

Amadeus Primary Academies Trust

A GUIDE TO THE FAIR TREATMENT AT WORK PROCEDURE FOR STAFF IN SCHOOLS

Date: September 2019	Review: September 2020
Signed : Trust Chief Executive Officer	Signed : Trust Chairman

Introduction

All schools within the Amadeus Primary Academies Trust are committed to ensuring that all employees are treated with dignity and respect whilst at work and acts of unfair treatment will not be tolerated. It is important to pay attention to the way employees treat each other and how they are managed. If employees are to perform at their best, they need to feel that they are treated with fairness and respect.

It is important to recognise that individuals react to how they are treated in different ways and what is acceptable to one person may be regarded as harassment by another. The effect on an individual may be more than temporary hurt feelings - any discrimination could lead to loss of confidence, low morale, stress, poor performance, distress and unhappiness.

Scope

This policy and procedure applies to all school employees. Any employee has the right to complain if they feel they are being treated unfairly however minor their complaint may seem to others. It is important that all complaints are taken seriously and managed in accordance with this procedure. The School's Fair Treatment at Work Procedure is designed to deal with complaints of harassment, bullying, victimisation and unlawful discrimination including racism. Because of the wide range of possible scenarios, it is not feasible to provide a comprehensive list of examples of unfair treatment. However, examples are given under the definitions of unfair treatment listed in Appendix 1.

The Equality Act 2010 is the main piece of legislation relevant to the Fair Treatment at Work policy although a number of pieces of other UK and European legislation may be relevant. The Equality Act 2010 identifies the types of behaviour that may be unlawful as well as demonstrate the value of a Fair Treatment at Work Policy and Procedure that raises awareness, makes clear the implications of unacceptable behaviour and provides a mechanism for dealing with any complaints that arise.

Comprehensive practical guidance on the Equality Act 2010 is available on the Equality and Human Rights Commission and Government Equalities Office websites at these links:

[Equality and Human Rights Commission](#) and [Government Equalities Office](#).

FAIR TREATMENT AT WORK POLICY

The School is committed to valuing diversity in its workforce and aims to ensure that all employment decisions are fair and objective, employees are treated with respect and understanding and that there is no unlawful discrimination.

The School's commitment:

In order to provide the best possible opportunity for employees to contribute to the schools goals, and to realise their full potential, employees, are entitled to expect the school to:

- Promote mutual respect between all employees and to help to ensure that employees are treated courteously.
- Protect them from bullying, harassment, unlawful discrimination and victimisation.
- Provide clear rules and standards of behaviour and to seek to ensure that these are fairly and equitably applied through appropriate procedures.
- Provide appropriate support to employees who may be unfairly treated.
- Take action when breaches of this Policy are brought to its attention.

The School's expectations of employees:

In order to do the above, the School expects employees to:

- Treat each other with respect, fairness and courtesy.
- Comply with the school's code of conduct
- Bring to its attention any breach of this policy.
- Support appropriate action being taken against any individual who breaches this policy.

FAIR TREATMENT AT WORK PROCEDURE

Purpose

The School is committed to ensuring that employees are treated with dignity and respect whilst at work and acts of unfair treatment will not be tolerated. Most of the time complainants simply want the unfair treatment to stop so that they can resume their normal working life. The Fair Treatment at Work Procedure has been put in place to deal with complaints of unfair treatment and unlawful discrimination to ensure that a clear process is available for staff to raise their concerns.

The Fair Treatment at Work Policy and Procedure provides a clear statement of expectations and a framework through which issues of harassment, bullying, victimisation and unlawful discrimination can be raised by individuals and appropriate action taken. To show how seriously the school takes this matter, breaches of the policy result in disciplinary action including dismissal.

There are two processes for dealing with a concern or complaint. These are:

Stage 1 - Informal

Stage 2 - Formal

The Informal Process is most effective when employees raise issues early. It is important to remember that most cases can be successfully resolved at an early stage without recourse to the formal process or the matter turning into a more serious disciplinary issue.

