TrustEd Schools Alliance
Grievance Procedure

This policy has been consulted through the Trust Forum Group, which includes Support Staff and Teacher's representation for all schools within our Trust.

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COMMITTEE: Personnel Committee:

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Adopted by the Board of TrustEd Schools Alliance

Signed_____ Dated _____
Chair of Trust Board

Signed_____ Dated _____
Chief Education Officer (CEO)

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TrustEd Schools Alliance Grievance Procedure

1. Introduction

The procedure provides a means for all staff employed by the Trust to resolve concerns, problems or complaints relating to their employment. This procedure applies to all staff employed by the Trust. Throughout this scheme, it implies that the Headteacher will be the Line Manager; however, this is not always the case and can sometimes be another senior member of staff. Reference to 'Headteacher' throughout this scheme includes the Executive Headteacher, Chief Education Officer (CEO) or direct line manager.

The procedure has been drawn up to ensure compliance with the statutory ACAS Code of Practice on Disciplinary and Grievance Procedures, the School Staffing (England) Regulations 2009, relevant regulations relating to school governance and the latest guidance issued by the Department for Education (DfE).

2. Aims and Objectives

The Trust is committed to ensuring that staff are treated fairly and with respect in all aspects of employment, as well as in accordance with all relevant legislation. The associated procedures are designed to resolve any concerns/disputes that do arise in a timely fashion and in a manner, which avoids adversarial exchanges. The focus is intended to be on resolution rather than on dispute.

All grievances should be resolved as quickly as possible; members of staff are encouraged, where possible, to resolve grievances informally with their Headteacher or line manager.

Where a grievance cannot be settled informally, the employee should raise it formally through the operation of this procedure. Employees may wish to seek advice from their trade union or professional association before considering raising a complaint under this procedure.

This procedure is drawn up to ensure compliance with the ACAS Code of Practice on Disciplinary and Grievance Procedures.

This procedure should be used for grievances about the rights of employees under their conditions of service and any other matters relating to their employment.

Such rights or matters may relate to:

- the procedure, the content, or interpretation of a revised or existing job description;
- working environment;
- excessive or inequitable workload;
- failure to manage the conduct of others, to the detriment of the grievant;
- inequitable treatment.

The above list contains exemplars and is not intended to be exhaustive.

The procedure does not apply in the case of:

(i) disciplinary and dismissal matters (appeal process exists within disciplinary procedure),
(ii) following an unsuccessful appeal under another procedure,
(iii) questions relating to statutory adjustments to pay and allowances (e.g. income tax, national insurance, occupational pension scheme and statutory sick pay),
(iv) national agreements (other than local interpretation),
(v) grading issues (these should be raised through the appeals procedure of the Trust's pay policy),

(vi) personal matters not directly related to employment or conditions of service.

Matters relating to bullying and harassment should be dealt with using the school's Bullying and Harassment Policy.

Staff grievances can arise from a variety of sources. They can be of a relatively simple nature or of fundamental importance. These procedures are designed to enable a grievance to be resolved informally wherever possible. Where informal procedures are inappropriate or have failed, provision is made for formal procedures. All parties should aim to settle the grievance fairly, simply, quickly (a reasonable timescale could be agreed by all parties at the start of the procedure, however this may be subject to review depending on the circumstances of the grievance) and finally, as near as possible to the point of origin.

For the purpose of the formal procedure, the term 'grievance' means a complaint meeting the following requirements:

- the grievance must be specific to the individual member of staff; grievance procedures cannot be used to complain about collective matters e.g. pay, conditions of service issues, general policies/procedures where there is another recognised route available. Where there are several individual grievances about the same issue then this policy may be used as a means to resolution;
- the grievance must relate to the individual member of staff's employment;
- the grievance must be substantial in the sense that, if the facts were as stated by the member of staff, it would be reasonable to conclude that significant evidence for complaint existed.

Headteachers and Governors of Local Governing Bodies (LGB's) and the Trust Board should seek support from their HR provider for advice to on the operation of the procedure.

