



# **The Elliot Foundation Academies Trust**

## **Academies staff**

### **Grievance Procedure**

**November 2014**

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## **1. Introduction**

The Elliot Foundation Academies Trust (TEFAT) is committed to promoting orderly employment relations as well as fairness and consistency in the treatment of individuals. Working for the Academy should be enjoyable and challenging. However, from time to time, a grievance issue may arise. If this is the case managers will seek to address the issue through this policy and procedure.

The aim of the TEFAT Academy Grievance Procedure is to address any staff grievances fairly, consistently and quickly, as resolution of concerns is helpful to harmonious working, job satisfaction and productivity.

It is essential that grievances from employees are treated in a professional manner. It is important to remember the importance of the individual employee's perspective when managing their concerns – what may seem insignificant to one member of staff may be a serious problem for another.

## **2. Scope**

This grievance procedure applies to all academy-based staff employed directly by TEFAT. It excludes contractors' employees. Staff that have left the Academy may send a grievance to the Principal who will respond in writing. Such cases will only be considered within 20 working days of the staff member leaving the Academy.

The grievance procedure is not used for disciplinary and capability issues, including appeals. However, disciplinary or capability action may result from these procedures.

## **3. Types of Complaint**

The Grievance procedure is used for raising any type of grievance including (but not exclusively):

- terms and conditions of employment
- health and safety
- work relations
- bullying and harassment
- new working practices/organisational changes
- discrimination.

Definition of bullying, harassment and discrimination:

Complaints of Harassment – Harassment is uninvited and unwanted action or behaviour by one person or group against another, or others, which may cause offence and/or embarrassment and which creates fear, stress or tension in the workplace. It could be an isolated act such as a comment or gesture or it could take the form of repeated behaviour.

Complaints of Bullying – Bullying is the misuse of power, position or situation which has the effect of intimidating, humiliating or undermining an employee.

Complaints of Discrimination – Unlawful discrimination is any action or inaction in relation to any employee, which is unlawful under current Race, Sex or Disability Discrimination legislation.

Discrimination also includes the treatment of an employee less favourably or the victimisation of an employee by reason of their religious or political convictions; being lesbian or gay; gender assignment; membership or non-membership of a trade union or involvement in trade union activities; status as an ex-offender; age (or youth) or medical status.

#### **4. Responsibilities**

Managers should be aware that the Academy may be held responsible for the actions of its employees regardless of whether or not they are aware of those actions. It is therefore essential that they take appropriate measures to ensure that harassment, bullying or discrimination does not occur.

It is the responsibility of all managers to:

- make all members of staff aware of the policy and ensure their compliance with it
- treat each allegation of grievance seriously and sympathetically and with an open mind
- act upon the grievance without unreasonable delay
- maintain confidentiality when dealing with cases and ensure that a written record is kept of all informal and formal meetings and discussions
- effectively deal with all incidents of harassment or bullying of which they are aware
- strive to maintain an environment free from harassment or bullying
- equitably and sensitively treat situations where staff have alleged harassment or bullying

Each individual is responsible for their own actions while at work. It is the responsibility of all employees to:

- ensure their behaviour does not include any unwanted conduct
- treat fellow employees, students and visitors with respect and dignity
- raise matters of grievance without unreasonable delay
- report incidents of harassment or bullying either personally experienced or witnessed, immediately to the appropriate line manager
- make written notes (with dates and names of any witnesses) of incidents, harassment or bullying experienced or witnessed
- ensure confidentiality is maintained at all times

## **5. Collective Disputes**

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

## **6. Who will hear the grievance?**

A member of the Senior Leadership Team (or person nominated by the Principal) will be responsible for hearing a grievance at Stage 1 of the formal procedure (assuming that they themselves are not the respondent). In addition, no person should hear a grievance where they have considered the case or represented either party at an earlier stage, or where their prior involvement prejudices objectivity.

