

## Amadeus Primary Academies Trust

### STAFF GRIEVANCE PROCEDURE

Date: September 2020	Review: September 2022
Signed : December 2020	Signed : December 2020
Trust Chief Executive Officer	Trust Chairman

#### Introduction

It is important that a fair and established procedure should exist so that a member of staff who feels dissatisfied with a matter relating to their employment, has an effective means by which such a concern, problem or complaint (a “grievance”) can be aired and, where appropriate, resolved.

Unless separate procedures have been established by the Trust for the particular type of grievance, or the grievance falls within the definition of a protected disclosure (otherwise known as ‘whistleblowing’), the grievance procedure may be used by staff members to raise any type of grievance. The definition of a disclosure made in the public interest (a protected disclosure) is contained in the “Whistleblowing Policy”.

The grievance must however be of a nature that lies within the power and remit of the management of the Trust to resolve, i.e. it must not be a grievance about those matters determined by legislation, collective agreement or the Secretary of State for Education. For these purposes the word ‘management’ should be taken to include the Senior Leadership team, Local Governing Body, Trustees as appropriate.

The Academy will usually follow this procedure in the event that a member of staff raises a grievance. Depending on the circumstances of each case however the Academy may consider it appropriate to either change or omit parts of the procedure and shall have the right to do so.

This Grievance Procedure is in place to cover matters specific to an individual in relation to their service and/or conditions of service, with the exception of those matters for which separate rights of appeal may apply.

#### Scope

Nothing in this procedure is intended to prevent staff from informally raising with management any matter they may wish to mention. Informal discussion can frequently solve problems and a note must be kept of this. It is always the Academy’s aim to resolve any issues informally, however, if a member of staff wishes to raise a grievance formally, he or she must do so in writing from the outset following this policy.

Separate procedures are in place to deal with any grievances related to pay appeals.

This procedure applies to grievances of all members of staff, irrespective of role, job title or length of service except the Headteacher.

The Academy will take such action as may be considered appropriate against any employee who intentionally makes an allegation that they know is untrue, unfounded or vexatious. Employees who abuse the grievance procedure by raising grievances that are false (whether singular or multiple) will be liable to disciplinary action.

In certain circumstances it may, with mutual agreement, be helpful to seek external advice or assistance. An external facilitator may be able to resolve the problem; this may involve counselling or formal mediation.

### **Grievance after Termination of Contract**

This staff grievance procedure is intended to benefit employees in current employment. Where the contract is terminated with a grievance still outstanding, the grievance procedure will only continue if it concerns matters that may still have relevance following the termination of the contract. A grievance cannot be raised following the termination of the contract.

If the resignation is received prior to the grievance being raised, the grievance will only continue if it concerns matters that may still have relevance following the termination of the contract.

### **General**

The Grievance Procedure should not be used to appeal a decision taken through another formal process for which the Trust has a separate policy, and where that process has already been concluded. (This includes, for example: Disciplinary, Capability, Performance Management, Pay Policy).

If a grievance is submitted during a separate formal process it may be appropriate to deal with the grievance and other processes concurrently especially if they are linked. There will be instances where this would not be appropriate. If the processes are not running concurrently then the grievance process will be exhausted first. Once this has taken place the outstanding process will be resumed and concluded. In these circumstances an employee will be informed in writing.

Disputes involving external parties are not covered by this policy and should be addressed by the relevant line manager in accordance with the circumstances, unless the matter concerns the employer's handling of a situation, vicarious liabilities and/or duty of care to the employee. Use of the Whistleblowing Policy may be appropriate in these circumstances.

A grievance may also be raised by a group of employees, following the process set out within Appendix 3 below. Where a collective dispute is raised, the principles and process below would apply with appropriate modifications e.g. first stage notification would be to the HR team and informal. The parties would determine how best to resolve the dispute and would inform the relevant group of the decision. The grievance policy) could be followed in the event that informal stages have not satisfactorily resolved the dispute.

A grievance may, in certain cases, amount to a protected disclosure under the Employment Rights Act (please see the Trust's Whistleblowing Policy for further details). Employees will not be allowed to raise the same matter under both procedures.

Grievances will be handled sensitively and constructively, and without unreasonable delay. Every effort will be made to observe the timescales stated within the grievance procedure. Where this is not possible, timescales may be extended by mutual agreement and communicated to all parties involved. Unless the variation is at the request of the complainant, the complainant should be given an explanation if this occurs and informed when a response or hearing can be expected. Extensions of time should not exceed 10 working days other than in exceptional circumstances.

