

SOLIHULL METROPOLITAN BOROUGH COUNCIL

GRIEVANCE PROCEDURE

(1) This policy sets out the terms of agreement reached by those participating in the Council's Consultation and Negotiating Framework.

and

(2) This Model Policy was provided by the Solihull School's HR Service. The school must undertake negotiation and consultation with the relevant Trade Union/Staff Association representatives before this policy is adopted by the School Governing Body. Advice is available from your HR provider on how to undertake this, if required.

What does this procedure cover?

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GRIEVANCE PROCEDURE

1. Policy Statement

The Council is responsible for creating positive working relations between all employees. If employees have concerns, complaints or a grievance the Council wishes to ensure that workplace problems or disagreements are handled constructively and that matters are resolved as near as possible to their point of origin.

This policy applies to employees employed on NJC terms and conditions of service, Soulbury, centrally employed teachers and all teaching and support staff at schools.

An employee who has a grievance or complaint relating to work, working conditions, benefits, working hours, treatment at the hands of other employees, or concerns about a health and safety issue, a breach of statutory employment rights or any other issue affecting employment, should first talk the matter over on an informal basis with their immediate Line Manager / Head Teacher / Chair. He/she will discuss the matters in confidence, make discreet investigations, and attempt to resolve the matter speedily and fairly.

If the grievance or complaint relates to the Chair of Governors, the matter should initially be raised with the Director of Children's Services.

2. Definition

The ACAS code of practice defines a grievance as "a concern, problem or complaint that an employee raises with his or her employer.

3. The Purpose

This policy is based on the 'ACAS code of practice on disciplinary and grievance procedures' and its accompanying guidance. The code is brief in its handling of grievance issues but emphasises the importance of seeking an informal resolution of the grievance, followed, if necessary, by the holding of a grievance meeting with a right of appeal. Compliance with the code is not a legal requirement, although breach of its provisions may be taken into account by any Employment Tribunal considering a claim, where the code is relevant.

4. Principles

There are many reasons why a grievance or complaint can arise from an employee. This procedure provides for individual employees to raise concerns related to their employment and gives the opportunity for the issue to be properly identified and fully investigated in a reasonable, equitable, timely and constructive manner.

An employee who feels aggrieved should, wherever possible, seek to resolve the complaint or grievance as near as possible to its point of origin.

Any Line Manager / Head Teacher / Chair contemplating **using this procedure beyond the informal stage** should seek guidance from Human Resources (HR).

Employers are obliged to deal with any grievance an employee raises in writing within defined time-scales as laid out in the procedure. A meeting must be held to discuss the matter and how it might be resolved. The employee can appeal against any decision that he or she considers unsatisfactory at Stage 1. For Stage 2 Appeals please see page 6 which outlines the exceptional circumstances where this may be allowed.

Employees must, as part of the formal procedure, set out in writing the reasons for their grievance and what solutions or desired outcomes they would like to resolve the issue. The grievance cannot proceed beyond the informal stage unless the grounds for the grievance and the expected outcomes are clearly set out.

5. Equality Considerations

Managers/Head teachers should ensure that an employee is not treated less favourably because he/she has raised or supported a complaint under the grievance procedure. Consideration must be given to the provision of language and interpreting services where English is not the first language of an employee. Any reasonable adjustments must be made to enable a disabled employee to fully engage with the procedure.

6. Exclusions

- Disciplinary matters must be dealt with under the Disciplinary Procedure.
- Complaints involving discrimination, bullying, or harassment in the workplace must be dealt with under the Dignity at Work procedure except where this may have been raised as a consequence of a wider grievance or another procedure (e.g. Disciplinary).
- Concerns relating to whistleblowing matters must be dealt with through the Whistleblowing Policy.

7. False or malicious complaints

If a grievance is made against another employee or work colleague and found to be false and/or malicious, an investigation will be undertaken in accordance with the Disciplinary Procedure. This could result in disciplinary action being taken against the employee making the false and/or malicious complaint. Malicious behaviour is where an employee, intentionally or mischievously, seeks to cause a detriment to another employee(s) or worker(s).

