line manager, it is expected that the employee will raise the matter with a more senior manager.
- 5.3 Informal resolution may involve a number of different avenues, some examples are given at Annex two.

6. Registering a Grievance

- 6.1 Where an employee's grievance has not been resolved informally or the matter is of a very serious nature they should put the grievance into writing and submit to their Headteacher/Principal. A suggested format for registering a grievance is available at Annex three.

- 6.2 If the grievance is against, or being raised by, the Headteacher / Principal and informal procedures have failed to resolve the situation, it should be passed directly to the Chair of Governors or CEO (or their representative) who will assume responsibility for ensuring the procedure is adhered to, and may nominate an appropriate person to respond on behalf of the Trust. All other rights and procedures as stated in this document apply.
- 6.3 The written grievance should make clear the nature and extent of the grievance as well as the resolution sought by the employee.
- 6.4 On receipt, the Headteacher/Principal or CEO (or their representative) may, in consultation with the employee and/or trade union representative, refer it back to the informal stage to try and resolve it informally if this has not been explored satisfactorily. Alternatively, they may progress to hearing the formal grievance themselves, or they may nominate a manager to hear the grievance.
- 6.5 If an employee raises a grievance during proceedings under another procedure such as capability, disciplinary or sickness absence the Headteacher/Chair of Governors will decide what action should be taken and their decision in this matter will be final. Depending on the nature of the grievance, this may be to temporarily suspend the other procedure to allow the grievance to be considered. Complaints about the conduct of disciplinary/capability/sickness absence procedures will not normally be dealt with under this grievance process, but can be raised as part of the employee's case under the relevant procedure. It is not necessary to obtain the employee's consent to refer the subject of their grievance to another process; but the employee should be informed and the situation explained.
- 6.6 The Headteacher/Principal or CEO (or their representative) should write to the employee within 5 working days of receiving their Formal Grievance to confirm receipt. See Annex four for standard letter.

7. The Grievance Hearing

- 7.1 The manager identified will arrange a grievance hearing to discuss the matter with the aggrieved employee.
- 7.2 The hearing should take place no later than 20 working days after receipt of the written grievance, and the employee will be given a minimum of 10 working days' notice in order to prepare. The employee will be informed of their right to be accompanied by either a trade union representative or a work colleague. HR may attend to provide procedural advice.
- 7.3 The employee should be given the opportunity to state their grievance and explain the resolution sought. Where appropriate the manager may adjourn the hearing in order for further investigation of the matter to be carried out. Investigations should be carried out expediently, and the meeting reconvened as soon as possible.
- 7.4 The manager may appoint an investigating officer to carry out the investigations on his/her behalf, or may carry out the investigation themselves. If an investigating officer is appointed, this should be by mutual consent, and the complainant should be advised in writing. The investigating

officer may be another manager or an external person if appropriate in the circumstances of the case. In all events, the person should be independent to the complaint, and will be bound by the requirements of confidentiality set out in this procedure.

- 7.5 An investigation may involve meeting and interviewing employees or other witnesses, viewing of records and CCTV etc. Witness's statements should be subject to confirmation of agreements as a true and accurate record. Ordinarily the manager / investigating officer will compile a report containing a written summary of their findings and details of any witnesses interviewed. The report will be used as a basis for the discussion with the individual at the reconvened hearing. To avoid confusion, the manager should ensure that all parties are clear when a meeting is an investigatory meeting and when it is a hearing.
- 7.6 The manager will conclude the hearing with one of the following options:
- agree with the resolution proposed by the employee;
 - decide on an alternative resolution
 - dismiss the grievance.
- 7.7 Where there is evidence that the employee's grievance amounts to a serious allegation of bullying / harassment / discrimination or some other conduct matter being committed by someone other than the complainant, the manager would normally refer the matter to be managed under the Disciplinary Procedure. Where this occurs another manager, who has had no dealing with the initial grievance, should take on the disciplinary investigation. A copy of any relevant evidence gathered during the grievance investigation should be passed over to the manager investigating the disciplinary.
- 7.8 The manager will respond to the employee's grievance in writing, within 5 working days of the hearing, or the reconvened hearing where there has been an adjournment, to advise the employee of the outcome. The employee will be informed of their right to appeal.
- 7.9 Where it is proven that the allegations were vexatious / malicious (i.e. allegation without grounds and which has been raised with negative intent towards the alleged perpetrator), a disciplinary investigation will be considered. Note, this is different to a genuine complaint not being upheld.

