



Diocese of Salisbury
Academy Trust

Diocese of Salisbury Academy Trusts

HR TOOLKIT FOR COLLECTIVE GRIEVANCE PROCEDURE

This toolkit is to assist in the application of the Grievance Policy in Diocese of Salisbury Academy Trusts and will apply to both teaching and non-teaching staff

For adoption and implementation from

Approved

Amended after HR circulation

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This is a comprehensive toolkit which is for use of application of the grievance policy. The HR Team will be available to support this process:

Appendix 1 – Process flow-chart

Appendix 2 – Guidance notes for managers

Appendix 3 – Guidance notes for note takers

Appendix 4 - Guidance notes for employees

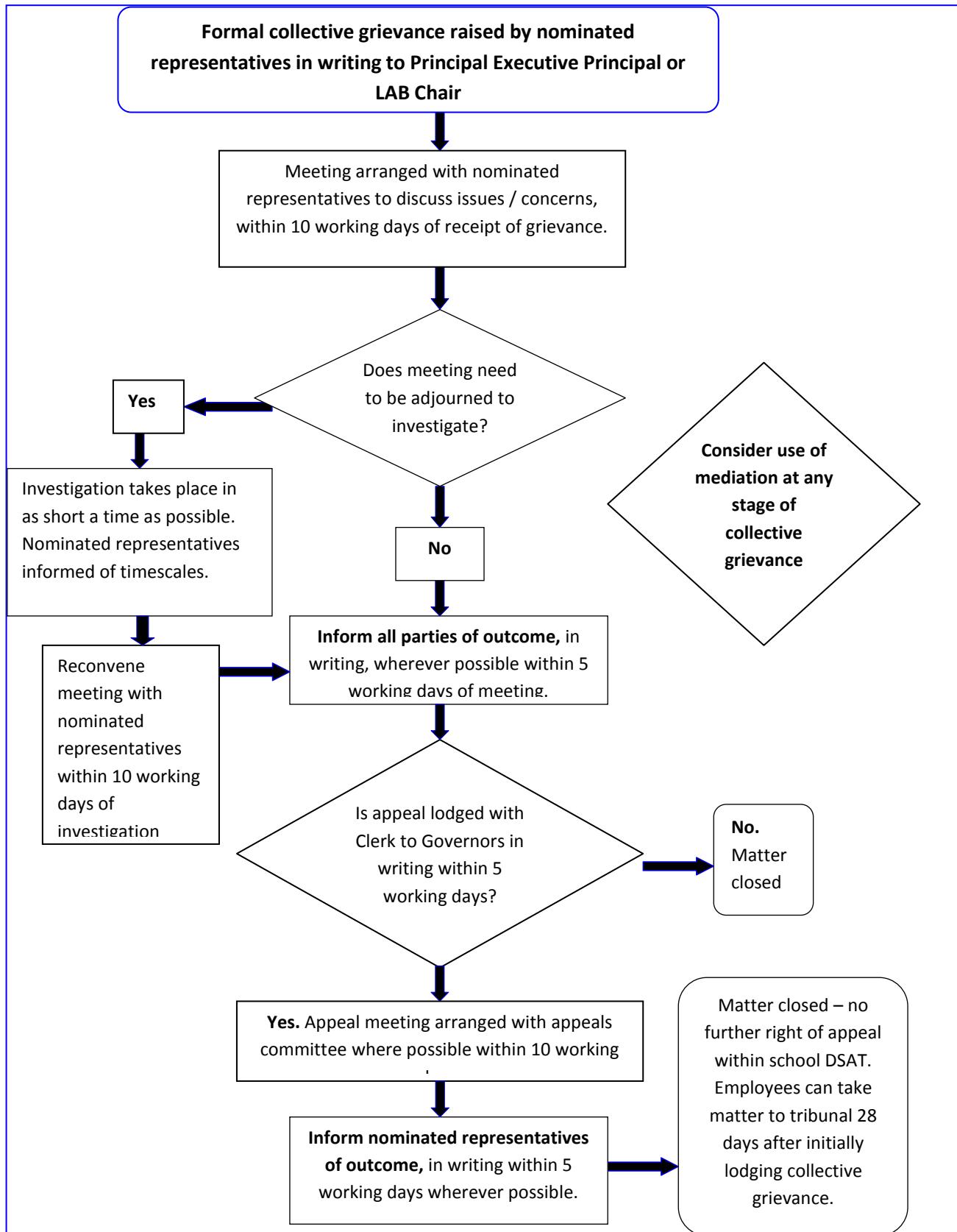
Appendix 5 – Model Grievance appeal report