8. Responsibilities

The Line Manager/Head Teacher / Chair has responsibility:

- To deal with grievance issues as they arise;
- To attempt to resolve the issue as quickly as possible;
- To conduct the informal stage of the procedure;
- To ensure that any actions taken align with the Council's brand of being open, honest, approachable and keeping our promises.

Human Resources have a responsibility:

- To provide advice, guidance and support to the Line Manager / Head Teacher / Chair and employees to ensure that the Grievance Procedure is followed correctly;
- To advise managers on the most suitable interventions for resolving grievances;
- To support an independent Line Manager / Head Teacher / Chair or panel of Governors at the Appeal Stage.

Recognised Trade Union Representatives have a responsibility :

- to support an employee who is a member of their Trade Union throughout all formal stages of the Grievance Procedure, as appropriate and if requested.

Employees have a responsibility :

- to ensure their actions are working towards the Council's Brand – open, honest, approachable and keeping our promises.
- To raise with their Line Manager/Head Teacher if any aspect of the grievance procedure causes difficulty on account of a disability, or if assistance is required because English is not their first language. The Line Manager / Head Teacher will then make appropriate arrangements.

9. Procedure

There are three formal stages of the Procedure. Throughout all formal stages of the procedure, an employee is entitled to be accompanied by a recognised Trade Union Representative or work colleague if they so wish. In the event of any action being proposed against a Trade Union Representative under this procedure, Human Resources must be informed and the appropriate full time official of that Trade Union should be notified prior to the procedure being used. (For further information please refer to the ACAS Code of Practice).

Managers, advised by HR, will consider the options available and the most appropriate interventions for resolving grievances.

Informal Stage

The aim is to resolve an employee's grievance or concerns informally with their line manager/ head teacher/ chair wherever possible. This can be done in most cases by the employee and line manager/ head teacher/Chair meeting and discussing the issues of concern and agreeing a way forward.

If the complaint concerns the line manager/ head teacher/ chair and the employee is unable to discuss the matter directly with them, they should then approach the Grandparent (Non-Schools) or person with the next immediate senior role in the organisation. If there is any uncertainty in this matter advice should be sought from Human Resources.

It must be emphasised that the informal approach is normally the most effective way to resolve a grievance and, therefore, both manager/ head teacher and employee should make every effort to resolve the matter at this stage.

As this is an informal one to one discussion, employee representation will not normally be appropriate at this stage.

Formal Stage

If a grievance cannot be settled informally the employee should raise it formally in writing with their line manager/ head teacher/ chair. In situations where a complaint is against the line manager/ head teacher/ chair the formal complaint may be addressed to the Grandparent (Non-Schools) or next immediate senior member (Schools). If there is any uncertainty in this matter advice should be sought from Human Resources. If the complaint is against an individual, a copy of the letter giving details of the complaint should be sent to the individual concerned by the line manager/ head teacher/ nominated investigating officer.

In certain situations it will be necessary for an investigation to be undertaken. This will be a decision for the appropriate manager, together with HR. Any investigation will normally be completed within 20 working days of the receipt of the employees letter.

A grievance should be raised at the earliest opportunity and no later than three months from the date of the occurrence that resulted in the employee feeling aggrieved.

Stage 1

An employee must set out in writing full details of the grievance and the desired

outcomes they are seeking. The Line Manager / Head Teacher / Chair must invite the employee to attend a meeting to discuss the grievance. Advice should be sought from HR. The meeting should wherever possible be arranged within twenty working days from receipt of the employee's letter or extended to a later date by mutual agreement. The employee will also be informed of their right to representation or to be accompanied by a work colleague.

Following the meeting the Line Manager / Head Teacher / Chair must inform the employee in writing of the response to the grievance. This should be within five working days of the meeting. The employee will be informed of their right to appeal to a Stage 2 hearing.

If the work colleague/ representative is unable to attend the meeting on the date proposed, the meeting will be rearranged as mutually agreed. The alternative date should normally be within five working days from the original date.