8. Appeal

- 8.1 Where the employee is dissatisfied with the outcome of the grievance hearing they may appeal.
- 8.2 The appeal must be made in writing, addressed to the Chair of Governors / CEO / Chair of the Trust Board of Directors, stating the grounds for the appeal, within 5 working days of being advised in writing of the outcome of their grievance. In submitting the written appeal, the employee should explain why they remain aggrieved and how they believe the grievance can be resolved.
- 8.3 The appeal will be heard by a panel of three people who have not previously been involved in the grievance (see section 9).

- 8.4 The appeal will be held as soon as possible and normally no later than 20 working days after receipt of the appeal letter. The Chair of the appeal hearing will notify the employee of the date and time of the hearing and their right to be accompanied by either a trade union representative or work colleague.
- 8.5 At the appeal hearing the employee will be able to explain further why they remain aggrieved and how they believe the grievance could be resolved. The manager from the grievance hearing will normally attend to explain their decision and any investigation that was undertaken. A HR representative may attend to provide procedural advice.
- 8.6 Where appropriate the appeal hearing may be adjourned for further investigation.
- 8.7 The employee will be informed of the appeal decision in writing, normally within 5 working days of the appeal hearing or the reconvened appeal hearing where there has been an adjournment. The decision of the appeal hearing is final.

9. Authority to act under the Grievance Procedure

In all instances, those hearing the grievance and appeal should not have previously been involved in the case.

Grievance raised by ...	Grievance Hearing	Appeal Hearing
All school based employees except those listed below	Headteacher / Principal (or nominated manager) <i>If complaint is against the Headteacher / Principal: Chair of LGB (or nominated LGB Governor)</i>	Panel of three from the Local Governing Body
Headteacher / Principal	Chair of LGB (or nominated LGB Governor) and/or CEO (or another Trust representative)	Panel of three drawn from LGB, CEO and/or Trust Board of Directors
All central team employees except CEO	CEO (or their representative) <i>If complaint is against the CEO: a member of the Trust Board of Directors</i>	Panel of three drawn from CEO (or their representative) and Trust Board of Directors

CEO	Chair of the Trust Board of Directors, or nominated member of the Board of Directors	Panel of three from the Trust Board
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10. Grievances from ex-employees

- 10.1 There is no legal requirement to deal with grievances raised by ex-employees. However, Headteachers/Principals and Trust Directors may want to consider dealing with such grievances in order to identify possible employment tribunal complaints, and where appropriate try to prevent them from becoming tribunal complaints. These will be managed on a case by case basis. Advice can be sought from the designated HR Officer.

11. Records

- 11.1 Records of meetings and discussions relating to the grievance should be written during, or as soon after the event as possible, to ensure the accuracy of the record. Written records should be circulated to relevant parties to allow amendments or clarifications as required.
- 11.2 Records should include:
- the nature of the grievance;
 - what was decided and actions taken;
 - the reason for the actions;
 - whether an appeal was lodged;
 - the outcome of the appeal;
 - any subsequent developments.
- 11.3 All record relating to grievances should be stored confidentially and securely on the individual's personal file, and in accordance with the data protection act. No duplicate records should be kept.
- 11.4 Records should be retained for six years after employment ceases, after which time they must be destroyed as confidential waste.
- 11.5 The employee may also wish to keep records of events to support their case.