It should be noted that school holiday periods are non-working days for teaching staff. For the avoidance of doubt the holiday periods are the 'Academy Holidays' as defined in the contract of employment. For non-teaching staff whilst holiday periods are working days, inevitably delays are likely to occur in dealing with grievances raised shortly before or during a holiday period. Whilst every effort will be made to avoid or minimise such delays, time scales are more likely to be varied during these times.

During Grievance Hearings, an employee raising a formal grievance has the right to be accompanied by a Trade Union representative or a work colleague of their choice. The employee is responsible for making their

own arrangements to invite an appropriate companion. At the hearing itself, the companion must (if the employee wishes) be allowed to address the hearing, put and/or sum up the worker's case, respond on behalf of the worker to any views expressed at the hearing and confer with the worker during the hearing. Information received during the grievance process, including the outcome of the grievance, will be treated in confidence, and would only be shared with those involved in the investigation and resolution of the grievance. The respondent also has a right to be accompanied by a Trade Union representative or a work colleague of their choice, and the same details outlined above will apply to them.

There may be occasions where this procedure needs to be modified to comply with the requirements of the Trust's Child Protection and Safeguarding Policies, for example by allowing the Local Authority Designated Officer to offer advice at appropriate stages.

### Procedure: Informal

Wherever possible, employees are encouraged to raise any work-related concerns with their Line Manager (or other appropriate manager) in the first instance.

Where the line manager is the subject of the concern or this would not be appropriate, the employee should contact the person to whom their line manager reports. Where an employee is uncertain of the appropriate manager, s/he should consult the HR team for advice.

#### Trust Leadership Team

Mr Peter Wilson

Mrs Sabrina Bridges, Finance & Operations Director

Mrs Sarah Young, Executive Leader

Mr Peter Rhodes, Executive Leader

CEO & Accounting Officer

HR, Finance, Compliance

Old Bexley, Holy Trinity & St Paulinus

Castilion, Hillsgrove & St Paul's Cray

Concerns should be raised with the appropriate manager without unreasonable delay, normally within three months of the event, or latest in a series of events or issues causing concern.

The appropriate manager will arrange an informal meeting with the employee to discuss the nature of the concern and to determine how this might be resolved. This meeting may be held by the central HR team.

Where the nature of concern is a dispute between one or more employees, the manager will consider the potential for informal resolution by way of a facilitated meeting between all parties. In some cases, it may be appropriate to seek independent mediation, in which case the manager should contact the HR team for advice.

The manager will agree a date by which the situation will be reviewed to ensure effective resolution. A report including the outcome must be submitted to the central HR team at [amadeushr@apat.org.uk](mailto:amadeushr@apat.org.uk).

### Formal stage

Where an employee feels that informal resolution has either not resolved the matter, or would not be appropriate due to the seriousness of their concern, they may raise a formal grievance by submitting written details to their line manager, or to the central HR team [amadeushr@apat.org.uk](mailto:amadeushr@apat.org.uk).

A form has been provided for this purpose at Appendix 1, but other written grievance notifications (such as an email or letter) would be treated in the same way. This should, however, make it clear that a formal grievance is being raised and what resolutions are being sought.

Upon receipt of a grievance, an investigating officer may be appointed. This will be an independent individual with no prior knowledge of the complaint, and the Trust may decide it is appropriate to appoint an external independent investigating officer.

A Chair or a grievance panel will also be appointed. This group of people will be separate from the investigating officer and will be chaired by an independent individual, with no prior knowledge of the

complaint.

If an investigating officer has been appointed, they will undertake a grievance investigation and will make a recommendation.

The manager will invite the employee to attend a Grievance Hearing as soon as is reasonably practicable (ideally within 10 working days of receipt of the grievance). The letter of invitation will set out the employee's right to representation by a Trade Union representative or work colleague. A note taker will be present, and copies of the notes will be sent to the employee and their representative.

If the employee's chosen companion is not available at the time proposed for the meeting by the employer, the employer will seek to agree to an alternative time proposed by the employee or their representative, provided that the alternative time is both reasonable and not normally more than five working days after the date originally proposed. All parties shall have the opportunity to make submissions at the Stage 1 Hearing. Every opportunity will be given to the complainant to state his/her grievance and his/her preferred remedies to resolve the grievance. Likewise, the respondent will be given an opportunity to be heard.

