

## Staff Grievance

### 1 Introduction

- 1.1 This procedure provides guidance in dealing with grievances raised by employees of the Heart of Mercia Multi-Academy Trust (HoM). Concerns or Complaints from those not employed by HoM should be dealt with under the [HoM Complaints Policy](#).
- 1.2 Having a formal grievance procedure in place allows HoM and its member academies to give reasonable consideration to issues which cannot be easily resolved and to deal with them fairly and consistently. This procedure recommends that pursuing the formal grievance route should be a last resort rather than the first option. Grievances are best dealt with at an early stage, informally, with the member of staff's immediate line manager.
- 1.3 New colleges and/or schools joining the Heart of Mercia Multi Academy Trust may continue to use their existing Grievance Policy for a maximum of 12 months after their official joining date. The HoM HR Director and HoM Policy Coordinator will review the relevant policy during this period to ensure compliance with the ACAS code.

### 2 Guidance

- 2.1 The [ACAS Code of Practice, \(Disciplinary & Grievance\)](#) has been used in developing this policy. The code of practice is non statutory guidance that identifies best practice and can be found here [Disciplinary and grievance procedures | Acas](#)

### 3 Aim

#### 3.1 Scope and Purpose

A grievance is a concern, problem or complaint raised by an employee.

An employee may at some time during their employment have problems or concerns with their work, working conditions or relationships with colleagues that they wish to raise with management. The purpose of this policy is to advise how such grievances will be dealt with by HoM academies. The procedure should not be used as a substitute for normal day to day discussions or minor concerns.

This procedure cannot be used to challenge formal outcomes in other procedures which have their own appeal process, e.g., capability, disciplinary, appraisal.

#### 3.2 Support

An employee raising a grievance, or an employee responding, may welcome support before, during or after the process. Please refer to Appendix 4 for support available.

### 3.3 Confidentiality

Confidentiality will be maintained throughout the process wherever possible but there may be circumstances where this is not possible in order to progress the grievance. Complaints about colleagues should be dealt with in a confidential manner to respect the privacy of all parties and to ensure the matter is dealt with sensitively, fairly, and effectively. Any breach of confidentiality may result in disciplinary action under the HoM Disciplinary Policy against those concerned.

### 3.4 Documentary evidence

Where a formal complaint is raised under this procedure, it should be made clear to all involved that any documentary evidence or subsequent statement taken during the investigation may form part of the investigating manager's report (see Point 5.3) or be used as evidence in any resulting disciplinary proceedings.

If a grievance hearing is considered appropriate, the investigation report, including any witness statements, should be made available to both the employee raising the grievance and the employee responding to it (where applicable) prior to any formal hearing in accordance with Trust procedures.

### 3.5 Vexatious or malicious grievances

While the overwhelming majority of grievances received by the Trust and its academies are made in good faith, it must be recognised that there is the potential for vexatious or malicious grievances. Guidance on how to identify these can be found in Appendix 5.

Where the manager, investigating officer or Chair believes that a grievance has been made vexatiously or maliciously they may decide that it is subject to disciplinary action under the HoM Staff Disciplinary policy (See Point 5.6).

## 4 Informal Stage

**4.1** If an employee of the Trust has a grievance relating to her/his employment she/he should, with a view to resolving the issue, discuss the matter initially with their immediate supervisor e.g., head of department or appropriate senior leader within their academy.

- If the grievance concerns the employee's immediate line-manager, the grievance should be raised with an appropriate manager more senior than the immediate line manager from within the academy.
- Where the grievance concerns a Senior postholder of the Trust, the grievance should be reported to the Chief Executive of the Trust.
- Where the grievance concerns the Chief Executive of the Trust, the grievance should be reported to the Clerk of the Trust.
- Where the grievance concerns a member of an academy local governing body or the Trust Board, the grievance should be reported to the Clerk of the Trust.

## Policy document

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- Where the grievance concerns the Clerk of the Trust, the grievance should be reported to the Chair of the Trust Board.

**4.2** The immediate manager/supervisor will deal with the matter in confidence and speak to any parties concerned. They will seek to address concerns and reply orally as soon as possible and in any case within 14 calendar days unless there is a good reason for a delay. It is regrettably inevitable that delays are likely to occur when school/college holidays take place during the procedure.

The member of staff may, if she/he wishes, be accompanied by a work colleague or trade union representative when the matter is raised with the supervisor and/or when the supervisor/manager replies. If the initial fact finding by the manager concludes that the grievance has no substance, the member of staff will be advised accordingly, and the matter will be dismissed.

