Raddlebarn Primary & Nursery School
Grievance Policy 2024

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1.0 Introduction

1.1 The following procedure has been adopted by the governing body of Raddlebarn Primary School in accordance with the requirements of paragraph 7 of the School Staffing (England) Regulations 2009 (the Regulations) for the governing body to establish procedures for the regulation of the conduct and discipline of staff at the school and by which staff may seek redress for any grievance relating to their work at the school

1.2 In this procedure:

- 'Local Authority' means Birmingham City Council acting in its capacity as a Local Education Authority;
- Any reference to a 'school' also includes an 'academy';
- Any reference to a committee of the governing body also includes an 'academy trust', 'board of directors/trustees' or equivalent body for an academy;
- reference to a 'headteacher' includes a 'principal' in an academy as appropriate; and
- 'Employee' means any person who is employed by the school or academy under a contract of employment.
- The employee's "chosen companion" is defined in employment law as a trade union representative or a co-worker at the same workplace chosen by the employee

1.3 The procedure sets out the steps that will be taken when a grievance is raised by an employee. A grievance is a concern, problem or grievance that an employee or a group of employees might raise with their employer about their work, their terms and conditions of employment, their working environment or their relationship with colleagues.

1.4 The procedure is designed to:

- ensure that employees who have a grievance about their employment are aware of their rights and have a clear framework to enable the grievance to be dealt with;
- encourage employees to communicate their problems with the appropriate people i.e. between employees and their headteacher (or between headteachers and their chair of governors); and
- encourage parties to deal with grievances fairly, consistently, and speedily and as near as possible to the point of origin.

1.5 The governing body encourages employees to resolve grievances in an informal manner and without recourse to the formal grievance procedure wherever possible.

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1.6 Employees raising a grievance should be able to do so without fear of victimisation as a result of the grievance or any subsequent investigation/management action. All grievances shall be dealt with in a non-discriminatory and consistent way.

1.7 If an employee feels that they have been victimised as a result of raising a grievance, there are various routes that they can take in order to resolve the matter legally. Employees will be encouraged to seek advice from their trade union or professional association.

2.0 Scope

2.1 The procedure applies to all employees at the school. 'Employee' means a person employed to work at the school or in provision made by the governing body under the Education Acts, other than a person employed by a contractor, including by the authority acting as contractor, or who is self-employed.

2.2 The procedure applies to both individual and collective grievances, i.e. those grievances raised by two or more employees about an issue that affects them all.

2.3 There are alternative procedures for the following:

- Concerns, problems or complaints made under the Public Interest Disclosure Act, which should be dealt with under the whistle-blowing procedure adopted by the governing body,
- Allegations of bullying or harassment, which should be dealt with under the Dignity at Work Policy adopted by the governing body, unless an employee chooses to use the grievance procedure, in which case the employee must adhere to the grievance procedure and should not subsequently ask for the same allegation(s) to be considered under the Dignity at Work procedure.
- Concerns, problems or complaints that a teaching employee may have about pay or grading, should be dealt with under the pay policy adopted by the governing body. This may exclude complaints about how appraisal/performance management was managed which might be made under this procedure. Concerns, problems or complaints that a non-teaching employee may have about pay or grading, should be dealt with in the spirit of the pay policy adopted by governing body.
- Concerns, problems or complaints about disciplinary action, which should be raised by the employee during the disciplinary procedure adopted by the governing body.
- Concerns, problems or complaints about an actual or contemplated dismissal by an employer, which should be dealt with under the relevant procedures adopted by the governing body for the actual or contemplated dismissal.
- Concerns, problems or complaints about recruitment and selection of employees, which should be dealt with under the governing body's recruitment and selection complaints procedure.

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- Concerns, problems or complaints that an employee may have over national insurance, income tax or rules of pension schemes, which are generally outside of the school's control and which should be raised with the appropriate bodies such as the Inland Revenue or the Teachers' Pension Scheme.
- Concerns, problems or complaints that an employee may have about conditions of service outside the control of the governing body (for example, the sick pay and maternity leave schemes adopted by the employer under national or local agreements) as distinct from the way in which those conditions have been interpreted and applied by the governing body or staff of the school.
- Any other matters which are outside the control of the school.

Therefore, this grievance procedure does not apply.