Stage 2 - Appeal

If the employee wishes to appeal against the decision confirmed at Stage 1, they should inform their Line Manager / Head Teacher / Chair. (The appeal form in Guidance Document 6 can be used for this purpose). The Stage 2 Appeal will normally be heard by a nominated Senior Manager. In schools this will be determined by the governance arrangements for hearing appeals.

The reason for the appeal must be set out in writing within five working days of the formal notification of the decision at Stage 1. The appeal should detail all the pertinent facts of the case and the reasons for the dissatisfaction with the decision at Stage 1.

The person hearing the appeal must then invite the employee to attend a meeting to consider the appeal. Wherever possible, this should be arranged within five working days of the receipt of the appeal letter. The employee will again be informed of their right to representation from a recognised Trade Union Representative or a work place colleague. A member of Human Resources will support the manager hearing the appeal.

The employee must be informed of the decision within **five** working days of the meeting.

Ordinarily, this concludes the end of the Grievance Procedure.

Stage 3 - Exceptional Circumstances

In exceptional circumstances, a further appeal may be allowed. This is in situations where:

- new and significant evidence arises not previously considered, or
- due to technical or procedural deficiencies identified during the formal stages.

A Stage 3 Final Appeal Hearing shall not be a re-run of the Stage 2 Appeal.

In these circumstances the issue should be stated clearly in writing by the employee. and sent to the Head of Human Resources, who will determine whether the criteria for Stage 3 has been met.

This request must be submitted within five working days of receiving the formal notification of the decision at Stage 2. The appeal request should detail the pertinent facts of the case and the reasons for the dissatisfaction with the Stage 2 decision. The employee will again be given the opportunity to be represented and the Senior Manager / Head Teacher / Chair of Appeal Committee who heard the appeal at Stage 2 will also attend.

Where a Stage 3 appeal is allowed this will be heard by a nominated Senior Manager / Head Teacher / Chair / nominated Governor(s) who have not been involved in earlier stages of the process.

Schools Only - In exceptional circumstances, e.g. a grievance taken out against the Chair of Governors by a Head Teacher, it may be necessary for Stage 3 to be heard by the Director of Childrens Services or he/she will nominate a suitable senior officer to hear the appeal on his/her behalf.

The decision must be given in writing within ten working days.

The Appeal decision will mark the end of the internal grievance procedure.

10. Guidance Documents

The following documents are for guidance only and may be amended by the Council from time-to-time. They are not, nor intended to be, incorporated into an individual's Contract of Employment:

Guidance Document 1:	Frequently Asked Questions
Guidance Document 2:	Standard Template Letters
Guidance Document 3:	Grievance Policy and Procedure Flow Chart
Guidance Document 4:	Fact Sheet
Guidance Document 5:	How to Conduct a Grievance Hearing
Guidance Document 6:	Appeal Against Grievance Outcome

Frequently Asked Questions

Q1 Do workers have the right to be accompanied at a grievance hearing?

A1 Yes an employee may be accompanied by a recognised Trade Union Official or a work colleague throughout the formal stages of the procedure. The work colleague will be an employee of Solihull M.B.C.

Q2 In what way can a Trade Union Representative or workplace colleague support me in a grievance meeting

A2 The Trade Union Representative or workplace colleague can address the meeting to present and sum up the employee's case, respond on behalf of the employee to any views expressed at the meeting and confer with the employee during the meeting. The Trade Union Representative or workplace colleague does not however have the right to answer questions on the employee's behalf, address the meeting if the employee does not wish it, or prevent the employer from explaining their case. Any protocol beyond this arrangement should always be made clear at the beginning of the meeting.

Q3 Does the work colleague/Trade Union Representative have the right to time off to act as a companion at a grievance hearing?

A3 Yes an employer must allow a worker to take a reasonable amount of paid time off to act as a companion to another of its employees. It would also be reasonable to give time off to allow them to familiarise themselves with the case and confer with the employee they are accompanying both before and after the hearing.

