

Woodley Church of England (Controlled) Primary School



Grievance (Including Bullying and Harassment) Policy

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1	14/11/07	New combined Grievance, bullying and harassment policy and guidance.
2	02/07/08	Amended to incorporate Delegated Powers related to Staffing Matters
3	28/10/09	Amended to reflect new legislation
4	26/03/12	Amended to include the appeals process and further employee guidance.
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List of Contents	Page No
1. Policy	4
2. Purpose	4
3. Scope	4
4. Equal Opportunities	4
5. Victimisation	4
6. Keeping written records	5
7. Exclusions	5
8. Grievance Procedure (Not Bullying and Harassment)	5
Informal Procedure	
9. Formal Procedure	6
9.1. Stage One	6
9.2. Formal Stage Two	8
10. Grievance Appeal	9
10.1. Appeal Stage	9
10.2. The Panel	9
10.3. The Appeal	9
11. Vexatious Complaints	
12. Head teachers	10
13. Time limits and Collective Disputes	10
14. Grievance Procedure - Bullying/ Harassment	11
14.1. Complaints	11
14.2. Vexatious Complaints	11
14.3. Confidentiality	11
14.4. Complaints - Informal Procedure	12
14.5. Complaints - Formal Procedure	13
14.6. Penalty	14
14.7. Victimisation	15
14.8. Redeployment	15
14.9. The Grievance Appeal	15

1. Policy

The School believes that every employee has a right to raise matters of concern relating to their work, working environment, or working relationships. The School also seeks to provide an environment for all employees, temporary and casual workers free from harassment, bullying, intimidation and victimisation and where people respect one another's human dignity.

All employees will be treated in a fair and consistent manner if they raise a grievance/complaint. All employees will be informed of the policy.

2. Purpose

This policy ensures that employees are able to raise a grievance/complaint and that they are resolved as quickly and as fairly as possible. Employees should be aware that separate procedures exist for appeals against the outcomes of discipline, capability, dismissal (including redundancy), and job evaluation.

3. Scope

The policy applies to all employees and temporary/casual workers of the School.

All those who work for Woodley C of E Primary School, whether employed or not, have a responsibility to ensure that bullying and harassment will not take place. The School views very seriously any act by any worker (no matter what level) of bullying or harassment. It is a breach of the Code of Conduct and Personal behaviour and may lead to a penalty under the Disciplinary Policy, which may, in certain circumstances, lead to dismissal. All employees must abide by the Code of Conduct and Personal Behaviour.

4. Equal Opportunities

All employees will be treated with respect and dignity throughout the grievance process in accordance with the Policy and Guidance for Equal Opportunities.

5. Victimisation

The Grievance Procedure provides a mechanism to solve problems and no member of staff shall suffer any form of victimisation as a result of a grievance raised in good faith under this procedure or as a result of giving evidence as a witness. Victimisation will not be tolerated from any level of the School. Any complaint of victimisation will be dealt with seriously, promptly and confidentially. The manager must follow the disciplinary procedure if it is found that victimisation has occurred.

6. Keeping written records

It is very important that written records are kept regarding all grievances that are raised. Records should include:

- The nature of the grievance
- What was decided and actions taken
- The reason for the actions
- Whether an appeal was lodged
- The outcome of the appeal
- Any subsequent developments.

7. Exclusions

The Policy and Guidance does not apply to matters concerning:

Disciplinary and conduct matters. See the Policy and Guidance for Discipline and the Code of Conduct. Where the action taken or contemplated by the manager is dismissal the grievance procedure does not apply.

Capability matters. (See the Policy and Guidance for Managing Sickness Absence and the Capability Policy). The grievance procedure does not apply to capability issues.

All of the above policies have an appeals procedure. Employees can appeal against any disciplinary/capability action taken following a formal hearing if:

- They believe that the action taken against them was not on the grounds of disciplinary or capability; and/or
- They felt the action against them constituted unlawful discrimination.

In circumstances where a grievance is raised by more than one complainant it is appropriate to resolve the problem through collective agreements between the trade union/recognised staff representatives and the School.