The definitions below should assist with understanding the roles in the remainder of these procedures:

- ***The Grievant(s)*** - the person(s) who has raised the grievance.
- ***The Subject(s)*** - the person(s)/issue(s) who the grievance is about.
- ***The Receiver*** - the person to whom the grievance is reported; to whom a formal grievance form is submitted (appendix 1); who will make a decision about the grievance.
- ***The Investigating Officer -*** the person appointed by the ***Receiver*** to investigate. This can be a member of the Senior Management Team or the Trust's HR provider, for example.
- ***The Mediator*** – an independent individual who may be involved at any point during a grievance to try and resolve.

The ***Grievant*** is advised to seek the advice of their Trade Union or Professional Association prior to such a submission and will be entitled to be accompanied at the formal stage of the procedure.

The ***Grievant*** should be encouraged to consider a manageable resolution

3. Grievance Against Either: Staff, Headteacher, Local Governing Body or Trust Board

3.1. Informal Procedures

Where an employee(s) of the Trust has a grievance, which is against a member of staff in the Trust, a Headteacher (including Executive Headteacher), a Local Governing Body (LGB), CEO

or the Trust Board and wishes to pursue that grievance, they must first endeavour to resolve the matter by a direct approach to the person(s) involved or via the Headteacher or Executive Headteacher.

If the grievance is against the Headteacher and the ***Grievant*** is unable to approach the Headteacher directly, a representative may make the approach on behalf of the ***Grievant***, after which the ***Grievant*** should endeavour to resolve the matter. In high delegation schools, the Headteacher should inform the CEO and/or Deputy CEO if a grievance has been raised against the Headteacher. In low delegation schools, the Headteacher should inform the CEO and/or Deputy CEO who will actively support the Headteacher.

When a grievance is against the LGB, CEO or Trust Board, the request should be made via the relevant Clerk to the LGB or Trust Board.

Where the ***Grievant*** requests a meeting, via the ***Receiver***, to discuss their grievance, it should be granted within five working days of the request being made unless this is impossible due to sickness or other unavoidable absence. This timescale can be varied by agreement. If the grievance is against the LGB, CEO or Trust Board, once the request for a meeting with Governors has been made, it will be granted as soon as possible following the request and, wherever possible, within 20 working days.

Once such an approach has been made, the ***Receiver*** should seek to resolve the problem personally. Where appropriate the ***Receiver*** will make discreet investigations, to be completed within a calendar month of being notified of the concern(s) and will attempt to resolve the matter speedily and fairly. With the consent of all parties involved in the grievance there may be subsequent consultation with other employees at the school, or, through the Headteacher, with the Chair of the relevant LGB, CEO or Trust Board, the Trust's HR representative and representatives of recognised Trade Unions and Professional Associations.

Most issues are best resolved informally. However, if this is not possible, a more formal approach will be necessary by proceeding to the First Stage of the Formal Procedure.

3.2 Formal Procedure

3.2.1 Stage One – Statement of Grievance

Where the matter has not been resolved under the informal procedure, the ***Grievant*** should submit a formal, written notice of the grievance and the solution being sought using the form supplied at Appendix 1.

The form should be submitted to:

- Headteacher – where the grievance relates to a member of staff;
- The CEO (also Trust's HR provider for information) – where the grievance relates to the Headteacher;
- Chair of Trust Board (also Trust's HR provider for information) – where the grievance relates to the CEO;

A copy of the form and this procedure should be provided to the ***Subject***, this may be sent directly by the ***Grievant***, by their representative, or by the ***Receiver***. The ***Receiver*** should ensure that this requirement is carried out. The ***Grievant*** is advised to seek the advice of their trade union or professional association prior to such a submission.

If the grievance relates to working or proposed working arrangements, changes should not be made until the grievance has been resolved or the procedure exhausted. Where difficulties may arise as a result, the matter should be dealt with as a matter of urgency.

3.2.2 Stage Two – Meeting between ***Grievant*** and ***Receiver***

On receipt of the written notice, the ***Receiver*** will invite the ***Grievant(s)*** to a meeting as soon as possible. The ***Grievant*** will have the right to be accompanied by a Trade Union or professional association representative or work colleague. If the ***Grievant*(s)** representative cannot attend on the proposed date, the ***Grievant*** can suggest another date, as long as it is reasonable and not more than 5 working days after the original proposed date.

As soon as possible and, in any event, within ten working days of the meeting, the ***Receiver*** will give the ***Grievant(s)*** a written response. This response may be a preliminary one if the grievance needs more detailed consideration but the ***Grievant*** will be told what is happening and how long it may be before a final response can be expected.

