

# **East Midlands Academy Trust**

## **Grievance Policy 2015/17**

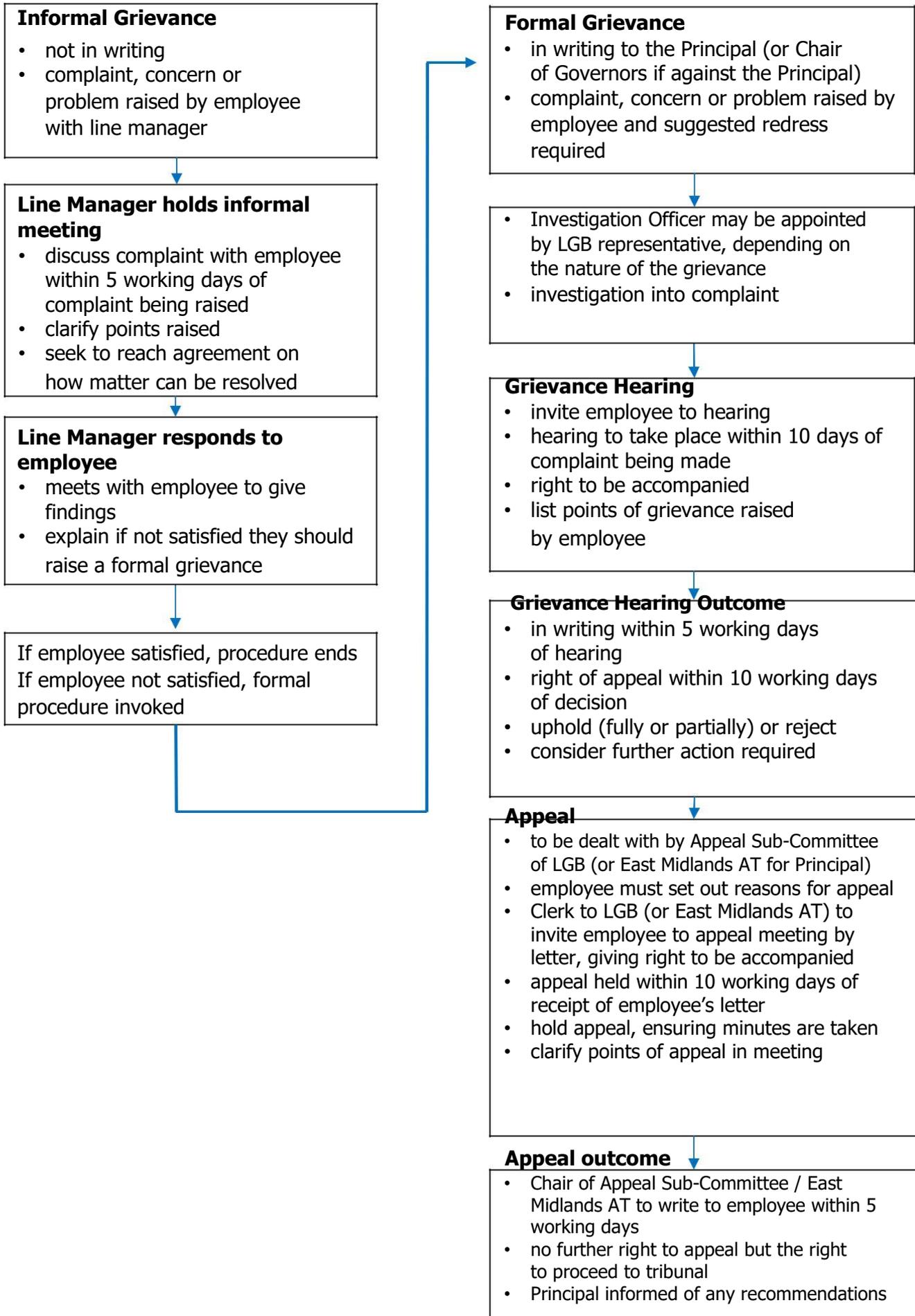
**'Every child deserves to be the best they can be'**