2.4 If an employee raises multiple complaints including one or more which, if submitted individually, would be dealt with under one of the procedures listed above, or if it is unclear whether the complaint is a grievance which should be dealt with under this procedure or whether it falls within other procedures (examples of which are listed in 2.3 above), the employee will be asked whether they wish the complaints to be heard under the grievance procedure or under another procedure (such as dignity at work).The aim is not to preclude genuine concerns from being raised, however an employee is not able to raise the same complaint using different procedures.

3.0 Principles

3.1 The governing body accepts the following principles:

- Employees with a grievance about their employment have a right to raise that grievance and to have it heard.
- Wherever possible, grievances should be dealt with at the early stages of the procedure and by way of informal discussions.
- Where formal action is needed, what action is reasonable or justified will depend on all the circumstances of the particular case.
- Whenever formal action is taken, it is important to deal with issues fairly.

3.2 In addition, the governing body acknowledges that the ACAS Code includes the following key principles:

- Employers and employees should raise and deal with issues promptly and should not unreasonably delay meetings, decisions or confirmation of those decisions.
- Employers and employees should act consistently.

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- Employers should carry out any necessary investigations, to establish the facts of the case.
- Employers should allow employees to be accompanied at any formal grievance meeting.
- Employees must be given an opportunity to appeal against any formal decision made.

3.3 If any aspect of the grievance procedure causes an employee difficulty on account of any disability that they may have, the employee should raise this issue with their line manager, supervisor or other senior member of staff, who will make appropriate arrangements. Reasonable adjustments may include allowing an employee extra time or other help, although these examples are not exhaustive.

4.0 Informal Resolution

4.1 The governing body encourages employees to resolve grievances in an informal manner and without recourse to the formal grievance procedure wherever possible.

4.2 The governing body acknowledges that the ACAS Code does not prescribe how grievances should be dealt with or resolved informally. Informal resolution is likely to involve direct discussions between an aggrieved employee and the person or persons perceived to be either the source of the grievance or who are best placed to assist in its resolution. However, it is recognised that employees may be reluctant to engage in such discussions without the support of a workplace colleague or trade union representative. This will be permissible at informal meetings, on the understanding that the meeting takes place on an informal, non-adversarial basis. In such informal meetings either party may withdraw at any point. If a direct approach to the person or persons perceived to be the source of the grievance is inappropriate or unsuccessful, even with the support of a companion, the employee may wish to seek resolution indirectly, by asking someone, such as a manager, phase leader, or head of department, to try to resolve the grievance on their behalf.

4.3 Mediation may also be appropriate at this stage provided that the complainant and the person allegedly causing the unacceptable treatment or behaviour express a mutual desire to attempt it and the mediator believes that the situation lends itself to this process. Staff wishing to attempt this may ask the headteacher to refer to the LA's impartial mediation service or may wish to approach an alternative mediator such as ACAS. Mediators should be trained, accredited and impartial with experience of resolving disputes.

4.4 Mediation may be attempted at any stage of this process subject to agreement between the parties. However, if it is attempted, the formal process will be suspended pending the outcome of the mediation process. If the mediation process is unsuccessful, this policy will continue at the appropriate point.

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4.5 If, however, an employee does not feel able to pursue a grievance informally, they may make a formal grievance. Similarly, an employee who has endeavoured to resolve the grievance informally but without apparent success may also lodge a formal grievance.

5.0 Formal Resolution

5.1 If an employee wishes to raise a grievance formally, they must state the grievance in writing. The employee is required to be explicit about the nature of the grievance and wherever possible to indicate the desired resolution or action that they would like the school to take to resolve the grievance. Employees should indicate whether there has been an attempt to resolve the grievance informally. Employees should also stick to the facts. If the employee wishes to submit written evidence in support of their formal grievance, it should be attached to the statement of formal grievance or letter, or shared as soon as possible after the grievance is submitted, but before any meeting takes place. If the written statement of grievance is unclear, the employee may be asked to clarify it before any meeting takes place.

5.2 Staff should do all that they reasonably can to lodge a formal grievance within 20-working days of the incident taking place. However, it is recognised that grievances of this nature may relate to cumulative actions taking place over a period of time. If this is the case, whilst these may be detailed in the grievance, the formal process may only be entered into if staff do all they reasonably can to lodge a formal grievance within 20-working days of the latest incident or informal meeting from which the employee remained dissatisfied.

