



## STAFF GRIEVANCE PROCEDURE Employees in Schools

Original document	Pay and Personnel Committee	5/06/2014	Version 1
Amended			

### **I STATEMENT OF INTENT**

This grievance procedure is designed to ensure that the ODST has a framework that provides a clear and transparent structure for dealing with difficulties that may arise as part of the employment relationship.

It is intended that, when it is necessary to use the grievance procedure, it is applied fairly, reasonably and as quickly but as carefully as possible, and that the employee is given every opportunity to raise concerns. It meets the requirements of relevant legislation and the ACAS Guidance.

**Please note:** The starting point for developing this policy was the Oxfordshire County Council model policy which had been drawn up following consultation with all the recognised Trade Unions and Associations. It has been amended to reflect the independent status of ODST as a multi-academy trust, although the substantial content remains the same. ODST intends that future changes to this policy will be subject to consultation with its schools / academies, their staff and any recognised Trade Unions and Associations.

### **II INTRODUCTION**

#### **Setting up the Procedure**

1. The aim of this procedure is to enable employees of ODST in schools to raise with their employer any concerns, problems or complaints about their own employment.
2. If an employee wants to raise a concern about the alleged behaviour of someone who is not employed in an ODST school, they will need to use that school's complaints policy.
3. If an ODST school employee wants to raise a concern about other aspects of the school's or the ODST's operations, the appropriate route is likely to be the "Raising Concerns at Work ("Whistleblowing") Procedure".

4. Wherever possible, a concern should be dealt with before an employee leaves employment. However, in cases where the process has not been started at the point at which the employee leaves, the former employee should write to the governing body setting out the grievance as soon as possible and not later than three months after leaving employment. The governing body must respond in writing within twenty eight days of receiving the letter. It is not necessary to follow the full procedure in these cases. For example, the governors could investigate the complaint and form a judgement before responding formally and in writing.

### **III OBJECTIVES**

The objectives of this grievance procedure are to:

- foster good working relationships by providing a mechanism for the timely resolution of the grievances of individuals;
- ensure that supervisors/managers resolve grievances as expeditiously and earnestly as possible having regard to the individual's contractual position;
- ensure that as many grievances as possible are resolved informally;
- resolve grievances as near as possible to their point of origin having regard to the lowest level of authority required to resolve the grievance;
- seek to remove the source of grievance where it is found to be valid;
- operate in a way which will not result in the victimisation of an individual who brings a grievance in good faith

### **IV SCOPE**

- |                               |                                     |
|-------------------------------|-------------------------------------|
| • Governing Body              | <input type="checkbox"/>            |
| • Teaching Staff              | <input type="checkbox"/>            |
| • <b>Headteacher</b>          | <input checked="" type="checkbox"/> |
| • Support staff               | <input type="checkbox"/>            |
| • <b>All Staff</b>            | <input checked="" type="checkbox"/> |
| • <b>Central Office Staff</b> | <input checked="" type="checkbox"/> |

### **V RELEVANT LEGISLATION**

- The Employment Tribunals (Constitution and Rules of Procedure) (Amendment) Regulations 2008
- Equality Acts 2010/2012
- School Standards & Framework Act 1998

### **VI RELATED POLICIES**

- Equality Policy
- Raising Concerns at Work ("Whistleblowing") Procedure
- Health and Safety Policy and Procedures
- Redundancy Policy for School Employees

### **VII RELATED DOCUMENTS**

- ODST Scheme of Delegation

## **VIII DATE OF REVIEW**

The policy will be reviewed as required by the Board of Directors of ODST to take account of any legislative changes and / or national policy development as well as the feedback from ODST staff and schools and in any event by 31 December 2016 at the latest.

## **IX GENERAL PRINCIPLES**

### **Definitions**

- The term “relevant body” has been used throughout this policy. In ODST the relevant body is the Board of Directors of ODST;
- Unless indicated otherwise, all references to “school” include both schools and academies;
- Unless indicated otherwise, all references to “teacher” include the headteacher;
- Unless indicated otherwise, all references to ‘staff’ include both teaching and support staff.

### **Consistency of Treatment and Fairness**

The relevant body is committed to ensuring consistency of treatment and fairness and will abide by all relevant employment and equality legislation.

### **Delegation**

The relevant body has chosen to delegate some of its functions to local governing bodies as set out in this policy.

### **Monitoring and Evaluation**

The Local Governing Body and headteacher will monitor the operation and effectiveness of the school’s grievance policy. The headteacher / chair of the Local Governing Body will periodically report to the ODST pay and personnel sub-committee the details of the operation of this procedure in their school.

The ODST pay and personnel sub-committee will monitor the outcomes and impact of this policy on an annual basis and report accordingly to the ODST Board.

