

INVICTUS

Education Trust

**GRIEVANCE POLICY
AND PROCEDURE**

Approved by Board of Directors
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1. Policy Statement

1.1 It is Invictus Education Trust's policy to ensure that all employees have access to a procedure to help deal with any grievances relating to their employment fairly and without unreasonable delay. Where you make us aware that you have a complaint we will investigate any formal grievance that you raise, hold a meeting to discuss it with you, inform you in writing of the outcome, and give you a right of appeal if you are not satisfied. Grievances matters will be dealt with and managed within each school. The Trust, as employer, will however, provide support and guidance, and record and monitor relevant data. The Headteacher will be required to update the Executive Headteacher in relation to relevant matters arising from such procedures.

1.2 Issues that may cause grievances include:

- (a) Terms and Conditions of Employment;
- (b) Health and Safety;
- (c) Work Relations;
- (d) New Working Practices;
- (e) Complaints of Discrimination, Bullying or Harassment;
- (f) Working Environment; and
- (g) Organisational Change.

1.3 This Policy and Procedure has been designed to comply with current legislation and the ACAS Code of Practice on Disciplinary and Grievance Procedures. The Trust is committed to ensuring consistency of treatment and fairness. It will abide by all relevant equality legislation.

1.4 This Procedure set out in this document does not form part of an employee's contract of employment and it may be amended at any time following consultation. The employer may also vary application of this procedure, including any time scales for action, as appropriate. This would be discussed with you.

2. Scope and Purpose of Policy

2.1 This procedure applies to all employees regardless of length of service. It does not apply to agency workers or self-employed contractors.

2.2 All parties to a grievance are expected to resolve the matter, informally where possible, and to co-operate with all informal and formal attempts to resolve the issues.

3. Using this Procedure

3.1 Complaints that amount to an allegation of misconduct on the part of another employee will be investigated and dealt with under the Disciplinary Procedure and you will be informed if this is the case.

- 3.2 Grievances submitted later than three months after the alleged incident will not normally be admitted. Only in exceptional circumstances will a grievance be accepted after this.
- 3.3 This Grievance Procedure should not be used to complain about dismissal or disciplinary action or the outcomes of other procedures. If you are dissatisfied with any disciplinary action, you should submit an appeal under the Disciplinary Procedure.
- 3.4 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 issues concurrently.
- 3.5 The employer operates a separate Whistleblowing Policy to enable employees to report illegal activities, wrongdoing or malpractice. However, where you are directly affected by the matter in question, or where you feel you have been victimised for an act of whistleblowing, you may raise the matter under this grievance procedure.
- 3.6 Maliciously raising a grievance to cause distress or to undermine another employee may result in disciplinary action.
- 3.7 This Procedure will be used for complaints of bullying and harassment, see Appendix 1 for more details.
- 3.8 This Procedure will be/can be used for grievances concerning two or more employees (collective grievances) raised by a representative of a recognised Trade Union. Appendix 2 sets out the procedure.
- 3.9 This Procedure should not to be used in situations where the employee simply disagrees with a reasonable management instruction issued by the manager. Employees will be expected to carry out reasonable management instructions.
- 3.10 Written grievances will be placed on your personal file along with a record of any decisions taken and any notes or other documents compiled during the grievance process. These will be processed in accordance with the Data Protection Act.
- 3.11 At any point in the process, it may be appropriate for the matter to be dealt with by way of mediation, depending on the nature of your grievance. This involves the appointment of a third-party mediator, who will discuss the issues raised by your grievance with all of those involved and seek to facilitate a resolution. Mediation will be used only where all parties involved in the grievance agree to participate in the process.

4. Confidentiality and Data Protection

- 4.1 It is the aim of the Trust to deal with grievance matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat any information communicated to them in connection with grievance matters as confidential.
- 4.2 Employees, and anyone accompanying them (including witnesses), must not make electronic recordings of any meetings conducted under this procedure.