5.3 The formal grievance should be sent to the headteacher (unless the grievance is about the headteacher, in which case it should be passed to the chair of governors). If the grievance is also against the chair, it should be passed to the vice-chair or another independent governor. Grievances made by a headteacher (for example against governor(s)) should be passed to School and Governor Support in the first instance. If for any reason, the member of staff feels uncomfortable raising a formal grievance about a headteacher with the chair or vice chair, they should take advice from their trade union representative. Where grievances are made against Governors, a copy should be sent to School and Governor Support. In very serious cases, a criminal offence may be alleged, and the member of staff may also wish to report matters directly to the police.

5.4 If a member of staff raises multiple grievances but it is unclear whether they should be dealt with under this Policy or another (for example Dignity at Work), they will be asked to clarify under which Policy they wish the grievances to be dealt with. However, the same grievance cannot be heard under this Policy and the Dignity at Work procedure.

6.0 Grievance Meeting

6.1 The person in receipt of the formal Grievance will write to the employee inviting the employee to a formal grievance meeting. The meeting will be held as soon as is reasonably practicable, ideally, within 10-working days. The letter will acknowledge the

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grievance and explain the purpose of the meeting, i.e., to discuss the concerns that have been raised and ways of resolving the issues. The employee should also be informed of their right to be accompanied by a chosen companion.

6.2 Following Grievance meeting with the employee, the headteacher or chair of governors will inform the employee(s) concerned to notify them of the allegations being made and explain the next steps. If the allegations are serious, the headteacher (or chair or vice-chair of governors as the case may be) may decide to suspend an employee(s) in accordance with the disciplinary procedure adopted by the School. The disciplinary procedure includes the need for preliminary investigations before deciding what action to take.

6.3 If the disciplinary procedure applies, the headteacher or chair of governors will inform the employee(s) who raised the grievance that their concerns will now form part of the disciplinary procedure and they will be expected to participate as a witness, where required. Therefore, their grievance will no longer be managed under this procedure.

In extreme cases, the school may need to seek advice from their chosen Employee Relations team on the use of the disciplinary procedure with regard to the person allegedly causing the unacceptable treatment or behaviour. In these circumstances the two processes will run in parallel but the Disciplinary Procedure will be applied to the person allegedly causing the unacceptable treatment or behaviour.

6.4 In extreme cases, there may be a requirement to invoke the Some Other Substantial Reason Procedure.

6.4 The meeting will be chaired by the person in receipt of the written statement of grievance, who will be accompanied by an appropriate person to take notes and may be accompanied by a representative from their chosen Employee Relations team. The aim of the meeting is to find a way forward. At the meeting, the employee will be asked to explain the nature of the grievance and invited to suggest how it might be resolved. Whilst the employee should be given every opportunity to explain their case fully, they should confine their explanation to matters that are directly relevant to the grievance. The person chairing the meeting will ensure that the discussion concentrates on the grievance(s) set out in the Formal Grievance or grievance letter.

6.5 Following preliminary enquiries by the headteacher or chair of governors, if an independent investigation is required the Commissioning Officer should:

- arrange for the grievance to be investigated promptly by contacting their chosen Employee Relations team and commissioning an independent investigator. The investigator should be suitably trained or experienced.
- send a copy of the Terms of Reference for the investigation to the complainant in order that they may comment.
- send a letter to the employees concerned (including witnesses) to confirm that they will be contacted by an independent investigator and invited to an investigation meeting where they can be accompanied by their chosen companion.

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7.0 Possible Outcomes

7.1 Whatever the outcome, the Commissioning Officer should meet with the Complainant and then the person allegedly causing the unacceptable treatment or behaviour individually to discuss the findings. The Complainant shall be entitled to see a full copy of the investigation report and appendices. This will be sent to the complainant in advance of the meeting, but it must be kept confidential, to be shared only with representatives. In addition, if the matter leads to a disciplinary hearing against the person allegedly causing the unacceptable treatment or behaviour, they will be entitled to receive a full copy of the investigation report and appendices.

7.2 The outcome and the next steps are entirely the decision of the Commissioning Officer. This decision will be based on the facts presented in the report and advice from their chosen Employee Relations team. Outcomes may be:

- The Grievance is upheld and appropriate management action is taken against the person causing the unwanted behaviour. This may be formal action, such as disciplinary or capability procedures; or may be informal, such as training or a management discussion.
- The grievance is not upheld and no further action will be taken.
- There may be instances where some points are upheld, and others not. In these cases, they are partially upheld.

