



# WORKPLACE RESOLUTION POLICY AND PROCEDURE FOR SCHOOLS

## PRESTON MANOR SCHOOL An All-Through School

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## INTRODUCTION

The School is committed to fostering a positive, supportive and empowering working environment for employees and expects all employees and third parties to treat each other with dignity and respect. It recognises that at any point employees may have issues which they wish to discuss with their managers and if possible, resolve. It also recognises that the quicker issues are resolved, the less difficulties employees, managers and the School will experience.

The School will not tolerate any acts of bullying, harassment (including sexual harassment), victimisation and unlawful discrimination on the grounds of age, disability, race, sex, religion and belief, sexual orientation, gender identity/expression, marriage and civil partnership, from employees or third parties or customers and will not tolerate any malicious or vexatious claims.

The School will deal with all matters fairly and consistently in line with its policies without undermining the implied duty of mutual trust and confidence.

## 1. Purpose

This policy outlines the informal and formal process to follow where employees have a concern, problem or complaint at work which affects them personally. The aim of the policy is to support employees to achieve a resolution at an early stage before any formal process is considered.

**See Workplace Resolution Flowchart at Appendix 1**

## 2. Scope

**The policy applies to:**

- All employees
- Ex-employees who raise a resolution request within 3 months of the issue or event giving rise to it

**The policy does not apply to:**

- Workers who are not directly employed by the School

**Concerns at work can include but are not limited to:**

- Sexual harassment or harassment on the grounds of gender, gender reassignment, marriage and civil partnership, age, race, disability, religion or belief, sex or sexual orientation
- Unlawful discrimination or less favourable treatment on any of the above grounds
- Victimisation as a result of raising any of the above
- Bullying at work
- Unfair work or working arrangements
- Working relations
- A policy or procedure has not been applied correctly

## Outside scope:

The policy is not applicable for concerns relating to:

- The same or similar issues that have previously been addressed and closed under the previous grievance procedure or current resolution procedure within the last 12 months, unless there is new, significant information which provides substance or merit to the case.
- Incidents which happened more than 3 months before the resolution request is submitted. In exceptional cases this timeframe may be extended e.g. long term sickness. Advice should be sought from the school's HR in such instances.
- Issues that should be dealt with under other School policies, and/or procedures such as the Whistleblowing Policy
- Issues which should be addressed by other local/national appeals procedures such as the Pay Policy, Disciplinary Policy and Procedure, Managing Organisational Change Procedure, Supporting Attendance in Schools Policy and Procedure, Capability Policy and Procedure for which separate appeal processes apply.
- A statutory scheme or School policy, such as the Appraisal/Performance Management Policy, though employees may raise a resolution request relating to the application of such policies or schemes (with the exception of those procedures in the above bullet point for which separate appeal processes apply).
- Collective negotiation or consultation with recognised Trade Unions.
- A dismissal or possible dismissal as this will be dealt with under the relevant applicable procedure and/or policy.

## 3. Definitions

- **Resolution request:** A concern, problem or complaint that an employee raises with their manager or their manager's manager about any work related matters to be resolved.
- **Collective requests:** Where the same or broadly similar concern/s are raised by more than one employee and they will be dealt with as one.
- **Harassment:** Any unwanted behaviour usually linked to protected characteristics whether intentional or not, that violates the dignity of people in the workplace or creates an intimidating, hostile, degrading, humiliating or offensive environment for another person. Something can still be considered harassment even if the alleged harasser did not mean for it to be.
- **Bullying:** Any offensive, intimidating, malicious or insulting behaviour, an abusive or misuse of power through means that undermine, humiliate, denigrate or injure the person being bullied.
- **Victimisation:** Treating someone adversely or unfavourably because they have made or helped someone else make a claim of discrimination or another such 'protected act'.
- **Mediation:** A way of resolving a dispute. It is an intervention whereby a neutral and impartial third party intervenes and assists individuals to reach an agreement acceptable to both sides. It is a voluntary process to be utilised by employees including managers, where they are involved in the resolution request, to communicate with each other and reach a resolution.
- **Mediator:** A trained independent and impartial third party who may be from within or

outside the School. The role of the mediator is to help those involved to resolve the problem.

- **Vexatious / malicious complaint:** Complaints that are ‘unfounded’ with a malicious intent i.e. considered as a complaint not made in good faith, or done in order to “get at” the particular employee.
- **Implied duty:** The rights and duties of both the employer (the School) and employees are found in the contract of employment e.g. duty of mutual trust and confidence.
- **Reasonable adjustments:** A reasonable change that must be made to a provision, criterion, practice or workplace to remove or reduce disadvantage or to provide access related to an employee’s disability in their job, or a job applicant’s disability when applying for a job.
- **Resolution Manager:** The line manager or a more senior manager, where the line manager is the subject of the concern. Where appropriate, this could be a governor/trustee.
- **Ratification Manager:** A manager (or governor/trustee) unconnected with the matter who ratifies the investigation report and implements the actions/recommendations arising from the investigation i.e. the decision-maker.
- **External Investigator:** An external party appointed by the School to undertake a formal investigation by gathering facts and information as part of the formal process.
- **Facilitator:** An independent, impartial third party from within the School who will facilitate a respectful, confidential discussion guided to reach positive outcomes for all involved.

#### 4. Policy statement

The School encourages employees to raise any concerns openly and respectfully with their line manager as soon as they arise, aiming to resolve matters informally where possible. Where informal resolution is not achieved, the formal procedure will be used.

All concerns will be taken seriously and handled sensitively, fairly and promptly at all stages, ensuring any reasonable adjustments are considered on a case-by-case basis, where requested. HR advice and involvement should be sought where appropriate.

Where employees are looking to resolve an issue through a formal process as a first measure, this should be discussed with the Resolution Manager, who will draw on HR advice from the school’s HR provider. Any meeting/s at the informal stage will typically involve the employee and the Resolution Manager.

Employees should approach their line manager’s manager, where their line manager is the subject of the concern.

Where a concern is in relation to discrimination, bullying, harassment or victimisation, the formal resolution procedure will usually be instigated.

Where allegations are found to be malicious, vexatious or false employees may be subject to disciplinary action.

Employees should clearly set out the nature of their concern and the resolution sought in writing.

Where there is insufficient information or where it lacks clarity, every effort will be made to obtain

the necessary information. However, where employees do not engage within a reasonable timeframe, their concerns may not be considered.

Where employees do not co-operate with the procedure or unnecessarily delay the process, the procedure may be progressed without their input.

Employees have the right to be accompanied either by a Trade Union representative or a work colleague at any formal meetings.

