



# East Coast College Policy & Procedure

## Grievance Policy and Procedure

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This document can be provided in a larger font or electronically upon request.

## **1. Introduction and Purpose**

The purpose of the Grievance Policy and Procedure is to ensure that staff with a concern relating to their employment can use a procedure to help resolve grievances quickly and fairly.

## **2. Policy Statement**

Staff and managers have a joint responsibility to foster positive working relationships. They are expected to have regular meetings to enable open and frank discussions regarding work, the work environment, colleagues and levels of supervision, where appropriate.

Formal grievances will be managed fairly and swiftly to ensure grievance resolution, minimal disruption and stress.

The College will ensure that work concerns involving possible discrimination are approached with sensitivity and appropriate regard to dignity at work and equality.

Any timescales will be extended by mutual agreement.

Occasionally more than one person may wish to raise the same complaint. In this situation the staff should elect a representative to put forward the grievance. The letter raising the grievance should state the names of those on behalf of whom the grievance is being raised. There will then be discussion with the representative as to an appropriate way of dealing with the grievance in the circumstances.

This Policy and Procedure has been written with reference to the ACAS Code of Practice on Disciplinary and Grievances. The Acas Code of Practice does not apply to redundancy dismissals or the non-renewal of fixed-term contracts on their expiry.

## **3. Scope**

This procedure applies to all staff employed by East Coast College. Variations for Senior Post Holders can be found in clause 12.

## **4. Definitions**

The term 'manager' is a general term and applies to any level of line management within the College.

## **5. Responsibilities**

Managers are expected to ensure that;

- they have regular discussions about work and performance and that, where possible, any issues, on either side, are resolved informally and promptly
- staff are given the tools to undertake their role
- workloads are reasonable
- the work environment is free from harassment, bullying and discrimination
- staff are supported to undertake their role
- they engender a culture of high expectation and continuous improvement through supporting, directing and challenging their team
- College values are lived at all times
- they are aware of this Policy and process
- they have sought advice from the People Team as early as possible

Staff are expected to ensure that:

- they have regular discussions about work and performance and that, where possible, any issues, on either side, are resolved informally and promptly
- they live the College values at all times
- they work co-operatively with managers, colleagues and stakeholders
- they meet reasonable College expectations for job performance and targets
- they demonstrate appropriate workplace behavior
- they handle complaints from colleagues, learners or stakeholders in a professional, calm and non-confrontational manner
- they adhere to the College's rules, policies, procedures and processes
- they are aware of this Policy and process

People Team

- will provide advice and support in connection with the management of staff.
- have a set of template letters and will be responsible for advising on the content of all correspondence in connection with this Policy.

## **6. Procedure**

### **6.1 Informal stage**

If a staff member has a grievance relating to their employment this should normally be discussed informally with their Line Manager. The discussion should include what is causing the problem and how the member of staff feels it should be resolved. It is hoped that the majority of concerns will be resolved in this way with no further recourse for grievance procedure to be used.

If the grievance is related to the staff member's line manager, then the staff member should speak to their line manager's manager.

## **7. Formal stage**

### **7.1 Stage One**

If it has not been possible to resolve a grievance informally, or it is not appropriate to do so, the matter should be raised formally, without unreasonable delay with the manager by the staff member stating what the grievance is and that it is being raised at Stage One of this procedure. A form is available at appendix one to use for this purpose.

If the grievance is related to the staff member's line manager, then the staff member should submit their grievance to their line manager's manager.

### **7.1 Investigation**

Before any decision is made in response to the grievance, the matter will first be investigated by the manager.

### **7.2 Purpose of an investigation**

The purpose of an investigation is to establish whether there is a case to answer, and therefore what further action, if any, is appropriate.

The degree of investigation will depend on the seriousness of the alleged allegation. Whatever the circumstances, the investigation should be conducted without delay and within as short a timescale as possible.

The investigation should be conducted by a manager not previously involved in the case and must be carried out in an unbiased manner so as not to prejudice the issue. The People Team will decide who is appropriate to be the investigating manager who will be called upon from a trained team of managers.

The investigation will involve holding an investigatory meeting with the staff member raising the grievance and may require:

- collating supporting documentation
- interviewing or obtaining statements of witnesses to obtain their accounts of relevant facts.
- collecting physical evidence e.g. damaged property, completed records

It is important that any supporting documentation is directly relevant to the investigation.