<b>Scope: East Midlands Academy Trust &amp; Academies within the Trust</b>	
<b>Version:</b> V2 14/10/15	<b>Filename:</b> East Midlands AT Grievance Policy
<b>Approval:</b> This policy was ratified by the East Midlands Academy Trust on: 17 <sup>th</sup> December 2015	<b>Next Review:</b> 16 <sup>th</sup> December 2017 <i>This policy will be reviewed annually by the Development, Safeguarding and Wellbeing Group and approved at the Strategic Board.</i>
<b>Owner:</b> East Midlands AT Strategic Board	<b>Union Status:</b> Agreed – 11 <sup>th</sup> November 2015

<b>Policy type:</b>	
Statutory	Replaces Academy's current policy

## Grievance Process – an overview



## **GRIEVANCE POLICY AND PROCEDURE**

### **1. Introduction**

East Midlands Academy Trust is committed to creating a positive working environment but recognises that there may be occasions where an employee may wish to raise a concern, problem or complaint arising out of his or her employment. On many occasions the issue will be resolved quickly and informally but when this is not possible a formal procedure is available.

East Midlands Academy Trust will adhere to all relevant legislation, specifically to the Trade Union and Labour Relations (Consolidation) Act (TULR(C)A) 1992 and Employers Relations Act 1999.

### **2. Purpose**

This policy aims to:

- Encourage a harmonious working environment;
- Promote sound employment practice;
- Enable any employee to have a legitimate grievance heard;
- Resolve grievances quickly and equitably;
- Determine grievances as close to their source as possible.

### **3. Governance**

The Local Governing Board (LGB) is a committee of East Midlands Academy Trust. The LGB is responsible for implementing the disciplinary and grievance rules and procedures for staff, in the context of any procedures and / or guidance issued by the East Midlands Academy Trust Board. However, they may delegate these matters to either:

- The Principal;
- A sub-committee of the LGB; or
- A sub-committee and the Principal.

Therefore, where this procedure refers to the LGB representative this can be any one of the above, depending on the nature and circumstances of the grievance.

None of the above can be part of the process if they are named in the grievance.

#### **4. Scope**

This procedure applies to all employees of East Midlands Academy Trust. It is not a substitute for good employment practices, and every effort should be made by all parties to resolve grievances in a fair and just manner at the earliest opportunity without invoking this procedure.

Where the procedure has been invoked, all parties should still make every effort to ensure the grievance is resolved in a fair and just manner.

This Policy has been developed in line with the ACAS code on Disciplinary Procedures.

#### **5. Equal Opportunities**

The Grievance Procedure must always be applied fairly and in accordance with employment law and Equalities Legislation.

#### **6. Responsibilities**

Management and employee representatives who may be involved in grievance matters should be competent for the task. They should be familiar with the provisions of the grievance procedure, and know how to conduct or represent at grievance hearings.

#### **7. Timing**

Grievance matters should normally be conducted within the timescales laid down in the procedure. However, if there is a valid reason to do so, timescales can be varied by mutual agreement. If this is initiated by management, the employee should be given an explanation and informed when a response or meeting can be expected.

All efforts should be made by employees to attend meetings that constitute part of this procedure. When there are valid reasons to reschedule meetings then these should be rearranged without undue delay.

#### **8. When the procedure is used**

This procedure can be used for any matter directly arising out of an employee's employment except where another more specific process exists for that purpose.

#### **9. Informal Stage**

Day- to-day issues will normally be resolved through dialogue between the employee and their line manager / Principal, or other party to the grievance if this is not the employee's manager or supervisor. An employee should first raise a grievance orally with their immediate manager. If the grievance relates to the employee's immediate manager, or

member of the SLT or Principal, the formal stage of the grievance procedure may be invoked immediately.

An informal meeting between the line manager / Principal will allow them to discuss on a one-to-one basis outside of the formal process. This meeting should take place within 5 working days of the employee raising their complaint. A decision will be communicated to the employee within 5 working days of this meeting, usually orally. Although the date of any informal discussions and actions agreed should be recorded, no formal notes of these meetings will be made as these discussions do not form part of the formal processes.

