

1

**Central policy:** trust-wide, applicable at Trust and school levels and therefore provided at ODST central level.

Employment related



## ODST Grievance Procedure

### I STATEMENT OF INTENT

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

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

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

### II Overview

ODST is committed to providing a positive work environment where employees feel able to talk to their manager about work-related issues.

Wherever possible employees should aim to resolve a grievance informally by speaking to the person concerned or their line manager.

### III Objectives

The objectives of this grievance procedure are to:

- foster good working relationships by providing a mechanism for the timely resolution of any employee grievance;
- provide a framework to help line managers to resolve grievances in a prompt and professional manner;
- ensure that as many grievances as possible are resolved informally;
- resolve grievances as near as possible to their point of origin having regard to the lowest level of authority required to resolve the grievance;
- seek to remove the source of grievance where it is found to be valid;
- operate in a way which will not result in the victimisation of an individual who brings a grievance in good faith

#### **IV Scope**

- All ODST employees based in schools
- All centrally employed ODST employees

#### **V Relevant Legislation**

- Equality Acts 2010/2012
- School Standards & Framework Act 1998

#### **VI Related Policies**

- Equality Policy
- Raising Concerns at Work (“Whistleblowing”) Procedure
- Dignity at Work Procedures
- Disciplinary Policy

#### **VII Date of Review**

The policy will be reviewed as required by the Board of Trustees of ODST to take account of any legislative changes and / or national policy development as well as the feedback from ODST staff and schools and in any event by 31 December 2020 at the latest.

#### **VIII General Principles**

##### **Definitions**

- Where the term “relevant body” is used, this refers to the Board of Trustees of ODST;
- Unless indicated otherwise, all references to “teacher” include the Headteacher.

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

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

##### **Delegation**

The relevant body has chosen to delegate some of its functions to member schools as set out in this policy.

##### **Monitoring and Evaluation**

The Local Governing Body and Headteacher will monitor at school level the operation and effectiveness of the grievance policy. The Headteacher /Chair of the Local Governing Body may be periodically asked to report to the ODST pay and personnel sub-committee the details of the operation of this procedure in their school.

## **X Responsibilities**

- The Local Governing Body should adopt this model ODST policy;
- Governors must ensure that appropriate support is given both to the employee raising the grievance and to any employee against whom allegations have been made under this procedure and that both parties are kept fully informed of progress.

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

### **Introduction and Overview**

1/ ODST is committed to promoting a positive work environment where employees feel able to talk to their line manager about work-related problems.

2/ Employees should aim to resolve most grievances informally by speaking to the person concerned or their line manager, explaining clearly what the concern or problem is.

3/ If employees don't feel able to approach the person concerned or their line manager, they should talk the matter through with:

- another manager in the school
- a trade union representative

If an employee is not sure who to talk to, they can also contact the ODST HR team for advice.

4/ Line managers and employees have a responsibility to try and resolve workplace disputes and problems promptly, aiming to avoid disruption, through discussion and by seeking to understand the views and perspective of others.

5/ Where the grievance is about bullying or harassment, employees and school managers or governors should also refer to the school's Dignity at Work policy.

6/ Line managers should take concerns raised by employees seriously, act promptly and seek to resolve the matter informally, where this is possible.

7/ This procedure is primarily for grievances raised by individual employees, although it is possible for a group of employees to take out a collective grievance. Collective disputes will normally be dealt with through formal local mechanisms involving the trade unions.

8/ Raising a complaint or being subject to a complaint can be an upsetting experience. Everyone involved can expect to be treated calmly and with respect.

9/ No employee will suffer detriment for raising a formal grievance in good faith, or for assisting a colleague to do so. However, if an employee is found to have used this procedure frivolously, maliciously or excessively without legitimate grounds, disciplinary action may be considered.

10/ Where attempts to resolve matters informally have been exhausted by the employee, or circumstances make this route inappropriate, this formal procedure can be followed.

11/ This procedure follows the steps recommended by the ACAS Statutory Code of Practice on Discipline & Grievance. It has been designed to ensure complaints from employees are dealt with promptly and in a fair and consistent manner.