Employees may be accompanied as a reasonable adjustment in formal or informal meetings for disability reasons, for example where they have a communication support need.

Should either party take leave of absence on grounds of sickness, the School may continue with the proceedings as far as possible in their absence.

In the event of long-term sickness, a decision on how to proceed with the request will be determined, taking into account the individual's wellbeing and considering whether resolution of the request may assist in the individual's recovery where the absence is related.

If at any stage the evidence and circumstances of a case indicate that the issue is potentially a disciplinary offence, the matter should be dealt with using the Disciplinary Policy and Procedure, and may result in disciplinary action, up to and including dismissal.

Where the employee formally raises a resolution request or concern in response to an action or proposed action by the School's/Trust's management, a decision will be made by the Headteacher or Chair of Governors/Trustees, in consultation with HR as to whether it is appropriate or not to delay the action by management pending conclusion of the resolution request process.

Employees who have left the School may raise a post-employment resolution request within 3 months after the occurrence of an incident which gives rise to a grievance, which will be dealt with in writing subject to certain conditions – see section 10.

Where there is any disagreement concerning the post-employment resolution procedure, (e.g. where there are exceptional circumstances justifying the complaint being raised more than 3 months after the event), the Headteacher or Chair of Governors/Trustees on advice from the school's HR provider will decide on the way forward and their decision shall be final.

In exceptional circumstances, such as where the resolution request involves senior leaders or it is not appropriate for a senior leader to be the Resolution Manager, the use of an external Resolution Manager will be considered i.e. external investigator. Such decisions will be made by the Headteacher or Chair of Governors/Trustees in consultation with the school's HR provider.

The School reserves the right to amend this policy from time to time, after consultation with Trade Unions recognised by the School for collective bargaining purposes.

## **5. Support**

Employees who believe they have been the victim of bullying, harassment or discrimination, have been accused of unfair behaviour or who are impacted by issues discussed under this policy can

access support available through the school's Employee Assistance Scheme (EAS)

## **6. Record keeping**

All records connected to the Workplace Resolution Procedure must be retained and kept securely on the employee's personnel file. These records will be retained in accordance with the School's/Trust's retention policies.

**Forms to be used are in Appendix 2 and Appendix 3**

## **7. Responsibilities**

### **7.1 Employees**

- Adopt appropriate standards of behaviour towards employees, governors/trustees, pupils, parents and the wider school community and read, understand and comply with the Code of Conduct and other such policies that apply in relation to behaviour at work.
- Adopt open, honest communication when discussing concerns.
- Raise any concern/s at the earliest opportunity and seek to resolve the issue/s informally where possible.
- Arrange for a representative or work colleague to attend any formal meetings as scheduled where they would like to be accompanied.
- Organise representation on the relevant date, keep the representative informed of the case and provide them with copies of any relevant documentation.
- Inform the Resolution Manager at the earliest opportunity where for a valid reason, their work colleague or Trade Union representative is unable to attend a meeting.
- Co-operate and take part in the mediation process, where agreed.

### **7.2 Human Resources**

- Provide general advice and guidance to managers/senior leaders/governors managing the process, as and where required.
- Provide advice on informal resolution options such as mediation where appropriate.
- Attend formal resolution meetings and collective industrial relations disputes to support the managers/senior leaders/governors (with the exception of externally appointed investigators) as required.

### **7.2 Resolution Manager**

- Manage any concern/s under this policy promptly, objectively, and transparently.
- Be sensitive to the feelings of those involved and focused on resolution.
- Support the employee through informal resolution, where appropriate, by talking the issue through 7.3as part of day-to-day discussions.
- Arrange for a note taker to attend formal resolution meetings where deemed appropriate and ask employees and witnesses to sign and date notes made. Where the employee



does not sign the notes, these will be used in the same way.

- Keep written notes of all formal meetings held with the employee.
- Ensure meetings are concluded within the time allocated, where possible.
- Ensure that any reasonable adjustments are considered during the process, with advice from Occupational Health (OH) as appropriate.
- Write to the employee, where a resolution request does not fall within the scope of this policy explaining the reason why.
- Plan and gather information during a formal resolution procedure.
- Meet with the employee who raised concern/s and any individuals they determine are relevant, which may include those named on the request form.
- Ensure credible and reliable evidence is gathered including physical evidence where necessary based on the nature of resolution request.
- Decide on whether concerns are founded, making recommendations on any action/s arising out of the resolution and draft a report within a reasonable timescale.
- Attend a Resolution Outcome meeting to present their findings/report where required
- Liaise with the school's HR provider during the course of the process for advice as appropriate.
- Update the employee on progress, especially where planned timescales are unlikely to be met

Note: The School may appoint an external investigator to undertake the gathering of facts and information.

### **7.3 Ratification Manager**

- Ratifies the outcome of the findings/report drafted by the Resolution Manager/external investigator.
- Conducts the Resolution Outcome meeting with the employee to discuss the outcome.
- Provides the employee with the findings/report and provides details of the right to appeal.
- Writes to the subject of concern to confirm the resolution outcome and actions relevant to them arising from this process.
- Attends the appeal meeting to respond to the employee's appeal.

### **7.5 Trade Union representative**

- Assist in bringing about a speedy resolution to workplace related concerns raised by the employee.
- Encourage Trade Union members to resolve concerns informally where possible.
- Provide support to and represent employees during the formal work resolution process.

## 8. Related legislation

### The Equality Act (2010)

The Equality Act (2010) prohibits discrimination (whether direct or indirect) against people who possess protected characteristics such as age, race, disability, sexual orientation, marriage and civil partnership, religion or belief, sex, pregnancy and maternity, gender reassignment. It also prohibits the harassment and victimisation of such people.

## 9. PROCEDURE

The procedure sets out a framework for both employees and managers to address and resolve concern/s and ensure the School acts in a fair, reasonable and consistent manner when dealing with these.

### 9.1 The resolution request

Employees can make a resolution request by filling out the Resolution Request Form (**Appendix 2**) and submitting it to the Resolution Manager. If the request is in relation to their line manager, the form should be submitted to their line manager's manager/Headteacher (or the Chair of Governors/Trustees if the resolution request is in relation to the Headteacher).

The resolution request should:

- Set out clearly in a factual way, the details of the circumstances which have led to a request being made
- Include information on the resolution the employee is seeking
- Include the name of any employee/s who are the subject of their concern

Where a Trade Union member is the subject of the concern, the Resolution Manager should seek advice from the school's HR provider before taking any action.

