



Pennine Academies Yorkshire

PAY Grievance Procedure

Date written:	July 2021
Date reviewed:	January 2023
Date ratified:	20/01/2023
Date to be reviewed:	December 2023

Grievance Procedure



Version 5

1st July 2021



Policy Details

Pennine Academies Yorkshire has adopted the PACT HR recommended model procedure as agreed by the following Trade Unions;

- Unison
- GMB
- NASUWT
- NEU
- NAHT

**ASCL recognises that meaningful consultation took place prior to the adoption and implementation of this policy.*

Approved by: Nick Briggs, Chair of Trustees

Approved on: 20 January 2023

Reviewer: Jenni Taylor, Trust Business Partner

To be reviewed on: December 2023

NB. This policy/guidance will be retained for a period of 7 years from replacement.

Contents

Policy Statement	4
Preamble	4
General Principles	5
Responsibilities under this Procedure	7
Management	7
Employees	8
Right to be Accompanied	8
Circumstances when Grievances will not Normally be Accepted	8
Counter Complaints	9
Record Keeping and Confidentiality	10
Stage 1 – Informal	10
Informal Resolution	11
Stage 2 – Formal	12
The Complaint	12
The Case Manager	12
The Investigation	13
Feedback Meeting	14
The Decision	15
Complaint Not Upheld	15
Complaint Upheld	15
Complain Partly Upheld	15
Issuing the Decision	15
Stage 3 – Appeal	16
Restoring Working Relationships	16
Occupational Health Support	17
Complaints against the Senior Leader	17
Allegations Against the Board	17
Collective Disputes	17
Overlapping Complaints and Disciplinary Cases	18
Where an Employee Leaves	18

Policy Statement

This policy applies to all staff employed within the **Pennine Academies Yorkshire**.

The Board is committed to ensuring the employment arrangements in this **Trust** meet the highest standards of fairness and statutory entitlements in employment. We seek to build a workplace environment where colleagues are treated fairly and can work with dignity and respect.

Preamble

- 1.1 The purpose of the Grievance Procedure is to address employee complaints or cases of conflict in the workplace quickly and effectively. Workplace conflict impacts on employee relationships, motivation and wellbeing within the workforce which has a negative impact on both employees and the work environment.
- 1.2 Every effort should be made to resolve the grievance as soon as possible at Stage 1 (Informal) of the procedure with the least possible formality if the nature and circumstances of the grievance allows for this.
- 1.3 All employees have a responsibility to address and resolve grievances within the workplace, informally in the first instance, with the aim of restoring positive working relationships as quickly and efficiently as possible.
- 1.4 This procedure is compliant with the ACAS Code of Practice on Discipline and Grievance.

NB. Where a complaint is received from a parent in relation to the actions of an employee, the Parental Complaints Procedure should be used.

General Principles

- 2.1 This procedure applies to all staff employed in the **Pennine Academies Yorkshire Trust**, in respect of whom the responsibility for seeking redress of any complaint (except those matters which are subject to separate procedures e.g. flexible working) is under the control of the Board under the School Standards and Framework Act 1998 as amended from time to time.
- 2.2 Complaints made under this procedure should be made within 30 working days of the last action complained of. Where there are medical reasons for a delay in making the complaint the 30-day period may be extended where it is reasonable to do so.
- 2.3 If a grievance is lodged outside the time specified the employee will have no right to proceed through the formal procedure unless the **trust** decides at its

discretion that there are exceptional circumstances for the delay in lodging the grievance.

- 2.4 Employees should only raise grievances in good faith and where they do so, they should not be subjected to any detrimental treatment as a result of raising the grievance.
- 2.5 There is no intention to deter any genuine grievance being raised, but the procedure must not be used inappropriately. When a grievance is apparently vexatious, malicious or misconceived or when grievances repeat or duplicate complaints which have already been raised and/or resolved or where an employee has refused to cooperate with the requirements of this procedure then the Senior Leader should seek further advice from their HR Business Partner. Any decision to exclude a grievance or part of a grievance will be notified to the employee in writing stating the reasons. When an employee makes allegations other than in good faith or which are reasonably believed to be false, or amount to harassment of another employee, the **trust** may decide to invoke the disciplinary procedure.
- 2.6 The raising of a grievance under this procedure will not necessarily delay the operation of any stage of any other procedure. If an employee wishes to raise a grievance in relation to the application of the Disciplinary, Capability or other procedure, the grievance will be considered and a decision will be made by the Senior Leader/Chair of the Board or Case Manager as to the order in which each matter proceeds under the relevant procedure or whether all issues should be dealt with concurrently.
- 2.7 The employee must make all attempts to resolve the grievance at the earliest opportunity with their line manager at Stage 1 (Informal) of the procedure.
- 2.8 When raising a grievance, employees should state what they are seeking as a preferred outcome or remedy to the grievance. This provides a framework for discussion and clarity about remedies available under the procedure
- 2.9 Issues that may cause grievances include:
- Terms and Conditions of Employment
 - Health and Safety
 - Work Relations
 - Bullying/Harassment or Discrimination*
 - New Working Practices
 - Working Environment
 - Organisational Change.
- 2.10 Discrimination* may be characterised as:
- Any less favourable treatment or victimisation of an employee which is unlawful under the Equality Act 2010 and other legislation, including the following:
- Gender