7.3 If the Commissioning Officer considers, having regard to the investigator's report, that there is a case to answer for disciplinary action against the person allegedly causing the unacceptable treatment or behaviour, these findings should be discussed with their chosen Employee Relations team and next steps agreed. It is good practice for the Commissioning Officer to keep the complainant and the person allegedly causing the unacceptable treatment or behaviour updated. There should not be a requirement to commission a further investigation.

7.4 The Commissioning Officer shall summarise the conclusions of the grievance in a letter. The complainant should be informed of the right of appeal, both at the meeting and subsequently in writing.

7.5 There may be some circumstances where the complainant isn't able to attend a meeting or makes a request to not attend. In these circumstances, the complainant may request to only receive feedback in writing. The feedback will include details of the complainant's right of appeal.

8.0 Appeals

8.1 If there is a requirement for an appeal, please contact your chosen Employee Relations Provider.

If there is an appeal, the appeal committee may:

a) dismiss/reject the employee's appeal (so that the original outcome stands); or

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b) uphold/accept the employee's appeal and determine what further action should be taken. This may include requesting the Commissioning Officer to re-open the investigation on the basis that it has been mismanaged. In these circumstances, it will usually be appropriate for a new and impartial Investigating Officer to be commissioned.

9.0 Malicious and Vexatious allegations

9.1 The fact that an allegation has not been substantiated following a formal investigation does not mean that it should be considered as malicious or vexatious. No action will be taken against any member of staff who makes an allegation in good faith, reasonably believing it to be true, even if the outcome is that there is no case to answer.

9.2 However, after receiving advice from their chosen Employee Relations team, there may be exceptional cases which lead the Commissioning Officer to believe that a grievance is malicious or vexatious. In these circumstances, the school should ensure that a new investigation is conducted under the Disciplinary Procedure against the original complainant, with new terms of reference. Following this process, the investigator may conclude that there is no case to answer or that the matter should continue to be dealt with as a disciplinary matter in accordance with the school's disciplinary procedure.

10.0 Collective Grievances

10.1 The governing body acknowledges that provisions of the ACAS Code on grievance procedures do not apply to grievances raised on behalf of two or more employees by a representative of a recognised trade union or other appropriate workplace colleague and therefore provides for these grievances to be handled in accordance with this section of the grievance procedure adopted by the School, although the relevant stages referred to above will still apply.

10.2 If more than one employee within the school raises an identical grievance the person in receipt of those employees' grievances shall draw their attention to this section of the procedure and, if the employees have not already nominated a representative or representatives, invite them to do so and to proceed with a collective grievance. If any of the employees declines that invitation and asks for their grievance to be heard separately as an individual grievance, the person in receipt of the grievance shall consider and decide on that request, having regard to the circumstances giving rise to the grievance on the part of that employee.

11.0 Nominated Representative

11.1 Employees wishing to pursue a collective grievance should nominate individual(s) known as "nominated representatives" to represent their interests throughout the process. Nominated representatives may be another employee at the School and/or a recognised trade union official and will be responsible for representing the interests of

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all employees who are party to the collective grievance, including presenting the case on their behalf at meetings and hearings.

12.0 Informal Resolution

12.1 The governing body encourages employees to resolve grievances in an informal manner and without recourse to the formal grievance procedure wherever possible. Employees who consider that they have a collective grievance are therefore encouraged to follow the guidance on informal resolution set out in section 4 of this procedure.

13.0 Formal Resolution

13.1 Once the relevant employees have nominated a representative or representatives and wish to proceed to formal resolution of their collective grievance, the representative(s) should prepare a written statement setting out that grievance and arrange for that statement to be signed by all employees who are party to the grievance (alternatively, employees may sign separate copies of the statement and forward those copies to their nominated representative(s)).

13.2 The formal grievance should be sent to the headteacher (unless the grievance is about the headteacher, in which case it should be passed to the chair of governors). If the grievance is also against the chair, it should be passed to the vice-chair or another independent governor. Grievances made by a headteacher (for example against governor(s)) should be passed to School and Governor Support in the first instance. If for any reason, the members of staff feel uncomfortable raising a formal grievance about a headteacher with the chair or vice chair, they should take advice from their trade union representative. Where grievances are made against Governors, a copy should be sent to School and Governor Support. In very serious cases, a criminal offence may be alleged and the member of staff may also wish to report matters directly to the police.