The employee should provide, at least 5 working days prior to the meeting, any supporting evidence or documentation relevant to the grievance, and to notify the manager of any witnesses they wish to call to the meeting.

The representative or companion may support the employee in putting forward and/or summing up the grievance case, responding on the employee's behalf and/or conferring with the employee during the meeting.

Following the meeting, the Grievance Manager / Chair of the Grievance Committee (or nominated investigator, where appropriate) may conduct further investigations or an appropriate investigation (if this has not already been completed) to ensure that all the facts and circumstances relating to the grievance can be taken into consideration. This should be concluded without unreasonable delay.

Where further meetings are required, notes of those meetings will be retained in confidence by the manager. A copy of the notes from the Grievance Hearing will be provided to the employee without unreasonable delay. At the conclusion of the case all records will be retained securely on the employee file in accordance with the requirements of GDPR.

The Grievance Manager / Chair of the Grievance Committee will then decide what, if any action should be taken to resolve the grievance. Any decisions and proposed action the employer will be taking to resolve the grievance, where appropriate, will be confirmed in writing to the employee within 10 working days. Where a grievance has not been upheld, reasons will be given, and the employee will be advised of their right to appeal the decision. The respondent will also be informed of the outcome in writing but there is no right of appeal extending to the respondent.

If the outcome decision is likely to take more than ten days, the Grievance Manager / Chair of the Grievance Committee will need to write to both parties to explain this and provide a date of when they can expect to receive the outcome.

It may be appropriate to refer the complainant to other written procedures as operated across the Academy if considering complaints of bullying or harassment.

### **Formal stage (Appeal)**

Where the employee is not satisfied with the outcome of the grievance process (Stage 2), s/he has the right to submit an appeal by sending a completed form GR2 (Appendix 2) to the [amadeushr@apat.org.uk](mailto:amadeushr@apat.org.uk) within

five working days of receipt of the outcome notification.

The complainant must give a specific reason or reasons why he/she is dissatisfied with the Stage 1 outcome.

The Headteacher will normally hear an Appeal unless they or a member of the Governing Body has heard Stage 1. The Headteacher may take such advice as felt appropriate in handling the consideration of the Appeal.

The Appeal hearing will take place within 20 working days of receipt of the Stage 2 form by the Headteacher, The Headteacher may have regard to, but will not be bound by the outcome of Stage 1.

Where Stage 1 has been heard by the Headteacher or by a member of the Governing Body, the Appeal shall be heard by a Governor or Governors appointed by the Chair of Governors who should normally invite the employee to a meeting within a reasonable timeframe and without undue delay.

All correspondence will be dealt with by the HR team after liaising with the Clerk as appropriate. Both parties will be expected to attend the Stage 2 Appeal. At the appeal stage if the appeal is to be heard by a panel of Governors, there must be a representative from the Trust Board.

A member of staff required to attend an Appeal hearing will be given five working days written notice in advance of the hearing. The Headteacher / committee should be sympathetic to a request for postponement where there are extenuating circumstances.

The claimant and respondent will be invited to attend an appeal meeting, reiterating his/her right to representation by a trade union representative or work colleague. Parties have a statutory right to accompaniment by a representative at any appeal hearing. If the companion cannot attend on a proposed date, the party can suggest an alternative time and date so long as it is reasonable and it is not more than 5 working days after the proposed original date.

The person hearing the appeal will normally be accompanied by a member of the HR team. If the person hearing the appeal feels that an outcome should be conciliation between two or more members of staff at this stage, each member of staff may be accompanied by a representative at the conciliation meeting.

Following the Appeal hearing, the complainant will be informed of the final decision of the Appeal normally within 10 working days, which will be confirmed in writing. If the decision is going to take longer than 10 working days, the complainant must be written to, advising them that this is the case, and providing them with an alternative date.

The Headteacher's decision in all matters concerning the Appeal is final. If the Appeal has been heard by a member of the Governing Body, the decision reached by a governor or governors appointed by the Chair of Governors or Trust will be final. It will be a matter for the Governing Body to decide whether it may be appropriate to appoint an independent governor to sit on the panel for Stage 2.

### **Formal grievance procedure when grievance is against the Headteacher**

In the event that a grievance is made against the Headteacher, the grievance must be sent to the Chair of Governors copied to [amadeushr@apat.org.uk](mailto:amadeushr@apat.org.uk). The Chair of Governors will then liaise with the Trust HR team who will appoint a clerk. The complainant must put the grievance in writing using the form provided in Appendix 1, copied to the respondent (s) (if any) and any other persons directly concerned.

