

# Calderdale Music Trust

## Grievance Policy



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## **1. Introduction**

- 1.1 Employment legislation requires employers to have in place a grievance policy (this represents a statutory obligation with regard to staff procedures) and there must be reference to this policy in the employee's statement of particulars.
- 1.2 The ACAS Code defines grievances as "concerns, problems or complaints that employees raise with their employers". These may be either:
  - matters affecting themselves as individuals; or
  - matters affecting their personal dealings or relationships with other employees
- 1.3 Grievances may be raised either informally (not necessarily in writing) or formally (which must be in writing).
- 1.4 Staff grievances can arise from a variety of sources within the workplace and it is desirable therefore that a staff grievance procedure fulfils two key purposes:
  - to enable a grievance to be resolved informally, and as near to the point of origin as possible
  - to set out a formal procedure that can be followed where the informal approach is either inappropriate or has been tried and failed.
- 1.5 The staff grievance procedure must be followed by any member of staff having an employment-related grievance. Ideally, no grievance should be raised except through this procedure.
- 1.6 In the event of a grievance being submitted by an employee against the director of Calderdale Music Trust in person, the role of the latter, throughout this policy, will be performed by the chair of governors.

## **2. Purpose and scope**

- 2.1 This procedure applies to all staff employed at the music centre, including those employed temporarily. It may be used to deal with allegations of sexual, racial and other forms of harassment and bullying although the music centre's "Bullying and Harassment Policy" may be a more appropriate vehicle to address such issues.
- 2.2 Grievances may be about terms and conditions of employment, relationships at work or the behaviour of others at the music centre towards colleagues, or with regard to working practices, health and safety, organisational change or equal opportunities. Some grievances are minor or straightforward while others may be more difficult to resolve or may concern fundamental issues.
- 2.3 The aim of this policy is to achieve a fair and prompt resolution to individual grievances and to do so (where possible) at an informal level and, in all cases, as speedily as possible.

## **3. Matters beyond the scope of a grievance procedure**

- 3.1 The grievance procedure cannot be used to challenge formal outcomes of other procedures which have their own appeal process. These include:
  - disciplinary procedure

- capability procedure
  - attendance management procedure
  - redundancy procedure
  - probation procedure (where this allows for an appeal)
  - dismissal for some other substantial reason.
- 3.2 This procedure does not apply to collective disputes which are normally dealt with through a collective disputes process.

#### **4. General principles of a grievance procedure**

- 4.1 All documentation and discussion at meetings within the grievance procedure is to be treated as completely confidential.
- 4.2 At all stages in the procedures, the member of staff raising the grievance should have the right to be accompanied by a trade union representative or work colleague.
- 4.3 The formal procedure for dealing with grievances:
- the employee should set out in writing the nature of the grievance
  - the employer should hold a meeting with the employee
  - the employer must allow the employee to be accompanied at that meeting
  - the employer must decide on appropriate action.
- 4.4 At any meeting convened under this procedure, access to an adjournment should not be unreasonably refused and reasonable adjustments may be needed for a worker with a disability (for example, the provision of a support worker or representative with knowledge of the disability and its effects).

#### **5. What constitutes a grievance**

- 5.1 In considering whether the grievance procedure has been triggered, the following points should be noted:
- a grievance may be raised by e-mail, in a letter from the employee, in an informal 'note' (even a 'Post-it' note), or in a letter from a third-party representative such as a union representative
  - a grievance may also be raised in communication dealing with another matter or making an application of some kind (for example, a flexible working request) or in a resignation letter. It does not have to be headed as a 'grievance' for it to be considered as such.
- 5.2 The intention of the employee is not relevant and an employee is not required to indicate that the complaint may be taken further. It is therefore recommended that senior management and governors treat all written complaints from employees (or their representatives) as potential employee grievances, as failure to do so could result in an increase in any compensation subsequently awarded to the claimant at Employment Tribunal.
- 5.3 If the complaint is set out in a resignation letter the employee should be invited to a meeting to discuss the issues raised. However, if the employee does not attend such a meeting the employer should write to the employee with an outcome, based on the available evidence (and where appropriate this may be following an investigation into the issues raised).

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

- 6.1 If a grievance is raised by an employee after disciplinary proceedings have commenced against them, a decision will be taken to either suspend the grievance until after the disciplinary issues has been dealt with or (if the issues are felt to be related) to hear the grievance at the disciplinary hearing.
- 6.2 Only in exceptional circumstances will a disciplinary hearing be suspended to deal with a grievance that has been raised after disciplinary procedures have commenced.
- 6.3 Depending upon the nature of the grievance, the director of the music trust may need to consider bringing in another senior manager or governor to continue to hear the disciplinary case. At any stage of the procedure it is advisable that an HR Advisor is present at all formal grievance hearings to support management/governors as appropriate.

## **7. Grievance procedure – informal stage**

- 7.1 If a member of staff has a grievance with a colleague, they should endeavour to resolve the matter by direct approach to that colleague, or by arranging a meeting (which has no formal status) through an appropriate senior colleague and making it clear that a concern is being raised informally.
- 7.2 Where the grievance is against the director of the music trust (or other manager) the member of staff should similarly attempt to resolve the matter by a direct approach to that manager.
- 7.3 By agreement of the parties involved, the director of the music trust (or chair of governors where the director is the subject of the grievance) may, if appropriate, elect to appoint an investigating officer to look into the matter further. The investigating officer must, whenever possible, investigate the grievance within 5 to 10 working days. The director (or chair of governors) may also arrange for mediation should this be felt appropriate.
- 7.4 Following an informal meeting and/or (if appropriate) investigation (or mediation), a written outcome letter will be provided to the employee within a reasonable time period. This should be no longer than 5 working days after the initial informal meeting took place, unless there is a delay to allow an investigation (or mediation) to take place.
- 7.5 Every attempt should be made by those involved to resolve a grievance at an early stage and through normal line management processes. Only when these have been unsuccessful should the formal process be followed. If at the informal stage an issue remains unresolved it may be appropriate for the employee to seek advice and/or assistance from a senior manager prior to progressing to the formal stage.
- 7.6 If a written grievance is received without any attempt at informal resolution having taken place, the usual approach would be to ask the employee submitting the grievance for a reason as to why they have not attempted to resolve the issue through the informal stage **and** to require them to do so unless there is good reason not to do so (such as the seriousness of the issue or fear of recrimination) before moving to the formal stage.
- 7.7 If the employee is dissatisfied with the outcome of the informal stage (or the complaint is regarded as being sufficiently serious) he or she may proceed to the formal stage without