In certain circumstances it may, with mutual agreement, be helpful to seek external advice and assistance during the grievance procedure. For instance, where relationships have broken down, referral to an external facilitator might be able to help resolve the problem.

## **10. Formal Stage**

If, following the informal stage, the employee remains aggrieved, or where the manager has failed to respond to the employee's concerns despite a written request to do so, they may progress to the next stage of the procedure. This must be done by writing to the Principal, giving full details of the complaint and the redress required within 5 working days of notification of the immediate manager's decision. The formal grievance must normally be raised within 3 months of the event giving rise to the grievance.

As delegated by the LGB, the person(s) hearing the grievance will write to the employee giving details of the hearing, which will normally take place within 10 working days of receipt of the grievance. If this date is not convenient, three alternative dates should be proposed.

A representative from East Midlands Academy Trust may also attend to advise on procedural matters and matters of precedent. The employee will be entitled to be accompanied by a trade union representative or a work colleague.

The LGB representative may arrange for a preliminary investigation to be conducted prior to the hearing, and may decide to adjourn the hearing for up to 10 days, in order to conduct further investigations.

The LGB representative will communicate their decision in writing to the employee within 5 working days of the hearing. The employee must be notified of their right to appeal within 10 working days of the decision.

## **11. Appeal Sub-Committee**

Appeals will be heard by the Appeals Sub-Committee or East Midlands Academy Trust in the case of a Principal. Appeals against grievance decisions will usually be considered in relation to one or more of the following grounds:

- (i) **The Procedure** – the grounds of appeal should detail how procedural irregularities prejudiced the grievance decision.
- (ii) **The Facts** – the grounds of appeal should detail how the facts do not support the decision or were misinterpreted or disregarded. They should also detail any new evidence to be considered.
- (iii) **The Proposed Action** – the grounds of the appeal should detail how the proposed action is inappropriate given the circumstances of the case.

The Clerk to the Governors, or East Midlands Academy Trust in the case of a Principal, will write to the employee, giving details of the appeal hearing, which will normally take place within 10 working days of receipt of the employee's appeal. The letter will inform the employee of their right to be accompanied at the appeal hearing by a trade union representative or work colleague.

The Chair will communicate the decision, which will be final, in writing to the employee within 5 working days of the appeal hearing.

## **12. Overlapping grievance and disciplinary cases**

Where an employee raises a grievance during a disciplinary process the disciplinary process may be temporarily suspended in order to deal with the grievance. Where the grievance and disciplinary cases are related, it may be appropriate to deal with both concurrently. East Midlands Academy Trust HR should be contacted for further advice.

## **13. Abuse of the Grievance Procedure**

Employees who abuse the grievance resolution procedure by making malicious complaints or operating the procedure vexatiously may be liable to disciplinary action.

## **14. Grievances resulting in disciplinary action**

If the employee's grievance results in disciplinary proceedings against another employee, these will be handled in line with the disciplinary procedure. The employee raising the grievance has no right to influence or be informed of the outcome. However, the employee raising the grievance may be called as a witness to any disciplinary hearing.

## **15. Collective Grievances**

In circumstances where a grievance is raised by, or on behalf of, more than one person, the details of the grievance must be set out in writing and signed by all who are party to the grievance. The employees should nominate one person to represent the group, in most cases this will be the trade union representative or trade union representatives where the employees involved are members of more than one trade union.

Where the collective grievance/ dispute are part of a lawful industrial action the trade union will comply with the relevant legislation. There is no requirement to provide any members details.

## **16. Review**

This policy will be reviewed every two years in consultation with the recognised trade unions.

## **APPENDIX 1 - A GUIDE TO CONDUCTING THE GRIEVANCE HEARING AND APPEAL**

### **1 Introductions**

The Chair introduces him / herself and allows an opportunity for all those present to do so. The Chair ensures that all procedural steps have been adhered to and confirms the order of the agenda with all those present.