- 4.3 During any action, including any decisions taken under this procedure, the Trust will collect, process and store personal data in accordance with our Data Protection Policy. The data will be held securely and accessed by, and disclosed to, individuals only for the purposes of completing the grievance procedure. Records will be kept in accordance with our Privacy Notice, our Retention and Erasure Policy and in line with the requirements of
- (i) the General Data Protection Regulation ((EU) 2016/679) (unless and until it is no longer directly applicable in the UK) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then
 - (ii) (ii) any successor legislation to the GDPR or the Data Protection Act 1998.

5. Raising Grievances Informally – Step 1

- 5.1 We believe that most grievances can be resolved quickly and informally through open communication and discussion with your line manager. We would always aim to resolve your grievance informally where possible. If you feel unable to speak to your manager, for example, because the complaint concerns them, then you should speak informally to the Headteacher or another senior manager. If this does not resolve the issue, you can follow the formal procedure below.

6. Formal Written Grievances – Step 2

- 6.1 If your grievance cannot be resolved informally you should put it in writing and submit it to the Headteacher, indicating that it is a formal grievance. If the grievance concerns, or is raised by, the Headteacher it should be submitted to the Chair of Governors of the Local Governing Body.
- 6.2 The written grievance should contain a brief description of the nature of your complaint, including any relevant facts, dates, and names of individuals involved. In some situations we may need to ask you to provide further information. You should also state what your desired outcome would be to resolve the situation. You should use the grievance form to set out your grievance, see appendix 3.

7. Investigations

- 7.1 In some cases it may be necessary for us to carry out an investigation into your grievance. The amount of any investigation required will depend on the nature of the complaint and will vary from case to case. It may involve interviewing and taking statements from you, any witnesses, where appropriate an individual complained of, and/or reviewing relevant documents. The investigation will usually be carried out by the Headteacher or someone else appointed by the Headteacher, within an individual School. In the case of an investigation into a complaint against the Headteacher the Chair of Governors of the Local Governing Body will determine who will carry out the investigation. The Chair of Governors of the Local Governing Body may refer to the Trust for additional advice.
- 7.2 You must co-operate fully and promptly in any investigation. This may include informing us of the names of any relevant witnesses, disclosing any relevant documents to us and attending interviews, as part of our investigation.

7.3 The employer may initiate an investigation before holding a grievance meeting where the employer considers this appropriate. In other cases we may hold a grievance meeting before deciding what investigation (if any) to carry out. In those cases we may hold a further grievance meeting with you after our investigation and before we reach a decision, if that is appropriate.

7.4 Appropriate support will be provided by line managers or the Headteacher to all parties to a grievance including, if appropriate an individual complained of.

8. Right to be Accompanied

8.1 You may bring a companion to any grievance meeting or appeal meeting under this procedure. The companion may be either a Trade Union representative or a colleague. You must tell the person holding the grievance meeting who your chosen companion is, in good time before the meeting.

8.2 Should you choose to bring a companion to the hearing, you will be responsible for making these arrangements and for providing your companion with any paperwork that they require for the meeting.

8.3 At the meeting, your companion may make representations to us and ask questions, but should not answer questions on your behalf. You may request an adjournment to speak to them privately at any time during the meeting.

8.4 Acting as a companion is voluntary and your colleagues are under no obligation to do so. If they agree to do so they will be allowed reasonable time off from duties without loss of pay to act as a companion.

8.5 If your chosen companion is unavailable at the time a meeting is scheduled, you may propose an alternative time for the meeting to take place and so long as the alternative time is reasonable and within five working days after the original scheduled date, we will postpone the meeting. If your chosen companion will not be available for more than five working days afterwards, we may ask you to choose someone else.

8.6 We may, at our discretion, allow you to bring a companion who is not a colleague or Trade Union representative (for example, a member of your family) as a reasonable adjustment if you have a disability, or if you have difficulty understanding English.