Appendix 6 – Model agenda and proceedings advice for grievance meetings

See other policies referred to at **2.3** where these are more relevant to the issues raised including:

- Individual Grievance Policy and Procedure
- Disciplinary Policy and Procedure,
- Capability Policy and Procedure
- Ill health Policy and Procedure
- Collective Agreement on Pay and Grading
- Dignity at Work Policy;
- Whistle-blowing Policy and Procedure
- Schools Joint Consultative Committee (JCC) Constitution

Appendix 1 – Process Flowchart



The following guidance notes are to be read in conjunction with the Diocese of Salisbury Academy Trusts (DSAT) Academies collective grievance procedure. For further guidance please contact the HR Officer.

1. Resolving grievance issues informally

- Employment problems and concerns are often raised and settled as a matter of course during a Principal or Executive Principal's day-to-day management. As such, employees should aim to settle most collective grievances informally with their line manager. This allows for problems to be settled quickly.
- In some cases outside help such as an independent mediator can help resolve problems especially those involving working relationships. Please see paragraph 2 below for more information about mediation.
- There will be situations where matters are more serious or where an informal approach has been tried but is not working. If informal action does not resolve the matter, or where the nominated representatives would like their collective grievance dealt with formally, the formal stage of the DSAT Collective Grievance Procedure should be used.

1.1 How to manage a collective grievance informally

- Employees wishing to pursue a collective grievance should nominate individuals to represent their interests throughout the process. The Principal, Executive Principal or line manager should talk to the employee representatives in private. This should be a two way discussion; aimed at understanding the joint issue the employees have, with the emphasis being on finding ways forward to resolve the matter.
- If the response is given verbally, you must make a record of this and retain it you will also need to forward a copy of the paperwork to HR.

1.2 Who should be involved?

- An informal approach to managing a collective grievance should be handled by the individual's immediate line manager in the first instance. If the collective grievance concerns the Principal, then the matter should be raised with the Executive Principal. If the grievance concerns the Executive Principal the matter should be raised with the DSAT Board.
- Employees must be directed back to the Principal if they take a grievance direct to the Local Advisory Board (LAB), unless the grievance is about the Principal, then they must speak to the Executive Principal. This recognises the role of the Principal as the day to day manager of the Academy and can ensure that no stage of the Collective Grievance procedure is missed if the matter is a formal grievance.
- It is equally important that consideration is given to involving as few people as possible in any concerns that are raised. While it can appear helpful for staff and governors to provide a listening ear when concerns are raised, it is actually more helpful if staff and governors approached in this way refer the employees, either to their line manager if the matter is outside of the formal collective grievance procedure, or to the Principal if the employees would like to raise a formal collective grievance. The employees should be directed to the Executive Principal if the collective grievance concerns the Principal.

2. Mediation

- Mediation is a method of helping people resolve disputes and finding ways of working together more effectively and can be beneficial either prior to a formal grievance being raised or at any stage during the formal collective grievance procedure.
- A mediator will use specific skills which are impartial and they will facilitate a process that aims for a workable agreement between the parties.
- Other benefits of mediation can be:
 - it helps people learn or improve their skills for interacting with others in a positive way;
 - it can help to improve relationships and encourage co-operation between colleagues and managers;
 - it can help to reduce and change a culture of blame, harassment and bullying.
- Mediation is most effective before people begin to feel extremely angry or distressed because of the conflict, and before tension, low morale, poor job performance and disillusionment permeate the team.
- Mediation can only be considered if all parties agree to use it. It will not work if any party has been forced to come to the table. It is perhaps also important to note that the mediator will not provide answers to the solutions. They will instead use their impartial status to encourage all the parties involved to discuss matters and come to their own solutions.
- An Academy which chooses to use mediation should also be aware that management may never know the detail of what is agreed between the two parties. This is because the mediation process is confidential unless both parties agree to share information. However, there can be exceptions to this, for example, if the Academy needs to agree to implement a suggested course of action, in which case there would be a need to disclose the proposed outcome of the mediation.
- HR can provide advice on appropriate sources of mediation services for the schools to consider. All costs of mediation will be met by delegated Academy budget.