### **2 Nature of the complaint**

The Chair checks that all parties have the relevant documents and identifies the specific allegation / complaint.

### **3 Representation by management**

The Chair asks the investigating officer / management to present the case (including questions of witnesses).

### **4 Questions by employee**

The Employee and / or representative may ask points of clarification from management or witnesses after they have given evidence.

### **5 Questions by Chair or panel**

Panel members may ask points of clarification from management or witnesses.

### **6 Presentation by employee**

The employee and / or their representative will present his / her case, including calling any witnesses. Witnesses called may be the East Midlands Academy Trust HR representative who has given advice on dealing with the grievance.

### **7 Questions by management**

Management may ask points of clarification from the employee / representative, including any witnesses after they have given evidence.

### **8 Questions by Chair of panel**

Panel members may ask points of clarification from the employee / representative, including each of the employee's witnesses after they have given evidence.

### **9 Re-examination of witnesses**

Both parties may re-examine their witnesses after they have been asked questions by the other party.

## **10 Questions by Chair of panel**

Panel members may wish to ask further questions of either side.

## **11 Final statement by management**

The Investigator may make a final statement.

## **12 Final statement by employee**

The employee and / or representative may make a final statement.

## **13 Withdrawal**

Both parties withdraw to allow the panel to discuss the findings and come to a decision. The HR adviser and note-taker to the panel will remain. Both parties may be asked to remain available in case the committee need to clarify any points.

## **14 Adjournments**

Either party may ask for an adjournment during the course of the hearing.

## **15 Sufficient breaks**

The Chair should ensure that there are sufficient breaks. If new information is presented during the course of the hearing, the Chair of the panel may decide to adjourn to allow all parties to consider it.

## **16 Minutes**

Minutes of the meeting should be taken by either the Clerk to the Governing Body or a person experienced in taking detailed and accurate minutes. These will be circulated to all parties and will be part of any documentation used as part of an appeal.

## **The Appeal**

The agenda for an appeal hearing will follow the same format as outlined above, except the employee will be asked to state their case first.

The Chair of the panel for the first hearing will respond by addressing the grounds of appeal and explaining the rationale behind the decision of the panel. He / she may be supported by the HR adviser who advised the panel at the first hearing and may ask the person who presented the management case in the first hearing to appear as a witness.

The Appeal panel will be advised by an HR adviser; the hearing must be minuted.

All parties should be given the documents presented in the first hearing, along with a copy of the minutes from the first hearing, a copy of the outcome letter from the Chair of the first panel and a copy of the letter of appeal from the employee.

The decision of the appeal panel is final and the outcome communicated in writing within five working days by the Chair of the appeal panel.

## **Appendix 2 – Model Letters**

### **Model Invitation Letter to a Formal Grievance Hearing**

#### **Private and Confidential**

[EMPLOYEE NAME]

[EMPLOYEE ADDRESS]

[DATE]

Dear [NAME OF EMPLOYEE],

#### **Invitation to a grievance meeting**

I am writing further to your letter dated [DATE] in which you lodged a formal grievance. I enclose a copy of the East Midlands Academy Trust Grievance Procedure for your information and for your reference during this process.

You are now invited to attend a grievance meeting on [DATE] at [TIME] at [LOCATION] at which your grievance will be discussed.

If this date is not convenient for you or your representative please provide three alternate dates within five working days of receipt.

[INSERT NAME] has been delegated by the Local Governing Board to chair the meeting. [INSERT NAME] will be attending to take notes and [INSERT NAME] [INSERT JOB TITLE] will be attending to provide procedural advice. (This may be the Business Manager / Bursar or East Midlands Academy Trust HR / HR provider.)

Please ensure that you bring with you to the meeting the full details of your complaint and any evidence that is relevant. This could include the times and dates of any alleged incidents, the names of any witnesses, letters, emails, faxes or other documentary evidence that will assist the academy in investigating your concerns.

You have the statutory right to be accompanied at the grievance meeting. Your companion may be either a work colleague or a trade union official of your choice. Your companion will be permitted to address the meeting and to confer with you during the meeting but they will not be permitted to answer any questions on your behalf.