- Race
- Disability
- Sexual Orientation
- Transgender Status
- Religion or Belief
- Age
- Membership or non-membership of a trade union
- Involvement in trade union activities
- Status as an ex-offender
- Status as a part time or fixed term worker

2.11 Bullying and harassment can be characterised as:

ACAS states that most people use the terms bullying and harassment interchangeably, however, ACAS provides the following definitions.

Bullying is:

“Offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient”.

Harassment is:

“Unwanted conduct affecting the dignity of men and women in the workplace. It may be related to age, sex, disability, religion, sexual orientation, nationality or any personal characteristic of the individual, and may be persistent or an isolated incident. The key is that the actions or comments are viewed as demeaning and unacceptable to the recipient.

“Bullying or harassment may be by an individual against an individual (perhaps by someone in a position of authority such as a manager or supervisor) or involve groups of people. It may be obvious or it may be insidious. Whatever form it takes, it is unwarranted and unwelcome to the individual”.

Responsibilities under this Procedure

Management

- 3.1 Managers should be aware that in law an employer may be held responsible for the actions of its employees regardless of whether or not they are aware of those actions. It is, therefore, essential that the **trust** takes appropriate measures to ensure that bullying, harassment or discrimination do not occur. All meetings and proceedings should be confidential at all stages of the grievance procedure.
- 3.2 It is the responsibility of Management to:
- Make all members of staff aware of the policy and ensure their compliance.
 - Deal with all issues in a timely, serious and sensitive manner.

- Maintain confidentiality when dealing with cases and ensure that a written record is kept of all informal and formal meetings and discussions.
- Make every effort to resolve complaints informally by discussion between the individual member of staff and the appropriate level of management. The resolution of employee complaints should form part of everyday informal managerial action.
- In considering evidence relating to a complaint, the “Management Representative will apply the “balance of probabilities” standard of proof.

Employees

3.3 Each individual is responsible for their own actions whilst at work. It is the responsibility of all employees to:

- Be mindful of their own behaviour and treat others with dignity and respect.
- Try to resolve problems informally by discussion with colleagues and/or management.
- Report incidents of harassment or bullying either personally experienced or witnessed, immediately to the appropriate line manager.
- Where possible make written notes (this is advisable and should include dates and names of any witnesses etc.) of incidents, harassment or bullying experienced or witnessed.
- Ensure confidentiality is maintained at all times.

Right to be Accompanied

- 4.1 Throughout the process, both the complainant and the person whom the complaint has been made against may be accompanied, for example by a recognised trade union representative or by a work colleague not involved in the complaint. At a hearing or appeal a complainant may be represented by up to two trade union representatives or a work colleague.
- 4.2 In exceptional cases, dealing with sensitive matters or where the witness may feel intimidated he or she may be accompanied by a trade union representative or work colleague. However, this should not be a person who has a conflict of interest. Trade Union representatives cannot play the dual role of representing the person whom the complaint is made against, witnesses and/or the complainant in the same case.
- 4.3 It is good practice for a mutually agreed time to be arranged for meetings where a member of staff requires the presence of their trade union representative.