## **X RESPONSIBILITIES**

### **Responsibilities of the Governors**

5. The local governing body should adopt this model ODST policy.
6. There will be no further appeal than those specified in this policy.
7. Governors must ensure that appropriate support is given both to the employee raising the grievance and to any employee against whom allegations have been made under this procedure and that both parties are kept fully informed of progress.

## **ODST Model Grievance Procedure for School Employees**

**This Procedure should be made available to all ODST employees.**

### **Introduction**

1. The aim of this procedure is to enable employees in ODST schools to raise concerns about their own employment.
2. If an employee wants to raise a concern about the alleged behaviour of someone who is not employed in an ODST school, they will need to follow that school's complaints policy.
3. If an ODST school employee wants to raise a concern about other aspects of the school's or ODST's operations, the appropriate route is likely to be the "Raising Concerns at Work ("Whistleblowing") Procedure".

### **Raising Concerns about your Employment**

4. ODST aims to promote good employee relations by encouraging employees to raise concerns about matters affecting their employment at an early stage. As a general principle you should first raise concerns about matters affecting your employment first with the person you believe is causing you concern and, if this does not resolve the matter, next with your usual manager. S/he will treat these concerns seriously and deal with them promptly.
5. The relevant body recognizes that in special circumstances it may be inappropriate for you to approach your usual manager with your concern. A number of alternative routes may be appropriate depending on the nature of the concern (e.g. a more senior manager, your school's ODST adviser, the HR representative of the ODST, the chair of governors of the Local Governing Body).
6. If you are the headteacher the usual route will be to the chair of governors of the Local Governing Body unless s/he is already involved. Headteachers may choose to raise their grievance with an officer of ODST, where the Local Governing Body is not appropriate.
7. You may choose to be accompanied by a companion who may be a colleague, a trade union official, or a trade union representative who has been certified by their union as being competent at any step.
8. You should notify your manager within three months of any event which gives rise to a grievance. A grievance which is not notified within this timescale will be disregarded unless you can provide a good reason why it should still be considered. One example of a "good reason" could be a lengthy period of sickness absence. Another could be where you feel that a number of events over a period of time have had a cumulative impact on you and it is only the most recent one which is within the three month time limit; your manager or governors may then agree that earlier incidents may also be taken into account.

## **The Grievance Procedure in Operation**

### **General Note**

9. The purpose of this procedure is to address employee grievances. In presenting your concern you should identify:
- (a) what your concern is
  - (b) how you are disadvantaged, and
  - (c) what redress you are requesting.

The purpose of the procedure is not to instigate disciplinary action against any other employee. If, as a result of this procedure, it appears necessary to investigate the actions of another employee, the panel or the individual hearing the grievance could recommend that a disciplinary investigation take place.

### **10. Step 1**

If you have a concern about the behaviour of a colleague or any action or omission by a colleague, you should first try to resolve it informally with that individual.

### **11. Step 2**

If you have failed to resolve your concern under Step 1, you should then discuss it informally with your usual line manager as soon as possible. S/he may need to consult or involve other employees and/or managers in order to try to resolve your concern. She/he will respond to you as soon as possible, and in any case, within 10 working days.

You should note that this procedure aims to ensure that concerns are addressed promptly so that there is an opportunity for appropriate action to be taken. A concern that has not been notified to your manager within three months of the events which gave rise to it, without good reason, may be disregarded.

### **12. Step 3**

If you still feel that your concern has not been addressed or you do not receive a response within 10 working days, you should inform your manager (or other appropriate person: see paragraph 5, page 4) in writing, within fifteen working days (unless there is good reason why this cannot be done, for example because of sickness absence).

Your manager will then arrange a meeting at an early date with the headteacher or her/his representative (or chair of governors/ODST officer in the case of a headteacher). The aim of this meeting will be to resolve outstanding issues. Where the headteacher has already been involved, the meeting will be with the chair of governors, or another governor nominated for this purpose by the governing body. Where appropriate, and with the agreement of both parties to the grievance, an external mediator may be brought in.

### **13. Step 4**

If you still feel your concern has not been resolved, or if your manager fails to carry out the actions set out in Step 2, you may request a hearing before a panel of the Local Governing Body. This panel should consist of three governors appointed by the Local Governing Body to act on their behalf. Any governor with a personal interest or involvement in the grievance will not serve on the panel and the headteacher may attend in an advisory capacity only, if the headteacher is not already a party to the grievance. If there are insufficient “untainted” governors or if the grievance is from the Headteacher, the panel can comprise of ODST nominations. The meeting will be convened as soon as possible but all parties will receive five working days’ notice of the date of the hearing. See Annex 1 for a suggested programme for conducting such a hearing. See also Annex 2, the “Frequently Asked Questions” section, for further advice.