The written statement should include:

- The names, job titles and contact details of all employees wishing to raise the grievance;
- The name and contact details of the nominated representative(s);
- Details of the grievance including explicit examples, dates and times of issues and events giving rise to the collective grievance;
- Details of how they would like the grievance to be resolved;
- Confirmation that each employee has voluntarily consented to invoke the collective grievance procedure;
- Confirmation that each employee understands that the grievance will give each employee the right to only one collective grievance hearing, one identical outcome and (if applicable) one appeal hearing and appeal outcome
- The signatures of all relevant employees to whom the grievance; and
- The date

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14.0 Formal Collective Grievance Meeting, Hearing and Appeal

14.1 Arrangements for formal collective grievance meetings, including investigations where agreed, will follow the formal procedure for as above in section 6, except that correspondence will be between the person in receipt of the written grievance and the nominated representative(s) rather than the employees. Prior to the grievance meeting, the nominated representatives must inform the clerk to the governing body of the names of the employees attending the meeting and any witnesses they wish to attend.

14.2 The results of any investigation will be shared with the nominated representative(s) on behalf of the employees.

14.3 If, following the grievance outcome, some employees are satisfied with the outcome and do not wish to proceed to an appeal, the request for an appeal should clearly identify those employees who are withdrawing from the process and those wishing to pursue the appeal. In the event of more than one employee wishing to appeal, the nominated representative(s) will be responsible for submitting the appeal in writing to the clerk to the governing body in accordance with the procedure for appealing in the case of individual grievances (section 6) and the correspondence will be between the clerk and the nominated representative(s). If only one employee wishes to appeal, the individual grievance procedure will apply.

14.4 Following the appeal hearing, the nominated representative(s) will be informed of the outcome within 10 working days. The outcome of this hearing will be final.

15.0 Failure to Agree Following Negotiations

15.1 In exceptional circumstances, the parties to a collective grievance may still fail to agree despite the collective grievance procedure being exhausted. If a dispute is declared, the matter may be referred for conciliation in accordance with section 16 below.

16.0 Collective Disputes

16.1 The Burgundy Book provides a “model procedure to facilitate the resolution of collective disputes between teachers and a school governing body”. That procedure “is complementary to the school’s grievance procedure; it is not an alternative.” It defines a collective dispute as arising “from a difference between the governing body and all, or at least a substantial number of, teachers at the school. The school’s own collective disputes procedure applies only to those matters which fall within the purview of the governing body.” The governing body accepts that this procedure for teachers should apply equally to support staff. The governing body notes that unions representing teachers and support staff may advise their members on a collective dispute, even when their members do not form a substantial proportion of the total number of employees at the school.

16.2 The Burgundy Book states that the “prime objective is to reduce the possibility of disputes arising between teaching staff and the governing body. That is best achieved

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by the establishment of agreed, standing arrangements at the school for regular consultation between staff and the governing body."

16.3 Mediation may also be appropriate at this stage provided that the complainants and the person allegedly causing the unacceptable treatment or behaviour express a mutual desire to attempt it and the mediator believes that the situation lends itself to this process. Staff wishing to attempt this may ask the headteacher to refer to the LA's impartial mediation service or may wish to approach an alternative mediator such as ACAS. Mediators should be trained, accredited and impartial with experience of resolving disputes.

16.4 Governing bodies are advised to make similar arrangements for consultation with support staff.

17.0 Grievances from Former Employees

17.1 Wherever possible, a grievance should be raised by an employee and dealt with by a School before an employee leaves employment.

17.2 Prior to the repeal of the statutory dispute resolution procedures, a modified two-stage procedure applied in circumstances where the employee had left their employment and both parties had agreed in writing that it should apply. Whilst the ACAS Code does not expressly require employers to hear or consider grievances from former employees it may be viewed as good practice by an Employment Tribunal to do so. Therefore, provided that a former employee sets out their grievance and the basis for it in writing within (other than in exceptional circumstances) 20 working days of ceasing to be employed by the School, the headteacher or, where the headteacher is the subject of the grievance, the chair of the governing body, will:

- Acknowledge receipt of the grievance within 10 working days of receipt
- Investigate any issues raised on the basis of the letter received within 10 working days of receipt where practicable; and
- Respond in writing to the former employee. However, the former employee will not be entitled to a meeting and there will be no further right of appeal on the written response from the school.

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