3. When does a matter become a collective grievance?

- It can be difficult to judge when to direct staff concerns through the Academy's collective grievance procedure. The following guidance should help but if you are still unsure please contact Human Resources for further advice.
- It is expected that as a manager, staff will approach you to clarify employment issues /procedures and ask questions. It is part of your role to deal with these. However, if a group of staff (two or more) raise the same concerns to you or keep asking the same question because they feel unhappy with your previous responses, or they say they are "concerned", "want to know how to take this matter further", you should direct them to the school's collective grievance procedure.

4. Investigation during the collective grievance procedure

4.1 Overall

- The investigator's role is to look into the facts behind a complaint or allegation. HR advice should be sought at an early stage to ensure that you receive advice about following the procedure and therefore minimise the risk of having to repeat any steps, or re-open an investigation to ensure that a fair process has been followed.
- Regardless of the nature of the matter investigated you must remain objective and impartial throughout your investigation.
- Think about the structure of the investigation and make a list of points you might wish to cover, identify any documents that may help you understand the work area and any people who you think need to be included for interview.
- You have to give any individual complained of as part of the collective grievance an opportunity to respond to the allegations made and to give their account of what took place. This means you may have to be flexible about the timing and location of any interviews.

4.2. The investigation

- The investigation must ensure that parties are given full opportunity to provide you with the evidence and information about the events that are alleged to have taken place. You are responsible for a full investigation into the grievance.
- If there may be understanding or language difficulties during an interview consider the provision of an interpreter or facilitator (perhaps a friend of the employee(s), or a work colleague, but not a family member or relative acting in an official capacity).
- If allegations have been made against an individual, make sure that you fully explore the nature of the allegations. You need to establish whether they accept that something took place and to get them to give their own account of the events. It is sometimes helpful in complex cases to give them a written account of the allegations and allow them to respond to these.
- Remember that individuals may become angry or distressed when interviewed and that you may on occasion need to adjourn or end an interview and return once the individual is more composed. There may be some 'letting off steam', during the interview and this can be helpful in finding out what has actually happened. However, abusive language or aggressive conduct should not be tolerated and a warning to this effect should be given to the individual if necessary.

4.3. Keeping records

- Notes must be kept of all meetings. It may be helpful to arrange for somebody to take notes for you so that you can concentrate on what is being said. All statements or summaries need to be written up and confirmed with the individual's signature and date as part of your record of the investigation.

4.4 Witnesses

- Arrange to meet with any witnesses as soon as possible after the event so that matters are still fresh in their minds.
- Some individuals, particularly witnesses, may not wish to co-operate with an investigation process. You need to make sure that they understand that their

evidence is important to you and that if they do not provide it they may prejudice the outcome of your investigation.

- In the interest of natural justice it is not recommended that you allow witnesses to remain anonymous unless the issue relates to bullying and harassment and they genuinely believe they will be victimised if they give evidence without the guarantee of anonymity.
- Any interviews of witnesses, and the member(s) of staff involved in the incident, should be held as privately as possible, preferably away from the normal work location in a suitable room where there will be no interruptions.

4.5. Right to be accompanied

- The employee against whom an allegation has been made may wish to be accompanied by a work colleague or a union representative at any interviews but they must not be a family member or relative acting in a professional capacity.
- It is considered reasonable for the employee against whom an allegation has been made to offer a reasonable alternative date for an interview if their chosen companion cannot attend.
- The staff raising a collective grievance will nominate their representatives and this can include a union representative.

4.6. Employee non-attendance at an arranged meeting

- If an employee against whom a collective grievance has been made fails to attend an interview through circumstances outside of their control, such as illness, then you must arrange another meeting date.
- If an employee against whom a collective grievance has been made does not attend an investigation meeting and it is not through circumstances outside of their control, then the Principal (or Executive Principal if the grievance is against the Principal) should look into the matter to establish the reasons for non attendance. It is advisable to re-iterate to the individual that it is a reasonable management instruction to require their attendance and how seriously the Academy takes non attendance at investigation meetings. It may be necessary to consider a disciplinary investigation if the employee fails to attend again. However, HR advice must be sought before any decision is taken in this area.