Q4 Can an employee choose to go straight into Stage One of the process without the informal stage being considered?

A4 As the process aims to resolve any disputes as close to their source as possible in all circumstances the employee should, wherever possible, raise the matter informally with their Line Manager / Head Teacher / Chair before referring to Stage 1. Only in exceptional cases where an employee feels they are unable to discuss the matter with their Line Manager / Head Teacher / Chair, should the informal stage not be used and Stage 1 used immediately.

Q5 Where an ex-employee raises a grievance after having left Solihull MBC is the employer expected to investigate it?

A5 No. Grievance procedures should focus on resolving disputes with employees. A former employee might have a dispute with his or her ex-employer that could form the basis of tribunal or court proceedings, and the employer may feel that it is appropriate to engage in dialogue with the individual in the hope of resolving the issue. However, this does not require the use of a formal grievance procedure with a right of appeal.

Q6 If a resignation letter is received detailing a complaint should this be treated as a grievance?

A6 Yes, the grievance should be pursued even if the employee is leaving the organization. Whilst still employed every attempt should be made to resolve the matter and reduce any potential risk of future claims.

Q7 How should employers inform employees that a grievance procedure exists?

A7 The written statement of terms and conditions of employment issued to employees must include details of a person within the organisation who they may apply to for the purpose of seeking redress of any grievance relating to their employment and the manner in which it should be made. If an employee has a problem they should talk to their Line Manager / Head Teacher / Chair about this procedure.

Q8 What will happen if my work colleague or Trade Union Representative is unable to attend the proposed date for the Grievance Hearing?

A8 The meeting must be postponed to a time proposed by the work colleague/ representative which is mutually convenient. The alternative time must be reasonable and fall before the end of the period of five working days beginning with the first working day after the day proposed by the employer.

Q9 I believe I am being bullied and I am concerned that if I raise a grievance that this may result in further harassment. What do I do?

A9 The Dignity At Work Policy should be used in cases of this nature. You should refer your concerns to Human Resources, your Line Manager / Head Teacher / Chair or your Trade Union Representative.

Q10 Will my grievance be treated confidentially?

A10 Any grievance raised will be treated in the strictest confidence as far as possible. Any Grievance may give rise to disciplinary or criminal investigation even if the member does not want to pursue it.

Q11 Will I be notified of the outcome of the Grievance Hearing?

A11 You will be notified in writing of the outcome within five working days of the date of the hearing in Stage 1 and within ten working days at Stages 2 and 3.

Q12 Can I appeal against the outcome of a grievance?

A12 You have the right to appeal at Stages 1 and 2. In exceptional circumstances where new evidence arises not previously considered, or due to technical or procedural deficiencies, you may appeal following a Stage 2 decision. Once this has been concluded the decision will be final as the internal procedure is exhausted.

Q13 I am going through the Disciplinary Process and I want to raise a grievance related to the case. What will happen?

A13 If, in the course of the disciplinary process an employee raises a grievance that is related to the case, SMBC may consider suspending the disciplinary procedure for a short period while the grievance is dealt with or it may be appropriate to consider both matters concurrently.

Q14 If the Senior Manager / Head Teacher / Chair has been implicated or involved with the process what should happen?

A14 The grievance should always be heard by the next higher tier of management up or if necessary moved sideways to another Senior Manager/ Service Head/Deputy Head Teacher/ Governor(s). Where the Head Teacher is implicated it may be necessary to put your complaint in writing to the Chair of Governors to hear this stage of the process.

Q15 What should the written request for an Appeal hearing include?

A15 As much detail of the complaint as possible, including dates, times and documentary evidence. It should also include any objection to a particular person hearing the grievance and the reasons for that objection. If you have in mind a desired outcome, it would be helpful to also include this. An appeal against grievance outcome form will be provided with the letter giving the outcome details from stages 1 and 2. To appeal against a stage 2 outcome you must provide details of where new evidence has arisen not previously considered or how technical/ procedural difficulties are being challenged.

Q16 If I want to appeal against a decision, what do I do?