Circumstances when Grievances will not Normally be Accepted

- 5.1 Where the grievance affects more than one employee (the Collective Disputes Procedure applies, please see Section 15 of this policy).
- 5.2 Where the grievance is about a decision made through an agreed procedure where a right of appeal exists within that procedure (Regrading of Roles; Discipline; Capability; Assimilation; Redundancy etc.).
- 5.3 Where the grievance is in relation to an element that is not within the manager's control such as complaints relating to statutory adjustments to pay and allowances, for example income tax, national insurance and pensions, policies, collective agreements or conditions of service.
- 5.4 Where the grievance is about an event or decision more than 30 working days old. However, an employee may refer to earlier issues if the matter relates to a repeated pattern of behaviour and the issues support the grievance. Extension of this time limit will only be agreed where management accepts that it was not reasonably practicable for the employee to have lodged the grievance in time. An aggrieved employee should submit their grievance as soon as is practical. The longer the time that elapses, the more difficult it will be for the line manager or any subsequent management investigation to establish the detail of what has happened and why. Almost inevitably people will have poorer recollection of events with the passage of time. Even where records exist, people may be less likely to recall why certain decisions or actions were taken, making it difficult to conclude whether a grievance should be upheld.
- 5.5 Where the grievance is about a decision which the employee has already complained about and which has previously been investigated. Once a resolution process is completed, or the employee withdraws the grievance (or chooses not to proceed to the next stage) then the matter is closed.
- 5.6 Where the grievance is against those other than the decision maker for example where the employee was acting in an advisory capacity i.e. Legal/HR/Finance staff.

Counter Complaints

- 6.1 All employees have a contractual right to raise a grievance under the Grievance Procedure. This means that there can be occasions where "counter complaints" are raised i.e. where an employee who is the subject of the grievance raises a grievance about the "complainant". Such grievances must be dealt with in the same way as the original grievance. "Counter Complaints" should not be put on hold until the original grievance has been resolved, unless the "Counter Complainant" agrees to that course of action. Given that the "Counter Complaint" will usually cover the same issues, albeit from a different viewpoint, it may be appropriate to have one investigation into both matters. In addition, it will usually be appropriate for the same manager to progress all matters in relation to the complaint.

Record Keeping and Confidentiality

- 7.1 It is important that accurate written records are kept throughout the complaints handling processes, including any initial informal processes.
- 7.2 Records should be held in a secure and confidential manner. Records should contain information on the nature of the grievance and the date submitted. Details of decisions made and actions taken should be retained in writing.
- 7.3 In the event of a complaint being made, management may inform the Chair of the Board (or another appropriate Board Member). On no account should the case be openly discussed with any other Board Members.
- 7.4 The **trust** recognises that a complaint made may have an impact on other members of staff. In this case, the **trust** will ensure, only where it is appropriate and necessary, that individuals are informed of any aspect of the complaint or subsequent decision that may affect them, for example, to keep the member of staff who the complaint is against up to date throughout all stages of the process.

Stage 1 – Informal

- 8.1 An employee with a grievance must start by discussing it with their line manager at the earliest opportunity. This can often lead to a speedy resolution of the problem and is likely to be less damaging to working relationships.
- 8.2 A grievance will not progress to Stage 2 until Stage 1 has been exhausted. In exceptional circumstances the Line Manager may decide at Stage 1 that the issue is of such obvious seriousness and concern that it is inappropriate for it to be dealt with informally and a management investigation is required.
- 8.3 If the grievance is about the employee's Line Manager and the employee feels unable to raise their concern with them then the grievance should be raised with the next layer of management or the Chair of the Board (if against the Senior Leader) to try and resolve the matter as informally as possible.
- 8.4 If the grievance is about a fellow employee or working relations between individuals then the employees and the line manager should seek to resolve the issue through discussion and reconciliation between the parties wherever this is appropriate and possible with the agreement of all parties.

Informal Resolution

- 8.5 Mediation is a voluntary process where the mediator helps two or more people in dispute to attempt to reach an agreement without recourse to the formal procedures. Mediation should be undertaken by a neutral third person who is trained in mediation techniques. Mediation, where it is successful, can produce quicker and more satisfactory results for the parties involved and may reduce the damage caused to working relationships and the health and wellbeing of both parties. Employees may be offered mediation at any stage of

the complaint process. Equally, either party or their trade union representatives may make this suggestion.

8.6 Even if mediation is not initially agreed by the parties, the offer of a mediated process can be re-offered as the case progresses.

8.7 Mediation may be used for:

- Resolving conflict between colleagues of a similar job or grade, or between a member of staff and their line manager.
- Rebuilding relationships after a formal dispute has been resolved.
- Addressing personality clashes, communication problems and bullying and harassment.

8.8 The details of discussions within mediation processes are confidential to the parties involved. The mediation process is normally carried out without the involvement of trade union or management representatives.

8.9 For advice on arranging mediation or for further details on the mediation process, please contact your HR Business Partner.

Stage 2 – Formal

9.1 If it has not been possible to resolve a complaint informally and all options have been explored, employees should raise the matter formally within 10 working days of the completion of Stage 1 (Informal) to a Senior Leader Leadership Team Member, Senior Leader or the Chair of the Board (if the complaint is against the Senior Leader). This must be done in writing.

