



# Grievance Policy and Procedure

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## Document provenance

This policy was approved as follows –

Committee: Personnel Committee

Date of approval: June 2020

Date of review: June 2022

Executive Leadership Team (ELT) Owner: Chief Operating Officer

*Unless there are legislative or regulatory changes in the interim, this policy will be reviewed every two years. Should no substantive changes be required at that point, the policy will move to the next review cycle.*

### Summary of policy

This policy and procedure outlines E-ACT's process for raising an informal or formal grievance. It relates purely to employment matters that E-ACT employees may wish to raise.

This policy will be interpreted and applied in accordance with the employers' duty to respect the rights of employees under the Human Rights Act 1998<sup>1</sup>, particularly the rights to freedom of speech, privacy, freedom of religion and belief and the right to freedom of association.

Recognised Trade Unions have been consulted on this policy.

### Summary of changes at last review:

- Separation of policy and procedure
- Updates relation to personnel and their role from the HR People Team in section 4
- Removal of prescribed timescales in Part 2, item 1.1.
- Additional reference in item 3.7 to how to appeal.

### Related policies and documents

- Scheme of Delegation<sup>2</sup>
- Concerns and Complaints Policy<sup>3</sup>
- Whistleblowing Policy<sup>4</sup>
- Equality and Diversity Policy<sup>5</sup>

<sup>1</sup> <http://www.legislation.gov.uk/ukpga/1998/42/contents>

<sup>2</sup> <https://www.e-act.org.uk/wp-content/uploads/2020/02/Scheme-of-Delegation-December-2019.pdf>

<sup>3</sup> <https://insight.e-act.org.uk/policies/concerns-and-complaints-policy>

<sup>4</sup> <https://insight.e-act.org.uk/policies/whistle-blowing-policy-and-procedure>

<sup>5</sup> <https://insight.e-act.org.uk/policies/equality-and-diversity-policy-2018-2020>

# Grievance Policy and Procedure

## 1. Part 1: Introduction and Purpose

- 1.1. E-ACT is committed to creating a positive working environment for all employees. However, there may be occasions where an employee might wish to raise a concern, problem or complaint arising out of his or her employment. On many occasions the concern will be resolved quickly and informally but when this is not possible a formal procedure is available.
- 1.2. Employees wishing to make a protected disclosure should consult the E-ACT Whistleblowing Policy.
- 1.3. This policy and procedure is specifically for tackling issues which may cause grievances related to employment matters. This may include (but is not limited to):
  - Pay, terms and conditions of employment;
  - Health and safety;
  - Equal opportunities;
  - Discrimination.
- 1.4. There is a separate Dignity at Work Policy that may be useful if you believe you have been the victim of bullying and harassment or wish to report an incident of bullying and harassment involving other people.
- 1.5. This policy will:
  - Enable any employee to have a legitimate grievance heard;
  - Resolve grievances quickly and equitably;
  - Determine grievances as close to their source as possible;
  - Encourage a harmonious working environment;
  - Promote sound employment practice.
- 1.6. The Board of Trustees is responsible for setting out grievance procedures for staff. However, the Board may delegate function as outlined in the Scheme of Delegation.

## 2. Scope

- 2.1. This policy and procedure applies to all employees of E-ACT. It is not a substitute for good employment practices. 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.
- 2.2. Where the grievance procedure has been invoked all parties should still make every effort to ensure the grievance is resolved in a fair and just manner.
- 2.3. The grievance procedure must always be applied fairly and in accordance with employment law and E-ACT Equality and Diversity Policy.
- 2.4. This procedure does not form part of an employee's contract of employment and it may be

amended at any time following consultation. The employer may also vary application of this procedure, including any time scales for action, as appropriate.

### **3. Legislation - Confidentiality and Data Protection**

- 3.1. It is the aim of the Trust 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.
- 3.2. Employees, and anyone accompanying them (including witnesses), must not make electronic recordings of any meetings conducted under this procedure.
- 3.3. During any action, including any decisions taken under this procedure, the Trust will collect, process and store personal data in accordance with our 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. Records will be kept in accordance with our Information and Records Retention Policy and in line with the requirements and in line with the requirements of the Data Protection Legislation (being (i) the General Data Protection Regulation ((EU) 2016/679) (unless and until the GDPR is no longer directly applicable in the UK) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then (ii) any successor legislation to the GDPR or the Data Protection Act 1998, including the Data Protection Act 2018).

