

East Midlands Academy Trust

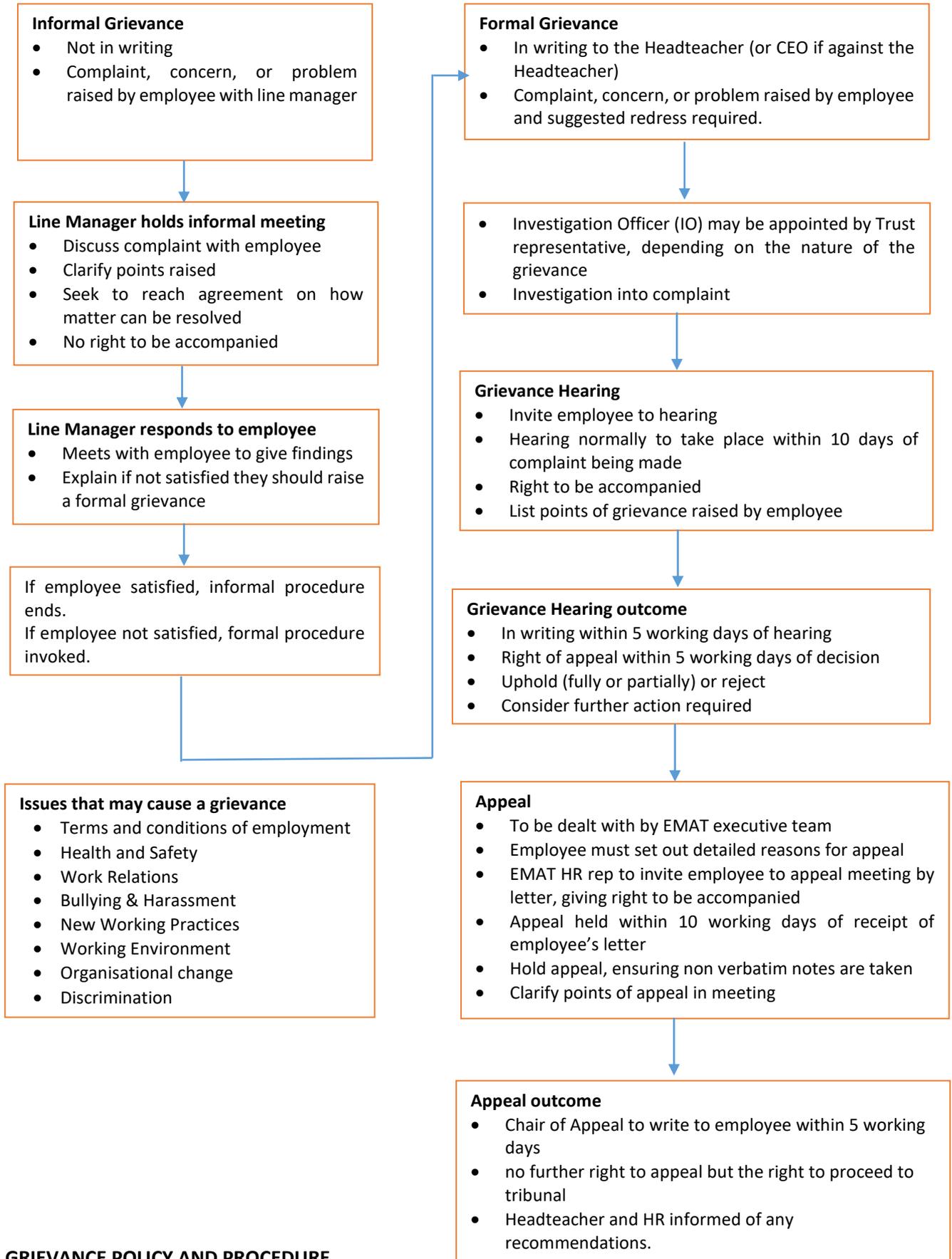
Grievance Policy 2021-23

'Every child deserves to be the best they can be'

Scope: East Midlands Academy Trust & Academies within the Trust	
Version: v1 9 th July 2020 v2 3 rd Sept 2021	Filename: EMAT Grievance Policy
Approval:	Next Review: <i>This Policy will be reviewed by the Trust Board (FHRE committee)</i>
Owner: East Midlands Academy Trust Board of Trustees and Senior Workforce Planning and HR Business Partner.	

Policy type:	
Statutory	Replaces Academy's current policy

Grievance Process – an overview



1. Introduction

East Midlands Academy Trust (EMAT) is committed to creating a positive working environment but recognises that there may be occasions where an employee may wish to raise a concern, problem or complaint arising out of his or her employment. On many occasions the issue will be resolved quickly and informally but when this is not possible a formal procedure is available.

EMAT will adhere to all relevant legislation.

2. Purpose

This policy aims to:

- Encourage a harmonious working environment;
- Promote sound employment practice;
- Enable any employee to have a legitimate grievance heard;
- Resolve grievances quickly and equitably;
- Determine grievances as close to their source as possible.

3. Scope

This procedure applies to all employees of EMAT regardless of length of service. It does not apply to agency workers or self-employed contractors.

This procedure is not a substitute for good employment practices, and every effort should be made by all parties to resolve grievances in a fair and just manner at the earliest opportunity without invoking this procedure.

This procedure does not form part of an employee's contract of employment, and it may be amended at any time. EMAT may also vary application of this procedure, including any timescales for action, as appropriate.

Where the procedure has been invoked, all parties should still make every effort to ensure the grievance is resolved in a fair and just manner.

This Policy has been developed in line with the ACAS Code of Practice.

The Trust exercises its right not to allow the recording of the meetings/hearings by any media.

We operate a separate Whistleblowing Policy to enable employees to report illegal activities, wrongdoing, or malpractice. However, where you are directly affected by the matter in question, or where you feel you have been victimised for an act of whistleblowing, you may raise the matter under this grievance procedure.

If you have any difficulty at any stage of the Grievance Procedure because of a disability etc., you should discuss the situation with your HR representative as soon as possible.

4. Equal Opportunities

The Grievance Procedure must always be applied fairly and in accordance with employment law and Equalities Legislation.

5. Responsibilities

Management and employee representatives who may be involved in grievance matters should be competent for the task. They should be familiar with the provisions of the grievance procedure and know how to conduct or represent at grievance hearings.

6. Timing

Grievance matters should normally be conducted within the timescales laid down in the procedure. However, if there is a valid reason to do so, timescales can be varied by mutual agreement.

All efforts should be made by employees to attend meetings that constitute part of this procedure. When there are valid reasons to reschedule meetings then these should be rearranged without undue delay.

7. When the procedure is used

This procedure can be used for any matters directly arising out of an employee's employment except where another more specific process exists for that purpose.

Complaints that may amount to an allegation of misconduct on the part of another employee will be investigated in accordance with this procedure and may be referred to and dealt with under the Disciplinary Procedure if appropriate, and you will be informed if this is the case.

The grievance procedure should not be used to complain about pay or performance management, dismissal or disciplinary action or the outcome of any procedures where there will be relevant appeal procedures in place. If you are dissatisfied with any disciplinary action, you should submit an appeal under the Disciplinary Procedure.

This procedure should not be used in situations where the employee simply disagrees with a reasonable management instruction from the Headteacher / Line Manager.

We offer access to confidential counselling, which is available on request. The details to access this service are as follows:

The EAP service is a free 24-hour confidential helpline (0800 030 5182) provided by Health Assured, and is available to all staff and your immediate family (dependants must be in full time education, aged 16-24 and living in the same household).

8. Right to be accompanied

You may bring a companion to any grievance meeting or appeal meeting under this procedure. The companion may be either an official trade union representative or a colleague. You must inform the person holding the grievance meeting who your chosen companion is, in good time before the meeting.

Should you choose to bring a companion to the hearing, you will be responsible for making these arrangements and for providing your companion with any paperwork that they require for the meeting.

At the meeting, your companion may make representations to us and ask questions but should not answer questions on your behalf. You may request an adjournment to speak to them privately at any time during the meeting.

Acting as a companion is voluntary and your colleagues are under no obligation to do so.

If your chosen companion is unavailable at the time a meeting is scheduled, you may propose an alternative time for the meeting to take place and so long as the alternative time is reasonable and within five working days after the original scheduled date, we will postpone the meeting. If your chosen companion will not be available for more than five working days afterwards, we may ask you to choose someone else.

9. Informal Stage

Day-to-day issues will normally be resolved through dialogue between the employee and their Headteacher / Line Manager, or other party to the informal grievance if this is not the employee's line manager. An employee should first raise an informal grievance verbally with their immediate Headteacher / Line Manager. If the grievance relates to the employee's immediate line manager or Headteacher, the formal stage of the grievance procedure may be invoked immediately.

An informal meeting between the Headteacher / Line Manager will allow them to discuss the informal grievance on a one-to-one basis outside of the formal process. This meeting should take place at a mutually agreed time and date. A decision will be communicated to the employee within 5 working days of this meeting, usually verbally. Although the date of any informal discussions and actions agreed should be recorded, no formal notes of these meetings will be made as these discussions do not form part of the formal processes.

In certain circumstances it may, with mutual agreement, be helpful to seek external advice and assistance during the grievance procedure. For instance, where relationships have broken down, referral to an external facilitator, usually the Trust HR representative, might be able to help resolve the problem.

10. Formal Stage

If, following the informal stage, the employee remains aggrieved, they may progress to the next stage of the procedure.

This must be done by in writing to the Headteacher / Line Manager, giving full details of the complaint, including any relevant facts, dates and names of individuals involved and the redress required within 5 working days of notification of the immediate manager's decision. The formal grievance must normally be raised within one month of the event giving rise to the grievance.

You should note that where your grievance relates to another employee, in order for them to provide a response they will be given a copy of your grievance.

As delegated by the Trust, the person(s) hearing the grievance will write to the employee giving details of the hearing, which will normally take place within 10 working days of receipt of the grievance. If this date is not convenient, an alternative date should be proposed.

A representative from EMAT HR team may also attend to advise on procedural matters and matters of precedent. The employee will be entitled to be accompanied by an official trade union representative or a work colleague.

The Trust representative will communicate their decision in writing to the employee within 5 working days of the hearing. The employee must be notified of their right to appeal within 5 working days of the decision.

It may be necessary to carry out an investigation into your grievance. The amount of any investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from you and any witnesses, and/or interviews, as part of the investigation.

You must cooperate fully and promptly in any investigation. This may include informing us of the names of any relevant witnesses, disclosing any relevant documents to us and attending interviews, as part of the investigation.

You have the right to be accompanied by a companion at any grievance meeting or appeal meeting under this procedure. The companion may be either an official trade union representative or a colleague. You must inform the trust who your chosen companion is, in good time before the meeting.

Reasonable adjustments will need to be considered for anyone with a disability or anyone who accompanies them.

The purpose of a grievance meeting is to enable you to explain your grievance and how you think it should be resolved, and to assist the panel to reach a decision based on the available evidence and the representations you have made.

11. Mediation

Mediation held by a neutral person may be explored at either the informal stage or as an outcome from the formal stage of the grievance procedure. It is a process used to improve working relationships between individuals when there has been a misunderstanding or a disagreement. It is completely confidential and voluntary.

12. Appeal

Appeals will be heard by the EMAT Executive team. Appeals against grievance decisions will usually be considered in relation to one or more of the following grounds:

- (i) **The Procedure** – the grounds of appeal should detail how procedural irregularities prejudiced the grievance decision.
- (ii) **The Facts** – the grounds of appeal should detail how the facts do not support the decision or were misinterpreted or disregarded. They should also detail any new evidence to be considered.
- (iii) **The Proposed Action** – the grounds of the appeal should detail how the proposed action is inappropriate given the circumstances of the case.

The Headteacher / Line Manager, or EMAT Executive team in the case of a Headteacher, will write to the employee, giving details of the appeal hearing, which will normally take place within 10 working days of receipt of the employee's appeal. The letter will inform the employee of their right to be accompanied at the appeal hearing by a trade union representative or work colleague. The Chair will communicate the decision, which will be final, in writing to the employee within 5 working days of the appeal hearing.

13. Overlapping grievance and disciplinary cases

Where an employee raises a grievance during a disciplinary process the disciplinary process may be temporarily suspended in order to deal with the grievance. Where the grievance and disciplinary cases

are related, it may be appropriate to deal with both concurrently. The Senior Workforce Planning and HR Business Partner should be contacted for further advice.

14. Abuse of the Grievance Procedure

Employees who abuse the grievance procedure by making malicious complaint(s) or operating the procedure vexatiously may be liable to disciplinary action.

15. Grievances resulting in disciplinary action

If the employee's grievance results in disciplinary proceedings against another employee, these will be handled in line with the EMAT disciplinary procedure. The employee raising the grievance has no right to influence or be informed of the outcome. However, the employee raising the grievance may be called as a witness to any disciplinary hearing.

16. Confidentiality and data protection

It is the aim of EMAT to deal with grievance matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat any information communicated to them in connection with grievance matters as confidential.

Employees, and anyone accompanying them (including witnesses) must not make electronic recordings of any meetings conducted under this procedure.

During any action including any decisions taken under this procedure, EMAT will collect, process, and store personal data in accordance with the data protection policy. The data will be held securely and accessed by, and disclosed to, individuals only for the purposes of completing the grievance procedure.