The Complaint

9.2 A copy of the complaint will be provided to the person complained against. They may respond in writing to the Senior Leader or Chair of Board. If the letter of complaint refers to other persons then these elements of the complaint will be removed to preserve confidentiality. Only in exceptional circumstances will the complaint be withheld. Where this is being considered, advice should be sought from your HR Business Partner and discussed with the relevant Trade Union Representative. This should be dealt with sensitively.

9.3 The complaint should give a detailed account of what is alleged to have occurred, who was involved, detail any witnesses and state when the events happened. The complainant should also state what outcome they are seeking from their complaint.

9.4 Should an investigation be necessary then the timescales for arranging a hearing may vary. To minimise employee stress and to facilitate the efficient running of the school all attempts will be made to complete the process in a timely manner.

- 9.5 If a grievance is lodged in writing, but no attempt has been made to resolve it informally, it will normally be referred back to Stage 1 (Informal).

The Case Manager

- 9.6 A case manager should be appointed to handle the complaint. This may be a member of the Board or an appropriate Senior Leader Manager.
- 9.7 Care should be taken that the person who is to be the Case Manager has no direct interest in the outcome of the case and is not a witness to any of the events complained of.
- 9.8 The Case Manager's role is to:
- Acknowledge the complaint in writing, normally within five working days of receipt.
 - Manage the case in accordance with procedural requirements.
 - Offer mediation and arrange this, if not tried previously.
 - Undertake an investigation, or commission another appropriate person to undertake this role (for further advice please contact your HR Business Partner).
 - Present the findings of the investigation to the complainant and subsequently to the person complained against possibly in conjunction with the Senior Leader or Chair of the Board if appropriate.
 - Arrange for any necessary hearings.
 - Present the management case at any hearing, or commission another appropriate person to undertake this role (for further advice please contact your HR Business Partner).
- 9.9 Where the complaint is against the Senior Leader the Chair of the Board will nominate a Board Member to investigate. Alternatively, the School may decide to employ an external investigating officer.

The Investigation

- 9.10 The Case Manager will establish the basic facts of the case through either conducting any investigation themselves or through an investigation conducted by an Independent Investigating Officer. Where the matter is not complicated it may be resolved by mutual agreement or mediation, if not tried previously.
- 9.11 More complex or legally sensitive cases are likely to require a more detailed investigation. Should the Case Manager decide that a more detailed investigation is required then an investigating officer may be appointed. The Investigating Officer may be an appropriate Manager or Board Member. In some circumstances, the **trust** may decide to appoint an Independent External Investigator in the interests of fairness or capacity.
- 9.12 The Investigating Officer's role is to:

- Interview the complainant, any witnesses and the person complained against.
- Establish the facts of the case.
- Submit a written report setting out the findings of the investigation to the Case Manager.

9.13 The Investigating Officer must not decide on the outcome of the complaint(s).

9.14 In some cases, it may be appropriate to suspend the person whom the complaint is made against in order to conduct the investigation. Advice should be sought from your HR Business Partner before any action is taken.

Feedback Meeting

9.15 Once the Investigation has been completed the Case Manager should arrange a meeting with the complainant to give feedback on the findings. Where possible this should be done as part of a face to face meeting, however, in more complex cases, this may be best achieved through clear written feedback from the Case Manager.

9.16 If the Case Manager is not the Investigating Officer then the Investigating Officer may also be present at the feedback meeting.

9.17 The complainant can be accompanied by up to two trade union representatives or a work colleague, not involved in the case.

9.18 Where a complaint has been made against another member of staff, a meeting should then be arranged with that person in order to provide them with feedback on the investigation. The person whom the complaint is made against may also be accompanied by a trade union representative or a work colleague, not involved in the case.

9.19 The meetings with both complainant and the complained against will normally be held consecutively.

9.20 If the findings of the Investigation support the complaint then the Case Manager will inform the employee of this.

9.21 If the findings of the investigation do not support the complaints made by the employee because there is contrary evidence, or if there is insufficient evidence to support the complaints, then the employee can be given this information and advised that they can appeal the decision (See Section 9).

9.22 Where there is reason to believe that the employee has been treated inappropriately or if there is evidence that the employee has been bullied, harassed or discriminated against, then the Case Manager may suggest that management action should be considered, using the Disciplinary Procedure where appropriate.

The Decision

9.23 There are three possible outcomes:

Complaint Not Upheld

The Case Manager may conclude that the complaint is not upheld because the behaviour complained of did not occur or because there is insufficient evidence to support the complaint. If in such cases, the Case Manager is satisfied that the complainant's distress is genuine and/or that there has been a serious breakdown in relationships, the **trust** will offer support to the colleagues in the restoration of their working relationship through mediation or other methods as appropriate.

