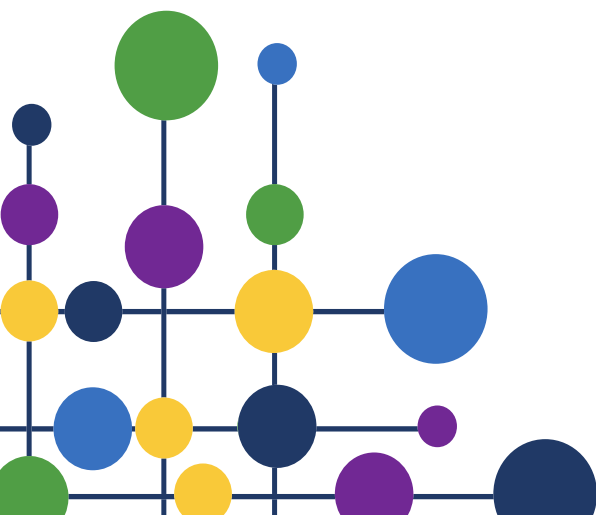


# GRIEVANCE POLICY & PROCEDURE

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# SHARE MAT GRIEVANCE POLICY & PROCEDURE

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## 1. Policy statement

- 1.1 This Grievance Policy and Procedure is available for employees to raise any grievance that relates to their work or employment within the school, and they are an employee or worker contracted by the trust to work at one of its academies or within the central team, referred to as an “employee” or “you”.
- 1.2 Staff grievances can arise from a variety of sources within the workplace, and it is desirable, therefore, that a staff grievance procedure fulfils two key purposes:
  - to enable a grievance to be resolved informally, and as near to the point of origin as possible
  - to set out a formal procedure that can be followed where the informal approach is either inappropriate or has been tried and failed.
- 1.3 Grievances may be raised either informally, not necessarily in writing, or formally, which must be in writing.

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- 1.4 The staff grievance procedure must be followed by any member of staff having an employment-related grievance. Ideally, no grievance should be raised except through this procedure.

### **2. Scope**

- 2.1 This procedure applies to all staff employed at the trust, including those employed temporarily. It may be used to deal with allegations of sexual, racial and other forms of harassment and bullying although the trust's bullying and harassment policy may be a more appropriate vehicle to address such issues.
- 2.2 Grievances may be about terms and conditions of employment, relationships at work or the behaviour of colleagues. These issues may relate to (the following list is not exhaustive) matters such as:
- working practices
  - health and safety issues
  - organisational change
  - equal opportunities.
- 2.3 Some grievances are minor or straightforward whilst others may be more difficult to resolve or may concern fundamental issues.
- 2.4 It is important to draw a distinction between concerns relating to a personal grievance and concerns of whistleblowing. The latter is relevant only to matters which are in the public interest and which warrant a 'protected disclosure' to an appropriate authority. Personal issues such as, for instance, those related to discrimination, bullying, harassment etc. do not qualify as whistleblowing as they are not covered by the relevant legislation.

### **3.0 Legislation and guidance**

#### **3.1 Employment Rights Act 1996**

This is the primary legislation that gives employees the right to raise grievances about their employment.

#### **3.2 Equality Act 2010**

Schools must comply with the Equality Act 2010, including the Public Sector Equality Duty Education Inspection Framework. This is particularly important when handling grievances, as the trust must ensure that:

- Grievance procedures don't discriminate against staff with protected characteristics
- You consider whether grievances relate to discrimination, harassment or victimisation
- All staff are treated fairly throughout the process.

#### **3.3 ACAS Code of Practice**

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Whilst not strictly statutory, employment tribunals must take the ACAS Code of Practice on Disciplinary and Grievance Procedures into account when considering relevant cases. Following this code is considered best practice and can affect compensation awards if it is not followed.