**4.3** Where a grievance is submitted in writing, consideration will be given to whether it can be resolved informally before using the formal procedure. Use of the Statement of Grievance form (See Appendix 2) is suggested by the Trust.

**4.4** Where relevant, and both parties agree, the Trust and/or individual academies may consider addressing the issue through a recognised mediator. Where mediation is suggested, the parties are required to at least discuss the mediation process with a recognised mediator in accordance with good practice as recommended by ACAS, to gain an understanding of the objectives, before proceeding to the formal stage.

**4.5** Where the member of staff raises an informal concern about a colleague but does not wish to withdraw the concern nor formalise the grievance and declines mediation the Investigating Officer may decide to proceed to the formal stage of the grievance procedure at his/her discretion.

## 5 Formal Stage

**5.1** If the employee believes the grievance has been unresolved at the informal stage, they should raise the matter in writing with the Line Manager/ relevant senior leader at their academy/Chief Executive of the Trust/Clerk to the Trust/Chair of the Trust (see Point 4.1) as soon as reasonably practicable.

It is expected that the grievance at this stage will be consistent with that raised at the informal stage and will be dealt with in confidence.

The employee has the right to consult their trade union representative at all stages during the formal grievance procedure.

On receipt of a formal grievance, the relevant manager/Personnel should inform the employee, the name of the Investigating Officer, who could be an appropriate external person.

- 5.2** Where the grievance concerns another employee, the Investigating Officer, will inform the other employee (s).

A copy of the grievance (Statement of Grievance form, see Appendix 2) will be given to the other employee concerned by the Investigating Officer.

If applicable, the employee being complained against will have the opportunity to submit written observations/response to the grievance within 7 calendar days. It is regrettably inevitable that delays are likely to occur when school/college holidays take place during the procedure. At all stages, the academy will need to take account of term times and the availability of various staff and their line managers.

- 5.3** The Investigating Officer, after examining all the facts, will prepare a report to be considered at a formal grievance hearing. Unless mutually agreed otherwise, or unless exceptional circumstances apply, all parties involved in the grievance will have sight of the report 7 calendar days before a formal grievance hearing, when a hearing is considered appropriate. Where applicable, the report will contain:

- copies of any witness statements or summaries where this is considered more appropriate.
- formal written response by any employee /manager complained against
- any other relevant written information
- summary of findings by the manager appointed to investigate the grievance.

- 5.4** The Investigating Officer, with consultation with Human Resources will arrange, if appropriate, a formal grievance hearing to consider the matter within 1 calendar month of receiving the formal grievance. It is regrettably inevitable that delays are likely to occur when school/college holidays take place during the investigation stage.

- 5.5** If an employee is being complained against as part of the grievance, they may attend the grievance hearing to provide relevant information as a witness or forward a written submission for consideration in their absence.

Both parties will be seen together unless the Chair or Investigating Officer deems it more likely to assist a resolution for them to be seen separately.

Both parties will be able to bring their union representative or a work colleague and have the opportunity to question the evidence presented/submitted.

## Policy document

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**5.6** The formal grievance will be heard by a manager expected to be from the academy's senior leadership team or an appropriate member of the Trust Executive or Trust Board as germane to the grievance. Guidance for the order of the grievance hearing is set out in Appendix 1.

No new grievance(s) will be considered at this point.

The chair will consider how an employee's grievance can be resolved. Potential responses are:

- the Chair upholds the grievance in whole or in part and agrees action(s) to resolve it, including the opportunity for mediation, with review as appropriate.
- the Chair requires more information or needs more time to consider the grievance before they can reach a decision. The employee will be told when they can expect to know the outcome.
- the Chair determines that the grievance is not upheld.

After the meeting, the Chair must confirm their decision in writing. The written decision will be sent to both parties not more than 5 working days following the meeting.

### **5.7** Outcome

- if, as a result of the grievance hearing, the Chair finds that the alleged conduct constitutes misconduct, they may decide that it should be dealt with under the HoM Staff Disciplinary Policy.
- if in the case of an allegation that is not upheld, it is believed that the accusation was pursued with malicious intent or was founded on a deliberate falsehood then this may result in disciplinary action against the complainant under the HoM Staff Disciplinary Policy.
- where a witness is found to have deliberately misled an investigation, the Trust will treat this as a serious disciplinary offence.

**5.8** Where a grievance concerns a Senior Post-Holder of the Trust, Chief Executive of the Trust, Clerk to the Trust or member of the Trust Board, the grievance should be investigated in the first instance by another appropriate member of the Trust Executive or Trust Board.