Employees are encouraged to use the informal procedure rather than immediately choosing the formal route. However, there may be situations where the formal procedure is triggered without prior use of

the informal process e.g. where the complaint is serious and is the complainant's choice to proceed in that way. Where the formal procedure is invoked it is important that the complaint is properly investigated and appropriate action taken. **An employee has the right to choose which procedure they wish to follow.**

If at any point, it becomes apparent that there has been a serious breach of the School's rules, it will not be right to follow the Fair Treatment at Work Procedure and in these circumstances; the School's Disciplinary Procedure will be activated instead. In addition, should investigations show that a false or malicious accusation has been made by the complainant; this will be viewed seriously by the school and could result in disciplinary action.

If the Disciplinary Procedure is activated, individuals will still have access to confidential support from the Occupational Health Service and trade unions.

The Formal Process (explained below) replaces the School's Grievance Procedure for complaints regarding unfair treatment at work, i.e. harassment, victimisation, bullying and other forms of discrimination e.g. racism, sexism, ageism, unfair treatment related to an individual's disability, homophobia, etc. either face to face or via text message and/or email.

Details of both the Informal and Formal Fair Treatment at Work Processes are set as follows.

Stage 1 - Informal Process

The informal process enables issues to be resolved quickly and effectively between both parties in order to restore positive relationships at work.

Employees are strongly encouraged to use the informal process first in an attempt to resolve the situation. However, individuals may resort directly to the formal process (Stage 2) if they wish.

The complainant has a choice of options:

- a) **Direct discussion** with the person who is the subject of the complaint (with or without support from another person);
- b) **Indirect approach** by requesting someone else to talk to the person who is the subject of the complaint. This may be through: an approach to the head teacher / line manager or another member of staff who may be able to assist. (this can be in the presence or absence of the complainant)
- c) **Mediation** using trained individuals who can act as a go-between to try to resolve the problem. This approach requires co-operation between both parties and is in accord with ACAS guidance
- d) **Confidential Advice** - the complainant may wish to talk through their concerns on a confidential basis with the head teacher or line manager or another member of staff i.e. not to inform or discuss the matter with the person who is the subject of the complaint.
- e) **External Advice** - individuals may wish to seek support from their **Trade Union representative**. In addition, the **Occupational Health Service** can provide completely confidential emotional support.

The Informal process is expected to:

1. Foster a safe and constructive environment where both parties can engage in open and honest dialogue.
2. Encourage both parties to move away from their initial positions by appreciating each other's point of view, personal interests and underlying needs.

3. Provide opportunities for both parties to consider and explore the causes and impact of conflict upon themselves and each other.
4. Explore all the issues in full, reach a consensus and agree an action plan for future work relationship.

If the situation remains unresolved in spite of informal efforts, the employee may then decide to make a complaint under the Formal Process.

If it appears that the School's disciplinary rules have been broken, then the matter should normally be referred to other procedures e.g. the Disciplinary Procedure depending on the circumstances.

Stage 2 - Formal Process

This stage allows for a formal investigation of the issues and an opportunity to explore a variety of options in order to re-establish working relationships.

This process replaces the School's Grievance Procedure for complaints regarding unfair treatment at work, e.g. harassment, victimisation, bullying and racism.

The Grievance Procedure covers matters which are specifically about terms and conditions of service within Schools.

Step One – Lodging a Complaint

The complainant must put the details of their complaint in writing using the Formal Notification Form and include, where possible, details of the outcome they are seeking. This would normally be to the Head Teacher / Line Manager but there may be situations where there needs to be a variation to this, e.g. where the complaint is against the Head Teacher. In such cases, the individual should address their complaint to the Clerk to the Governing Body.

Formal complaints must be lodged within 3 calendar months of the date of the action(s) giving rise to the complaint. Extension of this time limit will only be agreed where management accept that it was not reasonably practicable for the employee to lodge the complaint in time.

Step Two – Formal Resolution Process

If it is apparent that School's rules may have been broken, it may be appropriate to suspend action under the Fair Treatment at Work Process and investigate the matter further under the School's Disciplinary Procedure.