Where a more detailed response is necessary, or further investigation required, the ***Receiver*** may appoint an investigating officer to look into the grievance. At the conclusion of the investigation, a formal written report may be produced. An investigating officer would normally be a member of the school's senior management team. If appropriate, a member of the Trust's HR provider for example can be nominated to carry out the investigation.

The Investigating Officer must ensure they keep the ***Grievant*** updated with the progress and next steps of the investigation on a regular basis, ideally at intervals agreed with the complainant.

If the ***Grievant*** is interviewed as part of the investigation, the record of the interview must be agreed prior to any further interviews with witnesses etc.

It is important that confidentiality is maintained as far as reasonably possible in any investigation. Those interviewed as part of the investigation, including witnesses, should ensure they maintain any information or documentation they receive as part of the investigation confidential. If they wish to disclose information to a third party (other than their trade union representative, the Trust's HR provider or the Trust's Occupational Health provider) they should confirm this with the investigating officer prior to any disclosure. They should not discuss the nature of the complaint or share investigation information with any other members of school staff (guidance for conducting an investigation is available from the Trust's HR provider).

On receipt of the investigation report the ***Receiver*** will meet with both the ***Grievant*** and the ***Subject*** (either separately or together) and their representatives and discuss the findings with a view to resolving the matter. In this, the ***Receiver*** may call on advice from the Trust's HR provider who may be present at any meetings so arranged.

A mediator may be needed as an agreed outcome of the above resolution meeting. If mediation is required the mediator will be appropriately trained and had no prior involvement in the grievance.

A summary of the investigation report will be copied to both the ***Grievant(s)*** and the ***Subject(s)***. Should the matter lead to action under the disciplinary procedure the full investigation report would be disclosed as part of disciplinary papers. The full investigation report may also form part of any appeal process.

The final written response from the ***Receiver*** at this stage of the formal procedure should include:-

- a summary of the grievance;
- appropriate details of the investigation;
- the decision on the matters raised;
- the reasons for the decision;
- if the grievance has been upheld, wholly or in part, what necessary steps will be taken;

- what further steps are available to the employee(s), within this procedure, if they remain aggrieved.

If the ***Grievant(s)*** is dissatisfied with the ***Receivers*** response, or does not receive a response within the appropriate timescales, they can move to the appeal stage.

3.2.3 Stage Three - Appeal

There will be a right of appeal on the part of the ***Grievant***, which must be made within ten working days of receipt of the ***Receiver***s decision. If the ***Grievant(s)*** wishes to appeal they should notify the Clerk of the relevant LGB or Trust Board of their intention to appeal. A written statement of the grievance outlining the reasons why they are dissatisfied with the ***Receivers*** response must be provided.

The Clerk to the relevant LGB or Trust Board will advise the ***Grievant*** of the procedure for the appeal hearing, reminding the raiser of their rights at the hearing, including the right to be accompanied by a Trade Union or professional association representative or a work colleague, and the action which the relevant LGB or Trust Board may take.

The Clerk to the relevant LGB or Trust Board will send a copy of the letter of appeal to the ***Receiver*** asking him or her to submit a formal report. They may also ask any other relevant parties to the grievance for their observations if appropriate.

The Clerk to the relevant LGB or Trust Board will arrange a meeting of an appropriate committee of the LGB or Trust Board as quickly as possible, and normally within twenty working days of the receipt of the appeal. The raiser should be given reasonable notice of the date, time and venue of the meeting. Refusal of any party to attend will not invalidate the proceedings. The ***Subject*** of the grievance need not attend.

All relevant documents shall be submitted to members of the Committee, the ***Grievant*** and ***Receiver*** for the purpose of hearing the appeal. All documents should be submitted at least seven working days prior to the date of the appeal hearing and should include as a minimum a clear statement of the grounds for appeal. The ***Grievant***, if they so wish, may make a written submission instead of being present at the hearing. There will be an opportunity for all those involved in the hearing to comment on any new evidence arising during the appeal before any decision is taken. The procedure, which applies at the hearing, is detailed at Appendix 2.

The appropriate relevant LGB or Trust Board Committee may uphold the ***Receiver's*** decision or modify the action the ***Receiver*** proposed to take to resolve the grievance. Modifying the action may include overturning the ***Receiver's*** decision, where this occurs an alternative resolution must be suggested.