A16 If you consider the result of Stage 1 and Stage 2 of the procedure to be unsatisfactory, you must put this in writing, outlining the reasons why you consider the outcome to be unsatisfactory.

Q17 In the case of schools, if a grievance is received against a Governor, who should hear it?

A17 In this case the Director of Children's Services will nominate another senior manager to hear the grievance and will him/herself be involved in any appeal stage.

Guidance Document 2

Grievance Procedure Letter Templates for Line Manager / Head Teacher / Chair

Invitation for an Employee to Attend a Grievance Meeting

Dear [name]

I confirm that I have received your letter setting out your grievance and invite you to attend a meeting to discuss the issues that you have raised. I suggest that the meeting takes place at (Time) on (date). The location of the meeting will be (xxxxxxx) and it will be attended by (Line Manager / Head Teacher / Chair /Member of HR department).

The purpose of the meeting is to allow you to explain your grievance and discuss with us how it can be resolved. I will write to you to confirm any agreed action within five working days of the grievance meeting.

If I am unable to resolve your difficulty to your complete satisfaction within this period I will give you my reasons in writing and will advise you of your right to pursue the matter further through an appeal to the next most appropriate senior member of the School's management team or nominated member of the Governing Body.

A work colleague or a Trade Union Representative may accompany you at the meeting. Please contact me to confirm that you will be able to attend the meeting at the suggested time and whether it is your intention to bring someone with you.

Yours sincerely

Letter Informing an Employee of the Line Manager / Head Teacher / Chair Decision and Right of Appeal Following a Grievance Meeting.

Dear [name],

Following the meeting that was held with you to discuss (details of employee's grievance), it has been agreed that the following action will be taken:

(Details of action to be taken)

(Or)

Following the meeting that was held with you to discuss (details of the employee's grievance), it has been decided that no further action will be taken in relation to your grievance because (insert details of reasons).

If you disagree with the decision that has been taken in relation to your grievance, you have the right of appeal in writing to xxxxxxxxx (nominated Senior Manager / Head Teacher/ Chair). Once your appeal has been received xxxxxxxxxxxx (nominated Senior Manager /Head Teacher/ Chair/ Governor(s)) will arrange to meet with you to discuss the grounds for it.

Yours sincerely

Invitation to an Employee to Attend a Grievance Appeal Meeting.

Dear [name],

I have received your appeal against the decision in relation to the grievance you raised about (details of grievance). I am writing to invite you to attend a meeting to discuss the grounds of your appeal. It is proposed that the meeting take place at (time) on (date). The location of the meeting will be (.....) and will be attended by *please give details* (Line Manager / Senior Manager/ head of Service/ Head Teacher / Chair /Governor(s)).

The purpose of the meeting is to allow you to set out the grounds for your appeal and discuss with us how it can be resolved. Your (/Line Manager / Head Teacher / Chair /Head Teacher/Governors) will inform you of the outcome of your appeal within five working days. A work colleague or a Trade Union Representative may accompany you at the meeting.

Please contact me to confirm your attendance at the meeting or to arrange an alternative time and date.

Yours sincerely

Letter Informing an Employee of the Line Manager / Head Teacher / Chair Decision and Right of Appeal Following a Grievance Appeal Meeting.

Dear [name],

Following the meeting that was held with you to discuss your appeal against (details of original decision) it has been agreed that the following action will be taken:

(details of action to be taken)