On receiving a formal complaint, the Head Teacher/Line Manager/Clerk to the Governing Body should acknowledge receipt of the complaint within 5 working days outlining the timescale for resolving the issue. The Head Teacher/Line Manager dealing with the complaint should set up a fair and impartial investigation, the purpose of which is to establish the facts of the case and to identify appropriate action. If required, an investigating officer can be appointed by the Head Teacher. In the case of a complaint against the head teacher a named governor, normally the Chair of Governors, will commission the investigation. Investigations will be conducted as quickly as possible and should be fair and thorough. The complainant should be kept informed of progress.

The investigation may mean interviewing the complainant, the other member(s) of staff involved and any relevant witnesses. The purpose of the interviews is to investigate the complaint as detailed on the Formal Notification Form and to identify ways of resolving the issues. A copy of the Formal Notification Form will be sent to both parties prior to the interview.

Strict confidentiality will be maintained throughout the investigation into the allegation. Where it is necessary to interview witnesses the importance of confidentiality will be emphasised to them. The aim of the investigation will be to determine if there is reasonable proof that harassment, bullying or victimisation has taken place.

Once all the relevant information has been considered the investigating officer will present their findings and recommendations to the Head Teacher/Chair of Governors in a written report. After considering all the evidence, the Head Teacher will make a decision as to how the complaint can best be resolved i.e. whether the matter warrants further action or support, and if it does, what level or type of action or support is appropriate:-

Possible Outcomes

- resolution e.g. through further conciliation meetings
- counselling for the alleged harasser and/or complainant
- training
- disciplinary action
- no further action

These options are not exhaustive and in seeking a resolution to the concerns raised, the Head Teacher may meet with the relevant parties, before a final decision is made. If the complaint is against the head teacher, the decision will be made by the Chair of Governors. The final outcome will be sent to both parties in writing within a reasonable timescale. The complainant will be notified of their right of appeal.

Once a decision has been made, the action(s) should be implemented promptly and monitored closely. If it becomes evident to the Head Teacher / Line Manager that the chosen option is not providing the expected outcomes, alternate solutions may be sought.

Step Three - Appeal Process

If the complainant is not satisfied with the decision of the Head Teacher, they can appeal to the Governing Body. If the complaint is against the Head Teacher and the complainant is dissatisfied with the Chair of Governors decision they may appeal to a panel of governors who have not previously been involved.

The grounds of appeal must be put in writing and lodged within 10 working days of the date of the letter confirming the decision. The Governing Body decision at the appeal stage is final with no further right of appeal.