8. Grievance Procedure (Not Bullying and Harassment) Informal Procedure

Grievances can arise for a variety of reasons such as:

- Terms and conditions of employment
- Health and safety
- New working practices
- Working environment
- Organisational change

Where a grievance concerns a manager, employees considering a grievance should be aware that part of a manager's role is to:

- Set targets and objectives for employees and monitor their performance/achievement.
- Address poor performance, attendance or unacceptable behaviour using the appropriate procedures; Managers have the right to meet with employees where they have concerns about behaviour/attendance/performance. (Employees need to know what is expected of them);
- Issue instructions to employees;
- Set standards of behaviour, performance and attendance at work for employees and ensure they are observed;
- Review how work is carried out and if necessary restructure the team or redesign the job – this should be in consultation with those affected.

Employees also have a right to be managed effectively and appropriately.

Most routine complaints and grievances should be resolved **informally** in discussion between the complainant and their line manager. It is also in the best interests of everyone if grievances are dealt with as soon as possible and not allowed to become worse. An employee raising a grievance in good faith will not suffer any detriment. **All concerned must treat any grievances raised in confidence.**

The complainant should see their immediate line manager and make it clear that a concern is being raised informally.

If the complainant is dissatisfied with the outcome of the informal stage he or she may proceed to the formal stage.

9. Formal Procedure

9.1. Stage One

Where the grievance cannot be resolved informally or the employee believes the matter is too serious for the informal stage it should be dealt with under the formal procedure.

The employee or representative should put his or her grievance in writing to the appropriate line manager, stating specifically that he/she is raising a formal grievance. Where the grievance is with that person the matter should be raised with a more senior manager. If the grievance is with the Headteacher/Principal

the grievance should be made to the Chair of the Governing Body. The letter should include:

- The grievance
- The reason for dissatisfaction with the outcome of the informal stage
- The remedy being sought
- Any witness he/she wishes to call
- Any supporting documentation

See example in section 4 of the Toolkit

The appropriate line manager will normally invite the employee as soon as possible to attend a hearing in order to discuss the grievance and explore possible solutions. Within 5 working days of receiving notification of the grievance the meeting should be arranged at a mutually convenient date. It may require more than one meeting with the employee.

The manager should:

- Inform the complainant that he or she has the right to be accompanied at the meeting by a trade union representative, staff representative or a work colleague;
- Ask the complainant to state their grievance and ask him/her to consider how it can be settled;
- Ensure there is an open discussion of the grievance;
- The manager may need to consider adjourning the meeting to seek advice or investigate further;
- Take time to reflect before making a decision and then send a written response to the complainant.

The majority of grievances will not require a formal investigation by an independent manager and will be dealt with by the individual's line manager. Where different issues are raised including additional factors such as bullying or harassment an investigation may be required and all of the issues will be dealt with as a whole.

If the employee calls witnesses it is the responsibility of the manager of the witnesses to arrange time off for them to attend. The employee is responsible for asking the witnesses to attend the hearing and to bring any relevant material. It is an expectation that all employees will cooperate with the operation of the procedure which may include attending a hearing as a witness, if required. All statements submitted by witnesses must be signed.

The school's HR provider may be informed and may attend all formal stages of the procedure to advise and assist the parties in resolving the issues.

Once the line manager has investigated/obtained further advice (if appropriate)

and has discussed ways of resolving the grievance with the employee, a written response must be sent to the complainant. This must be within 5 working days of the hearing or, where there has not been a hearing, within 5 working days of receiving the written notification of the grievance. If it is not possible to respond within that period, the employee must be given an explanation for the delay and advised when a response can be expected.

The response will set out:

- what is understood to be the nature of the grievance;
- the details of the outcome reached;
- the reasons underlying the decision of the Deputy Head/appropriate manager and,
- the right to pursue the matter under the second formal stage of the procedure.