### **4. Policy aims and objectives**

- 4.1 The aim of this policy is to achieve a fair and prompt resolution to individual grievances and to do so, where possible, at an informal level and, in all cases, as speedily as possible.
- 4.2 These include the following:
- disciplinary procedure
  - capability procedure
  - attendance management procedure
  - flexible working procedure
  - redundancy procedure.
- 4.3 Similarly, the grievance procedure is not applicable to collective disputes. Collective disputes, where more than one member of staff has lodged a complaint relating to the same issue, the Trust and/or school may deal with the complaint together in the interest of fair and consistent decision making. The trade union may initiate a collective grievance on behalf of more than one named employee where the issues are the same.
- 4.4 All grievances should be raised as soon as possible. Other than in extenuating circumstances, all grievances should be submitted within three months of their occurrence, and the trust is under no obligation to investigate matters which are not raised within this timescale however the Trust will consider reasons for such a delay before deciding how to proceed.

### **5. Roles and responsibilities**

- 5.1 The grievance officer/appeal officer will, unless in exceptional unavoidable circumstances, be someone not personally involved in the matter and at the appropriate management level and will be appointed by the trust depending on the grievance subject matter.
- 5.2 In the event of the CEO having a grievance against the board, trustees will appoint a grievance officer, who will be someone not personally involved in the matter. Trustees may use an independent person if it is deemed appropriate.

### **6. General principles of a grievance procedure**

- 6.1 All documentation and discussion at meetings within the grievance procedure are to be treated completely confidential. Records should be held in a secure and confidential manner.

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- 6.2 At all stages in the procedure (including the informal stage), the member of staff raising the grievance should have the right to be accompanied by a trade union representative or work colleague.
- 6.3 An employee may not be represented by a person who has a conflict of interest.

### **7. The formal procedure for dealing with grievances is as follows:**

- the employee should set out in writing the nature of the grievance (form appendix 1)
  - the employer should hold a meeting with the employee, at which the latter must be permitted to be accompanied as detailed above
  - the employer must decide on appropriate action.
- 7.1 The trust may, at its absolute discretion, allow the employee to bring a companion who is not a colleague or union representative (for example, a member of the employee's family) if this will help overcome a disability.

### **8. What constitutes a grievance?**

- 8.1 In considering whether the grievance procedure has been triggered, the following points should be noted:
- a grievance may be raised by e-mail, in a letter from the employee, in an informal 'note', or in a letter from a third-party representative such as a union representative
  - a grievance may also be raised in communication dealing with another matter.
- 8.2 In other words, a communication does not have to be headed as a 'grievance' for it to be considered as such.
- 8.3 The intention of the employee is not directly relevant, and the employee is not required to indicate that the complaint may be taken further. It is therefore recommended that senior management treat all written complaints from employees, or their representatives, as potential employee grievances, as failure to do so could result in an increase in any compensation subsequently awarded to the claimant at an employment tribunal. Should the matter progress to that level.
- 8.4 If the complaint is set out in a resignation letter the employee should be invited to a meeting to discuss the issues raised. However, if the employee does not attend such a meeting the employer should write to the employee with an outcome, based on the available evidence and where appropriate this may be following an investigation into the issues raised.

### **9. Overlapping grievance and disciplinary cases**

- 9.1 If a grievance is raised by an employee after disciplinary proceedings against them have commenced, and the grievance relates to the disciplinary case

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(unrelated cases can proceed in parallel), a decision will be taken either to suspend the grievance until after the disciplinary issue has been dealt with or to hear the grievance as part of the disciplinary process.

- 9.2 Only in exceptional circumstances will a disciplinary hearing be suspended to deal with a grievance that has been raised after disciplinary process has commenced.
- 9.3 Depending upon the nature of the grievance, the grievance officer may need to consider bringing in another manager to hear the disciplinary case.
- 9.4 It is advisable that an HR advisor is present at all formal grievance hearings to support management as appropriate.