During the investigation, it is important to find out if there are any mitigating circumstances to be taken into account. For example, are there personal or other outside issues affecting conduct, performance or behaviour?

Having investigated all the facts the investigating manager should decide whether the allegation is warranted and if so whether:

- The grievance cannot be substantiated, no further action is to be taken,
- The grievance can be substantiated, the matter is minor, arrange informal coaching /counselling/training
- The grievance can be substantiated and the matter is not minor, arrange for the matter to be dealt with under the appropriate College Policy

The staff member should be advised in writing of the outcome of the investigation and also given the right to appeal.

### **7.3 Investigatory meeting with the staff member**

Usually as part of the investigation, it will be necessary for the investigating manager to discuss with the staff member the allegation to obtain their account of events.

The staff member will need to be notified that an investigation is to take place, outline the allegations and who the investigating manager is. It will then be down to the investigating manager to arrange a time and date to meet. Although not a legal requirement, staff members will not be denied a request to be accompanied by a work colleague or trade union representative.

The manager conducting the investigatory interview should open the meeting by explaining the purpose of the meeting and roles of those present. The role of the investigating manager is to act impartially and to establish the staff member's version of events.

The investigating manager should then ask the staff member to provide their version of events and ask adequate questions to ensure that they have provided a clear and detailed account.

The investigating manager should not make or convey any judgment on the staff member's version of events. Doing so may prejudice the outcome of the investigation. The purpose of the investigation is purely to establish whether there is a case to answer.

The investigating managers should check with the staff member whether they are aware of any other witnesses to the incident or any other documents or issues that may be relevant, so that these can be followed up.

The investigating manager should also explore what the staff member wants as a remedy to their grievance.

### **7.4 Support for Staff and Witnesses**

In circumstances where the issue being investigated is sensitive, or potentially gross misconduct, it may be necessary to consider providing the staff member with some support whilst the investigation is taking place.

The support could be to provide somebody else to talk to about the process, or to talk to someone on a more general basis. A mentor, or another member of staff may be appropriate, or a named person within the People Team, but each case will need to be considered individually. Employees will be informed about the Employee Assistance Programme.

## **7.5 Gathering information from witnesses**

Witnesses should be asked not to discuss the content of the meeting with colleagues, to avoid some of the issues outlined below.

There may be occasions when the witnesses are not the College's staff. If this is the case they should be asked to assist in the investigation, for example by providing a written statement. This will help to show that reasonable steps have been taken. However, the investigating manager will be reliant on their voluntary cooperation.

If witnesses request to be accompanied at the meeting, this should not be unreasonably denied.

Where possible, following meetings with the witnesses, statements should be typed up and the witnesses should be asked to check, make any amendments and sign them to indicate that they are an accurate account. Any original hand written or typed copies will not be destroyed as the investigating manager may disagree with the amendments made by the witnesses and need to submit both counts of the statements.

It is important that the witnesses are not led when establishing the facts as this could prejudice any subsequent action.

It will be necessary to ask probing questions to ensure the investigating manager is fully aware of exactly what happens;

- it's natural that stories will vary between witnesses
- the story will become distorted as people confer with each other
- people's stories will depend on their own interpretation of the event
- people may not be truthful
- people will exaggerate the story or miss things out

The investigating manager may need to re-interview people if more information is needed.

## **7.6 Confidentiality of witness statements**

All statements provided by witnesses should be treated as confidential documents. However, the investigating manager cannot give an absolute guarantee of confidentiality because:

- the staff member who is the subject of the investigation will, in most cases, have the right to see the witness statement; and

- employment tribunals and courts may order the disclosure of documents, irrespective of whether or not they are confidential; and
- staff have the right under the Data Protection Act 2018 to request access to information about them including witness statements of which they are the subject; and.
- the College has a duty to report any safeguarding concerns that may come to light during a grievance investigation, in accordance with the Safeguarding Children and Vulnerable Adults Policy and Procedure

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In some circumstances, e.g. in bullying or harassment cases, it may be appropriate to protect the anonymity of a witness, by:

- blanking out the witness's name and any other distinguishing features before disclosing the document to the staff member (through, for example, photocopying the document);
- editing the statement to conceal the identity of the witness; or
- preparing a summary of the information contained in the statement.