If possible, the ***Grievant*** will be notified of the decision by the Chair of the relevant LGB or Trust Board Committee at the end of the meeting. If a decision cannot immediately be made the decision will be confirmed in writing within 10 working days of the meeting. The decision of the relevant LGB or Trust Board Committee is final. The Chair of the relevant LGB or Trust Board Committee will notify the ***Receiver*** of the committee's decision. All those involved in the hearing must mutually agree any variations to the timescales in this procedure.

4. Written Records and Notes

Written records of any grievance that is dealt with should be kept. Records should be treated as confidential and be kept no longer than necessary in accordance with the Data Protection Act. Records should include:

- the nature of the grievance;
- what was decided and actions taken;
- the reason for the actions;
- whether an appeal was lodged;
- the outcome of the appeal;

- any subsequent developments.

Notes should be taken and agreed at all grievance meetings. The employee raising the grievance and the employee, who has had the grievance raised against them, should be asked to sign the notes from their own meetings. Witnesses should be informed that their statements/meeting notes may be disclosed to all parties concerned. However, in certain special circumstances (for example to protect a witness); the employer might withhold some information or anonymise.

5. Recording Meetings

The members of staff concerned in the grievance, or any person acting on their behalf, are not normally permitted to electronically record any meeting held by the school/Trust as part of the grievance procedures. Any breach of this provision may lead to disciplinary action against the member of staff, up to and including dismissal.

In certain limited circumstances, the school/Trust may permit the meeting to be recorded electronically. For example, where the member of staff is disabled, it may be appropriate as a reasonable adjustment under the Equality Act 2010. Where the school/Trust permits the meeting to be recorded electronically, the school/Trust will take responsibility for making the recording.

6. Mediation

If the grievance relates to relationship difficulties and/or conflict, it is strongly recommended that the **Grievant** and their Headteacher/Line Manager consider mediation as a way of resolving conflict. The Trust's HR provider is able to offer a trained mediator to assist with this.

Mediation is a confidential, informal and voluntary process which provides both parties, with the help of the mediator, the time and space to listen to each other in a 'safe environment' with the aim of achieving solutions that are acceptable to both parties.

The mediator acts as a neutral third party whose role is not to apportion blame but to enable the parties involved to come to an agreement.

Schools should contact their HR Provider for further information or for a confidential discussion about what mediation involves. Please note that there may be an additional charge for the provision of mediation support, which would be met by schools rather than individuals.

Headteachers/Line Managers have an important role to play in encouraging their employees to consider mediation first before submitting a formal grievance. Even if an employee has submitted a formal grievance, the manager should ask them to consider mediation first before the formal process starts.

A Trade Union can also be called upon in these instances to help to resolve the matter at the informal stage.

Mediation may also be used at the end of a formal grievance process in order to try and bring two parties together. It is the responsibility of the **Receiver** to decide if mediation would be of benefit to all parties. The **Receiver** should note that not all cases will be suitable for mediation and they should seek advice from the Trust's HR provider.

The **Mediator** cannot participate in any future formal processes following the mediation.

7. Collective Grievances

Where two or more members of staff raise a grievance of the same nature, they may be dealt with as a collective grievance. The **Receiver** on receipt of the grievance form must confirm with each **Grievant** that they wish to submit their grievance collectively. It should be explained to each **Grievant** that should they wish to submit their grievance together they will only be entitled to one grievance response from the **Receiver** and to one grievance appeal. Should all **Grievant(s)** not wish to proceed as a collective, they will need to follow the individual grievance procedure.

A collective grievance will follow the same procedure as an individual grievance with the **Receiver** ensuring that information is shared with each **Grievant** at the same time where possible.

Each **Grievant** has the right to be accompanied to any meetings during the grievance procedure by either a fellow worker, a full-time trade union official, or a lay trade union official certified by the union as having experience of, or having received training in, acting as a representative. Should the **Grievant(s)** wish to be accompanied by two different individuals they will be dealt with under the individual grievance procedure. Should, during the process of a collective grievance, the **Grievant(s)** wish to change the individual accompanying them to meetings they will need to inform the **Receiver** or the Clerk to the Governing Body should the grievance move to the appeal stage of the procedure.