If they decide that it is necessary, then the grievance should be referred for a final decision to an appropriate committee of the Trust. This committee may consider it appropriate to appoint an external consultant to investigate the grievance.

### 6 Appeal

**6.1** The employee who raised the grievance has the right to appeal against the outcome of the grievance. If the employee wishes to appeal against the outcome of the formal grievance, they should state in writing their grounds for appeal within 14 calendar days of receiving the decision of the grievance hearing.

An appeal hearing will be arranged within 1 calendar month of receipt of the appeal letter (subject to staff availability during school/college holidays).

**6.2** The member of staff can appeal on the grounds that the original decision maker (chair) at the grievance hearing did not consider key facts or give sufficient weight to evidence in reaching their conclusion.

The remit of the appeal hearing will not be to have a re-hearing of the original grievance or consider any new evidence but may address points which the member of staff considers were not properly considered at the original hearing.

**6.3** Appeals in grievance cases are heard by an individual or committee appropriate to the grievance. These are:

- a member of the academy's Senior Leadership Team.
- the Head/Principal of an academy.
- a committee of the Academy Local Governing Body.
- a member of the MAT (Multi Academy Trust) Executive.
- A committee of the Trust.

Form of grievance	Policy used	Initial hearing before:	Appeal forum
Informal	HoM Staff Grievance Policy	N/A	N/A
Formal	HoM Staff Grievance Policy	Member of SLT of the academy.	Principal/Head or another member of SLT of the academy.
Formal	HoM Staff Grievance Policy	Principal/Head of the academy.	Members of an appropriate committee of the academy LGB.
Formal and concerning a Senior Postholder of the Trust	HoM Staff Grievance Policy	Chief Executive of the Trust, Chair of the Trust, Committee of the Trust.	Staffing Appeals Committee of the Trust.

Informal or formal and made by a Senior post holder of the Trust	HoM Senior Post Holders Grievance policy	Chief Executive of the Trust, Chair of the Trust, Committee of the Trust.	Staffing Appeals Committee of the Trust.
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- 6.4** The original decision maker / Chair of the hearing will be present at the appeal hearing as a witness.
- 6.5** The employee should receive notification of the outcome of the appeal in writing as soon as possible and in any case within 7 calendar days of the outcome of the appeal.
- 6.6** HoM staff, having made an appeal in grievance at academy level, can then appeal to the Trust.

This can only be made on the grounds of maladministration or procedural irregularity by the individual or LGB committee during the original appeal, not dissatisfaction with the decision made by in said appeal.

This appeal will be heard by an appropriate Committee of the Trust and its decision will be final.

## 7 Equality Impact

The Trust's responsibilities towards promoting equality, diversity and inclusion have been considered when drafting this policy.

Date of review	Date agreed	LGBs	MAT Board	Review date	Comments
07/11/23	23/11/23	Spring 2024	7/12/23	November 2024	

## APPENDIX 1

Order of hearing for Grievance Hearing / Grievance Appeal Hearing.

1. The chair of the grievance hearing can have an appropriate advisor/note taker present at the hearing.
2. The chair will introduce all parties present and confirm the order of hearing.
3. The employee raising the grievance /their work colleague /union representative will outline their case verbally. Reference can be made to previously submitted written evidence.
4. The chair will refer to any written evidence that has been gathered during the investigation that has taken place, including the consideration of witness statements where appropriate.
5. Where another employee is being complained against (respondent) they may, at the chair's discretion, be called to the hearing or forward a written submission for consideration in their absence. Alternatively, the complainant and respondent may be seen separately.
6. The Chair / panel may ask questions of the employee raising the grievance about the circumstances of the grievance to establish all the relevant facts, background, and surrounding circumstances. The Chair/panel has the right to ask the employee personally to answer such questions, although the employee may on request confer with his/her representative at any time during the grievance hearing.
7. The Chair/panel should ask the employee how they think the matter can be resolved.
8. The employee raising the grievance can summarise their case.
9. The respondent, where present, can summarise their case.
10. The chair may call an adjournment at this stage.
11. If after a short period of deliberation, the Chair/ panel agree that a decision cannot be reached within a reasonable period of time immediately after the hearing, the employee (or both parties, where another is concerned) will be informed and the decision will then be communicated in writing within a 7-day calendar period.



## APPENDIX 2

### STATEMENT OF GRIEVANCE

This form is intended to help you to make a clear statement of your grievance. You should send the completed form to the Line Manager.