12. Review

- 12.1 This procedure will be reviewed to respond to any changes in the employment legislation, and at least every two years.

Examples of informal resolution

Raising the matter directly

If the employee decides to raise the matter directly with the person against whom they have a grievance, they must choose an appropriate time and use a non-confrontational manner. It may be helpful to outline the particular action which is causing concern and try to make clear exactly what it is they find unacceptable. It is important to allow the other party to have the opportunity to respond from their point of view. The employee may find that shared information with the other person will throw a new light onto the situation and allow both parties to reflect on things differently. It is expected that there will be an agreed method of moving forward at the end of this process.

Involve a colleague

As an alternative to raising the matter directly, the employee could request a colleague, manager or school representative to outline the matter on their behalf by speaking direct to the person involved. After the initial meeting the employee may choose to become more involved at that stage. It is expected that there will be an agreed method of moving forward at the end of this process.

Put it in writing

Where the employee feels unable to raise the matter verbally (directly or via a colleague) they can choose to put their concerns in writing explaining how the particular action is affecting them. It is recommended that they seek advice from a Union Representative about the wording of the letter. Once the employee has taken this step it may be appropriate to arrange for the matter to be taken forward using one of the other informal methods. The other party will also be given an opportunity to respond in an appropriate manner and this may include a written response. It is expected that there will be an agreed method of moving forward at the end of this process.

Restorative meeting

It may be appropriate to ask the Line Manager/Senior Manager/Headteacher/Principal or other suitable individual to arrange for a meeting between the employee and the individual against whom the complaint is raised. This should take place in a location suitable to both parties. It is expected that there will be an agreed method of moving forward at the end of this process.

Mediation

This is a meeting where a trained independent mediator can help both parties raise issues of concern, assist with understanding the issues and help both parties plan a way of working together effectively in the future. This can only happen if both parties agree and if other informal methods haven't been successful.

These are examples of informal resolution, and another informal course of action might be appropriate in the circumstances.

If either party is unhappy with the particular method, at any stage, they may adopt the use of an alternative method. If informal methods fail to resolve the situation the aggrieved employee may wish to pursue a formal complaint; however, it is recommended that sufficient time is allowed for all parties to reflect on the matter and to try to reach an agreeable way forward.

Do be aware that people often become defensive and relationships can become more strained when going through the grievance process, which can lead to further tensions and additional stress. For these reasons it is recommended that every effort be made to try and resolve issues informally and as soon as possible, and for advice and support from workplace representatives to be sought.

Annex 2

Suggested format for registering a formal grievance

Your name

Your job title

Your place of work

Your contact details (e.g. email address / phone number)

Date

To: The Headteacher / Principal / Chair of Governors / Chief Executive Officer I wish to register a grievance under the Trust's Grievance Procedure.

The cause of my grievance is.....*This should set out clearly the nature and extent of the problem and include any relevant details to explain the issue that you want to resolve. Attached further information if required.*

I have taken the following informal steps to resolve the problem or grievance before invoking the formal grievance procedure.....*Explain what you have done so far to try and resolve the matter, and who has been involved.*

I believe that my grievance could be resolved in the following way.....*What needs to happen to resolve this issue? What outcome are you hoping to achieve?*

My representative is.....*If you have already got a representative please include their name and contact details; this will help in making arrangements to move the matter forward.*

Signed:

Annex 3

Acknowledgement of receipt of formal grievance

NAME ADDRESS

Date

Dear XXXXX

Formal Grievance

I write to confirm receipt of the registration of your formal Grievance dated (INSERT DATE) and I can confirm that your Grievance will be dealt with under the Liverpool Diocesan Schools Trust Grievance Procedure.

A meeting has been arranged to take place on (INSERT DATE) at (INSERT TIME) at (INSERT LOCATION). Please can you confirm your attendance at this meeting.