8. Post-Employment Concerns

There are specific and separate appeal procedures relating to dismissal and redundancy. The grievance procedure should not be used in these instances except where the issues relates to a dispute regarding the payment or non-payment of redundancy pay.

There is no formal procedure to raise a grievance for employees who have left the school/Trust. Where an employee has left the school/Trust and has concerns, they should write to their former Headteacher/Line Manager (or to the CEO where the concern relates to the Headteacher) setting out the concern. The Headteacher/Line Manager/CEO may then contact the Trust's HR provider who will review the concerns and advise them on responding to the concern. There is no right to appeal.

9. Data Protection & GDPR

The General Data Protection Regulation (GDPR) requires employers to comply with principles for processing personal data, including protecting against unauthorised access of personal data. Personal data that is inappropriately accessed or disclosed may constitute a data breach. The GDPR requires the school/Trust to keep a record of all data breaches and, where the breach is likely to result in a risk to the rights and freedoms of individuals, the school/Trust must notify the Information Commissioner within 72 hours of becoming aware of the breach. If the data breach results in a high risk to the rights and freedoms of individuals, those individuals must be notified without undue delay.

The school/Trust processes personal data collected during any stage of the grievance procedures in accordance with the Trust's Data Protection Policy. Data collected as part of grievance procedures is held securely and accessed by, and disclosed to, individuals only for the purposes of completing procedures in accordance with the Grievance Policy. Inappropriate access or disclosure of members of staff data constitutes a data breach and should be reported in accordance with the Trust's Data Protection Policy immediately. It may also constitute a disciplinary offence, which will be dealt with under the Trust's Disciplinary Policy.

10. Associated TrustEd Schools Alliance Policies

Disciplinary Policy
Harassment & Bullying Policy

11. Monitoring and Review of Policy

This policy will be reviewed by the Trust Board on a bi-annual basis following updates from the Trust's HR provider. The Trust will consult with staff and school union representatives with any amendments.

Appendices

Appendix 1: Grievance Register Form
Appendix 2: TrustEd Schools Alliance LGB/Trust Board Appeal Committee procedure for Hearing

CONFIDENTIAL **Appendix 1**

Grievance Register Form

Name: ……..…….……..……

Job Title: ……..…… Date: ……..

Having discussed my grievance with the appropriate persons, I remain aggrieved and now wish to register a formal grievance - the details of which are outlined below *(please include as much information as possible and include extra sheets if necessary)*

Details of grievance:

My preferred outcome for resolving this grievance would be:

Signed: …… (Employee) Date: ……

CONFIDENTIAL **Appendix 2**

TrustEd Schools Alliance Local Governing Body/Trust Board Appeal Committee

Procedure for Hearing

Under this procedure, the Committee has the power to confirm or vary any decision of the ***Receiver***, taking into account any advice from the Trust's HR provider at the hearing. Their decision is final.

1. The Chair will introduce those present, confirm the purpose of the hearing and process to be followed and confirm that either side may request an adjournment at any stage of the proceedings.

2. The raiser and/or their representative will be asked to present the grounds for the appeal.

3. The ***Receiver*** will be asked to outline their response to the grounds of appeal.

4. Members of the Committee will then ask questions of the raiser and/or their representative and the ***Receiver*** (Members can also ask questions at any stage of the Hearing).

5. The ***Grievant*** and/or their representative may ask questions of the ***Receiver*** (and Investigating Officer if present) which may be directed via the Chair of the Committee and which have not already been asked or clarified by members of the committee.

6. The ***Receiver*** may ask questions of the ***Grievant*** and/or their representative which may be directed via the Chair of the Committee and which have not already been asked or clarified by members of the Committee.

7. The ***Grievant*** and/or their representative will be will be invited to sum up their case.

8. The ***Receiver*** will be invited to sum up the case.

9. At the conclusion of the hearing all parties, with the exception of HR representative providing advice, shall withdraw whilst the Committee deliberates.

Notes:

- A note of the meeting will be taken. This record will not normally be a verbatim report but should aim to accurately reflect the content of the meeting and will be provided for both parties' information.

- The Chair of the Committee may call for further evidence on specific points but, if it becomes necessary to act in this way following conclusion of the hearing (i.e. at 9 above), then both parties must be recalled.