### **10. Grievance procedure – informal stage**

- 10.1 The trust encourages employees to resolve grievances informally wherever possible.
- 10.2 Before raising a formal grievance under this procedure, employees should try to resolve the matter informally either through their line manager, headteacher or, where possible, with the other party.
- 10.3 Where there is scope to reach a resolution informally, options will be discussed with you, and you may wish to suggest other examples that may assist in reaching informal resolution.
- 10.4 An employee with a complaint must start by discussing it with their line manager at the earliest opportunity; it may be possible to resolve the complaint informally through discussion.
- 10.5 If the employee has a complaint regarding their line manager, she or he may seek assistance from a more senior manager.
- 10.6 The employee may also seek support from their trade union representative.
- 10.7 As and when deemed appropriate, the headteacher may elect to appoint an investigating officer to gather the facts and evidence. The person appointed to this role must, whenever possible, complete their investigation without unreasonable delay.
- 10.8 The executive principal, headteacher or senior manager may also arrange for mediation, should this be felt appropriate.
- 10.9 Following an informal meeting and/or (if appropriate) investigation, or mediation, a written outcome letter will be provided to the employee within a reasonable period of time. This should be no longer than five working days after the initial informal meeting took place, unless there is a delay to allow an investigation, or mediation to take place.
- 10.10 Every attempt should be made by those involved to resolve a grievance at an early stage and through normal line management processes. Only when these have been unsuccessful should the formal process be followed. If at the informal stage an issue remains unresolved it may be appropriate for the employee to seek

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advice and/or assistance from a senior manager prior to progressing to the formal stage.

- 10.11 If the employee is dissatisfied with the outcome of the informal stage or the complaint is regarded as being sufficiently serious, they may proceed to the formal stage without unreasonable delay, and in all cases this should be no later than three months after the relevant event/incident occurred.

### 11. Stage 1 Formal Grievance

- 11.1 Where the grievance has not been resolved at the informal stage, or the informal grievance procedure is deemed inappropriate, the aggrieved employee should be requested to submit a 'Formal Grievance Form' (Appendix 1) to the executive principal, headteacher or senior manager.
- 11.2 It is highly desirable that the recipient of the grievance, or the person delegated to deal with the grievance, not only has a full understanding of the aggrieved employee's concern(s) but also of their perception as to how the grievance might be satisfactorily resolved; which may include an insight into their desired mechanism of redress.
- 11.3 To this end it is constructive for the aggrieved employee to complete the appropriate form as requested. However, the trust undertakes to address all grievances appropriately, even in the absence of the preferred official form to be completed.
- 11.4 Following receipt of a formal grievance the Grievance Officer may wish to arrange a stage 1 meeting with the aggrieved employee to discuss the grievance and how they think it should be resolved. The employee is not obliged to meet with the headteacher, in which case the grievance must still be explored in accordance with policy, but if any formal meeting does take place, whether at this stage or later, the employee is entitled to be accompanied by either a work colleague or a trade union representative.
- 11.5 The executive principal, headteacher or senior manager/grievance officer may, at their discretion, choose to delegate another senior manager to undertake the task of dealing with the grievance and accordingly the term 'headteacher' in the following paragraphs should be interpreted as including any person to whom this responsibility has been delegated. The CEO will delegate in cases involving executive principals and headteachers in line with the Scheme of Delegation.
- 11.6 At this point, an investigation may be appropriate in which case the grievance officer is responsible for appointing an investigating officer, this may be an individual external to the academy, who should be impartial and who has had no previous involvement with the grievance. This is most often indicated in matters considered to be complex and/or sensitive.
- 11.7 The investigating officer will not be aware of any decision on either the grievance or any related disciplinary procedure. The investigation must be completed as soon as is practically possible and a report prepared and sent to the grievance officer.

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11.8 At this point it may be appropriate for the grievance officer to arrange a further meeting with the aggrieved employee in which the investigation report will be presented. This meeting gives the aggrieved employee the opportunity to discuss the content of the report before the grievance officer reaches a final decision. A detailed record should be kept of any such meeting. For example, there may be a clerk present at the meeting or the meeting may be recorded for later transcription purposes.

11.9 After consideration of the issues, the grievance officer will communicate their conclusions to the aggrieved employee in writing within 5 working days after the meeting. This correspondence should include any recommendations or proposals designed to resolve the issue(s).