9.2. Formal Stage Two

If the grievance is not resolved to the individual's satisfaction at stage one and if further discussions with the appropriate line manager are unlikely to bring a resolution the employee may proceed to the second stage of the formal process. Within 10 working days of receiving the notification, he/she either personally or through a representative should raise the matter in writing with the Headteacher/Principal. The letter should include:

- The grievance
- The reason for dissatisfaction with the outcome of stage 1
- The remedy being sought
- Any witness he/she wishes to call
- Any supporting documentation

See example in section 4 of the Toolkit

The Headteacher/Principal will respond within 5 working days of being notified of the grievance and if necessary arrange a hearing. The employee should be informed that he/she has the right to be accompanied at the meeting by a trade union representative, staff representative or a work colleague.

Following the hearing the Headteacher/Principal must respond to the grievance in person and confirm in writing within 10 working days of the hearing. If it is not possible to respond within that period, the employee must be given an explanation for the delay and advised when a response can be expected.

The reply will set out:

- what is understood to be the nature of the grievance;
- the details of the outcome reached;

- the reasons underlying the decision of the Headteacher/Principal and,
- Information regarding any right of appeal to pursue the matter under the Grievance Appeal stage of the procedure, with the Governing Body.

10 Grievance Appeal

10.1. Appeal Stage

If the employee is dissatisfied, he/she may proceed to the appeals stage and request within 10 working days of the Headteacher/Principal's response that the matter is considered by a grievance appeal panel. The appeal panel's decision is final.

If the employee wishes to appeal to the Headteacher it must be in writing within ten working days of receipt of the written reply at the second formal stage. The letter should include:

- The grievance
- The reason for dissatisfaction with the outcome of stage 2
- The remedy being sought
- Any witness he/she wishes to call
- Any supporting documentation

(See example in section 4 of the Toolkit) The Headteacher will notify the Clerk to the Governors that an Appeal request has been received within 2 working days.

Within ten working days the Clerk to the Governors will arrange a meeting of the Governing Body's Appeals Panel and will notify the employee in writing of the arrangements for the hearing. See 10.3 'The Appeal' and section 7 in the Toolkit for details of the hearing.

Within ten working days of this hearing the employee will receive a letter from the Chairman of the panel confirming their final decision on the grievance. A second copy of the letter will be sent to the employee to pass to the Trade Union/Teachers' Association representative, if desired.

A meeting of the Governing Body's Staff Appeals Panel is the last stage in the Grievance Procedure and therefore the decision of the panel will be final.

10.2. The Panel

The Governing Body Panel will normally comprise of at least 2 governors

10.3. The Appeal

Employees will be given at least five working days' notice in writing of the appeal

hearing which should be heard as soon as possible.

The letter should include:

- Date, time and place of the grievance appeal
- The employee's right to be accompanied by a Union/staff representative or a work colleague
- The names of the members of the Grievance Appeal Panel
- The name of the person presenting the management case
- Copies of relevant paperwork, including a copy of the Policy and Procedure to Grievance
- Names of any management witnesses who will be called
- Reference to the employee's right to call witnesses

The Chair must ensure that the appeal is conducted fairly. A note taker must make a written record of the appeal. These notes should be formally agreed by the Chair and Panel within five working days of the appeal.

Complainant's may not add further grievances during the procedure. If a complainant raises unrelated grievances at a later stage in the procedure these must be referred back to stage 1 of the process.

11. Vexatious Complaints

Where a grievance is raised and, after investigation, is found to have been made maliciously, disciplinary action will be taken against the person making the false complaint and may result in dismissal.

12. Head teachers

Where the Headteacher/Principal has a grievance he/she should endeavour to resolve the matter by approaching the Chair of the Governing Body. If the matter remains unresolved the Headteacher/Principal will have the right to put the grievance before the Governing Body of the school/ college. The general principles and the time limits set out in this procedure should be observed where ever practicable.

13. Time limits and Collective Disputes

In individual cases, the time limits referred to in this procedure can be extended in exceptional circumstances or by mutual agreement.

In cases where an individual grievance develops into a collective dispute. The matter shall, with the consent of the interested parties, be referred from this procedure to the appropriate collective disputes procedure.