If you or your chosen companion is unable to attend this grievance meeting, you are asked to contact [NAME] as a matter of urgency so that an alternative date and time can be scheduled. You should take all reasonable steps to attend the grievance meeting. Failure to attend without good reason could result in the meeting being held, and a decision on your grievance being taken in your absence.

Yours sincerely,

[NAME]

[TITLE]

## **Model Letter Stating Outcome of Formal Grievance Hearing**

### **Private and Confidential**

[EMPLOYEE NAME]

[EMPLOYEE ADDRESS]

[DATE]

Dear [NAME OF EMPLOYEE],

### **Outcome of grievance meeting**

I am writing further to the grievance meeting held on [DATE].

I am now able to confirm to you my findings following your grievance regarding:

1. [LIST POINTS OF GRIEVANCE].
2. ...

Following a review of all the evidence, I have made the following findings:

1. [LIST/DETAIL FINDINGS].
2. ...

[Your grievance has not been upheld on all points] **OR** [Your grievance has been partially upheld] **OR** [Your grievance has been fully upheld].

I hope that you will be reassured that East Midlands Academy Trust is committed to resolving internal disputes and this has been demonstrated by the recent meeting that has taken place where your concerns were listened to and any further action required considered.

If you are unhappy with the decision that has been taken in relation to your grievance, you have the right to make a final appeal. Any appeal should be made in writing, clearly stating your grounds for appeal and should be submitted within ten working days of receipt of this letter, addressed to [NAME].

Yours sincerely,

[NAME]

[TITLE]

## **Model Letter Notifying and Appeal Hearing**

### **Private and Confidential**

[EMPLOYEE NAME]

[EMPLOYEE ADDRESS]

[DATE]

Dear [NAME OF EMPLOYEE],

### **Invitation to Appeals Sub-Committee Hearing**

I am writing further to your letter dated [DATE] lodging an appeal against the decision not to uphold your grievance.

Your appeal will take place on [DATE] at [TIME] at [LOCATION]. The Appeal panel will consist [INSERT NAMES OF PANEL OF THREE GOVERNORS STATING WHO WILL CHAIR MEETING] and [NAME] will also be present to take an attendance note of the meeting and [INSERT NAME AND JOB TITLE] will be advising the panel.

You have the statutory right to be accompanied at the grievance appeal meeting. Your companion may be either a work colleague or a trade union official of your choice. Your companion will be permitted to address the meeting and to confer with you during the meeting but they will not be permitted to answer any questions on your behalf.

If you or your chosen companion is unable to attend this appeal meeting, you are asked to contact [NAME] as a matter of urgency so that an alternative date and time can be scheduled. You should take all reasonable steps to attend the appeal meeting. Failure to attend without good reason could result in the meeting being held and a decision on your appeal being taken in your absence.

Please note that the decision made following this grievance appeal hearing will be final and there will be no further right of appeal against it.

Yours sincerely,

[NAME]

[TITLE]

## **Model Letter Stating Outcome of Appeal Hearing**

### **Private and Confidential**

[EMPLOYEE NAME]

[EMPLOYEE ADDRESS]

[DATE]

Dear [NAME OF EMPLOYEE],

### **Outcome of appeal hearing**

Following the appeal hearing held on [date] attended by [INSERT NAMES], I write to inform you of the outcome of the hearing.

Your grounds for appeal were:

1. [List grounds for appeal]
- 2.

Following a review of all the evidence and comments presented to the Appeal Panel, it is found that:

1. [list /detail evidence]
- 2.

The Appeal Panel has, therefore, decided that:

The outcome of the grievance hearing was correct therefore the matter is now closed

or

The outcome of the grievance hearing is not upheld and the Appeal Panel recommend:

[LIST RECOMMENDATIONS]. The Principal has also been informed of these recommendations.

You have now exercised your right of appeal under East Midlands Academy Trust's Grievance Procedure and this decision is final.

Yours sincerely

[NAME]

[TITLE]