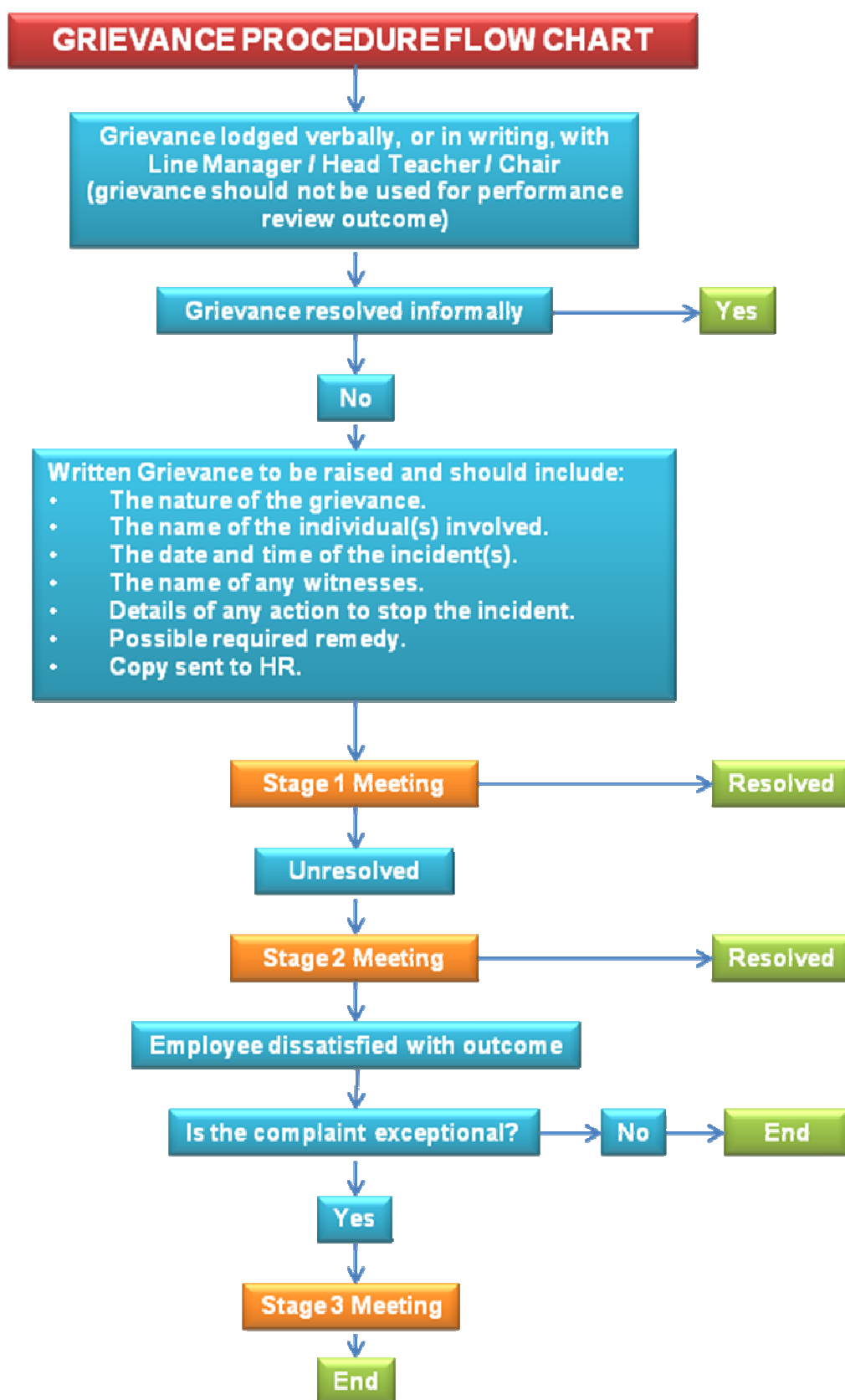
(or)

Following the meeting that was held with you to discuss your appeal against (details of original decision), it has been decided that no further action will be taken in relation to your grievance because (details of reasons).

(or)

If you are unhappy with the decision that has been taken in relation to your grievance, you have the right to make a final appeal in writing to the (nominated senior manager/ Head Teacher/ Chair/ Governor (s)). Once we have received your appeal, the (nominated senior manager/ Head Teacher/ Chair/ Governor(s)) will arrange to meet with you to discuss the grounds for your appeal. This is then the final stage of the internal grievance procedure.

Yours sincerely



FACTSHEET

Grievance Procedure

WHEN SHOULD THIS PROCEDURE BE USED?