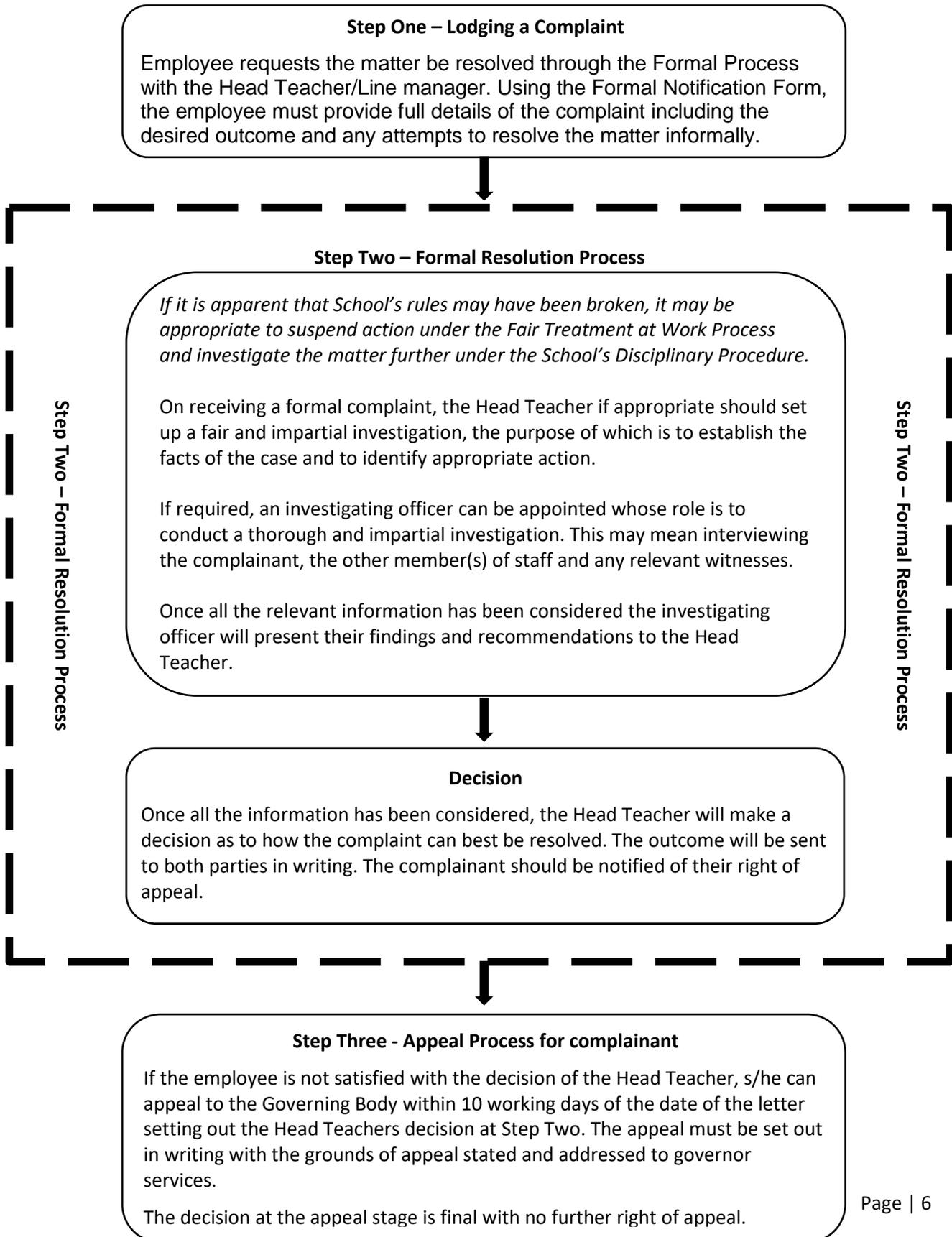
Right to be accompanied/Support & Advice

Both parties have the right to be accompanied by a Trade Union representative or workplace colleague. The companion should not be anyone whose presence would prejudice the process or where there is a conflict of interest. If any witnesses are interviewed, they would not normally have the right to be accompanied except in exceptional circumstances e.g. where the witness may feel intimidated by the process.

In addition, the Occupational Health Service can provide completely confidential emotional support to both parties.

Further advice on the operation of this Procedure is available from Bexley School HR Service.

FAIR TREATMENT AT WORK PROCEDURE – FORMAL PROCESS – FLOWCHART



APPENDIX 1 - DEFINITIONS

The Equality Act 2010 (the Act) sets out the ‘protected characteristics’ that qualify for protection from discrimination. A person is protected from discrimination on the basis of:

- age;
- disability;
- gender reassignment
- marriage and civil partnership;
- pregnancy and maternity;
- race;
- religion or belief;
- sex; and
- sexual orientation.

Direct Discrimination can be described as an act, which has the effect of treating a person less favourably than another and is against the law. This currently includes discrimination on the grounds of a ‘protected characteristic’ (listed above) although discrimination for other reasons may also be found to be unlawful. For example, it would be against the law not to employ a female employee just because she is female, may become pregnant and take maternity leave.

Direct discrimination (associative and perceived) covers discrimination resulting from a person’s association with someone having a protected characteristic. It also covers treatment on the grounds of perceived status, for example, where someone is treated less favourably because they are perceived to hold a certain religious belief, even if the perception is wrong. Associative discrimination does not apply on the basis of marital or civil partnership status. It must be the victim, rather than anybody else, who is married or the civil partner.

Direct age discrimination can be objectively justified in some circumstances. It is not direct discrimination to treat a disabled person more favourably than a non-disabled person and a man cannot claim discrimination where special treatment is given to a woman in connection with pregnancy or childbirth.