### 9.2. How to handle a resolution request

The Resolution Manager should make an informal assessment on advice from the school's HR provider to identify the main issues and decide with the employee, usually via an informal meeting, the next course of action. The courses of action will be one or more of the following:

- **Informal resolution meeting between the person who is the subject of the concern or complaint and the employee** – *this may be the first of more than one meeting to resolve the issue informally and will be applicable as a first step for most resolution requests*
- **Facilitated discussion between the person who is the subject of the concern or complaint and the employee by an independent, impartial third party from within the school** - *this may be the first of more than one meeting to resolve the issue*
- **Mediation between the parties involved (upon agreement from all parties)** – *especially where there has been a breakdown of relationships and/or communication. This will normally be conducted by an external trained mediator*
- **Start the formal resolution procedure** – *usually in cases of discrimination, bullying, harassment or victimisation and where informal resolution or mediation has not been successful or is not appropriate*

- **Start the disciplinary procedure** – *this will usually be where there has been some formal information gathering under this procedure and the case would be better dealt with as misconduct under the Disciplinary procedure e.g. involving sexual harassment, or following conclusion of the resolution request under this procedure*
- **No further action** – *for example, where the same issue has been dealt with before within the previous 12 months or should be dealt with under another policy*

The Resolution Manager should then acknowledge receipt of the Resolution Request Form normally within 5 working days of receipt – see section 9.7.1.

### 9.3. Informal resolution meeting

Where informal resolution is considered the most appropriate route, the Resolution Manager must arrange this as soon as possible.

Neither the manager nor the employee will be accompanied during informal meetings, unless for purposes involving reasonable adjustments.

Where the resolution request involves working relationships, including where the line manager is the subject of the concern, the Resolution Manager will encourage the employee to resolve issues through a facilitated discussion. In exceptional circumstances and where appropriate, the School may consider mediation (subject to Headteacher or Governor/Trust approval).

The Resolution Manager will be expected to hold a constructive conversation, actively listen to the concern, take accurate notes and remain objective.

The informal resolution process will-

- Be co-operative and collaborative
- Not usually involve bringing documents to the meeting/s, unless this is necessary to aid discussion or demonstrate issues in a constructive way
- Include more than one informal meeting, where necessary
- Make a note of any recommendations or actions arising out of the informal meetings
- Point to sources of further support – see section 5 of the policy

### 9.4. Facilitated Discussion

A facilitated discussion allows the parties to engage in a conversation around the issues that have arisen in the resolution request. A facilitator will assist each party individually to:

- Identify the issues that are at stake;
- Clarify specific examples of the behaviour to be discussed;
- Understand more about their own emotions around and contributions to the issue;
- Clarify what is at stake if the issue cannot be resolved
- Prepare to have a conversation with the other person about the issues.

A facilitator will then assist the parties in joint session/s to:

- Communicate their concerns in a respectful way
- Open to understanding of the other person's perspective

- Identify ways that the conflict might be resolved or at least progressed.

Facilitated discussions are flexible enough to allow a process of including other managers, Human Resources or union representatives into the discussion.

### **9.5. Mediation**

The main purpose of mediation is to work collaboratively to achieve a mutually acceptable outcome. The process would normally involve the appointment of a trained external mediator who would set up and facilitate confidential discussions in a neutral venue.

Mediation is always a voluntary and confidential process undertaken with agreement from all parties. It can be appropriate at any stage or during any route for resolving concern/s. For example, it can be used to resolve issues at the informal resolution stage, be used to help the parties work together in a constructive way during suspension of the formal process or even be used to help employees improve their working relationship following conclusion of the formal process.

The mediator is not there to judge, decide who is right or wrong, nor tell parties involved in the mediation what they should do. Any agreement comes from those in dispute, not the mediator. The mediator is in charge of the process to help others to resolve the problem but not to determine the outcome.

For more information on mediation or when deciding whether mediation is the best form of resolution, managers should contact the school's HR provider for further advice and refer to the **Workplace Mediation Guide Appendix 4**.

### **9.6. Representation**

The employee who has raised the concern and the person who is the subject of the concern or complaint must be advised that they may choose to be accompanied at any formal meeting by either:

- A Trade Union representative or
- A work colleague who is an employee of the School

Employees must provide the details of the person who will be accompanying them at least 3 working days before the meeting.

Where the Trade Union representative is not one from the School recognised Trade Unions, they must provide evidence of their accreditation.

If the employee's chosen representative cannot attend the scheduled meeting and cannot propose a reasonable alternative date and time for the meeting within 5 working days of the original date set for the meeting, then the meeting will normally proceed without the representative. Alternatively, the employee may elect to bring another representative.

The representative can put forward a case on behalf of the employee and can give advice and support during the process. The representative cannot however, answer questions for the employee.

Witnesses would not normally have an entitlement to be accompanied by a trade union representative or work colleague to a meeting as part of the gathering facts/information process. However, in exceptional circumstances they can request to be accompanied and this may be permitted as long as it does not present a conflict of interest and/or it does not unduly delay the process.

## **9.7. Formal resolution**

The formal resolution procedure will apply where the employee has not been able to resolve their concerns informally, or where it is not appropriate to resolve the resolution request via an informal route and the employee wishes to progress the matter formally.

### **9.7.1 Gathering facts & information (Investigation)**

The Resolution Manager should write to the employee to acknowledge the resolution request, let them know that they will be looking into the resolution request or appointing an external investigator to undertake a formal investigation. The Resolution Manager/external investigator will arrange to meet with the employee in a formal resolution meeting to discuss the concern/s providing 5 working days' notice of the meeting.

The person who is the subject of a concern or complaint should be informed in writing of how matters will proceed. They should be provided with a copy of the Resolution Request Form including any supporting evidence. Only in exceptional circumstances and on advice from the School's HR provider, an abridged/redacted version may be supplied.

Where the concern or complaint involves more than one employee or where the identity of another employee who is not the subject of the concern would be disclosed, each person should only be provided with the details of the concern that relate to them or on a need-to-know basis.

In preparation of the gathering of facts and information, the Resolution Manager/external investigator should consider:

- The issues outlined in the resolution request
- How the fact gathering exercise will be conducted
- In what order information and evidence will be collected

The Resolution Manager/external investigator should check whether there are any reasonable adjustments to be considered and, where appropriate, arrange for these to be put in place.

### **9.7.2 Temporary change in line management**

In some exceptional cases, for example where the resolution request involves the line manager and serious concerns are raised, it may be necessary to consider a temporary change in line manager. Where this is not practicable or in the best needs of the School, safeguards should be put in place to mitigate against similar concerns occurring during the resolution process. Any requests to be moved and such decisions will be considered on a case by case basis by the Headteacher or Chair of Governors/Trustees with advice from the school's HR provider. The purpose of a temporary change in line management will be for example, for all parties to remain neutral and for work not to be affected.