The complainant and respondent shall be invited to a Stage 1 Formal Hearing within 10 working days of the submission of the grievance. The invitation will be sent by the HR team and both parties are expected to attend the Stage 1 Hearing. All parties shall have the opportunity to make submissions at the Stage 1 Hearing. Every opportunity will be given to the complainant to state his/her grievance and his/her preferred remedies to resolve the grievance. Likewise, the respondent will be given an opportunity to be heard.

The member of staff and the Headteacher are requested to attend the Hearing and will be given five working days written notice in advance of the hearing. The Chair for the hearing who will in agreement with the Finance & Operations Director be appointed by the Chair of Governors to hear the grievance and should be sympathetic to a request for postponement where there are extenuating circumstances.

It should be noted that each party has the right to seek a postponement from the proposed date of up to five working days only for the purpose of organising representation. In cases where the grievance is against the Headteacher, a neutral venue may be appropriate.

It may be necessary to undertake further investigation of the complainant's grievance, in which case the Hearing will be adjourned to enable this to take place and be reconvened within a reasonable period of time. As part of this investigation, the complainant may be asked for further information relating to their grievance.

Following the conclusion of the Hearing and any reconvened hearing, the complainant will be informed in writing of the Chair's decision in response to the grievance, and of the complainant's right of appeal if he/she is dissatisfied with the outcome (see below).

This decision should be communicated in writing within 10 working days of the hearing. The respondent will also be informed of the outcome in writing but there is no right of appeal extending to the respondent.

It may be appropriate to refer the complainant to other written procedures as operated across the Academy if considering complaints of bullying or harassment.

### **Formal grievance procedure (Appeal) when grievance is against the Headteacher**

If the complainant is dissatisfied with the outcome at the Hearing, he/she should notify the CEO (copied to [amadeushr@apat.org.uk](mailto:amadeushr@apat.org.uk)) within 5 working days of receipt of the outcome to the grievance Hearing.

This notification should be made using the Appeal form provided in Appendix 2, which must be submitted in the time stated above. The complainant must give a specific reason or reasons why he/she is dissatisfied with the Hearing outcome. The letter should be addressed to the CEO.

The CEO will select three governors from across the Trust to hear the Appeal, and one of these must be a representative from the Trust Board.

The Appeal hearing will take place within 20 working days of receipt of the Appeal formed by the CEO. The Appeal Panel may have regard to but will not be bound by the outcome of original Hearing.

The Chair of the Appeal panel will normally invite the employee to a meeting within a reasonable timeframe and without undue delay. All correspondence will be dealt with by the HR team after liaising with the Clerk as appropriate. Both parties (respondent and complainant) will be expected to attend the Appeal Hearing.

A member of staff required to attend an Appeal Hearing will be given five working days written notice in advance of the Hearing. The Chair of the committee should be sympathetic to a request for postponement where there are extenuating circumstances. Parties have a statutory right to accompaniment by a representative at any appeal hearing.

If the companion cannot attend on a proposed date, the party can suggest an alternative time and date so long as it is reasonable and it is not more than 5 working days after the proposed original date.

The Appeal Panel will normally be accompanied by a member of the HR team. If the Appeal Panel feels that an outcome should be conciliation between two or more members of staff at this stage, each member of staff may be accompanied by a representative at the conciliation meeting.

Following the Appeal hearing, the complainant will be informed of the final decision of the Appeal normally within 10 working days, which will be confirmed in writing. If this decision is not ready to communicate within 10 working days, the complainant must be written to advising them of this and providing them with an alternative date in which a decision will be made.

The Appeal Panel’s decision in all matters concerning the Appeal is final. It will be a matter for the CEO with consideration of the Committee to decide whether it may be appropriate to appoint an independent person to sit on the panel for Appeal.

#### Record keeping

It is important that accurate and contemporaneous records are kept throughout the process, including any initial informal process. Such records need not be a verbatim account of discussions at hearings but should provide a gist of what is said. They will be prepared by an appropriate person appointed by the HR team. The parties will have the right to see the records and comment on them.

If the grievance is against the Headteacher, the appropriate person nominated for record keeping would normally be the HR team, exceptions may apply but each party will be notified of who will be attending in this capacity.

Records should be held in a secure and confidential manner. Often the issues raised are particularly sensitive and it is essential that the circulation of information be minimised to that which is necessary to ensure a fair investigation and hearing. It must be stressed to both the complainant and respondent that all matters under discussion must remain confidential.