4.7. Coming to a conclusion

- Record all information about dates, times, locations and events with care, these may help you to assess whether individuals were actually present during the events you are investigating and could have witnessed what took place.
- As the investigation proceeds and you review the evidence you will invariably start to take a view as to whether or not the collective grievance should be founded or not but make sure you are fair in your presentation of the relevant facts in your decision making, and later, in your report if the matter goes before a hearing.
- Before concluding the investigation, review the material you have collected:
 - are there any gaps in your understanding about what took place,
 - have you taken into account all the issues that were complained about,

- c. have you followed up any additional witnesses identified by the individual complained of?

5. Resolving collective grievances

- It is important to ensure that any action taken is monitored and reviewed, as appropriate, so that it deals effectively with the issues raised. Any monitoring or review is documented and retained.
- Bear in mind that those actions taken to resolve a collective grievance may have an impact on other individuals, who may also feel aggrieved. It is important to be as open as possible with employees involved, whilst maintaining confidentiality.

Appendix 3 – Guidance Notes for Note Takers

1. About the meeting

- The meeting is formal.
- The meeting is a confidential meeting and should not be discussed with anybody outside of those present.
- The meeting is to examine a formal collective grievance that has been raised by a group of two or more employees and to decide on what action to take, if any, to help resolve the situation.
- The meeting is chaired by the Principal, Executive Principal or LAB panel who will explore and examine all the evidence presented (both written and oral) and decide on an outcome.

2. Your role

- Your role is essential to the formal grievance process as what you record will form the record of the meeting that the Academy relies on.
- All records will be shared with all parties.
- You must record all aspects in as much detail as possible so that notes can be referred to, for information or in case of disagreement, after the meeting.
- Do not be afraid to query any acronyms or terminology used. If you cannot understand what is being said or referred to then your notes may reflect this which could lead to inaccuracies in the record. Any queries you have should be directed through the Chair of the meeting.
- Notes need to be issued as soon after the meeting as possible, at least within 2 working days.

3. Before the meeting

- If you are aware that you have a conflict of interest with any of the parties involved (for example they are your friend or close colleague), you must inform the Chair of the meeting or HR as soon as possible so that a new note taker can be arranged.
- It is recommended that you read through the sample panel agenda before the meeting to familiarise yourself with the format of the meeting. This is because you will need to record whether each aspect has taken place and what was said at each stage.
- Record only factual events – do not add your own interpretations of events or your own thoughts on issues.

4. During the meeting

- Record the time the meeting begins.
- Record all those present and their purpose
- Be clear about who is speaking and attribute all comments correctly.
- Record whether any adjournments were requested and whether they took place. Record who left the room at what time, and at what time the meeting resumed, together with who was present when everybody returns.
- If individuals read through written materials that have been issued previously to those present, you don't need to re-record what is said, except to be clear what was read by whom. However, it would be expected that you record any additions, asides, or anything else that happens during the presentation of that material.
- Record any disagreements and how these are resolved. If there is no resolution this should also be recorded.
- Record the time at which witnesses enter and leave the room. Also record the evidence they present, any questions about their evidence, who asked these questions, and the answers given by the witness.

5. During the adjournment to consider the evidence

- During the adjournment, all parties will withdraw except for the Principal, Executive Principal or LAB/DSAT staffing panel, and the HR representative.
- It is important during this stage to record actions agreed and reasons for these actions, rather than a verbatim record of what is said by whom.
- Record what evidence is considered, what is understood from the evidence, and what weight is given to the evidence by those making a decision.
- Record whether the Principal, Executive Principal or LAB/DSAT staffing panel decide not to accept any evidence and the reasons for this.
- Record whether the Principal, Executive Principal or LAB/DSAT disciplinary committee decide to take any action, what this action is, together with the reasons for this decision.

This will subsequently inform the letter that will be sent to the individual.