### **9.7.3 Formal resolution meeting with employee**

The purpose of the formal resolution meeting is for the Resolution Manager to establish and collect the relevant facts and information in relation to the concern/s raised in an objective manner and by speaking with all relevant named employees in the Resolution Request Form to understand key issues.

Formal resolution meetings will usually involve open discussion for information gathering, which may result in the resolution request being resolved amicably. Resolution Managers must actively listen and explore objectively, as issues may not be as they seem.

Resolution Managers must aim to come to a conclusion as soon as possible although this will depend on the number and nature of the issue/s raised and the number of meetings with witnesses. Where the resolution process does not include meetings with multiple witnesses, it is expected the process should be dealt with in an expedited way, paying due care and attention to the parties involved. Once the Resolution Manager has determined what information is required and if/how many witness meetings are required, they should provide the employee with an indication of how long the process is likely to take.

Where for a valid reason, the employee who raised the resolution request cannot attend the meeting, they must inform the Resolution Manager at the earliest opportunity. The Resolution Manager will arrange another meeting, usually within 5 working days. Failure to attend the meeting may mean the process will be carried out in the absence of the employee.

At the meeting, the Resolution Manager should cover the following:

- The format and process of the meeting including signing and dating of meeting notes
- The role of the Trade Union representative or work colleague
- Clarify details of the concern or complaint where necessary
- Clarification of anyone cited on the Resolution Request Form
- Check any document/s submitted by the employee with the form
- Resolution requested by the employee
- Timescales and process if any delay
- Adjournment where necessary e.g. where new information is available
- Support on offer e.g. Employee Assistance Programme
- Occupational Health (OH) referral for any alternative process/support if showing signs of extreme distress
- Next steps

### **9.7.4 Formal resolution meeting with subject of concern**

When having meetings with the subject of concern, the Resolution Manager must:

- Provide 5 working days' notice in writing of the requirement to attend the meeting

- Advise the subject of concern that they may choose to be accompanied by a trade union representative or work colleague
- Be careful when sharing documents to protect witnesses named
- Confirm the format and meeting protocols including that they will be asked to sign and date meeting notes
- Provide details of the Employee Assistance Programme for further support or OH as appropriate.

Where the issue involves more than one employee or where the identity of another employee who is not the subject of the concern would be disclosed, each worker should only be provided with the aspects of the issues which relate to them or on a need-to-know basis.

### **9.7.5 Deciding on appropriate action**

At the end of the information gathering exercise (i.e. investigation), the actions can be either:

- Formal action
- Informal action
- No further action

Once the Resolution Manager has considered all the information, in the context of the resolution being sought and has decided on next steps they should then draft a report. The Resolution Manager should seek advice from the school's HR provider.

Factors which the manager must consider when deciding on the outcome will include:

- Information submitted by the employee and the subject of concern
- Information collated by the Resolution Manager
- Information obtained from any witnesses
- School policies
- Mitigating factors

When writing the report, the Resolution Manager must take into account the following:

- The report should include all the manager's findings and state whether some, all or none of the resolution being sought can possibly or reasonably be provided, with reasons fully explained.
- The conclusions reached for each of the concern/s raised should be noted and explained, stating whether they are:
  - Upheld
  - Partially upheld
  - Not upheld
- Where the resolution being sought cannot reasonably be provided, the Resolution

Manager must consider if any other action is possible or appropriate.

- Where the Resolution Manager is making specific recommendations for action involving another employee, for example disciplinary action, these should not be included in the report. In such instances, the report should include a general statement that relevant management action will be considered. The report should attach the original Resolution Request Form submitted by the employee.
- The recommended actions should be confined to the issues raised in the original Resolution Request Form.
- The Resolution Manager will submit the report to the Ratification Manager for it to be ratified.

The report should be sent to the employee following a Resolution Outcome Meeting with the employee to discuss the outcome.

Where the Resolution Manager is not the line manager (or the line manager's manager) they should discuss the outcome and any agreed actions with the relevant manager/s before the Resolution Outcome Meeting is held and the report is issued to the employee.

#### **9.7.6 Resolution outcome meeting**

This meeting will be held with the employee who submitted the resolution request and the manager/ governor/trustee who has ratified the outcome of the investigation i.e. the Ratification Manager. The purpose of this meeting is to discuss the conclusion reached by the Resolution Manager (or external investigator) and bring the process to a close for the employee. The resolution outcome meeting is purely a feedback meeting and not intended to consider any representations from the employee to modify the outcomes reached by the Resolution Manager.

The Ratification Manager should arrange to meet with the employee as soon as possible. The Resolution Manager/external investigator will attend this meeting to present their findings and respond to any questions about their investigation where required.

The employee must be informed that they can appeal if their issues or concerns remain unresolved.

Where the resolution request involves another employee/s who is the subject of the concern and may be impacted by the outcome of the information gathering, the employee who raised the request must be told that the employee named will be informed of the outcome/s relevant to them and any actions which impact them via a separate letter.

Following the meeting, the Ratification Manager must send the employee the report, together with the original Resolution Request Form, providing details of the right to appeal, within 5 working days.

Employees may submit a written request to receive the resolution outcome in writing instead of attendance at a Resolution Outcome Meeting. Any such request shall be considered on a case-by-case basis by the Ratification Manager and a determination made in the interests of the School. Advice should be sought from the school's HR in such instances.



### 9.7.7 Actions arising out of the resolution

The Ratification Manager should consult with the school's HR provider where there are recommendations for action arising out of the resolution.

Where another employee is the subject of the concern, the Ratification Manager should write to them to let them know the relevant aspects of the resolution outcome. Any personal or sensitive information not relating to the subject of the concern should be taken out.

The Ratification Manager should ensure that any actions involving formal procedures which they are recommending are communicated confidentially to the relevant manager/s to consider, as appropriate. In such cases, the Ratification Manager should provide the relevant manager/s with a copy of the outcome letter.

Where the Ratification Manager is recommending other action for the relevant manager to consider, they should communicate this in a timely manner.

Any manager/s receiving recommendations from the Ratification Manager should consider these and take any appropriate action as soon as possible.

The Ratification Manager is responsible for following up any other actions and where appropriate, ensuring they are carried out.

## 9.8 Appeals

Where employees are dissatisfied with the outcome of their formal resolution, they can appeal any decisions made within 10 working days of the date of the letter confirming the outcome of the investigation. The appeal is the final stage of resolution within the School.

Appeals should be submitted to the Ratification Manager via the Resolution Appeal Form **Appendix 3**), clearly setting out the grounds for appeal.