- If your grievance is against your line manager, you should send the completed form to a relevant Senior Leader at your academy.
- If your grievance is against a Senior post holder of the Trust, you should send the form to the Chief Executive of the Trust.
- If your grievance is against the Chief Executive of the Trust, you should send the form to the Clerk of the Trust.
- If your grievance concerns a member of a member of an academy LGB or member of the Trust board, you should send your form to the Clerk of the Trust.
- If your grievance concerns the Clerk of the Trust, you should send the form to the Chair of the Trust.

<b>Employee Details</b>	
Name:	
Job role:	
Contact details (telephone and email):	

<b>Details of the grievance</b>
Who is the grievance against (if applicable)?
Please provide details of your grievance. You should include all relevant details information, e.g., dates, times, locations, and the names of other people present (witnesses). Please continue on a separate sheet and attach if necessary.

## Policy document

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Have you raised your grievance informally with your Line Manager or a Senior Leader? If so, what action was taken (please give detailed information and provide dates):

How do you think your grievance should be resolved? Please say how you would like the Trust/Academy of the Trust to deal with your grievance. You should set out why and how you believe this could resolve your grievance. Please continue on a separate sheet and attach if necessary.

Name and contact number of trade union representative or colleague who will accompany you:

## Policy document

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**Declaration**

By submitting this form, I confirm that the information I have provided is true to the best of my knowledge. I understand that the Trust/Academy of the Trust may take disciplinary action against me if I make false, malicious, or untrue allegations.

Employee's signature: \_\_\_\_\_

Date: \_\_\_\_\_

### **Appendix 3**

#### **Grievance: Briefing Note for Investigating Officer**

##### **Initial Meeting**

- Arrange a meeting with the employee who has raised a grievance. The purpose of the meeting is to establish exactly what the problems are and how they have disadvantaged the employee. It is often important to get exact details of incidents and their impact. Ask what the employee wants in terms of a resolution.
- Be aware that some employees use the grievance procedure to raise complaints of bullying behaviour or other types of misconduct. In this case, you will need to establish initially:
  - whether the situation merits suspension or removal in some other way of the employee who is accused of the behaviour, and
  - whether other policies are more appropriate to follow e.g., HoM Anti Bullying and Harassment, HoM Staff Disciplinary etc.

##### **Things to remember**

- Make written records of the investigative meeting and all further interviews that you need to undertake. Allow each individual the opportunity to check the content of the record relevant to them and confirm it is correct.
- Emphasise the importance of confidentiality and not discussing the matter with others.
- Prepare questions in advance ensuring that they are not leading or suggestive.
- Do not form a view until you have gathered all of the evidence.
- Verify details against records or other pieces of information. For example, if an employee says that they have been denied training opportunities, check their training records and the relevance of the courses to their role.
- Employees who are upset or angry may not always give an accurate account of what happened. So, it is important to find ways to make you feel satisfied that you know, as far as is possible, what did happen.
- You may find that the process takes longer than anticipated. In those circumstances, keep the employee who raised the grievance informed.

##### **Report on Findings**

###### **Purpose of Investigation (Details of complaint)**

Outline the main details of the complaint including place, date, time etc. Detail what issues need to have been clarified and evidenced by the end of the investigation. Also set out your proposed methodology and brief justification for your actions, e.g., this person has been implicated so I intend to obtain a written statement / complete investigation interview.

## Policy document

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### Background Information / Surrounding Circumstances

Explore if there have been any previous incidents or any other issues relevant to this case including any mitigating circumstances e.g., health, domestic problems, provocation. It may be appropriate to research the employee's job and skills, provide a brief outline of employee's history.

### Evidence of Witnesses

Witnesses should provide details, which could make the situation clearer. Set out a summary of the investigation interview confirming key points / evidence.

### Investigation Conclusion

For each element of the complaint, provide an outcome as to whether it is recommended the complaint is upheld or not, and provide reasons/evidence as to why you have reached this conclusion.

### Remedial Actions

Provide recommendations as to what remedial actions you believe should be considered by the management team e.g., issue of an apology, training, mediation. Please comment on any input you have received as to the complainant's preferred outcome, and your reasons for supporting or opposing this.

### **Appendix 4: Support Available**

Employees who believe they have a grievance or are the subject of a grievance may wish to discuss their situation in confidence. Employees are encouraged to discuss workplace problems openly and informally with their line manager. However, the Trust recognises that this may not always be appropriate and provides the following support:

- Employees can discuss the situation with the next level manager or with a member of Personnel.
- Employees can obtain support from their trade union representative.
- The Trust has an Employee Assistance Programme that provides an independent, confidential advice service through Education Support helpline, which is available 24 hours a day, 7 days a week. Practical advice, emotional support and expert guidance is available for work or personal issues.