A panel of three members of the Local Governing Body (LGB) will hear grievances at Stage 2 (appeal) of the formal procedure.

The person making the complaint may be termed the “complainant” and the person(s) against whom the complaint is made may be termed the “respondent(s)”.

## **7. Grievance against the Principal**

As for other staff, an informal approach should be carried out first unless, for some reason, the complainant is not able to (for example, if the complaint was for sexual harassment).

Where a grievance has been brought against the Principal, the complainant should submit their grievance to the Chair of the LGB.

The Chair of the LGB will then manage the grievance as stage 1 of the procedure. If the complainant is not happy with the outcome of stage 1 and appeals against this, then stage 2 (appeal) will be heard by the LGB appeals panel.

Grievance made by the Principal

The Principal would send his grievance to the Chair of the Local Governing Body who would deal with it in line with this procedure. If the Principal’s grievance was against the Chair of the LGB then the grievance should be sent to the TEFAT Managing Director.

## **8. Representation**

Throughout the process, both the complainant and the respondent may be accompanied, for example by a recognised trade union representative or by a work colleague not involved in the complaint.

The trade union representative or work colleague may address the meeting and confer with the employee but may not answer questions on their behalf. Those

accompanying may, however, ask questions of the Chair, the other party and any witnesses.

The complainant and respondent should make their own arrangements to be accompanied. Where the chosen person is not available at the proposed time and date, they may propose an alternative time. If this suggestion is reasonable and falls within 5 working days of the original date, the meeting must be postponed to that date and time. It is good practice for a mutually agreed time to be arranged for meetings.

### **9. Timescales**

Grievances should normally be conducted within the timescales laid down in the procedure. However, where there is a valid reason to do so, timescales can be varied. The employee should be given an explanation if this occurs and informed when a response or meeting can be expected. All parties must act in all cases without unreasonable delay.

In cases which warrant a full investigation such as harassment, bullying and discrimination the investigation will be concluded as quickly as possible, however, it is acknowledged that the timescales will vary in each individual case.

### **10. Record keeping**

It is important that accurate and contemporaneous records are kept throughout the process, including any initial informal process.

Records should be held in a secure and confidential manner. Often the issues raised are particularly sensitive and it is essential that the circulation of information be minimised to that which is necessary to ensure a fair investigation and hearing.

## **11. Grievance Procedure**

### **Preliminary informal process**

Most routine complaints and grievances are best resolved informally in discussion with the employee's line manager. This can often lead to a speedy resolution of the problem.

In all circumstances, even where the complainant submits a grievance under the formal procedure without first raising the complaint with their line manager, managers will try to resolve the underlying problem informally as part of good management practice and not merely rely upon a strictly procedural approach. However, the decision to attempt to achieve an informal resolution ultimately rests with the complainant.

In certain circumstances it may, with mutual agreement, be helpful to seek external advice or assistance. An external mediator may be able to resolve the problem.

Normally representation at informal meetings will not be necessary as managers are often able to deal with matters swiftly and informally, however, if the employee is of the view that informal resolution would be aided if there was a union representative present then this should be given serious consideration.

Where the grievance cannot be resolved informally, then it should be referred to the appropriate formal grievance procedure.

Where a member of staff taking out a grievance has concerns about working with or approaching the individual about who they have taken out the grievance, they should seek guidance from the principal. If it is the principal against whom they have taken out the grievance they should seek advice from the chair of the LGB, the HR provider and/or their trade union or professional association representative.

### **Formal grievance procedure – Stage 1 (cases of complaint)**

The complainant should put the grievance in writing to the Principal using the Notification of Grievance form (appendix B). Failure to use the Notice of Grievance form does not mean that management should not take action to deal with the grievance. Cases of complaint may relate to:

- conditions of employment
- educational matters within the school
- any matters not covered by the harassment, bullying and discrimination procedures

A formal grievance should normally be submitted no later than 10 working days after the act or omission complained of, or no later than 10 working days after the last act or omission in a series of linked events, unless there is a good reason for the delay.