Complaint Upheld

The Case Manager may decide the complaint is fully proven on the balance of probabilities. In this case consideration should be given to appropriate actions to prevent reoccurrence of the matters complained of. Disciplinary action may be recommended in appropriate circumstances.

Complain Partly Upheld

The Case Manager may decide the complaint is partly proven on the balance of probabilities. In this case consideration should be given to appropriate actions to prevent reoccurrence of the matters that were upheld. Disciplinary action may be recommended in appropriate circumstances.

Issuing the Decision

9.24 The complainant should be informed of the outcome in writing. The reasons for the outcome should be included as part of the response. If the complaint is not upheld at the feedback meeting the employee must be informed of the right to take the complaint to an Appeal Hearing.

Stage 3 – Appeal

10.1 If the complainant remains unsatisfied with the decision from the feedback meeting they should notify the Clerk to the Board of the **trust** within ten working days of receipt of the decision letter of their decision to appeal. The complainant must give specific reasons as to why they are dissatisfied with the outcome.

10.2 An appeal can be made on the following grounds:

- The outcome does not reflect the desired remedy initially outlined.
- Perceived unfairness of the decision and why the employee felt this.
- Disputing the facts of the case including new evidence coming to light.
- Procedural non-compliance.

- 10.3 The Appeals Panel will hear the appeal. The Panel will be convened by the Clerk to the Board. The Panel will comprise of Board Members not previously involved at the first hearing. A different HR Business Partner will be present to advise Board Members that was present at the feedback meeting. The hearing will take place as soon as is reasonably practicable. If possible, the Chair of the Panel may be able to give a verbal decision after the hearing. The decision will be confirmed in writing normally within five working days of the hearing. The decision will be final, there is no further right of appeal through the procedure.
- 10.4 The employee will present their case to the Panel and the Case Manager will be present to respond on behalf of the **trust**. The employee will be given an opportunity to be represented by up to two Trade Union Representatives or a work colleague not involved in the case.

Restoring Working Relationships

- 11.1 Whatever the outcome of a complaint, it is management's responsibility to re-establish effective working relationships amongst the employees involved. The employee has a responsibility to co-operate to achieve this. The **trust** may seek agreement from both the complainant and the person whom the complaint has been made against for the case to be referred to mediation to support working relationships moving forward.

Occupational Health Support

- 12.1 The **trust** and Board has a duty of care to all parties involved in the case and should recognise that the process may be stressful and have an impact on the health and wellbeing of all parties. It is advised to seek Occupational Health Support through PACT HR when required and employees involved in the grievance should be signposted to details of support available through this service.
- 12.2 The **trust** will explore making reasonable adjustments to the Grievance Procedure where any of the employees involved disclose, or have previously disclosed, a mental health condition. This may include allowing the employee to be accompanied at a meeting by someone who has an understanding of their condition, or is a friend or family member, allowing for regular breaks during longer meetings and/or arranging for the meeting to take place at a neutral venue outside of the normal working environment.

Complaints against the Senior Leader

- 13.1 An employee who wishes to make a complaint against the Senior Leader should submit the complaint to the Chair of the Board and follow the stages set out in the procedure. Alternatively, an employee may wish to contact their Trade Union Representative who may support the employee in raising their concern. The Chair of the Board may delegate the matter to a Board Member

with the particular skills to enable them to provide assistance and they will take the role of Case Manager in line with the Policy.

- 13.2 Only an external Investigating Officer or member of the Board may carry out an investigation into complaints against the Senior Leader.

Allegations Against the Board

- 14.1 Please contact your HR Business Partner before taking any action for advice when an allegation is made against the Board.

Collective Disputes

- 15.1 Where more than one member of staff has lodged a complaint relating to the same or substantially the same issue, the **trust** may deal with the complaints together in the interests of fair and consistent decision making. The Trade Union may initiate a collective grievance on behalf of more than one named employee where the issues are the same.

Overlapping Complaints and Disciplinary Cases

- 16.1 Where an employee raises a complaint during a disciplinary process, the disciplinary process may be temporarily suspended in order to deal with the complaint first. This decision is at the discretion of the Board. Where the complaint and disciplinary cases are related it may be appropriate to deal with both issues concurrently.

Where an Employee Leaves

- 17.1 When an employee resigns their position, consideration should be given as to whether it is reasonably practicable to conclude the grievance. Consideration will need to be given to the remedy outlined at the outset and whether any remedy is possible once the employee has left employment.

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