### **14. Step 5**

You may appeal against any outcome of this hearing, to an appeal panel of the Local Governing Body, which will be at least as large as the original panel. If you wish to appeal, you should do so within ten working days of receiving written notification of the decision of the panel. You will need to give reasons in writing as to why you wish to appeal. Examples could be:

- faults in procedure;
- new evidence which could not have been available at the first hearing;
- a perverse decision

The appeal panel will not include the headteacher or any governor with a personal interest or involvement in the grievance. No-one will serve on the appeal panel who has served on the original panel. If there are insufficient “untainted” governors or if the grievance is from the Headteacher, the panel can comprise of ODST nominations and in exceptional cases ODST also reserve the right to appoint an appeals panel. See Annex 1 for a suggested programme for conducting such an appeal and Annex 2 for further advice.

### **15. Step 6**

There is no further right of appeal within ODST after the decision of the appeals panel at step 5 has been made.

### **16. Further Right to Appeal**

Using this procedure does not affect your right to refer issues to an Employment Tribunal. However, you should be aware that your right to take a case to a Tribunal may be affected if you do not first raise the grievance, in writing, with your governing body and then wait a further twenty eight days before presenting the tribunal claim. You must do so not later than three months after leaving the ODST employment. The governing body will respond to your grievance in writing.

**GENERAL NOTE:** A governing body has the right to decide that an individual employee is a “vexatious litigant” and further grievances will not be allowed from her/him. Such a decision will be made only after advice has been sought from the HR representative and the Solicitor of the ODST in relation to the new grievance. The Courts have deemed that those who raise numerous, ill-founded allegations which have no prospect of success can be described as “vexatious”.

**Model Grievance Procedure**

**Conduct of an Initial Hearing or Appeal Hearing**

(see paragraphs 13 and 14, page 5 above)

1. The Chair introduces those present.
2. The Chair invites the person raising the concern (the applicant) or his/her representative to introduce their case statement, to make any relevant comment on any written material and to bring forward any witnesses or witness statements.
3. The Chair invites the management representative to address questions to the applicant or his/her representative on the submissions made on behalf of the applicant, and to question any witnesses.
4. The Chair invites the management representative to introduce the management side's written observations, to make any relevant comment on the submissions made on behalf of the applicant and to bring forward any witnesses or witness statements.
5. The Chair invites the applicant or his/her representative to address questions to the management's representative on the management submission and to question any witnesses.
6. The Chair invites the members of the panel to address questions to the representatives of either party. The opportunity is given to the representatives of either party to address to the Chair any comment arising from the question or on the reply given.
7. The Chair invites the management representative to summarize the management case. No new evidence can be presented at this stage.
8. The Chair invites the applicant or his/her representative to summarize the case for the applicant. No new evidence can be presented at this stage.
9. The Chair then asks both the parties to withdraw while the panel gives consideration to the case. If the panel needs to clarify any point with one or both of the parties, both parties should be recalled.
10. Chair will call back both parties either to announce the decision of the panel, or to advise that a decision will be communicated in writing within three working days.



### **Frequently Asked Questions**

#### **How much notice of a hearing should we give?**

Enough time should be allowed, when setting a date and time, for the employee to arrange suitable representation and for anyone against whom an allegation is made to seek representation if they wish it.

Notice of the hearing must also allow sufficient time for written evidence to be circulated well beforehand. Notice to both parties must be at least five working days unless agreed otherwise by mutual consent. It is wise to be flexible about the date, in order to fit in with any reasonable request by the employees concerned.

#### **How do we make sure that the evidence is handled fairly?**

It is important that all parties should have the opportunity to challenge any evidence which is being used. That is why all written evidence must be made available beforehand – preferably a week before the hearing. If new evidence appears at the last moment, an adjournment of the hearing must be considered.

Hearsay evidence (i.e. evidence which relies on quotation from a third party who cannot give evidence in person or by written statement) should not be used.

Anonymous evidence should not be used. The only exceptions to this would be (a) where the allegations are serious and can be verified through independent investigation or (b) if a potential witness had a real fear, reasonably held, that they would suffer substantial detriment if they were to sign their statement. The latter case would be very rare and, if the situation arose where this was alleged, the Solicitor of the ODST should be asked for advice through the HR representative.

Statements can be obtained from children under 16 only with the agreement of the parent or guardian, who should be given the opportunity to be present when the evidence is being collected. However, there could be an exception where children are witnesses to an incident and their version of events needs to be obtained as quickly as possible before memory fades and before they have discussed it with others. In this case, if parents cannot be informed immediately, it may be advisable to ask the children to make their statements in the presence of a second adult whose express responsibility it is to look after their best interests. Their parents will be advised as soon as possible afterwards. Children should not be called to give evidence to a hearing in person.

#### **What if the employee raising the grievance does not arrive?**

It is advisable to adjourn the hearing and write to the employee setting another date and making it clear that, if s/he does not attend and has no reasonable excuse for not attending, it will be assumed that s/he no longer wishes to pursue the grievance.