8.7 An individual complained of as part of the grievance may also be accompanied to any meeting as set out above.

9. Grievance Meeting

9.1 The employer will arrange a grievance meeting, normally within 5 working days of receiving your written grievance.

9.2 You and your companion (if any) should make every effort to attend the grievance meeting. If you or your companion cannot attend at the time specified, you should inform us immediately and we will try, within reason, to agree an alternative time.

- 9.3 The purpose of a grievance meeting is to enable you to explain your grievance and how you think it should be resolved, and to assist us to reach a decision based on the available evidence and the representations you have made. Everyone involved in the process is entitled to be treated calmly and with respect. The Trust will not tolerate abusive or insulting behaviour from anyone taking part in grievance procedures and will treat any such behaviour as misconduct under the disciplinary procedure.
- 9.4 After an initial grievance meeting we may carry out further investigations and hold further grievance meetings as we consider appropriate. Such meetings will be arranged without unreasonable delay. This may include a meeting with an individual complained of who will be informed of the nature of the grievance against them and provided with a copy of the grievance form.
- 9.5 We will write to you, usually within 5 working days of the final grievance meeting, to inform you of the outcome of your grievance and any further action that we intend to take to resolve the grievance. We will also remind you of your right of appeal. Where appropriate we may hold a meeting to give you this information in person.

10. Appeals – Step 3

- 10.1 If the grievance has not been resolved to your satisfaction you may appeal in writing to the Headteacher, stating your full grounds of appeal, within 5 working days of the date on which the decision was sent or given to you. If the appeal is made by the Headteacher the appeal should be sent to the Chair of Governors of the Local Governing Body.
- 10.2 We will hold an appeal meeting without unreasonable delay, normally within a reasonable period of receiving your written appeal. This will be dealt with impartially by the Headteacher who has not previously been involved in the case (although they may ask anyone previously involved to be present). Where the Headteacher has made the decision at the grievance meeting a panel of Governors of the Local Governing Body will hold the appeal meeting. You have a right to bring a companion to the meeting (see paragraph 8).
- 10.3 The employer will confirm a final decision in writing, usually within 5 working days of the appeal hearing. This is the end of the procedure and there is no further appeal.

11. Review of Policy

- 11.1 This Policy is reviewed every three years by Invictus Education Trust Board of Directors. We will monitor the application and outcomes of this policy to ensure it is working effectively.

Appendix 1

Background to Bullying and Harassment

The Equality Act 2010 prohibits harassment related to age, disability, gender reassignment, marital or civil partner status, pregnancy or maternity, race, religion or belief, sex or sexual orientation (protected characteristics). The Protection from Harassment Act 1997 also makes it unlawful to pursue a course of conduct which you know, or ought to know, would be harassment, which includes causing someone alarm or distress. Under the Health and Safety at Work Act 1974 staff are entitled to a safe place and system of work.

Individual members of staff may in some cases be legally liable for harassment of colleagues or third parties (including pupils), and may be ordered to pay compensation by a court or employment tribunal.

What is Harassment?

Harassment is any unwanted conduct which has the purpose or effect of:

- violating a person's dignity; or
- Creating an intimidating, hostile, degrading, humiliating or offensive environment for them.

- It also includes treating someone less favourably because they have submitted or refused to submit to such behaviour in the past.

Unlawful harassment may involve conduct related to a protected characteristic (see above) or of a sexual nature (sexual harassment). Harassment is unacceptable even if it does not fall within any of these categories.

A person may be harassed even if they were not the intended "target". For example, a person may be harassed by racist jokes about a different ethnic group if they create an offensive environment for him/her. Harassment may also occur even if an individual does not have a protected characteristic, but another individual engages in unwanted conduct towards them because:

- they perceive the recipient to have a protected characteristic; or
- They are associated with a person who does have a protected characteristic.

A single incident can amount to harassment although first-time conduct which unintentionally causes offence will not usually be harassment. However, it will become harassment if the conduct continues after the recipient has made it clear, by words or conduct, that such behaviour is unacceptable to him/her.