The Resolution Appeal Form will be sent to the Appeal Manager/Governor or Governor/Trust Appeal Panel when they have been appointed. Where a Governor/Trust Appeal Panel is not necessary and the appeal can be dealt with by an officer of the school, the Appeal Manager will normally be at the same level or more senior than the Ratification Manager who considered the findings of the investigation. The Appeal Manager/Governor or Governor/Trust Appeal Panel will not have been previously involved, directly or indirectly, with the case.

An appeal will only be considered if the below grounds are covered in the written appeal. There may be one or more of the following grounds showing a detailed basis for each:

- **Procedure** – there was a failure to follow procedure and this had a material effect on the decision
- **Resolution** – where no reasonable person, on the facts presented, would have decided on that outcome

- **Evidence** - New evidence is available that could not have reasonably have been raised during the investigation and the absence of which had a material effect on the decision.

The subject of concern does not have a right of appeal against the outcome of a formal resolution.

### 9.8.1 Appeal meeting

The purpose of the appeal meeting is for the Resolution Appeal Manager/Governor/Trust Appeal Panel to review the information from the investigation, in light of the grounds of appeal submitted and to hear the views of the employee and the Ratification Manager, to make a decision. It is not to re-consider the issues.

Where the School's/Trust's Governor Committees' terms of reference permits, appeals can be heard by 1 - 3 governors/trustees depending on the level of complexity of the case.

Schools/Trusts should seek advice from their HR provider where it is contemplated to have less than three governors. Managers/governors/trustees should be suitably experienced/trained and supported to undertake such activities.

The Resolution Appeal Manager/Governor or clerk on behalf of the Governor/Trust Appeal Panel must write to the employee to:

- Acknowledge receipt of the Resolution Appeal form.
- Let the employee know that they will be hearing the appeal.
- Arrange to meet with the employee to discuss the Resolution Appeal, with 5 working days' notice to attend.
- Inform them that they may wish to be represented (see section 9.6).
- Inform them that in cases where new evidence has come to light, they must submit supporting documents and any names of witnesses to be received by at least 3 working days before the meeting and also provide reasons why this information was not submitted prior to this stage.
- Inform them that following the appeal, there is no further right of appeal.

Where the reason for appeal includes new evidence that could not reasonably have been raised during the investigation and where the employee or Ratification Manager intends to call witnesses to the appeal meeting, it is their responsibility to ensure they are available to attend, in the event that the Appeal Manager considers it relevant for them to attend.

The Appeal Manager/Governor or clerk on behalf of the Governor/Trust Appeal Panel must also write to any employee/s or person who is the subject of the concern or complaint to inform them that the initial decision was appealed and the likely timescales for the outcome of the meeting.

The Appeal Manager/Governor/Trust Appeal Panel will nominate a governor to chair the meeting.

The Ratification Manager who ratified the report will usually attend the Appeal meeting to present

the findings of the investigation and the decision they made. The Ratification Manager may require the Resolution Manager who undertook the gathering of information process (i.e. investigation) to attend the Appeal meeting to support their presentation. Where an external investigator has undertaken the investigation, they may attend the Appeal meeting to present their investigation findings as a management witness.

The employee may be accompanied by a Trade Union representative or work colleague.

The Appeal Manager/Governor/Trust Appeal Panel conducting the appeal has the authority to confirm, vary or overturn the original decision. The outcome could:

1. Uphold the appeal in full
2. Uphold the appeal in part
3. Not uphold the appeal

Where the Appeal Manager/Governor/Trust Appeal Panel decides to uphold the appeal on grounds of new evidence the Appeal Manager/Governor/Trust Appeal Panel will consider the new evidence in the context of the original resolution request and the investigation. Where necessary, the Appeal manager/Governor/Trust Appeal Panel will adjourn the meeting to gather further facts.

The Appeal Manager/Governor/Trust Appeal Panel with support from HR, should aim to confirm their decision in writing to the employee with reasons, any evidence used and any actions, within 10 working days of the appeal meeting.

The outcome letter to the employee should confirm that where another employee is the subject of the concern, they will be informed of the outcome of the appeal involving them, together with reasons for these. It is the responsibility of the Appeal Manager/Governor/Trust Appeal Panel to write to the subject/s of the concern.

The decision of the Appeal Manager/Governor/Trust Appeal Panel is final and there shall be no further right of appeal.

Employee's may submit a written request to the Appeal Manager/Governor/Trust Appeal Panel to consider their appeal through written correspondence rather than attendance at an Appeal Hearing. Any such request shall be considered on a case-by-case basis by the Appeal Manager/Governor/Trust Appeal Panel and a determination made in the interests of the School. Advice should be sought from the school's HR in such instances.

## **10. Post-employment resolution requests**

Post-employment concern/s may be raised by ex-employees up to 3 months after the occurrence of an incident which gives rise to the request.

In some circumstances, it may not be appropriate for the School to deal with concern/s from ex-employees. The School should take advice from their HR in such instances. If this is the case, the School will inform the former employee in writing.

Where an ex-employee has submitted a resolution request, it will be dealt with in writing without the need for meeting, whilst following the principles of the procedure. In exceptional cases, the Resolution Manager may need to speak with the ex-employee if they need to clarify any points during the process. It is for the Resolution Manager to determine the most appropriate method of contact i.e. verbal/written.

The School reserves the right to appoint an external investigator to undertake the process of gathering information (i.e. investigation).

The Resolution Manager or external investigator where appointed by the school will:

- Acknowledge the resolution request and agree the contact details they will use to correspond with the ex-employee.
- Request any further information to be considered as part of the fact and information gathering stage.
- Collate all the information, keeping notes and records of any meetings held with witnesses. Witnesses will normally be current serving employees of the school.
- Draft a report confirming the outcome of their investigation and submit this for ratification by the Ratification Manager.

The Ratification Manager will:

- Write a letter to the employee with the outcome of the information gathering and their decision, explaining their reasons in full.

The decision of the Ratification Manager will be final and there shall be no right of appeal.

## **11. Collective resolution requests**

Collective resolution requests may be raised in the event where for example, multiple employees collectively raise the same/broadly similar issues regarding an individual member of staff or a particular aspect of their employment.

Where a number of employees raise separate/unrelated issues, these will be dealt with as individual resolution requests.

Informal resolution of any potential collective resolution request is encouraged through normal line management arrangements.

### **11.1 Procedure for collective resolution requests**

The Resolution Manager will convene a formal resolution meeting with the appropriate parties to discuss the resolution request and gather information. If the employees are not represented by a Trade Union, they can nominate a staff representative. Whether or not an agreement is reached, written outcomes will be provided to all parties.