You have the right to be accompanied at this meeting, therefore I would be grateful if you could let me know whether you will be accompanied by a fellow worker, a trade union representative, or an official employed by a trade union so that necessary arrangements can be made.

The meeting will be chaired by (INSERT NAME, JOB TITLE) and (INSERT NAME, JOB TITLE) will also attend to take notes of the meeting.

Thank you for raising this matter and I hope that we will be able to reach a satisfactory outcome.

Yours sincerely

NAME JOB TITLE

Annex 4

Order of Grievance Hearing

The following procedure will apply to grievance hearings, including appeals.

Someone who is not involved in the case should be appointed to take notes on the proceedings and a Trust HR Officer may be present throughout the hearing.

1. The employee should be provided with an explanation concerning the purpose of the meeting i.e. to consider as fully as possible the nature and the validity of the grievance and should be provided with an explanation of how the meeting will be conducted
2. The aggrieved employee or his/her representative shall state their case and how they would like it to be resolved.
3. The aggrieved employee will have the opportunity to call any witnesses if appropriate.
4. The person/panel hearing the grievance will have the opportunity to question the aggrieved employee or his/her representative in order to progress the case.
5. If appropriate, the hearing should be adjourned whilst an investigation is carried out.
6. When the investigation is complete the meeting should reconvene and the investigating officer (who may be the Chair) should present their findings.
7. The employee will be given the opportunity to question the investigating officer.
8. The person/panel may adjourn the grievance meeting to give proper consideration to all the evidence before making a decision.
9. The person/panel hearing the grievance should ensure that the hearing has been conducted fairly and record any objections made.
10. All those present apart from the person/panel hearing the meeting and the HR Officer, will withdraw whilst the panel reaches its decision.

Guidelines for Investigating Officers

A grievance investigation normally takes place after the employee has explained his/her grievance at a grievance hearing. The hearing is normally adjourned so that the investigation can take place. Once the investigation has taken place the hearing will reconvene so that the findings can be considered.

The investigation may be carried out by the person Chairing the hearing, or they may nominate an investigating officer to carry out this role on their behalf.

Role of the investigating officer

As investigating officer you are responsible for:

- Gathering all the relevant facts promptly;
- Establishing the exact nature of the grievance and finding evidence to substantiate or refute the case;
- Summarising findings in an investigation report;
- Presenting evidence when the grievance hearing is reconvened after the investigation and answering questions as required;
- Attending appeal hearings as a witness when required.

Conducting an investigation

When carrying out an investigation, the investigating officer should:

- Ensure the investigation is carried out as quickly as possible;
- Be thorough and fair;
- Remain impartial and objective;
- Consider whether there are any mitigating circumstances;
- Maintain confidentiality as appropriate;
- Seek supporting evidence, including both that which supports the grievance, and that which refutes the grievance;
- Talk to relevant witnesses as appropriate to establish the full facts;
- Keep notes of investigation meetings;
- Compare statements and notes and attempt to resolve any discrepancies;
- Where the findings of the investigation support the grievance, consider possible resolution, including that suggested by the employee.

Preparation

- Familiarise yourself with the employee's grievance. Fully consider the points that they have raised and any evidence that they have put forward.
- Plan your investigation before you begin – consider what information you need to gather and how best to gather this. This will depend upon the nature of the grievance (e.g. where the grievance is about work location or equipment you may decide to visit the site or where the grievance involves the employee's manager you may want to speak to the manager).
- Before meeting the employee and other witnesses, plan the questions you wish to ask. Think about the grievance that has been raised and the facts you need to gather. Questions may include:

- Why was the decision made?
 - What other options were available?
 - Are there any records that substantiate or refute the grievance?
- Plan where the investigation meetings are going to be held – this needs to be in a private place that is free from interruptions.
 - Take notes of the key points raised at the meetings. A copy of the notes should be given to the relevant employee/witness following the meeting and they should be asked whether there is anything they wish to add to them. Where the employee/witness provides alternative notes following the meeting both versions should be included in the evidence supporting the investigation report.
 - Throughout the investigation a member of the Trust’s HR team will be available to provide advice and support (e.g. on the preparation of questions)