11.10 Outcomes of Stage 1 Grievance Meeting

- your grievance is **upheld**, and you will be told what action will be taken; or
- your grievance is **partially upheld**, and you will be told what action will be taken and where any points within your grievance are not upheld, why or
- your grievance is **not upheld**.

## 12. Stage 2 Grievance Appeal

12.1 Where the aggrieved member of staff does not accept the outcome of the grievance they may appeal against the decision to a separately constituted appeal panel (see section 5 for Scheme of Delegation). Any appeal should be submitted in writing within ten working days.

12.2 The employee's written submission should explain the basis of the appeal by identifying:

- the specific element(s) of the outcome which they wish to dispute
- the grounds on which they are disputing such element(s)
- how they wish the grievance to be resolved.

12.3 Ideally, the form provided at Appendix 2 (entitled Grievance Appeal) should be completed and sent to the appropriate person who will then arrange an appeal hearing.

12.4 On receipt of a written appeal from the employee, a hearing will be arranged, in which the aggrieved employee may appeal in person to the appeal officer who has had no previous involvement in the matter.

12.5 The panel should be provided with the written outcome of the stage 1 grievance, and the headteacher, or other person delegated to deal with the matter, should be invited to attend the appeal hearing.

12.6 Every effort should be made to accommodate the employee's trade union representative or work colleague at the appeal hearing, including rescheduling of the hearing if the original date proposed is not acceptable to all parties. The

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rearranged appeal hearing should take place within five working days of the original date proposed.

12.7 The appeal will focus on specific reasons for not accepting the previous decision.

12.8 Appeals against grievance decisions will usually only be considered by the panel in relation to one or more of the following grounds, and accordingly the appeal should detail:

In relation to procedure:

- how procedural irregularities prejudiced the grievance decision

In relation to facts:

- how the facts do not support the decision or were misinterpreted or disregarded – the appeal should also detail any new evidence to be considered in cases where this is admissible\*

\*additional written evidence should only be admissible at the appeal stage if it could not reasonably have been submitted for consideration at the formal stage.

In relation to proposed action or sanction:

- how the proposed action or sanction is inappropriate given the circumstances of the case.

12.9 The order of the appeal hearing should be as follows:

1. The chair of the panel explains the process (advised by the HR advisor)
2. The employee presents their appeal
3. Questions may be asked by the headteacher (or other management representative) and/or the panel
4. The headteacher (or other management representative – possibly the investigating officer) gives its response
5. Questions may be asked (through the chair) by the employee and/or the panel
6. Both employee and management are entitled to call witnesses (who should be held available for questioning)
7. Once all the evidence has been presented, the chair of the panel will adjourn the hearing
8. The panel will also consider, in addition to oral evidence, any written evidence presented (where this is admissible\*) before making their decision.

\*additional written evidence should only be admissible at the appeal stage if it could not reasonably have been submitted for consideration at the formal stage.

Notes should be taken of the hearing and during the hearing. Either the employee or management may request an adjournment at any point.

12.10 Outcomes of Stage 2 Grievance Appeal Meeting:

- your appeal is **upheld**, and you will be told what action will be taken; or
- your appeal is **not upheld** or

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- your appeal is **partially upheld**.
- The reasons why some points within your grievance appeal are **not upheld** will be explained in the Appeal Outcome Letter.

12.11 You will be provided with a copy of the notes from the Stage 2 Appeal Meeting with the Stage 2 Appeal Outcome Letter.

12.12 The decision of the appeal committee will be communicated in writing to the employee within a reasonable timescale following the appeal hearing, usually within ten working days.

12.13 The decision of the appeal committee is final, and this represents the conclusion of the grievance process.

### 13. Grievance submitted at the end of employment contract

13.1 If an employee raises a grievance and subsequently gives notice that they are leaving, or that their employment is to be terminated, every effort should be made to investigate the grievance before they leave. If it is not possible to fully investigate the grievance before the end of their employment contract, then a written response should be sent to the employee.