Racism is a specific type of unlawful discrimination and can also constitute harassment. The Race Relations Act defines racial discrimination on the grounds of colour, race, nationality (including citizenship), ethnic origin and national origin. The Council will not tolerate any form of racist behaviour; an example would be to refuse training for an employee just because he/she is black.

Institutional Racism has been defined by Lord Macpherson as “The collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture or ethnic origin. It can be seen or detected in processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness and racist stereotyping which disadvantage minority ethnic people.” An example of this may be an organisation failing to follow up a complaint of racism with no action taken to deal with the specific complaint or prevent it re-occurring.

Harassment is where a person engages in unwanted conduct relating to a protected characteristic (apart from pregnancy, maternity, marriage and civil partnership) which has the purpose or effect of violating a person’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person. It includes harassment based on association or perception. For example, it covers harassment based on a person’s association with their disabled child or harassment based on a perception that a person is gay.

Harassment may be intentional or unintentional and the perception of the victim is important. It can be described as unwanted or unwelcome words or behaviour that causes offence or makes a person feel humiliated or distressed. This type of treatment may badly affect the recipient's well-being, employment prospects or work performance and create an uncomfortable or frightening working environment. It may be related to sex, sexual orientation, race, disability, religion, nationality, age, or any personal characteristic of the individual. For example, repeated and unwelcome comments about an individual being disabled, lesbian, gay, or black would be considered harassment, as would deliberately touching a colleague in a way that was unwelcome. Continually giving a black member of staff the worst tasks in the office because of their colour would also be considered to be harassment. Remember, racial harassment is not only a disciplinary offence it may also constitute a criminal offence. Other types of behaviour such as making rude gestures and initiation ceremonies could also be considered harassment.

Sexual Harassment is any form of unwanted verbal, non-verbal or physical conduct of a sexual nature with the purpose or effect of violating the dignity of a person, creating an intimidating, hostile, degrading, humiliating or offensive environment.

Sex-based Harassment is unwanted conduct related to the sex of a person with the purpose or effect of violating the dignity of a person, and of creating an intimidating, hostile, degrading, humiliating, or offensive environment.

Bullying is a form of harassment. It is the frequent belittling and undermining of an individual through behaviour that reduces their confidence and self-esteem. For example, a manager regularly shouting at a member of staff in front of colleagues and members of the public would be a clear case of bullying. Other examples include excessive teasing, exclusion, making threats about job security without foundation, spreading malicious rumours and the misuse of power and position. Like harassment and racism, bullying is not necessarily face-to-face, it may be by other methods e.g. written communications, phone calls, texts and electronic mail.

Bullying can be hard to recognise and may be subtle. The recipient may be anxious that others consider them weak or that they may be seen as "overreacting", they may also worry that they will not be believed. Sometimes a relatively minor incident hides an underlying pattern, it is important to remember that for the recipient this incident may be the "last straw".

Victimisation can be described as subjecting a person to a detriment because they have done or it is believed they have done or may bring proceedings under the Equality Act, give evidence or information in connection with proceeding under the Act, do any other thing for the purposes of or in connection with the Act, make an allegation that another person has contravened the Act. This may include the individual being ill-treated or being treated less favourably. For example, if a manager stopped talking to a member of their team because they had given evidence on behalf of another member of staff at a disciplinary hearing, they would be victimising them.

CONFIDENTIAL

APPENDIX 2

FAIR TREATMENT AT WORK PROCEDURE - FORMAL NOTIFICATION FORM

Name: _____ School: _____

Job Title: _____ Head Teacher: _____

Name of the person who is the subject of this Complaint: _____

Details of alleged unfair treatment: (Please continue on a separate sheet if necessary).

Please outline how you think this situation could best be resolved (Please continue on a separate sheet if necessary).

Please state action/s taken so far to resolve your complaint. (This may include details of mediation and/or indirect support already provided under the Informal Process. Please continue on a separate sheet if necessary).

When did you first raise the unfair treatment? _____

Signed _____ Date _____

Please note that only issues raised on this form will be considered as part of this process. Once completed, please send to your Head Teacher as appropriate.