### **4. Training**

- 4.1. Appropriate training should be made available to managers where required. This will be provided via E-ACT's appointed HR advisor or the People and Operational Development Director (PODD).

### **5. Responsibilities**

- 5.1. Managers and employee representatives who may be involved in grievance matters should take responsibility for understanding this grievance policy and be confident in dealing with any informal or formal grievance. They should be familiar with the provisions of the grievance procedure and know who to seek advice from.
- 5.2. Managers and employee can request additional support in order to:
  - understand how to resolve informal grievances in a sensitive and supportive manner and give employees confidence that issues raised can be resolved quickly and with a clear resolution for employees
  - know how to conduct or represent at formal grievance hearings.

## **Part 2: Grievance Procedure**

### **1. Timing**

- 1.1. Grievance matters should normally be conducted within the timescales laid down in the procedure. However, if there is a valid reason to do so, variations to the timescales will always be reasonable for both management and for the employee and representative. If this is initiated by management, the employee should be given an explanation and informed when a response or meeting can be expected.
- 1.2. 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.

### **2. Informal stage of a grievance**

- 2.1. An employee should first raise a grievance orally with their immediate manager.
- 2.2. If the grievance relates to the employee's immediate manager, then in the first instance the grievance raised should be dealt with informally to try and seek a resolution. After this the formal stage of the grievance procedure may be invoked immediately.
- 2.3. If the grievance relates to an Academy Senior Leadership Team, Headteacher, Regional Director, National Director or CEO, from a member of staff that is not the directly line managed by them then the formal stage of the grievance procedure may be invoked immediately.
- 2.4. Where the grievance is against the Board of Trustees, the employee should put their concerns in writing to the Company Secretary, who will liaise with the Chair of the Board of Trustees or Senior Independent Trustee (as appropriate) directly.
- 2.5. In the informal stage, the line manager shall seek, where appropriate, to resolve the problem personally or, by mutual agreement, in consultation with other members of staff. No employee, however, shall be required to approach any person against whom they have a grievance if they feel uncomfortable about doing so. The employee may, instead, put their concerns in writing.
- 2.6. The manager will normally meet the employee to discuss the grievance within five working days of receipt of the complaint. The employee shall have the right of representation by union representatives or work colleague at any meetings convened during the informal stage. During the meeting, the manager and the employee will address the issues and how they can seek a resolution. At this meeting, the manager may need to adjourn the meeting if new facts arise that require investigation.
- 2.7. If a grievance is raised against another employee, then a manager may need to investigate the matter further. When a grievance is made against another employee, the manager will write to the employee to inform them of the allegations and provide the opportunity to respond and allow the manager to establish the facts in the case.
- 2.8. A decision will be communicated orally to the employee within a further five working days of this meeting, with the decision followed up in writing. The manager should keep a written record of the matter and report that an informal grievance has been managed to the Regional

Operations Director within 48 hours of the decision being communicated to the employee.

- 2.9. If a grievance has been made against another member of staff and there is not a case to answer, the respondent will be advised and no further action will be taken. If following a grievance being made against a member of staff, it is found that there is a case to answer, then disciplinary proceedings may be invoked.
- 2.10. 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. In these instances, the Employer Advice Programme can be contacted.
- 2.11. If, following the informal stage, the employee remains aggrieved, or where the manager has failed to respond to the employee's concerns despite a written request to do so, the employee may progress to the next stage of the procedure (a formal hearing). This must be done by writing to the Headteacher (academy-based staff), Regional Director of Operations (regional based staff) or relevant Executive Leadership Team (ELT) Director (nationally based staff). The employee submitting the grievance must give full details of the complaint and the redress required, within five working days of notification of the immediate managers' decision.

### **3. Formal hearing**

- 3.1. Please refer to the E-ACT Scheme of Delegation for the appropriate delegated persons for formal hearings.
- 3.2. 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. The letter should inform the employee of their right to be accompanied by a Trade Union representative or work colleague. If an employee's companion cannot attend on a proposed date, the employee can suggest another date which should be within five working days.
- 3.3. The person(s) hearing the grievance must ensure that a representative from E-ACT's procured HR service attends the hearing either in person or by telephone/ dial-in to advise on procedural matters and matters of precedent.
- 3.4. The person hearing the grievance may arrange for a preliminary investigation to be conducted prior to the hearing and may decide to adjourn the hearing and seek an option to reasonably extend in order to conduct further investigations. The person carrying out any such investigation should be impartial and should have had no previous substantial involvement with the grievance. Any investigation should be carried out in strict confidence to protect the rights of all parties.
- 3.5. All parties, and if applicable, the respondent, should have the opportunity to make submissions at the hearing, which should be conducted taking account of the advice set out in Discipline and Grievances at Work: The ACAS Guide<sup>6</sup>.