14. Grievance Procedure - Bullying/ Harassment

All bullying and harassment is misconduct and is a disciplinary offence which will be dealt with under the School's disciplinary policy. Bullying or harassment will often be gross misconduct, which can lead to dismissal without notice.

Bullying or harassment will constitute unlawful discrimination where it relates to one of the protected characteristics, which are sex, gender reassignment, race (which includes colour, nationality and ethnic or national origins), disability, sexual orientation, religion or belief and age. Serious bullying or harassment may amount to other civil or criminal civil offence under the Protection from Harassment Act 1997 and criminal offences of assault.

For a definition of Bullying and Harassment see section 2 of the Toolkit

14.1. Complaints

All complaints of unfair treatment depending on the nature of the complaints should first be made informally, unless allegations are too serious for such an approach. Where necessary the complaint should then be progressed through the formal procedure. The School will ensure a thorough investigation takes place of all formal complaints in a manner that avoids potential victimisation or retaliation against the complainant, the person/persons alleged to have harassed/bullied the complainant or any witnesses.

If the complaint is not upheld it does not mean that it was made in bad faith. A complaint has only been made in bad faith where there is evidence that the complainant has been deliberately dishonest rather than believing it to be a genuine complaint.

14.2. Vexatious Complaints

All complaints of harassment and bullying are assumed to be made in good faith unless there is evidence to the contrary. If however, an accusation is found to be vexatious or to have been made maliciously, it will be investigated and dealt with under the disciplinary procedure.

14.3. Confidentiality

Information to those other than the main parties should be strictly limited to an explanation that a complaint is being investigated. All those involved (the complainant, interviewees etc.) will be informed of the importance of confidentiality. The situation will be upsetting for all those concerned and although they may request support from colleagues as possible witnesses there is still a need for confidentiality and this should be made clear.

Managers/Head teachers must ensure that any rumour and/or discussion among their colleagues is kept firmly in check in order to prevent further disruption to the team and that failure to respect confidentiality may result in disciplinary action.

14.4. Complaints - Informal Procedure

There can sometimes be confusion regarding the understanding of where bullying starts and where sound management ends. Positive, clear management action that responds to misconduct or poor performance in a fair and consistent way in line with School policies does not constitute bullying or harassment, **see section 8 above and also section 3 of the Toolkit.**

There are a number of things employees need to consider:

- Has there been a change in management style to which they need time to adjust – new manager or new work requirements?
- Can they talk to someone about their concerns e.g. line manager /Union/staff representative?
- Can they agree a change to their workload or way of working that will make it easier for them to cope?

Most cases of harassment or bullying can be resolved informally. Complaints of harassment or bullying should be made **informally** initially wherever possible and then formally, if the informal route fails. The employee subject to harassment or bullying should:

- Record all details of any incidents – the date, times, nature of the incident(s) and names of any individuals who were witness to the incident(s);
- Make it clear to the alleged harasser/bully that the behaviour is unwanted and unwelcome and must stop immediately;
- If a complainant is uncomfortable speaking to the person, they should write to the alleged bully/harasser detailing the type of behaviour that is unacceptable and the distress that it is causing. The written request should be given to the harasser/bully or the complainant may ask a colleague to do so on their behalf and a copy kept by the complainant.

For further guidance **see section 5 the Toolkit.**

The complainant may wish their manager, or headteacher, a member of HR and/or their Union/staff representative to act as a mediator. Most cases are resolved once the harasser/bully has been made aware of their behaviour. It is recommended that the complainant keeps a written note if they approach their harasser directly, in case the formal procedure becomes necessary.

14.5. Complaints - Formal Procedure

Should informal methods fail or where serious harassment/bullying occurs, the complainant is advised to bring a formal complaint, and should seek assistance from his or her manager/ senior manager and/or Union/Staff Representative.

- The complaint should be made in writing and state:
- The name of the harasser/bully;
- The nature of the offence and specific details;
- Dates and times when the offence occurred;
- Names of any witnesses to the incidents;
- Any action/conversations already taken by the complainant to stop the harassment/bullying.