If an employee has a concern relating to work, working conditions, pay and benefits, working hours or treatment by colleagues, concerns about health and safety, a breach of statutory employment rights or any other issue affecting their employment this procedure should be used. In the first instance an employee should, wherever possible, talk the matter over with their immediate Line Manager/ Head Teacher/ Chair in an attempt to resolve the matter quickly and fairly in an informal way. Each step and action must be taken without unreasonable delay. If a concern or grievance cannot be settled informally, the formal approach should be used.

HOW DOES THE FORMAL PROCEDURE WORK?

STAGE 1

- The employee should set out the grievance and the basis for it in writing.
- The Line Manager / Head Teacher / Chair must invite the employee to a meeting to discuss the matter.
- The employee will have a right to representation or to be accompanied by a work colleague.
- Following the meeting the Line Manager / Head Teacher / Chair must inform the employee of his/her response to the grievance and notify the employee of their right to appeal.

STAGE 2

- If the employee is unhappy with the employer's response they can appeal.
- The appeal will be heard by the Line Manager / Head Teacher / Chair/ nominated Governor(s), appeals panel
- The reason for the appeal must be set out in writing within five days of the formal decision at stage 1.
- The Line Manager / Head Teacher / Chair will be assisted by an HR Advisor.
- The employee has a right to representation
- The employer must inform the employee of its decision within ten working days of the meeting.

STAGE 3

- If the matter is not resolved at Stage 2 and only in exceptional circumstances the policy allows the employee a Stage 3 appeal to the Head of Human Resources, a Director or other nominated Senior Manager / Governor(s).
- The appeal should be submitted in writing within five days of receiving the formal notification of the decision in Stage 2.
- The employee will again be given the right of representation.
- The employer will inform the employee of its decision in writing within ten days.

The Appeal decision will mark the end of the internal Grievance Procedure.

How to Conduct a Grievance Hearing for Line Manager / Head Teacher / Chair

- Any Hearing should be held in private and without interruption.
- Inform the employee of his/ her right to be accompanied at any hearing - i.e., any formal meeting to discuss the grievance. Be careful that any informal discussions of a grievance do not turn into something that could be classed as a 'hearing', triggering the right to be accompanied.
- Ensure all relevant facts are available - personal details and, when appropriate, written statements from witnesses.
- It may be useful to have an impartial person, to take notes at meetings so Line Manager / Head Teacher / Chair is free to give his/ her full attention to the employee. – Note takers ought to be administrative/secretarial staff.
- Before the first meeting, find out whether similar grievances have been raised before, how they were resolved, and if any action has been necessary.
- Invite the employee to outline their grievance and how they would like it to be resolved.
- Encourage as open a discussion of the grievance as possible, asking open-ended questions to get the employee to speak more freely, such as 'what happened next?', 'what did he say to that?' and so on.
- Make allowances for any reasonable letting off steam and bear in mind the employee may be under considerable stress.
- You may reach a point in the hearing where you are not sure how to deal with the grievance, so adjourn the meeting to get advice if necessary.
- Tell the employee when they might expect a response if one cannot be made immediately - for example, where you may need to consult or take advice from an external source. Tell the employee what will happen next.
- Respond to the grievance in writing within the agreed time scale.
- Keep records for future reference, detailing the nature of the grievance raised, the employer's response, action taken, reasons for action taken, whether there was an appeal and if so, the outcome.

**SOLIHULL METROPOLITAN BOROUGH COUNCIL
APPEAL AGAINST GRIEVANCE OUTCOME**

I wish to submit an appeal against the outcome of my grievance.

PERSONAL DETAILS

Your Name:	
Your Job Title:	
Your Contact Telephone No.	
Union/Representative (if known)	
Name of Line Manager / Head Teacher / Chair taking decision	
Date of receipt of written decision	

GROUND OF APPEAL. Please provide further detail for your grounds of appeal (continue on a separate sheet, if necessary).

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Your Signature:	
Print Name:	
Date:	

Please send this completed document to the Manager / Head Teacher / Chair who heard your grievance. You will be advised shortly regarding the next arrangements. Please ensure you have supplied sufficient information to support your case.