### 14. Non-attendance during grievance investigation or appeal

14.1 If an employee is unable (reasonable adjustments may be applied if required) or unwilling, without good reason, to attend meetings concerning the resolution of a grievance and/or to communicate with the headteacher or designated manager, the latter may proceed to make a decision in determining the grievance based on the available evidence.

14.2 If an employee is unable (reasonable adjustments may be applied if required) or unwilling, without good reason, to attend a grievance appeal hearing, the panel may proceed to make a decision in determining the appeal based on the available evidence.

### 15. Equality and diversity statement

15.1 Share MAT is committed to providing a work environment where everyone is treated with dignity, respect and fairness. We aim for all employees to have access to our grievance procedures regardless of age, disability, gender reassignment, marriage or civil partnership, pregnancy/maternity, race, religion or belief, sex, or sexual orientation. The Trust is committed to ensuring that all employees are able to raise concerns, participate in grievance proceedings, or support colleagues without fear of disadvantage. Any allegation of retaliation will be treated as a serious matter and may be addressed under the Trust Disciplinary Policy.

### 16. Linked policies

16.1 This policy will be supported by the following policies and procedures:

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- Bullying and Harassment Policy & Procedure
- Disciplinary Policy & Procedure

### 17. Schedule of Amendment

Version No	Amendment

## Appendix 1: Stage 1 - FORMAL GRIEVANCE

### Section 1: Employee Details

Name: .....

Post: .....

Location: .....

Contact details:

Telephone: .....

Email: .....

### Section 2: Employee Representation Details

Please provide contact details for your trade union representative (you are entitled to be represented by a trade union representative or work colleague at any stage of the formal procedure).

Name: .....

Name of trade union:.....

Contact details:

Telephone: .....

Email: .....

### Section 3: Grievance Details

Please detail your grievance giving full details of dates, incidents, parties involved, witnesses, circumstances etc.

Additionally, where possible, please ensure that you include or reference the following specific details:

- the date that this issue commenced
- whether this is a one-off issue, or part of a sequence of events
- which policies, procedures or employment terms do you believe have been breached?
- what action/steps you have taken to resolve the issue informally, when and who with?
- copies of any relevant documentary information
- what are you looking for in terms of a redress/satisfactory outcome?

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**Note:** this procedure is intended to support the resolution of any grievance(s) as quickly and fairly as possible to avoid any minor issues developing into more serious matters.

**Please state your grievance:**

*(continue on a separate sheet if necessary)*

**Please state what you are seeking as a satisfactory outcome to your grievance:**

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Signed: .....

Date: .....

Name (Printed): .....

## Appendix 2 – Stage 2 - GRIEVANCE APPEAL

### Section 1: Employee Details

Name: .....

Post: .....

Location: .....

Contact details:

Telephone: .....

Email: .....

### Section 2: Employee Representation Details

Please provide contact details for your trade union representative (you are entitled to be represented by a trade union representative or work colleague at any stage of the formal procedure).

Name: .....

Name of trade union: .....

Contact details:

Telephone: .....

Email: .....

### Section 3: Appeal

As you are appealing against the outcome of the formal stage of the grievance procedure, you must ensure that you state why you are dissatisfied with the manager's decision. Your appeal should focus on specific reasons for not accepting the previous decision.

Appeals which fail to identify any actual grounds of appeal may be rejected, and appeals against grievance decisions will usually only be considered by the panel in relation to one or more of the following grounds, and accordingly the appeal should detail:

#### *In relation to **procedure***

- how procedural irregularities prejudiced the grievance decision

#### *In relation to **facts***

- how the facts do not support the decision or were misinterpreted or disregarded – the appeal should also detail any new evidence to be considered in cases where this is admissible\*

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*\*additional written evidence should only be admissible at the appeal stage if it could not reasonably have been submitted for consideration at the formal stage.*

*In relation to **proposed action or sanction***

- how the proposed action or sanction is inappropriate given the circumstances of the case.

**Please state your reasons for appealing against the previous outcome:**

**Please state what you are seeking as a satisfactory outcome:**

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Signed: .....

Date: .....

Name (Printed): .....