Where a collective resolution request is submitted by employees and does not involve an industrial dispute the same procedure will be followed as for individual concern/s. However, it

should be noted that only one collective meeting with all parties in attendance at each stage of the process, including the appeal, will be provided.

## **11.2 Procedure for industrial relations disputes**

An industrial relations dispute is a dispute between the School on the one hand and a group of its employees or between one group of the School's/Trust's employees and another group of its employees on the other. Examples of industrial relations dispute include but are not limited to the following:

- Terms and conditions of employment
- Contractual issues
- Employment law
- Equal pay
- Fundamental breach of equality duties

This part of the procedure will not be open to be used by individual employees or their representatives where the issue(s) raised fall within the ambit of any other procedure.

In the event of an industrial dispute between the School and a group of its employees or between one group of School employees and another group of its employees the Headteacher or Chair of Governors/Trustees will convene a meeting with the appropriate parties to discuss the dispute.

Where an agreement is reached, written outcomes will be provided to all parties.

Where there is failure to agree, a panel of governors/trustees who have not been previously involved in the dispute will have the final say. The decision will be confirmed in writing to all parties. In reaching this decision the following will be considered:

- Mediation
- involvement of a regional Trade Union official
- Conciliation by ACAS
- Declaration of a formal dispute

Advice should be sought from the school's HR provider at all stages of resolving an industrial relations dispute.

## **12. External complaints**

Where employees raise complaints or resolution requests relating to third parties external to the School, for example agency workers, School leaders must follow this resolution procedure as far as possible and make clear to the third party that the School takes such matters seriously. Schools/Trusts should take advice from their HR in such instances.

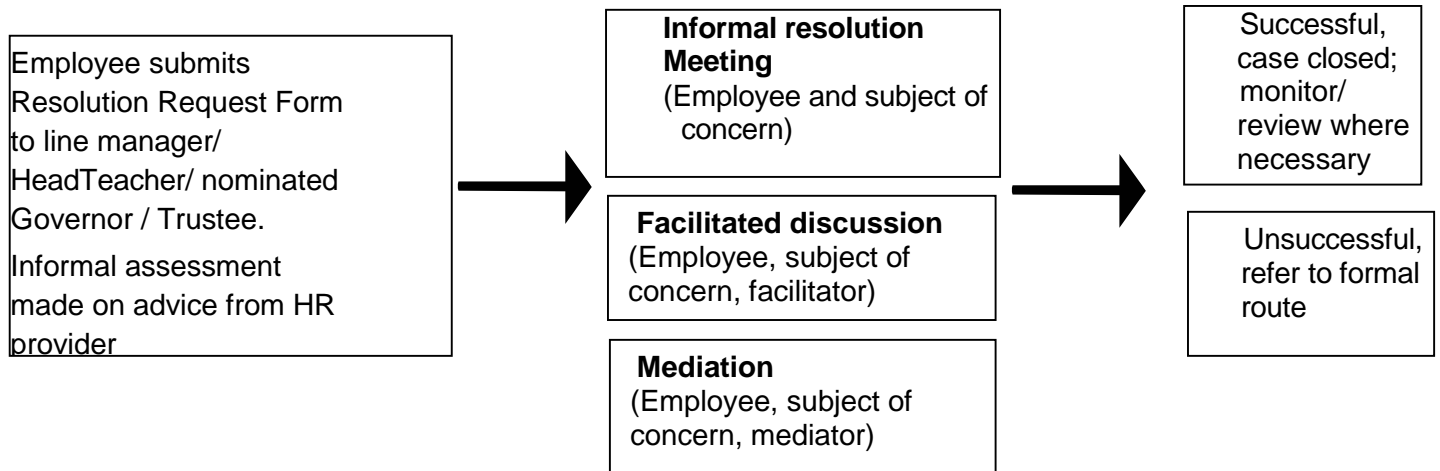
Where agency workers wish to raise concerns in relation to employees of the School, they must do so with their employer. In such cases, the School will cooperate with the agency as far as possible to help resolve concerns.

Any complaints received from members of the public must be redirected to the School's Complaints Procedure.