#### Refusal to attend a Hearing or an Appeal Hearing

If either the respondent or claimant (or both) refuse to attend the Hearing or the Appeal, the respective Chair of the hearing can decide whether the hearing/s should go ahead.

If one party sends their representative on their behalf and does not attend, the respective Chair of the hearing can decide whether the hearings should go ahead.

#### Decision making

If the decision reached by the Chair of the Hearing is appealed and the Headteacher / Appeal Panel at Stage 2 does not uphold that decision, then the Stage 2 decision is binding on both parties.

#### Potential actions following a grievance outcome

Where a grievance relating to an act of misconduct is upheld, appropriate managerial action will be determined through the Disciplinary Policy. Any further actions taken will be treated as confidential to the individual concerned, and as such would not normally be shared with the employee who had raised the grievance.

Where a grievance is not upheld on the grounds that the matter of concern had already been appropriately addressed under either grievance or other formal procedures, the employee will be advised that the matter has been closed and that further complaints about the same subject matter may be considered vexatious. Alternative outcomes include training, mentorship and support.

Appendix 1

#### Form – Notification of a formal grievance

Submitted by:	Full name	
	Job Title	
	Place of work	

The details of my complaint are: *(Please provide as much specific detail as is relevant to your grievance)*

**EITHER:** I have attempted to resolve my grievance informally by *(please give detail about any efforts you, and/or others, have made to resolve the matter informally):*

**OR:** I have not attempted to resolve this matter informally because: *(please give details)*

In considering my grievance, I would like you to consider speaking to the following (e.g. witnesses):

I have attached the following documents / I would like you to refer to the following documents: <i>(please delete as appropriate, and provide details below)</i>
I would like to request that the following action be considered in order to resolve this grievance:
My grievance does/does not* include a complaint that raises a child protection issue.
I will / will not* need any special adjustments or support at my Grievance Meeting:
My companion at the Grievance Meeting will be:

I confirm that the information provided above is accurate to the best of my knowledge. I have read the Trust's Grievance Resolution Policy and Procedure and am aware that false, malicious or vexatious grievances may be addressed under the Disciplinary Policy. I am aware that this form may be forwarded to the Designated Safeguarding Lead where my concern relates to child safety.

Signed:
Date:

## Form – Appeal against a grievance decision

Submitted by:	Full name	
	Job Title	
	Place of work	

I have attached the form GR1 / written notification of my original grievance, together with a copy of the written notification of the decision reached.

I would like to appeal against that decision for the following reason(s): *Please provide an explanation of your grounds for appeal.*

I confirm that the information provided above is accurate to the best of my knowledge. I have read the Trust's Grievance Resolution Policy and Procedure and am aware that false, malicious or vexatious grievances may be addressed under the Disciplinary Policy.

Signed:
Date:

## Appendix 3

### Collective Disputes Procedure Principles

A collective grievance is a grievance or grievances submitted by a team or group of employees where a common complaint or theme can be identified and dealing with these collectively will enable a more appropriate and effective resolution.

Where a group of staff has a grievance, they may wish to involve their union representative, or to nominate one person to raise the matter on their behalf with the person(s) involved. The process will be the same as that for an individual grievance, with the union or nominated representative acting on behalf of the group.

#### **Stage One - Informal Process**

Issues raised should be referred, in writing, to the Finance & Operations Director. The Finance & Operations Director may involve other members of the Trust Leadership Team or the HR Manager. A meeting will be convened within 10 days of the request to attempt to resolve the matter informally. This may include discussions with representatives of the School Leadership Team.

#### **Stage Two - Formal process**

If the matter cannot be resolved informally the grievance will be addressed through the formal procedure set out below. All the parties to the grievance must sign the written submission, however in the interests of all parties to facilitate the procedure for the hearing, the group shall choose a spokesperson, who may be a representative of their union, to present the grievance with the assistance of a representative.

A committee will be convened of at least 3 members, which will include Governors, Trustees and SLT.

Appendix 3a

## Collective Disputes Complaints Form

**Summary of dispute: Please set out the details of the dispute (please continue on separate sheet/s as needed)**

**Please state informal action taken to resolve the issues: state date/s of meeting/s and why the issue/s were not resolved**

**Please state outcome requested: set out the remedy you are seeking from the dispute and why and how you believe this will resolve the issue/s**

**Form completed by:**

(enter name, signature and trade union)

**Group of employees representing:**

(insert job roles and name of academy)

Appendix 4