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<sup>6</sup> [https://archive.acas.org.uk/media/1043/Discipline-and-grievances-at-work-The-Acas-guide/pdf/DG\\_Guide\\_Feb\\_2019.pdf](https://archive.acas.org.uk/media/1043/Discipline-and-grievances-at-work-The-Acas-guide/pdf/DG_Guide_Feb_2019.pdf)

3.6. The decisions normally open to the person hearing the grievance are as follows:

- That the grievance is upheld;
- That the grievance is partially upheld;
- That the grievance is not upheld.

3.7. Depending on the decision made by the Hearing Officer, the following outcomes may apply:

- The Disciplinary Procedure may be invoked;
- The respondent may be advised that any recurrence of the unacceptable behaviour may result in disciplinary action being taken or mutually agreeable resolution may be identified for all parties, for example the Chair may recommend further mediation by an appropriate third party in order to facilitate working relationships;
- The person delegated to hear the grievance will communicate their decision in writing to the employee within five working days of the hearing. Should the employee be dissatisfied with the decision they may appeal in writing, stating their full grounds of appeal, within 10 working days of the date on which the decision was given or sent to them.

#### **4. Appeals Process/Committee**

4.1. Please refer to E-ACT's Scheme of Delegation for the relevant appeals committee panel.

4.2. Appeals against grievance decisions will be heard by the Appeals Committee and will usually be considered in relation to one or more of the following grounds:

4.3. Normally, it will be a member of the HR People Team who will write to the employee on behalf of the Appeals Committee, giving details of the appeal hearing, which will be held without unreasonable delay. If the employees' companion is unavailable at the time a meeting is scheduled, they may propose an alternative time for the meeting to take place and so long as the alternative time is reasonable and within 5 working days after the original scheduled date, the meeting will be postponed. If the chosen companion will not be available for more than 5 working days afterwards, we may ask you to choose someone else.

4.4. The appeals hearing should be conducted taking account of the advice set out in Discipline and Grievances at Work: The ACAS Guide.

4.5. The person(s) hearing the appeal must ensure that a representative from E-ACT's procured HR service attends the appeal to advise on procedural matters and matters of precedent. The HR consultant must be experienced in employment law and advise in accordance with E-ACT procedure.

4.6. The Chair of the appeals panel will be nominated from amongst the appeals committee.

4.7. Both the employee raising the appeal and the Hearing Officer at the Grievance Hearing must be given the opportunity to present their case. The Appeals Committee have a responsibility to ascertain all of the relevant facts of the appeal and have a duty to examine in-depth all information provided on the grounds of the appeal.

- 4.8. If the Appeals Committee do not feel that they have sufficient information available to them, the Chair of the Appeals Committee can take the decision to adjourn the appeals meeting, for up to 10 working days, in order for any relevant information to be ascertained
- 4.9. Normally, it will be a member of the HR People Team who will communicate the decision, which will be final, on behalf of the Appeals Panel in writing to the employee within five working days of the appeal hearing. The decision will also be communicated to the Hearing Officer for information, and any lessons learned/ future recommendations for improving ways of working will be disseminated to the relevant persons for action.

## **5. Collective grievances**

- 5.1. In circumstances where a grievance is raised by or on behalf of more than one person, the details of the grievance must be set out in writing and signed by all who are party to the grievance. The employees should nominate one person to represent the group, in most cases this will be the trade union representative or trade union representatives where the employees involved are members of more than one trade union.

## **6. Grievances - former employees**

- 6.1. The procedure outlined in the Grievance Policy does not apply to former employees. It only applies to employees of E-ACT.
- 6.2. If a former employee wishes to raise a concern or complaint they should refer to the E-ACT Concerns and Complaints Policy available on the E-ACT website.

## **7. Policy review**

- 7.1. This policy is reviewed as required by the Trust in consultation with the recognised trade unions.