6. Ending the meeting

- Record who returns to the room and at what time the meeting resumes.
- Record, as during the meeting, what is said by whom.
- Record whether the employee is offered the right to appeal this decision (at stage 2 there is no further right of appeal).

- Confirm whether the employee was told by the Principal, Executive Principal or LAB/DSAT staffing panel's decision will be confirmed in writing.
- Record any agreement on how and when the notes will be distributed to all parties.
- Record at what time the meeting closes.

7. After the meeting

- Ensure that all notes are kept confidential and are stored in compliance with the Data Protection Act 1998.
- If you have any queries about the contents of your notes, these should be raised with the person who chaired the meeting.
- Ensure that the notes are prepared and distributed within the timescales agreed at the meeting. It is likely that you will be required to liaise with the Chair of the meeting about distribution.

Appendix 4 – Guidance Notes for Employees

These notes are intended to assist employees who have raised a formal collective grievance under the DSAT Academy's Collective Grievance Procedure.

What follows is a summary of the main questions you may have, with answers.

- **What is the purpose of the procedure?**

To set out the process to be followed in respect of collective grievances raised by two or more employees.

- **Does the procedure apply to me?**

Yes, if you are an existing Academy employee.

- **When can I NOT use the procedure?**

You cannot use this procedure where you have an individual grievance which can be settled either informally or formally under the Academy's normal grievance procedure. You may also not use this procedure to further raise an individual grievance which has already been heard under the Academy's grievance procedure and an outcome provided. However if a previously heard grievance is demonstrated to be materially relevant to a later collective grievance then the Principal, Executive Principal or LAB have discretion to take it into account.

The procedure will also not apply where the issues raised are county-wide employment relations matters, working arrangements or terms and conditions where it is more appropriate for these to be discussed at the Academys Joint Consultative Committee.

- **What do we do if we don't want to use the formal procedure yet?**

Employment problems and concerns are often raised and settled as a matter of course during a Principal/Executive Principal's day-to-day management. Often, if a manager / Principal or Executive Principal is aware of an issue, they can work with you to resolve it. As such, employees should aim to settle most grievances informally with their line manager which allows for problems to be settled quickly.

However, there will be situations where matters are more serious or where an informal approach has been tried but is not working. If informal action does not resolve the matter, or the grievance is considered serious, you should raise a formal grievance. The Collective Grievance Procedure should be used to manage formal grievance issues raised by two or more employees.

- **Where can I get advice/guidance about the procedure?**

You can get advice/guidance about the procedure from your Principal or Executive Principal (if the grievance is about your Principal), and your trade union representative.

- **What is Mediation? Does it suit my circumstances?**

Mediation is a method of helping people resolve disputes and finding ways of working together more effectively and can be beneficial either prior to a formal grievance being raised or at any stage during the formal collective grievance procedure.

A mediator will use specific skills which are impartial and they will facilitate a process that aims for a workable agreement between the parties.

Mediation can only be considered if all parties agree to use it. It will not work if any party has been forced to come to the table. It is perhaps also important to note that the mediator will not provide answers to the solutions. They will instead use their impartial status to encourage all the parties involved to discuss matters and come to their own solutions.

Management at your school may never know the detail of what is agreed between the parties during mediation. This is because the mediation process is confidential unless both parties agree to share information. However, there can be exceptions to this, for example, if the school needs to agree to implement a suggested course of action, in which case there would be a need to disclose the proposed outcome of the mediation.

You should seek advice from your Principal or Executive Principal (where the grievance is against the Principal) to decide whether mediation support could be a productive way forward.

- **How do we determine who will be our nominated representatives to represent the group during the grievance process?**

It is for you, along with your colleagues who are part of raising the collective grievance to determine who will represent you. The representatives you nominate will be responsible for representing the interests of all the individuals in the collective grievance, including presenting your case at meetings. There may be different nominated representatives at different stages of the process, although you should note that the right to representation does not extend to including family/friends or professional persons such as barristers or solicitors to represent you.

There are a maximum number of nominated representatives who you can select to represent you, depending on the number of employees who are involved in the collective grievance. Please refer to section 2.8 of the DSAT Academy's Collective Grievance Procedure for further information.