Details of this service can be found from each academy's Human Resources Contact.

## **Appendix 5**

### **Recognising and dealing with vexatious and malicious grievances**

#### **Introduction**

The presumption should always be that a grievance is made in good faith. However, if a line manager, senior leader or officer of the Trust becomes aware that a grievance is made with vexatious or malicious intent, they may make a decision and recommendations for further action on this basis. This can include disciplinary action against the member of staff who raised the grievance.

Every grievance must be considered on its merits and, even if someone has made a vexatious or malicious grievance in the past, it must not be assumed that any other grievance they make will also be vexatious or malicious.

Investigating Officers should consider any known temporary or permanent outside factors, such as personal or health issues that may have affected the employee and which the employee is prepared to share. Investigating Officers should remind the employee about available support such as the Employee Assistance Programme (EAP).

#### **Identifying vexatious and malicious grievances**

##### **a) What is a vexatious grievance?**

A vexatious grievance is one that is pursued, regardless of its merits, solely to harass, annoy or subdue somebody; something that is unreasonable, without foundation, frivolous, repetitive, burdensome, or unwarranted.

In identifying vexatious grievances, managers must be careful to:

1. distinguish between employees who are raising genuine concerns; and
2. recognise where people are simply being difficult.

This can be achieved by recognising that staff raising a grievance may often be aggrieved, frustrated, or have other reasons for their behaviour; the focus must be on careful consideration of the merits of the case rather than the attitude of the member of staff.

Examples of where a grievance may be regarded as vexatious include where the employee:

1. Persists in pursuing a grievance which has already been investigated by another or the same manager and provides no new or material information.
2. Seeks to prolong the process by continually changing the substance of the grievance or by continually raising further concerns or questions whilst the grievance is being addressed.
3. Fails to clearly identify the substance of the grievance, or the precise issues which may need to be investigated despite reasonable efforts by the manager to assist them.
4. Raises a grievance solely about trivial matters to an extent which is out of proportion to their significance.

5. Seeks to impose unreasonable demands or expectations on resources, such as responses being provided more urgently than is reasonable or necessary.

### b) What is a malicious grievance?

A malicious grievance is one that is made with the intention of causing harm. For example: deliberately seeking to defame a colleague or manager and raising a grievance with this intent:

1. through lying about an issue or incident in the knowledge that this will cause harm.
2. through knowingly basing a grievance on rumour and gossip with the intention of causing harm.

A malicious grievance is defined as:

- one that the investigation has shown to be without foundation and where the member of staff has brought the grievance with knowledge of this; and where there is sufficient evidence to demonstrate this at a disciplinary hearing on the basis of the balance of probabilities.
- one where the investigation evidence demonstrates that the complainant knowingly lied to the Investigation Manager; and where there is sufficient evidence to demonstrate this at a disciplinary hearing on the basis of the balance of probabilities.

### c) Handling vexatious and malicious grievances

Vexatious and malicious grievances can be very difficult to identify. Largely, this must be a matter of professional judgement for the manager. However, once identified, such grievances should be tackled as soon as possible.

Some useful guidelines are:

- The HoM Staff Grievance Policy should be followed but investigating officers may conclude as part of their investigation or decision that the grievance is vexatious and/or malicious.
- Investigating officers may also seek to limit the scope of the grievance to what is reasonable and relevant to the grievance itself.
- The mere fact that an employee has brought several grievances in the past is not of itself sufficient grounds for refusing to consider a grievance if it raises new matters.
- HoM employees should not treat anyone less favourably or subject them to a detriment because they have brought a grievance. This applies even where the grievance is suspected to be vexatious, malicious, or otherwise.
- Each case must be considered on its merits, be evidence based and investigated, as appropriate. Any mitigating factors must be considered (for example, stress, and physical and mental illness, or certain behaviours which may be outward symptoms of underlying workplace problems such as bullying, harassment or discrimination) as these may have a significant bearing on the case.



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- Following investigation, and before reaching a decision that a grievance is vexatious or malicious, managers should seek advice from the HoM HR Director.

Vexatious or malicious use of the HoM Staff Grievance Policy will not be tolerated. If there is evidence that an employee is making vexatious or malicious use of the grievance procedure, the matter will be investigated under the HoM Staff Disciplinary Policy.