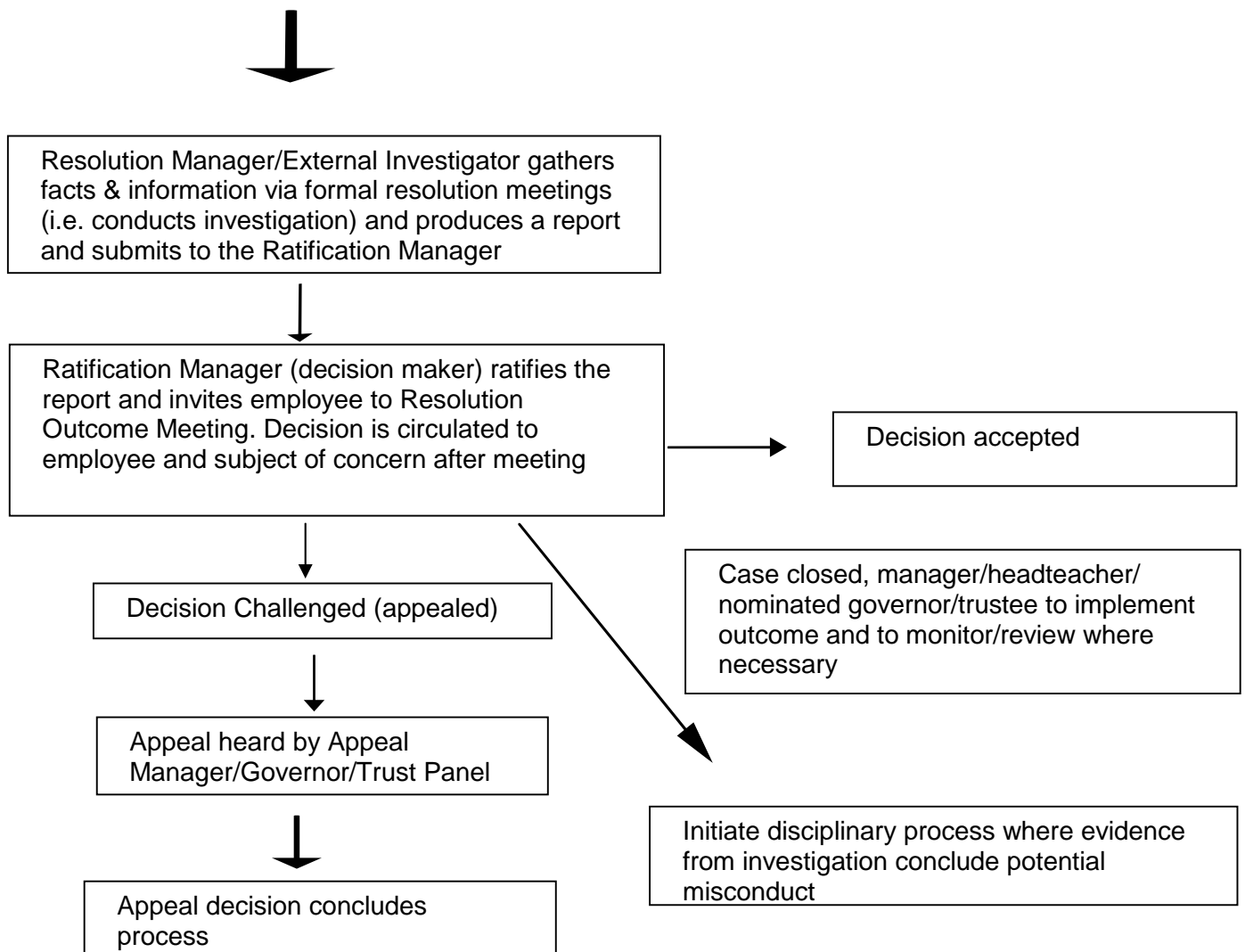
## Appendix 1

### WORKPLACE RESOLUTION FLOWCHART

#### INFORMAL



#### FORMAL



## Appendix 2

FORM: WRR 1

### WORKPLACE RESOLUTION REQUEST FORM

*This form is to be used to raise a resolution request and should be used in conjunction with the Workplace Resolution Policy .*

*All sections must be completed. Any supporting documentation must be attached to the Resolution Request Form at the time of submission. Additional information might be requested as necessary.*

A: Details			
Name:			
Job title:			
School		Contact no:	
Date:			
Resolution Manager:			
Please provide information on any support or reasonable adjustments required to take part in this process (e.g. Interpreter)			

B: Please clearly state the nature and reason/s for raising a resolution request. (Please continue on a separate sheet if required)
---

C: Please state the resolution are you seeking.
---

**D: Discussion with Line Manager**

1. Have you discussed the matter with your Line Manager already? Y / N

2. When did the discussion take place? (Date):

3. Please provide details.

**E: Have you made any attempt to deal with the matter informally yourself? Y / N**

If yes, please provide details, including the outcome and any reason(s) you believe the matter remains unresolved.

If not, why do you wish to proceed to the formal process without attempting informal resolution?

**Witnesses details**

Please name witnesses to support your resolution request, including their full name and position.

**Further information**

Where applicable, use this section to detail relevant supporting documentation and submit these along with your resolution request.



(Employee):  Signature:	Date:
(Resolution Manager):  Signature:	Date:
To be completed by Resolution Manager:  Name & Title of Ratification Manager:	

## Appendix 3

FORM: WRA 1

## WORKPLACE RESOLUTION APPEAL FORM

***This form is to be used to appeal against a conclusion reached under the Workplace Resolution Policy.***

***All sections must be completed and sent to the Ratification Manager within 10 days of the date of the letter confirming the formal resolution outcome.***

***Any supporting documentation must be attached to the Resolution Appeal form at the time of submission.***

A: Details			
Name:			
Job title:			
School:		Contact no:	

**B: Please provide the following dates and attach a copy of your original Resolution Request Form when submitting this form.**

When did you raise your Resolution request?	Date:
When were you notified of the formal resolution outcome?	Date:

*C: Please select (circle) the appropriate ground/s for your Appeal from section C and clearly explain these in section D.*

<p>Grounds of Appeal</p>	<p style="text-align: center;"><i>For guidance only</i></p> <p>Procedure – where failure to follow procedure had a material effect on the decision</p> <p>Resolution – where no reasonable person, on the facts presented, would have decided on that outcome</p> <p>Evidence - New evidence is available that could not have reasonably have been raised during the investigation and the absence of which had a material effect on the decision</p>
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D. Please explain your grounds for Appeal.

[illegible]

E: Any other attachments: Y/ N
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<i>Please attach the original Resolution request form and any other information relevant to your appeal.</i>
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E1.
-----

E2.
-----

E3.
-----

Signed:	
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Date:	
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## Appendix 4

### WORKPLACE MEDIATION GUIDANCE

This guide may be used for mediation as part of resolving issues informally or as part of the Workplace Resolution process.

#### 1. What is Workplace Mediation?

1.1 Mediation is often described as a form of alternative and informal conflict resolution for a variety of issues in the workplace. It is an impartial, voluntary and confidential process which provides a supportive structure for a mediator to help the parties attempt to reach an agreement and find a mutually acceptable resolution. All parties should be willing to commit, co-operate and participate in the process to resolve their differences.

1.2 Mediation can also be used at any stage of a conflict or alongside any stage of a process or procedure such as resolving a relationship issue informally or in a follow-up to formal proceedings as part of the Workplace Resolution Policy. If mediation takes place during the formal Workplace Resolution Procedure, the procedure will usually be suspended pending the outcome of mediation.

#### 2. How can Workplace Mediation help employees?

2.1 There are many effects caused by unresolved matters or conflicts with colleagues, for example, individual effectiveness. Through mediation, channels of communication can be established, especially where the possibility of addressing the matter/s directly with the colleague proves to be difficult.

2.1 Mediation can potentially help or enable those involved:

- To hold conversations openly on what normally might be difficult to discuss or in otherwise difficult circumstances.
- Rebuild relationships as they work together to find a solution or an agreement that is fair and improves communication.
- To step back and think about how they could put the situation right, including consideration of their own behaviour.
- To come up with their own practical solution(s).