A reasonable amount of detail should be given by the employee. The nature of the grievance should be described, indicating what is alleged to have occurred, by whom and when. The complainant should state what outcome they seek by raising the formal complaint.

The nominated manager should hear the complaint within 10 working days. Both parties will be entitled to attend and be accompanied. All parties should have the opportunity to make submissions at the meetings.

All documentation and names of any witnesses will be distributed at least 3 working days before the hearing. The recommended procedure can be found in Appendix A. The nominated manager should seek advice from the academy HR provider at all steps of the process.

The nominated manager hearing the case may wish to adjourn the hearing pending further investigation.

The complainant should be informed of the outcome, in writing, normally within 5 working days. The reason(s) for the outcome should be included as part of the response. If the grievance is not upheld, the employee must be informed of the right to take the grievance to a Stage 2 (appeal) hearing.

### **Formal grievance procedure – Stage 2 (Appeal)**

If the complainant is dissatisfied with the response at Stage 1, they should notify the Principal within 5 working days of receipt of the outcome to the grievance at Stage 1. The appeal should be made in writing. The complainant must give a specific reason(s) why they are dissatisfied with the Stage 1 outcome.

The grievance at stage 2 will be heard by a panel of three members of the Local Governing Body not involved in the case. The panel should seek advice from the academy HR provider in handling the consideration of the grievance. The hearing will take place within 15 working days of the appeal submission.

The decision made at the appeal will be final. There is no further right of appeal.

## **Appendix A**

### **Procedure to follow when conducting staff Grievance Hearings (Stage 1) and Appeals (Stage 2)**

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

Stage 1 hearings will be carried out by the Principal (unless the Principal is the respondent or has previously been involved in the matter, in which case the Chair of the LGB will hear the case).

Stage 2 hearings will be carried out by the LGB Appeals Panel.

In chairing the meeting, the person responsible 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 comments and 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

The chair of the hearing should ensure that the following procedure is observed:

- the complainant should introduce their submission, explaining the reason for their complaint (at Stage 2, the complainant should also explain why they are dissatisfied with the Stage 1 outcome)
- the nominated manager/chair may ask questions during or after the complainant's presentation
- the respondent to the grievance may ask questions at the end of the complainant's presentation
- the complainant may present witnesses who may be questioned by the nominated manager/chair and the respondent
- the respondent should respond to the complaint
- the nominated manager/chair may ask questions during or after the respondent's presentation
- the complainant may ask questions at the end of the respondent's presentation
- both parties should be given the opportunity to sum up beginning with the complainant
- the nominated/chair has a final opportunity to clarify any points
- the Chair should then adjourn the hearing to consider the complaint. All parties, except anyone advising the Chair, should withdraw

**Deliberations**

The nominated manager/chair hearing the case will consider what was said by all parties together with any written submissions.

If the nominated manager/chair hearing the case is confident that there is sufficient information to reach a decision and no further investigation is required, then the decision may be given orally to both parties.

The decision, with reasons, should be confirmed in writing within 5 working days.

The decision following a Stage 2 appeal will be final.



## Appendix B

### Notification of Grievance

#### **EMPLOYEE'S NOTIFICATION OF GRIEVANCE**

This form should be used to submit a grievance in accordance with Stage 1 of the formal Grievance Procedure..

You and your trade union representative should complete the form and send it to the Principal (or the Chair of the LGB if the Principal is the respondent) and the person against whom the grievance is being brought. You are advised to keep a copy.

1.

Name: .....

Post held: .....

2. Describe briefly (continue overleaf if necessary)

2.1 The nature of your grievance.

2.2 When you first raised your grievance, and with whom?

2.3 What action has been taken on your grievance at the informal stage?

3. Has your trade union or professional association representative been informed?

YES/NO

If YES: (a) do you wish the representative to receive correspondence?

(b) please identify the representative and where he/she may be contacted