However, the investigating manager should seek the People Team's advice if considering the above.

## **7.7 New allegations that come to light during an investigation**

If new allegations come to light, it is important that these are dealt with in line with the normal investigatory procedure.

The staff member is to be advised of the new allegation(s) in writing and given the opportunity to respond to them during the investigation.

## **7.8 Investigation Outcome**

It is the responsibility of the investigating manager to make a decision at the conclusion of their investigation as to whether 'there is a case to answer,' based on the facts established during the investigation. The decision will be based on the 'balance of probability' rather than proving 'beyond all reasonable doubt.'

A statement of case report should be prepared which includes:

- The reason the investigation was undertaken
- The witnesses statements
- The evidence collected
- A chronology of events
- Statement of case
- Summary and conclusions
- Relevant policies

The conclusion will be either:

- The facts support that the allegation/s are untrue, there is no case to answer, no further action required
- The facts support that the allegation/s are true, but the issue/s are minor and should be dealt with informally by the manager
- The facts support that the allegation/s are true, the issues are not minor and the appropriate College Policy is used

Where there is more than one allegation, there may be a different decision for each allegation.

Where possible, a written response within 7 days of the meeting, will confirm the outcome of the grievance. If it is anticipated that the response will take longer than 7 days from the meeting then the staff member will be advised of this and of the expected timescale.

Notes of the meeting will be made and a copy sent out with the letter of outcome and the right of appeal.

## **8. Appeal - Stage Two**

If the matter is not resolved to the staff member's satisfaction at Stage One, there is a right of appeal to Stage Two. Confirmation of the grounds of the appeal should be made in writing to the person specified in the Stage One outcome letter, within 5 working days of receipt of the letter.

### **8.1 Appeal Principles**

It is important that the Appeal Manager acts in good faith and not be unduly influenced by what has gone before, or be committed to upholding the previous decision.

The Appeal Manager should not have been involved in the grievance process against which the appeal is made, making them independent and impartial.

There must be opportunity to hear both sides of the case and to weigh up the pros and cons as objectively as possible.

The Appeal Manager should be satisfied that the procedure has been followed properly and if not use the appeal hearing to right earlier procedural deficiencies.

All matters raised relevant to the decision, whether or not they were known to the manager at the time of taking the decision, should be considered.

### **8.2 The Process**

The purpose of an appeal is to enable an independent review of the 'reasonableness' of the outcome at Stage One.

It is important the appeal does not become another hearing but focuses on reviewing the process followed and the appropriateness of the decision, however, where the appeal is against the process, it may be appropriate to



undertake another hearing.

A letter to the staff member should confirm:

- The date, time and venue of the appeal hearing (normally within 5 working days of receipt of the appeal)
- The person/s conducting the hearing
- The statutory right to be accompanied by a Trade Union representative or work colleague
- A request for any new or additional evidence they wish to present to be available to the Appeal Manager no later than two days before the meeting

Should the staff member, or their Trade Union representative or work colleague, not be available at the proposed time for the meeting, a mutually convenient alternative time may be arranged provided that this is within 5 working days of the original proposed date.

If it is difficult to find a date within this timescale the staff member should consider having a different Trade Union representative or work colleague to accompany them.

### **8.3 The appeal hearing**

There may be some variation to how a meeting is conducted, the following is an indication of a typical process.

The Appeal Manager conducting the hearing will:

- introduce all those present, confirming their role
- confirm the reason for the meeting
- outline the format of the meeting
- confirm that adjournments may be requested by either party

If the staff member has chosen not to be accompanied, the manager should reiterate their right and confirm that they understand it and have decided not to exercise this right.

Where an adjournment is requested, it should not be unreasonably denied.

The manager who conducted the Stage One grievance hearing will outline how and why they came to decide the outcome of the hearing.

Where appropriate witnesses may be called.

The staff member, or their representative, may ask questions of the manager and/or any witnesses.

The Appeal Manager may ask questions of the manager and/or witnesses.

The staff member, or Trade Union representative or work colleague, will set out the ways in which they believe the conclusions of the hearing were flawed. They will present their findings, indicating the evidence gathered and refer to any documents previously circulated.

The staff member will call any witnesses.

The manager who made the original decision may ask questions of the staff member, their representative and/or any witnesses called.