### **Definition of a grievance**

12/ Grievances are “concerns, problems or complaints that employees raise with their employers” (ACAS). Grievances can be about terms and conditions of employment; working conditions; working relations; discrimination; statutory employment rights and working practices (this list is not exhaustive).

### **What is not covered by this procedure?**

13/ Employees who wish to raise concerns about suspected malpractice, fraud or wrongdoing in relation to the school’s operations should follow the ODST Whistleblowing Procedure.

14/ An employee who is subject to formal disciplinary or capability proceedings will have the opportunity to raise any grievance about that through the disciplinary/capability process. If an employee wishes to raise a grievance or whistleblowing matter that is unrelated to the disciplinary/capability proceedings, it will be dealt with separately and concurrently. In some cases, one proceeding may be temporarily suspended while the other is dealt with.

15/ This policy does not cover areas of employment where specific procedures for raising concerns or appeals are in place. For example:

- redundancy
- concerns about pay or appraisal
- pension matters
- matters relating to tax and national insurance

16/ A grievance that has not been raised within three months of the events which gave rise to it will normally be disregarded unless it is agreed that there are exceptional circumstances.

### **Mediation**

17/ Mediation is an effective way of resolving disputes and helps avoid matters escalating and the need for formal procedures. Mediation can be used at any stage and can address a range of issues including relationship and communication breakdown.

18/ Mediators do not make judgments or determine outcomes - they ask questions that help uncover underlying problems, assist the parties to understand each other’s point of view and help them look at options for resolving their dispute.

19/ For more information about mediation please contact the ODST HR Team in the first instance.

### **Raising a Formal Grievance**

20/ You must set out the facts of your complaint in writing in a letter or by completing the Grievance Form (see Appendix 2). This written statement will form the basis of the grievance meeting and any investigations, so it is important that you:

- set out the nature of your complaint clearly
- provide details such as dates and times of events
- give the names of any witnesses
- include supporting evidence
- explain how you believe the matter could be resolved

21/ The letter or completed grievance form must be sent to your line manager or head teacher. Where the grievance is about the head teacher, the grievance must be sent to the Chair of the Local Governing Body in the first instance. Formal grievances from head teachers should be raised with the Director of Schools in the first instance.

22/ In all cases the relevant manager must contact the ODST HR Team in advance of any formal meeting being arranged.

23/ You will receive confirmation that your grievance has been received and you will be given the name of the person who will be responsible for dealing with it (referred to as the nominated manager)

### **Formal Grievance Meeting**

24/ A meeting will be arranged for you to attend, without unreasonable delay and usually within 10 working days of receiving the grievance. You can make a request to be accompanied to this meeting by a trade union representative or work colleague.

25/ The meeting will be run by the nominated manager responsible for dealing with your grievance. The aim of this meeting is for the nominated manager to establish a detailed understanding of the issues and if possible, decide how to resolve the problem.

26/ You will be asked to explain the grievance and how you think it could be resolved. It is important that you use this opportunity to make sure all the issues are raised and any supporting evidence is provided, along with the names of any witnesses. No new complaints can be added after this meeting unless agreement is given by the nominated manager.

27/ Notes of the meeting will be taken and circulated to attendees. The nominated manager may arrange for a separate note-taker to attend.

28/ The nominated manager may decide that s/he needs to gather more information before reaching a decision and will adjourn the meeting to allow an investigation to take place. This is particularly likely if the complaint is against another person, who will need to be given the opportunity to provide a response. The nominated manager will write to you within three working days, following this meeting, confirming the actions agreed.

29/ Where it is possible for the nominated manager to come to a decision about the grievance at this first meeting, s/he will do so and decide what actions to take and where possible give that decision as part of the meeting. The nominated manager will then confirm the outcome in writing to you within three working days of the meeting. You will have the right of appeal should you believe the outcome is unacceptable.

### **Investigation**

30/ Where more information is needed and an investigation is necessary, this will be carried out either by the nominated manager themselves or s/he may appoint an investigating officer. You will be told who this will be.