#### 3. When can Workplace Mediation be used?

3.1 Mediation can be helpful in situations where there is:

- Breakdown in communication
- Personality differences creating a conflict
- Alleged bullying or harassment (the formal resolution procedure will normally be more appropriate to deal with these types of concerns)
- Breakdown in relationships between two employees or within a team

#### 4. Role of a Mediator

4.1 A mediator is a trained professional who acts as an impartial third party from an external organisation. They create a safe and supportive environment where both parties can talk

honestly and openly about what has happened and how it has affected them. They are not there to act as an intermediary. In particular, the mediators will aim to help individuals to:

- Decide what they wish to achieve
- Analyse, clarify the problem and identify a path to resolution
- Identify and acknowledge each other's needs and interests
- Discuss matters jointly to reach common ground
- Move towards improved relationships
- Make informed, considered and balanced decisions
- Clarify information
- Share information on the final outcome

## **5 Role of the parties involved in mediation**

Commitment from all parties will be key. The parties involved should:

- Be prepared to complete the necessary paperwork from the mediator to take part in the process
- Co-operate with and attend the mediation meeting/s at the agreed time
- Respect all participants involved in the mediation process
- Provide feedback
- Maintain confidentiality (i.e. not discussing mediation with colleagues in the team or wider work environment)
- Input into a written agreement following a successful mediation meeting
- Review mediation with the mediator and other participants where necessary in the agreed timescales

## **7. Pre-mediation - Mediation request & referral**

- The Resolution Manager will assess whether mediation is an appropriate option
- The referring manager will then contact the mediator. They will also contact the parties of mediation to inform them of mediation means and next steps and agree a date for mediation.
- The external mediation service provider will allocate a mediator/s who will discuss the process and ensure the participants have completed the correct documents prior to mediation commencing.
- As face to face mediation is encouraged, the referrer may need to book 3 rooms for the mediation to take place, though in some cases online mediation may be more appropriate.

## **8. What might mediation look like?**

Outlined below is typically how mediation sessions will be conducted. The process may vary to suit the specific situation with the agreement of the participants.

### **8.1 Individual meetings (Contact with participants)**

- The external mediator will meet with each party separately. They will explain the process clearly, agree some ground rules for the next stage of the process, give the individuals the opportunity to elaborate on their issue(s), understand their position and establish what outcome the party seeks.

- The mediator should use active listening, open questioning and check their understanding of the issues during this stage of the process.
- The mediator will aim to seek agreement from the parties to facilitate a joint meeting. It is for the individual parties to decide what they want to share with each other. A rough schedule is outlined and any questions the individual parties may have are answered to manage the process and maintain transparency.
- The mediator will provide the parties with a participation agreement form to read and sign.

## **8.2 Joint Meeting**

- The joint meeting starts shortly after the end of the individual meetings. The duration of the joint meeting is usually not set.
- At this stage, the mediator will generally introduce the parties, clarify the process, re-iterate ground rules and invite them to put forward their opening statements to express themselves openly, during a period of uninterrupted time.
- The mediator will facilitate the discussion, explore every issue in turn, may ask questions for clarification where required and may reflect on what they are hearing. They will begin to summarise the main areas of agreement and disagreement and draw up an agenda with the parties for the rest of the mediation.
- Where and if the discussion happens to stall or becomes contentious, each party will be provided the option to have some time away (either in break out rooms if virtual session or have separate rooms in the venue). The mediator will speak to them individually and encourage the discussion to move forward by reconvening the session.
- Using the points raised on the agenda, the mediator will begin to explore each issue. The parties will be encouraged and supported to begin to see the other's perspective, and look for constructive solutions jointly to try to improve the situation from any shared opinions identified. If there are areas which require further discussion, the mediators may suggest a further session.
- The mediator will make a record of areas where both parties have reached a mutual understanding to help form a confidential agreement which is to be signed by both parties.

## **8.3 Meeting closure**

- The mediator will bring the meeting to a close, provide a copy of the outcome agreement to both parties and explain their responsibilities for its implementation. The agreement is confidential and they decide together whether to share the contents of the agreement.
- The mediator will inform the referrer of the high level outcome (though not the contents of the agreement unless both parties agree). The mediator will contact the parties concerned within an agreed timescale to ensure progress has been made.
- Where no agreement is reached, the resolution manager will seek further advice from the school's HR provider for next steps as appropriate, for example, the next stage in the Workplace Resolution process.

## **9. Confidentiality & Exclusions**

**9.1** Unless otherwise agreed by the parties, the contents of any discussion are to be kept confidential to the parties involved and the mediator. The exception to this will usually only be where there are concerns of:

- Any conduct which is offensive or unlawful
- Any health and safety issues involving risk to public, employees and the School
- Any unauthorised use of public funds
- Any possible fraud and corruption

**9.2** A record of the mediation discussion is not kept on personal files.

**9.3** The written outcome agreement created during mediation will only be shared with the participants involved and not others, unless agreed by them. They are responsible for ensuring the agreement is implemented.

**9.4** The mediator may provide general feedback to the resolution manager to confirm the initial outcome achieved but will not share any detail about the matters discussed within the process or the content of the agreement if any is reached. The only exception to this position is as outlined in section 9.1.

## **10. Withdrawal**

Where either party has raised or referred to any matters that have been outlined in 9.1 above, the mediator will terminate the process and bring this to the attention of the School immediately.

## Appendix 5

### Mediation: Frequently Asked Questions (FAQs)

#### 1. When can I ask for mediation?

You can request mediation at any time and both before, during or after any formal proceedings, with the relevant manager's (usually the line manager) agreement, as long as you genuinely want to see an end to the dispute.

#### 2. Do I have to agree to take part in mediation?

No. Mediation is entirely voluntary and needs the agreement of both/all parties. However the School encourages all employees to resolve matters informally and mediation is a form of informal conflict resolution.

#### 3. Can a line manager request that an employee take part in mediation?

Line managers can request and encourage employees to seek informal resolution via mediation but participation is voluntary.

#### 4. Am I allowed time off to attend mediation meetings?

Mediation will normally take place during work time. Reasonable time away from normal duties will normally be agreed to participate in mediation meetings

#### 5. Is mediation confidential?

Yes. The contents of any discussion are kept confidential unless otherwise agreed by the parties or where there are matters of concern, such as those outlined in section 9

Managers will only be given basic information about whether an agreement has or has not been reached. The mediator will share more information only where both parties agree to do so. All notes taken get securely destroyed at the end of the process. The written agreement drawn up is based on the resolution reached and shared between the parties

#### 6. How long can a mediation session last?

This will depend on individual cases but it typically lasts for no longer than one full day. Mediators will ascertain timescales and communicate with the referrer as appropriate.

#### 7. What happens at the end of mediation?

Where there is resolution, this will be presented in the form of a written agreement and given to the parties (usually on the same day). Where a mutually accepted resolution is not achieved, the mediator will inform the referrer who will contact the parties, within a reasonable timescale, for next steps.

#### 8. I have a disability – can adjustments be made for me?

Yes. Any information in relation to making any reasonable adjustments can be provided to the external mediation provider.

#### 9. Is a mediation agreement binding?

Parties who agree take part in mediation do so on the understanding that they intend to honour any agreement reached. Whilst the agreement is not legally binding, it is hoped that individuals will follow the agreement.



**10. Can a trade union representative or work colleague accompany me during mediation?**

As this is an informal and voluntary process, there is no right to be accompanied during mediation. However, support before or after mediation can be accessed via the Employee Assistance Programme