Where the line manager is involved in the alleged bullying/ harassment the complaint should be raised with the Union/Staff Representative, or a senior manager. A suitable, independent manager will be nominated as investigating manager. The Investigating Manager will interview and take details of incidents and dates from the complainant, and any witnesses, (see the Disciplinary Policy Toolkit for guidance on conducting an investigation). Both the complainant and alleged harasser/bully should be given the name of a member of staff who will support them through the investigation. This may be the staff/Union representative or a work colleague.

On receipt of a claim of harassment/bullying, the line manager/Headteacher will consider whether to separate the parties if this is deemed appropriate. This may involve temporary transfer or paid time off of the alleged harasser/bully.

The Headteacher will need to decide if there is a need to suspend an employee. A suitable member of staff must be nominated to be the contact during the period of suspension. Where the complaint involves accredited union representatives (stewards), it should be discussed with a full time official of the recognised Trade union.

The complainant can request/agree to being voluntarily transferred/take paid time off e.g. if there is an allegation of a number of staff bullying the individual. In exceptional cases of service need, the complainant may have to be moved. The alleged harasser/bully or complainant will be informed in writing of the allegation and of the reason for separation. It may be appropriate in some cases for both parties to be suspended. It should be made clear that suspension is not a disciplinary penalty and does not imply misconduct. The need for separation will

be monitored throughout the investigation. Contacts will be made available for both the complainant and alleged harasser/bully to provide further information.

The alleged harasser/bully will be informed of the complaint and the procedure being followed and offered support while the investigation is being carried out. He or she must be given every opportunity to respond to the complaint as part of the investigation process. **See section 6 of the Toolkit.**

The complainant and the alleged harasser/bully and interviewees will have the right to be accompanied by a work colleague, or a trade union /staff representative throughout the investigation. Individuals being interviewed will be sent notes of the interview for comment/observations.

The aim will be to complete the investigation within 15 working days of the investigating manager being appointed. Where individuals are temporarily unavailable or where there are a number of witnesses to interview, the complainant should be informed that the period will be extended.

The Investigating Manager will produce a written report summarising the complaint and the outcome of the investigation giving conclusions to the manager who will make a decision based on the conclusions and all the evidence. The complainant and the alleged harasser/bully will be informed of the decision both orally and in writing by the manager or headteacher as soon as the decision is reached. Possible outcomes will be either to:

- take no further action because the complaint is not founded, or there is insufficient evidence; or
- uphold the complaint and invoke the disciplinary procedure against the harasser/bully.

Independent of the outcome, remedies such as mediation, team development or an agreement between the parties of acceptable standards of behaviour may be useful.

Aside from the outcome of the complaint, discussions must also take place relating to future working arrangements.

The Headteacher or appropriate line manager will contact the complainant and the alleged harasser/bully one and six months after the end of the investigation, to ensure no further support is required.

14.6. Penalty

Where it is confirmed that harassment/bullying appears to have occurred, the disciplinary policy will be invoked.

14.7. Victimisation

If the disciplinary outcome falls short of dismissal, e.g. a formal warning, and both the victim and the offender work in close proximity, there may be a requirement to separate them to avoid claims of victimisation or a recurrence of the offence. Any inconvenience in such circumstances will be borne by the offender except in exceptional circumstances, e.g. where there is more than one offender or, temporarily, where no immediate cover can be found for the offender or business needs require his/ her presence.

Anyone who brings a complaint of harassment or bullying, or who gives evidence as a witness, will not suffer any victimisation. Any complaint of victimisation will be dealt with seriously, promptly and confidentially. Victimisation can result in disciplinary action and may warrant dismissal. However, if the complaint is untrue and is found to be vexatious or malicious disciplinary action may be taken against the complainant.

14.8. Redeployment

Redeployment may need to be considered after a formal investigation/disciplinary action has been completed. Where relationships have irredeemably broken down it may be advisable with agreement and where practicable, to redeploy one of the employees concerned.

14.9. The Grievance Appeal

Where the complainant is dissatisfied with the decision of the Headteacher or manager, they can appeal within 5 working days of receiving the decision to the Headteacher stating their grievance in writing and reason for the appeal. **Please see section 10 above.**