- **Can we use this procedure if we perceive there to be organisational or institutionalised bullying?**

No, you should use the School's Whistle-blowing policy and procedure.

- **Does anyone else need to be told about our grievance?**

No. If you wish for certain people to be called as witnesses to support your case then your nominated representatives will need to approach them in strict confidence and secure their support. If you refer to other individuals within the statement of your grievance and attribute them knowledge of your allegation, then any information which relates to them will be made available by the Principal or Executive Principal (where the grievance is against the Head Teacher) to them on a strictly confidential basis.

- **Is it appropriate for us to continue working with the person we have complained about?**

Your Principal or Executive Principal (where the grievance is against the Principal) will take into account the views of the group raising the collective grievance, those of the person you have complained about and possibly other members of your team. Your manager will take advice on possible ways forward from the HR Officer. If the person complained about is your manager, then their manager will take into account your views. You are advised to raise your concerns with your trade union representative who can advise you. The manager making the decision will seek appropriate advice if you are a disabled employee and you have concerns about access or support issues.

- **What happens if the collective grievance is upheld?**

Where the collective grievance is regarding another person and the collective grievance is upheld and the subject of the collective grievance's behaviour / actions have been found to be serious, the Principal or Executive Principal (where the grievance is against the Principal) will be responsible for taking any appropriate action. If a disciplinary hearing is held, your nominated representatives or other members of the group who raised the collective grievance may be called as a witness, but you may not know the outcome of the disciplinary action as the matter is confidential between that individual and their employer.

Copies of collective grievance meeting records and/or statements obtained during any investigation may be used at the disciplinary hearing. In addition, or as an alternative to disciplinary action, the manager may consider taking some other action to resolve any outstanding concerns. This could mean, for example, extra training, re-clarification of accepted standard of work, re-allocation of tasks. The Principal or Executive Principal (where the grievance is against the Principal) will ensure that any action taken is monitored and reviewed, as appropriate, so that it deals effectively with the issues.

- **May we appeal if our collective grievance has not been upheld?**

Yes. See Stage 2 of the DSAT Academy's Collective Grievance Procedure.

- **What happens once our appeal has been heard?**

The purpose of the appeal will be to:

- a. review the reasonableness of the original decision and, if necessary, determine an alternative outcome (if the original decision is unreasonable and/or if it would resolve the grievance).
- b. consider whether the procedure has been followed correctly.

The panel's decision will be given verbally to all parties and confirmed in writing by the chair of the appeals committee, wherever possible, within 5 working days of the hearing. The letter will include the following information:

- a. whether the collective grievance has been upheld, either fully or in part;
- b. if the collective grievance is not upheld, the reasons for this;
- c. any actions that are to be taken to resolve the collective grievance;
- d. how any actions will be monitored and reviewed

The panel's decision shall be final.

- **What if we are still not satisfied?**

You have a statutory right to take certain grievances (for example those related to unlawful discriminatory practices or breach of contract) to an Employment Tribunal. Information on Employment Tribunals can be found on www.employmenttribunals.gov.uk

Appendix 5 – Model Collective Grievance Appeal Report

HIGHLY CONFIDENTIAL

This is a Report for the Collective Grievance Appeal concerning:

Names:

Nominated representatives:

Post:

School:

Collective Grievance Appeal Date:

The report has been compiled by

The report will be presented by

1. Purpose of the Report

To outline the procedural steps which have been followed in response to the collective grievance raised by(names) and to present the reasons for my decision about their collective grievance at Stage 1 of the School's Collective Grievance Procedure.

2. Introduction

I have attached a copy of the letter which was received by the Academy on(date). As a result of receiving this letter I formally met with (names) on (date) in line with the collective grievance procedure to discuss the grievance and establish whether a resolution could be found.

Attached is a copy of the letter inviting (names) to this meeting, in which they were given a copy of the Academy's Collective Grievance Procedure and told of their right to representation at the formal grievance meeting.

[Give some background about the individuals, e.g. date they joined the Academy, positions in the Academy they have held, specific responsibilities.]