What is Bullying?

Bullying is offensive, intimidating, malicious or insulting behaviour involving the misuse of power that can make a person feel vulnerable, upset, humiliated, undermined or threatened. Power does not always mean being in a position of authority, but can include both personal strength and the power to coerce through fear or intimidation.

Legitimate, reasonable and constructive criticism of a worker's performance or behaviour or reasonable instructions given to workers in the course of their employment, will not amount to bullying on their own. It is also recognised that differences of opinion, outbursts of bad temper etc may occur from time to time in any normal working environment. We would normally expect our employees to resolve through informal processes rather than through the use of the formal procedure.

Examples of Bullying and Harassment

Bullying and harassment can take the form of physical, verbal and non-verbal conduct. Employees should always consider whether their words or conduct could be offensive. Conduct may be harassment or bullying whether or not the person behaving in that way intends to offend. Examples of unacceptable conduct include:

- (a) Unwanted physical conduct including touching, pinching, brushing past someone, invading their personal space, and more serious forms of physical or sexual assault;
- (b) Unwelcome sexual advances or suggestive behaviour or suggestions that sexual favours may further a career or that a refusal may hinder it;
- (c) Continued suggestions for social activity after it has been made clear that such suggestions are unwelcome;

- (d) Sending or displaying material that is pornographic or that some people may find offensive (including e-mails, text messages, video clips and images sent by mobile phone or posted on the internet);
- (e) Offensive or intimidating comments or gestures, or insensitive jokes or pranks;
- (f) Jokes or comments about an individual's age, disability, sexual orientation or religion, or derogatory or stereotypical remarks about a particular ethnic or religious group or gender;
- (g) Ignoring or shunning someone, for example, by deliberately excluding them from a conversation, a workplace social activity or from meetings;
- (h) Shouting at, being sarcastic towards, ridiculing or demeaning others;
- (i) Physical or psychological threats;
- (j) Overbearing and intimidating levels of supervision;
- (k) Inappropriate and/or derogatory remarks about someone's performance;
- (l) Abuse of authority, power or status by those in positions of seniority.

Appendix 2

Procedure for Collective Grievances

A collective grievance will be dealt with in line with the Grievance Policy and the group bringing the grievance must have exhausted the informal process first.

Employees wishing to pursue a collective grievance should all be named in the notification of grievance and by voluntary agreement may nominate individual members of the group to represent their interests throughout the process. These employees will be referred to as 'nominated representatives'. Alternatively the employees may be represented by a representative from the Trade Union.

Nominated representatives will be responsible for representing the interests of all employees in the collective grievance, including presenting the case at meetings and supporting individual members throughout the process.

Where appropriate, those lodging a collective grievance must provide the name, job title and contact details of the nominated representative stating whether they are acting in the capacity of a Trade Union representative and the details of the other members of the group.

The manager will invite representatives of the group to a meeting to discuss the complaint and try to find a solution, in all other respects the process will be the same as that for individual grievances

The maximum number of nominated representatives allowed throughout the procedure is as follows:

| Number of Employees with Grievance | Maximum number of nominated representatives |
|------------------------------------|---------------------------------------------|
| 2 to 5 | 2 |
| 6 to 12 | 3 |
| 13 to 20 | 4 |
| 21 plus | 5 |

Appendix 3

Grievance Form (formal process)

If you wish to lodge a formal grievance please refer to the Trust's Grievance Policy before completing this form and sending it to the Headteacher or, if your grievance is against the Headteacher, to the Chair of Governors of the Local Governing Body.

| | |
|------------------|------------|
| Name: | Job Title: |
| School/Location: | |

Line Manager:

Summary of Grievance:

Date of Event:

Details of what happened:

Who was involved:

Name of witnesses:

What steps have you taken to resolve the matter informally?

What do you think should happen to resolve your grievance?

Signed:

Date: