

East Midlands Academy Trust

Grievance Policy

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

Scope: East Midlands Academy Trust & Academies within the Trust	
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Owner: Head of People & Culture	

Policy type:	
Statutory	Replaces Academy's current policy

Revision Date	Revisor	Description of Revision
October 2024 V4	C Rees	Changed timescales for investigation / meetings.
September 2023 – v3	A Holton	Made Line Manager lead in the process – more generic than Headteacher which may not always be necessary Added revision box Added formatting for general document structure Added contents page for easy access to relevant sections Changed the wording on providing witnesses with copies of grievance (section 10) Update the procedure to enable grievances to be heard without a full panel if appropriate Update flow chart/slight wording changes Update guidelines to reflect how grievance hearings are handled

EMAT Grievance Policy

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GRIEVANCE POLICY AND PROCEDURE

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 Speak Up 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.

Where staff wish to raise a low level concern (see section 18), they should refer to the Dealing with allegations of abuse against staff members policy in the first instance

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

4. 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.

5. Equal Opportunities

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

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 Line Manager/Headteacher.

We offer access to confidential counselling, which is available –to all employees and those living in the same household, via Vivup. Their confidential helpline is 0330 380 0658

8. Being 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 work colleague currently employed by the Trust whose attendance could not be deemed as a conflict of interest. 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 endeavour to 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 Line Manager/Headteacher, 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 Line Manager/Headteacher. If the grievance relates to the employee's immediate line manager or Headteacher, a member of the People & Culture team should be contacted.

An informal meeting between the Line Manager/Headteacher 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. 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, might be able to help resolve the problem.

10. Investigation

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 but should be completed within 10 working days where possible. 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.

11. 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 in writing to the Line Manager/Headteacher, 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, to include why you are dissatisfied with the 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 provided with an outline of your complaint.

As delegated by the Trust, the person(s) hearing the grievance will write to the employee giving details of the hearing,.

The employee may 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.

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 hearing officer to reach a decision based on the available evidence and the representations you have made.

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

12. 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.

13. Appeal

Appeals will be heard by the next level of manager. 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 Line Manager/Headteacher, 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 5 working days of receipt of the employee's appeal. The letter will confirm that the employee may choose 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 providing no further investigations are required. The Appeal manager reserves the right to extend these timescales should further investigations be required.

14. Overlapping grievance and disciplinary cases

Where an employee raises a grievance during a disciplinary process the disciplinary process may be temporarily suspended if it is deemed appropriate 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 People & Culture Team should be contacted for further advice.

15. 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.

16. 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.

17. 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.

18. 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.

APPENDIX 1:

A GUIDE TO CONDUCTING THE GRIEVANCE HEARING AND APPEAL

Setting the scene for all (person raising the grievance, witnesses, person who may have a complaint against them)

- Ascertain if the person raising the grievance is accompanied and if not, they are comfortable to proceed – witnesses may be more comfortable with a companion too who must be a colleague or union representative
- Introduce everyone and their role in the meeting including that notes will be taken albeit not verbatim, to assist everyone. They may take their own notes but no recordings are to be made of the meeting. A copy of the notes will be sent to them to comment
- Explain the purpose of the meeting is to understand and investigate the grievance raised
- Ensure the person being interviewed understands the notes from the meeting may need to be shared (or the general points raised, not necessarily specific documents) with others in order to resolve any potential issue
- Establish rapport – employees may be stressed or apprehensive about the meeting
- Explain that the meeting is confidential and must not be discussed with anyone
- Explain that either party can request a break or adjournment at any time during the discussion.
- Encourage openness and honesty in order to resolve the grievance
- Explain that you will probe responses to ensure all facts are obtained and understood
- Share that your investigation may involve using their responses to question others
- Ask if they have any questions before the interview begins.

Main body:

- Obtain the facts (what happened? When? Who?)
- Ask them to follow events in a chronological order (as they happened)
- Exercise care when the witness merely “has the impression or opinion that...” Also be wary of hearsay. If the witness seems to be relying on the opinion of a third party, the investigator should seek out the third party as a witness.
- Keep control of the discussion
- Use questioning techniques effectively – probe and challenge to seek clarification of points without being accusing or aggressive; try not to use leading questions e.g. ‘did she shout at you?’ unless there is no other way of finding an answer to the question.
- Ensure specific examples are given with any general descriptions e.g. bullying.
- It may be helpful to repeat at times what has been said to ensure clarity.
- Take accurate notes that reflect the conversation although not necessarily verbatim or ask witnesses to provide a statement outlining their version of events.
- Answer any questions or take them away to reflect and recap main points.

Interviewing the employee accused of misconduct

- State the allegation made and that the purpose of this meeting is to understand their point of view
- Explain that the meeting must remain confidential
- Share the investigation process and any timescales involved
- Ask for complete openness in order to resolve the matter quickly for everyone involved

Close the meeting:

- Thank them for their time
- Summarise and explain next steps
- Remind them notes are not verbatim and you will send them to the employee for checking and signing.
- Reiterate you may ask questions of others based on the answers given in this meeting
- Explain that if they have any documentation to further support the points they have made they should supply it.
- Reiterate that you may need to contact them again to clarify information
- Check that they understand they need to keep the interview confidential
- Explain that if they feel they need support following the interview you would recommend their manager, HR, TU etc
- Answer any final question/concern and give them your contact details.

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 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.
- Non verbatim notes 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 notes, the outcome letter and 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 2 – Formal grievance form

This form may be used to submit a formal grievance in accordance with the East Midlands Academy Trust grievance policy. 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.....

Appendix 3 – Process Flow chart