Meet the employee raising the grievance (only for investigating officers who are not hearing the grievance)

- Carefully read the employee’s written grievance before meeting him/her
- Give the employee notice of the meeting so they can prepare. Remind the employee of their right to be accompanied by a trade union representative or work colleague.
- Ask the employee to explain their grievance and how they would like it to be resolved.
- Use open questions to gain information. Clarify issues that arise and check your understanding of what has been said.
- Where appropriate ask the employee to provide evidence to support his/her grievance and ask if there is anything they would like to include

Meet the witnesses

You may decide that it is not necessary to interview every witness, in this instance a written statement from the witness that is signed and dated will suffice. Where you decide to meet with the witness, the following will apply:

- You may wish to ask the witnesses to write a written statement prior to meeting them. Where appropriate you would ask them to respond in their written statement to certain questions.
- Where a witness provides a written statement you need to ensure you are happy that you have obtained all the information that you require from them, and that there are no un-answered questions. If you are not satisfied then you can re-interview the witness.
- Discuss with HR if a witness is unwilling to get involved.
- Use open questions to gain information, clarify issues and check your understanding of what has been said.
- Do not lead the witness but do encourage them to concentrate on the main facts.
- Advise witnesses that their statements may be made available to the employee and management side. Witnesses also need to be made aware that they may be called to give evidence at a hearing.

Witness statements

Witness statements should include the following:

- The name and job title of the person giving the statement;
- Summary of the grievance being investigated;
- The reason for the witness being able to comment on the issues;
- Facts that can be provided by the witness;
- Sketch or plan if appropriate;
- Date, time and place the statement was taken;
- The signature of the witness.

Gather other evidence

- Ask/seek supporting evidence to substantiate information provided by the employee/witnesses. Keep copies to use as supporting documentation.
- You may need to look at documents such as work rotas, attendance records, appraisal documents, e- mails, letters, training records, development plans etc. You will need to take copies of the documents for supporting documentation.
- You may wish to compare records for different employees', for example where the employee's grievance is that he/she believed she has been treated less favourably.
- You may wish to carry out site visits.

Preparing the investigation report

Once the investigation has been complete, you will need to write a report, the designated HR Officer can provide advice. The report will provide the main source of the findings to the aggrieved employee at the reconvened grievance hearing.

The report should be clear, concise and presented in a logical format, it should:

- Outline the grievance
- Provide full supporting evidence, including all the facts so that it would make sense to someone unfamiliar with the case
- Where the findings of the investigation substantiate the employee's grievance you should list available options for resolution.

Suggested format of Grievance Investigation Report

- 1 Introduction
- 2 Background information relating to the employee:
 - Name and job title of the employee
 - Hours of work
- 3 Background information about the workplace, such as:
 - Environment
 - Staffing levels
 - Workload and shift pattern

4 The Grievance. Specify the grievance and how the employee would like to see it resolved. Refer to the employee's written grievance (attach a copy of the employee's grievance as an Annex)

5 Investigation

- Who conducted the investigation (your name, and job title)
- How the grievance was brought to your attention
- How you carried out the investigation
- Refer to the sources of information that you accessed
- Refer to any witness statement, and clarify why these are relevant

6 Statement of Case. From the information that you have gathered, state the grievance and state whether your investigation substantiates or refutes this, cross referencing to documents, statements etc. within the appendices as appropriate:

- Highlight the salient points of the statements
- Explain the correct procedures
- Refer to any additional supporting evidence

7 Possible Solutions. Where your investigation has substantiated the employee's grievance state the employee's preferred resolution. Specify any other realistic solutions, listing pros and cons for each.