31/ Investigations will be conducted fairly and without delay. In normal circumstances the investigation will be completed within a period of four working weeks, depending on the scale and complexity of the issues. If there are unavoidable delays you will be kept informed.

32/ You are required to attend investigation meetings when requested to do so.

### **Reconvened Formal Grievance Meeting**

33/ When the investigation is complete and the nominated manager is satisfied s/he has all the information, another meeting will be arranged for you to attend, normally within 10 working days. Again, you can be accompanied by a trade union representative or work colleague.

34/ The nominated manager will feed back the findings from the investigation and provide his/her conclusion and decision. The nominated manager will confirm the outcome in writing to you within three working days of the meeting. You will have the right of appeal should you believe the outcome is unacceptable.

35/ Where the issues are complex and there are opposing accounts of events a grievance hearing may be arranged, for all parties and witnesses to attend, if the nominated manager believes this will help him/her reach a conclusion.

36/ In circumstances where the nominated manager has conducted an extensive investigation, they may decide to refer the case to the head teacher, another senior leader or a governor to ask them to chair a hearing, examine all the evidence and make a decision. The nominated manager will normally provide a written report for this hearing and will attend to provide information about the investigation.

37/ If a hearing is arranged, it is possible that witnesses will be invited. In such cases both you, and the person who your complaint is about, may invite witnesses to attend.

38/ Having considered all the evidence and heard from all parties (where invited), the Chair of the hearing, will make a decision about your grievance and write to you, normally within three working days, confirming their decision and any actions they intend to take. You will have the right of appeal should you believe the outcome is unacceptable. Regardless of the outcome, all parties are expected to work together in a positive and professional manner.

### **Appeal**

39/ If you believe that your grievance has not been satisfactorily resolved, based on the evidence and the fair application of this procedure, you have the right to appeal within five working days of receiving the written outcome.

40/ In accordance with the ACAS statutory Code of Practice your appeal must be made in writing and you must make clear the grounds for your appeal, for example, faults in the procedure followed, new evidence not originally available, a perverse decision. No new complaints can be raised at the appeal.

41/ The appeal will likely be heard by a panel comprising three members of the Local Governing Body or nominated ODST representatives. The appeal hearing will be arranged without unreasonable delay and usually within 10 working days of receiving the appeal.

42/ This will normally take the form of a hearing where you will have the opportunity to explain the grounds of your appeal and the nominated manager or, where a grievance hearing has been held, the Chair of the hearing will respond to it. In some circumstances the panel may instead choose to deal with the matter by written submissions from both parties.

43/ The outcome of the appeal will be communicated to you in writing within three working days of the decision. This is the final stage of the formal grievance procedure.

### **The right to be accompanied**

44/ You have the right to be represented by a trade union representative or accompanied by a work colleague at formal grievance meetings.

45/ Normal management meetings, informal discussions and investigatory meetings do not attract the right to be accompanied, but requests to be accompanied will be considered where this support may be helpful.

46/ Where you wish to be accompanied, you must contact the nominated manager responsible for dealing with your grievance and give them the name of the trade union representative or work colleague in good time before the meeting (or give this information on the grievance form).

### **Keeping and disclosing records**

47/ Whether dealing with grievances formally or informally, it is advisable for all parties to keep a brief record of discussions and agreed actions.

48/ In certain circumstances the nominated manager may decide to protect the identity of an individual or to withhold some information, for example where information is of a sensitive personal nature or considered to be irrelevant.

49/ An ODST HR representative should be present at any formal grievance or appeal meeting, unless otherwise agreed, so as to provide support and offer a note-taking facility.

### **Confidentiality**

50/ Confidentiality must be maintained by all parties. Only those who need to know about the grievance will be informed.

### **Avoiding delays**

51/ Prolonged, unresolved grievances can be distressing for all parties and the school recognises that it is in everyone's interests for matters to be resolved as quickly as possible.

52/ Line managers will make every effort to deal with grievances promptly and without unreasonable delay.

53/ Employees will be consulted on the scheduling of dates/times for meetings. If the employee's representative cannot attend on a proposed date, the employee must provide alternative times and dates of their availability, so long as these are reasonable and not more than five working days after the original date. Alternatively, employees can nominate another representative.