3. Background

Explain the background to the situation or event which has occurred from the evidence (both written and verbal) that you have gained either during your investigation (if there was one), or at the formal Stage 1 collective grievance meeting. Include the following information:-

- The date, time and place and the people concerned with the collective grievance.
- Explain how you have used the Academy's Collective Grievance procedure, whether you contacted Human Resources for advice. Confirm that timescales outlined in the procedure have been met, or confirm agreement to any extensions.
- Explain which documents have been given to the individual, for example, Guidance Notes for employees, the Academy's Collective Grievance Procedure.

4. Investigation (if there was one)

- Give details, in chronological order, of the interviews you have conducted. It is usually helpful (and clearer) to list the interview(s) as numbered appendices.
- Give details of written evidence that has been gathered.
- Summarise the information which is factually agreed, that which is disputed, any which is unknown

5. Context

- Explain what should / should not have happened, outlining what aspects you explored during the Stage 1 grievance meeting. If there was more than one grievance raised, it may be helpful to do this for each grievance as you may have a different conclusion for each one.
- Provide details of procedures, rules and guidance which support your view of the case, e.g. quote from the Academy's Policy on Behaviour, or Dignity at Work Policy.
- Quote from the additional documentation to support the points you wish to make.

6. Conclusion

- Draw together your conclusion on the collective grievance based on the facts you have established and outlined in your report.
- Summarise the evidence to support your view and explain the implications of taking certain routes that you considered.
- Include a copy of your letter confirming the outcome of the formal collective grievance meeting – highlight your reasons for the decisions you have made.
- Address the information included in the employees' appeal letter, paying particular attention to the group's suggested resolution and why you believe it may / may not be effective as a resolution.

Appendix 6 – Model Agenda and Proceedings for Collective Grievance Meetings

Introduction (by Principal, Executive Principal or Chair of the Hearing panel)

Call both sides in to the meeting and introduce those present. Explain why each person is there.

Introduce and explain the role of the accompanying person if present

Explain that the purpose of the meeting is to consider the formal collective grievance that has been raised and to consider what action to take to try and resolve the situation.

Outline the sequence of events so that all know what to expect.

Introduce and explain the role of the note taker, that they do not participate in proceedings other than at the Chair's request to read back a note placed on record. Explain that notes taken are retained as confidential to the panel members. The employee can make their own notes but they will not be part of the record of the proceedings. Copies of the notes of the outcome only will be circulated to all parties as soon after the meeting as practicable.

Nature of the grievance

The Principal, Executive Principal or Chair of the Hearing panel states the nature of the grievance, and outlines the case briefly by going through hearing pack, including any evidence that has been gathered during an investigation.

Confirm that all parties have the relevant documents.

Presentation of Employee's case

The Principal, Executive Principal or Chair of the Hearing panel states invites the employees' nominated representatives to present their case or put forward their point of view, and present any witnesses.

Person presenting management's case is invited to ask questions of the nominated representatives and any witnesses.

Principal, Executive Principal or Chair of the Hearing panel states will invite any questions to be asked of the nominated representatives and any witnesses by the hearing panel.

Presentation of Management's case

The Principal, Executive Principal or Chair of the Hearing panel invites the person who carried out the investigation to present management's case, and present any witnesses.

The nominated representatives are invited to ask questions of the Investigator and any

witnesses.

Principal, Executive Principal or Chair of the Hearing panel states will invite any questions to be asked of the nominated representatives and any witnesses by the hearing panel.

Final Statements

The Principal, Executive Principal Chair of the Hearing panel invites the presenter of management's case to make a final statement if they wish.

The Principal, Executive Principal or Chair of the Hearing panel invites the employees' nominated representatives to make a final statement if they wish.

Withdrawal

Both sides withdraw to allow the Principal, Executive Principal Chair of the Hearing panel to discuss findings and come to a decision. The Clerk to the committee and HR representative remain.

Both parties are asked to remain available in case there are any points to be clarified. If this is the case, both parties return while the points are clarified.

Decision

The Principal, Executive Principal or Chair of the Hearing panel recalls both sides.

Wherever possible the decision is announced verbally at that stage and it is explained that the decision will be confirmed in writing. If a decision cannot be made both parties will be recalled to the meeting and be advised that a decision will be made and communicated to them in writing.

The nominated representatives are told of their right to appeal the decision. If this meeting is the appeal meeting then the nominated representatives are told that the committee's decision is final.