The Appeal Manager may ask questions of the staff member, their representative and/or witnesses.

The Appeal Manager conducting the hearing will conclude the meeting.

The Appeal Manager should be satisfied that a thorough investigation has taken place and all reasonable efforts have been made to gather the relevant evidence. Where it is apparent that new evidence is available, it may be appropriate for the Appeal Manager to adjourn the hearing to enable the evidence to be fully investigated.

#### **8.4 After the hearing**

In making a decision the Appeal Manager should consider the following points:

- Has a thorough and sufficient investigation been conducted?
- Was the manager's decision to take action reasonable based on the evidence relating to the case?
- Was the action decided upon reasonable, given the circumstances of the case?
- Has the matter been handled fairly and appropriately and is it consistent with the appropriate policy?
- Is there any new evidence, which, if known at the time, would have altered the decision?
- Was due regard paid to any mitigating circumstances put forward?

There are three possible outcomes following the hearing:

- Not to uphold the appeal – the Appeal Manager must be able to justify that there is insufficient evidence to warrant overturning the original decision.
- To uphold the appeal – this is likely to occur when new evidence has been presented, a review of the process has uncovered flaws in how the original meeting was conducted or if mitigating circumstances have been uncovered which were not previously taken into account.
- There are some aspects which are upheld and others that are not.

Whatever decision is made, this must be confirmed to the staff member, normally within 5 working days, with confirmation that the decision of the appeal hearing is final.

## 9. Timescales

The College will not consider grievances raised more than 3 months after the instance causing the grievance occurred unless there are exceptional circumstances.

## 10. Right to Be Accompanied

Staff have the right to be accompanied at a meeting under Stages One and Two of this procedure by a Trade Union representative or work colleague. Any request to be accompanied at the informal stage will not be unreasonably refused.

All reasonable steps must be taken to attend a meeting within this procedure. If the chosen companion is not available on the proposed date of a meeting, an alternative date within 5 working days of the proposed date will be agreed. The meeting may only be postponed by the staff member once, after which the manager will go ahead with the meeting in the staff member's absence.

## 11. Complaints against a Senior Post Holder

The chart below shows who will deal with grievances by senior post holders;

|                        | <b>Informal Process</b>                | <b>Formal Stage 1</b>                  | <b>Formal Stage 2/appeal</b>         |
|------------------------|--|--|--------------------------------------|
| Deputy CEO             | Principal                              | Principal                              | Special Committee of the Corporation |
| Deputy Principal       | Principal                              | Principal                              | Special Committee of the Corporation |
| Principal              | Chair or Vice Chair of the Corporation | Chair or Vice Chair of the Corporation | Special Committee of the Corporation |
| Director of Governance | Chair or Vice Chair of the Corporation | Chair or Vice Chair of the Corporation | Special Committee of the Corporation |

Where the grievance relates to the Principal, the grievance should be addressed to the Director of Governance.

The decision of the special appeal committee will be final.

The Corporation will appoint an appropriate Investigating Officer to investigate the complaint. This may be the Principal/CEO, a member of the Corporation, or an external investigator, depending on the circumstances.

## 12. Vexatious Grievances

A vexatious grievance is one which is raised maliciously or in bad faith, for example, where a grievance is based on deliberate misrepresentation or untruths with the malicious intent of causing harm to the person against whom the grievance is raised. Similarly, the raising of a series of unmerited grievances against many different people may also be considered vexatious.

Vexatious use of the Grievance Policy may result in disciplinary action being taken against the complainant.

### **13. General**

This Policy does not form part of the staff member's contract of employment and may be amended from time to time in consultation with the recognised unions.

### **14. Monitoring and Review**

This Policy will be monitored by the People Team on a three yearly basis, unless changes in employment legislation require earlier review.

## Appendix 1 - Staff Grievance Form

If you have a concern relating to your employment with the College, please complete this form and hand to your manager or the People Team.

|   |       |
|---|-------|
| Your name:  |       |
| Your job title:   |       |
| Department:   |       |
| What is your grievance?   |       |
| Have you spoken informally to your manager about your grievance?    |       |
| YES / NO  | Date: |
| If no, please explain why not:                                      |       |
| If yes, why are you dissatisfied with the response of your manager? |       |
| What do you want as a remedy to your grievance?                     |       |
| Signed:   | Date: |