17. Low level concerns

All staff are encouraged to report complaints that amount to low level concerns. Low level concerns are defined as any concern – no matter how small, and even if no more than causing a sense of unease or a 'nagging doubt' – that an adult working in or behalf of the Trust may have acted in a way that:

- is inconsistent with the staff code of conduct, including inappropriate conduct outside of work; and
- does not meet the allegations threshold or is otherwise not considered serious enough to consider a referral to the Local Authority Designated Officer (LADO).

Examples of such behaviour could include, but is not limited to:

- being over friendly with children;
- having favourites;
- taking photographs of children on their mobile phone;
- engaging with a child on a one-to-one basis in a secluded area or behind a closed door; or,
- using inappropriate sexualised, intimidating, or offensive language.

Where staff wish to raise a low-level concern, they should refer to the Dealing with allegations of abuse against staff members policy in the first instance.

18. Review

This policy will be reviewed every two years by the FHRE committee.

APPENDIX 1: A GUIDE TO CONDUCTING THE GRIEVANCE HEARING AND APPEAL

1) Introductions

The Chair introduces him / herself and allows an opportunity for all those present to do so. The Chair ensures that all procedural steps have been adhered to and confirms the order of the agenda with all those present.

2) Nature of the complaint

The Chair checks that all parties have the relevant documents and identifies the complaint.

3) Representation by investigating officer (IO)

If an investigation has been carried out the Chair asks the investigating officer to present the case (including questions of witnesses). Once the IO has presented the case and questions from all parties have been asked and answered the IO will leave the hearing. If there is a need for further questioning the IO will be asked to come back.

4) Questions by employee

The Employee and / or representative may ask points of clarification from the IO or witnesses after they have given evidence.

5) Questions by Chair or panel

Panel members may ask points of clarification from the IO or witnesses.

6) Presentation by employee

The employee and / or their representative will present his / her case, including calling any witnesses. Witnesses called may be called by the EMAT HR representative who has given advice on dealing with the grievance.

7) Questions by Chair of panel

Panel members may ask points of clarification from the employee / representative, including each of the employee's witnesses after they have given evidence.

8) Re-examination of witnesses

Both parties may re-examine their witnesses after they have been asked questions by the other party.

9) Final statement by employee

The employee and / or representative may make a final statement.

10) Withdrawal

Both parties withdraw to allow the panel to discuss the findings and come to a decision. Both parties may be asked to remain available in case the panel need to clarify any points.

11) Adjournments

Either party may ask for an adjournment during the course of the hearing.

12) Sufficient breaks

The Chair should ensure that there are sufficient breaks. If new information is presented during the course of the hearing, the Chair of the panel may decide to adjourn to allow all parties to consider it, or once the meeting has been completed further checks need to be completed.

13) Non-Verbatim Notes (NVN)

NVN of the meeting should be taken. These will be circulated to all parties and will be part of any documentation used as part of an appeal.

The Appeal

The agenda for an appeal hearing will follow the same format as outlined above, except the employee will be asked to state their case first.

The Chair of the panel for the first hearing will respond by addressing the grounds of appeal and explaining the rationale behind the decision of the panel. He / she may be supported by the Trust HR representative who advised the panel at the first hearing and may ask the IO who presented the case in the first hearing to appear as a witness.

The Appeal will concentrate on the area(s) of dispute only and will not be a re-run of the whole grievance hearing. Accordingly, it is important that the employee is explicit about the grounds for appeal and must provide clear and specific reasons in writing. Such written notice of the Appeal must include reference to any new facts the employee intends to raise at the Appeal.

The Appeal panel will be advised by the Trust HR representative and NVN must be taken and distributed to all parties at the end of the hearing.

All parties should be given the documents presented in the first hearing including a copy of the NVN from the first hearing and a copy of the outcome letter from the Chair of the first panel along with a copy of the letter of appeal from the employee.

The decision of the appeal panel is final, and the outcome communicated in writing within five working days by the Chair of the appeal panel.

Appendix 1 – Formal grievance form

This form may be used to submit a formal grievance in accordance with the East Midlands Academy Trust grievance policy. You and your Trade Union representative should complete the form and hand it to the Head Teacher/Principal or the Chair of Governors. You should keep a copy.

Name:	Academy:
Post Held:	Department:

Briefly describe the nature of your grievance (use and attach a separate sheet if necessary)

When did you first raise your grievance (informally), and with whom?

What action has been taken to resolve your grievance at the informal stage?

What would you like as the outcome of raising your grievance?

Has your Trade Union representative been informed? Yes / No

If yes, do you wish your representative to receive correspondence? Yes / No

If yes, please provide contact details for your representative

Signed.....

Date.....

Print Name.....