54/ Employees and their representatives must take all reasonable steps to avoid delays, make every effort to attend the meetings required under this procedure and to provide any information requested by the nominated manager or investigating officer promptly and in advance of any meetings.

55/ If an employee is unable to attend a meeting because of circumstances beyond their control, they should inform the nominated manager dealing with their grievance as soon as possible.

56/ Employees will be expected to participate and attend all meetings, unless a GP or Occupational Health advises that that they are not fit to do so. In these circumstances, other arrangements may be agreed with the employee to ensure matters can still proceed e.g. for a representative to act on their behalf. The employee's absence will be managed in accordance with the ODST Managing Sickness Absence Procedure.

57/ The nominated manager can make the decision to proceed in the employee's absence if:

- the meeting has already been rearranged once and the employee fails to attend for a second time
- the employee fails to attend without explanation, or there is evidence that the employee has not made sufficient attempts to attend
- the employee is on long-term sick leave and medical opinion is that s/he will be unable to attend meetings in the near future. In these circumstances, alternative arrangements will be discussed with the employee e.g. the employee can supply written information instead or ask a representative to attend on their behalf

### **Accessibility**

58/ If any aspect of this procedure causes difficulty on account of a disability or if English is not your first language, or if you need particular assistance or adjustments to attend meetings, contact the nominated manager at the earliest opportunity.

## **Support**

59/ Grievances can be upsetting and stressful for all parties and line managers have a responsibility for making sure all individuals involved in a dispute or grievance are offered appropriate support. This can be provided by offering additional one to one meetings or by assigning a key contact for the employee. The Employee Assistance Programme may also be an option in ODST schools that have signed up to this service through either the out-sourced Occupational Health or Absence Insurance provisions.

## **Concerns from ex-employees or during notice period**

60/ Wherever possible, a concern should be dealt with before an employee leaves employment. However, in cases where an employee has left employment before a concern has been raised the former employee should write to their former line manager setting out the grievance as soon as possible, and not later than one month after leaving employment and a response will be given in writing.

61/ If an employee raises a grievance during his/her notice period and there is insufficient time for the school to investigate and/or resolve the issue before the employee's employment ends a written response will be given.

## **Appendix 1**

### **Guidance Notes when the Grievance is against the Headteacher.**

In the event that a grievance is made against the Headteacher this should be sent to the Chair of Governors in the first instance. The Local Governing Body will be expected to take on the role of Management both in carrying out an investigation and in conducting the grievance hearing with support provided by the central ODST team as appropriate.

### **Appointment of an Investigation Officer**

It is strongly recommended that an investigating officer is appointed to conduct an investigation into the points raised against the Headteacher. It is not recommended that any appointment is made where anyone does not have the appropriate experience as this could have a significant impact on the outcome of the grievance.

### **Appointment of Nominated Manager.**

Where a grievance is taken out against a Headteacher then a Panel of three, comprising representatives of ODST and/or the Local Governing Body will be convened. For the purposes of the Grievance Procedure the Chair of this Panel will assume the role of Nominated Manager as described previously. The Panel should not have had any involvement with the issues that are being investigated and must not include a staff governor. The ODST HR Team must be involved at all stages of the process where a grievance has been taken out against a Headteacher.

## **Appendix 2**

### **Schools Formal Grievance**

Please complete this form if you wish to raise a grievance formally.

Name:

Job Title:

Name of Line Manager:

School:

E-mail address:

Contact Number:

Preferred method of contact:

Working days:

Set out the facts of your complaint (include specifics, e.g. date & time of any relevant incident/names of any witnesses):

What steps have you taken to resolve the matter informally?

Name of Union Representative or colleague you would like to accompany you to formal meetings:

Have you spoken to your representative about this? Yes/ No

Do you give permission for contact to be made with your representative to arrange a convenient meeting date? Yes/ No

What resolution are you seeking? (e.g. apology, explanation?)

Signed:

Date:

Email or post this with any supporting information to your line manager or Headteacher.

Where your grievance is about your Headteacher, please send this to the Chair of the Local Governing Body in the first instance.