unreasonable delay (and in all cases this should be no later than 3 months after the relevant event/incident occurred).

## **8. Grievance procedure – formal stage**

- 8.1 If the employee remains aggrieved, or the informal grievance procedure is deemed inappropriate, the next step is for the employee to write to the director of the music trust detailing the grievance issues and enclosing any accompanying documentation and an outline of the redress sought. A proforma for completion is available at Appendix 1 'Grievance Proforma – Formal Resolution'.
- 8.2 Following receipt of a formal grievance the director of the music trust should arrange a meeting with the aggrieved employee to discuss the grievance. The employee is not obliged to meet with the director (in which case the grievance must still be explored in accordance with policy) but if any formal meeting does take place (whether at this stage or later) the employee is entitled to be accompanied by a trade union representative or work colleague.
- 8.3 The director of the music trust may, at his or her discretion, choose to delegate a senior manager to undertake the task of dealing with the grievance. (This option is not open to the chair of governors (see clause 1.6) who may not delegate this responsibility to another governor although the governing body may nominate another governor to deal with a grievance against the director in the absence or indisposition of the chair.)
- 8.4 At this point, an investigation may be appropriate in which case the director of the music trust (or designated manager) is responsible for appointing an (ideally external) investigating officer who should be impartial and who has had no previous involvement with the grievance. This is usually indicated in matters which are considered to be complex or sensitive.
- 8.5 The investigating officer will not be party to any decision on the grievance, nor will he or she be party to any decision in any related disciplinary procedure. The investigation must be completed as soon as possible and a report prepared and sent to the director of the music trust (or designated manager).
- 8.6 Following receipt of any investigation report, and after consideration of the issues, the director of the music trust (or designated manager) should present their findings to the employee in writing. This correspondence should include any recommendations or proposals designed to resolve the issue(s). It may be appropriate to arrange a meeting with the aggrieved employee to discuss the conclusions and any actions proposed. A detailed record should be kept of any such meeting.
- 8.7 Where the aggrieved member of staff does not accept the findings of the director of the music trust (or designated manager) they may appeal against the decision to a separately constituted appeal panel. Any appeal should be submitted in writing within 5 working days.
- 8.8 The employee's written appeal should explain the basis of their appeal, what parts of the decision are disputed, the grounds for disputing the outcome and how the employee wishes the grievance to be resolved. The form provided at Appendix 2 (entitled Grievance Proforma – Appeal) should be completed and sent to the director of the music trust who will then make arrangements for an appeal hearing.

## 9. Appeal hearing

- 9.1 On receipt of a written appeal from the employee, a hearing will be arranged, in which the aggrieved employee may appeal in person to a panel of governors (normally three in number) who have had no previous involvement in the matter.
- 9.2 Every effort should be made to accommodate the employee's trade union representative or work colleague at the appeal hearing, including rescheduling of the hearing if the original date proposed is not acceptable to all parties. The rearranged appeal hearing should take place within 5 working days of the original date proposed.
- 9.3 The appeal will focus on specific reasons for not accepting the previous decision. Appeals which fail to identify any actual legitimate grounds for appeal will be rejected.
- 9.4 Appeals against grievance decisions will usually be considered by the panel in relation to one or more of the following grounds:
- **The Procedure** – should detail how procedural irregularities prejudiced the grievance decision
  - **The Facts** – should detail how the facts do not support the decision or were misinterpreted or disregarded. They should also detail any new evidence to be considered
  - **The Proposed Action** – should detail how the proposed action is inappropriate given the circumstances of the case.
- 9.5 The order of the appeal hearing should be as follows:
- i. the chair of the panel explains the process (advised by the HR Advisor)
  - ii. the employee presents his or her appeal
  - iii. questions may be asked by the management side/governor panel
  - iv. the management gives its response (which could be a response by the investigating officer)
  - v. questions may be asked by the employee/governor panel
  - vi. both employee and management are entitled to call witnesses (who should be held available for questioning)
  - vii. once all the evidence has been presented, the chair of the panel will adjourn the hearing
  - viii. the panel will also consider, in addition to oral evidence, any written evidence presented\* before making their decision.
- \*additional written evidence should only be admissible at the appeal stage if it could not have reasonably have been submitted for consideration at the formal stage.*
- 9.6 During the hearing, both employee and management may request an adjournment at any point. Notes should be taken of the hearing (clerk to governors may perform this role).
- 9.7 The decision of the appeal committee will be communicated in writing to the employee within a reasonable timescale following the appeal hearing (usually within 5 working days).

## **10. Grievance submitted at the end of employment contract**

- 10.1 If an employee raises a grievance and subsequently gives notice that they are leaving, or that their employment is to be terminated, every effort should be made to investigate the grievance before they leave. If it is not possible to fully investigate the grievance before the end of their employment contract, then a written response should be sent to the employee.
- 10.2 If a grievance is raised by an ex-employee following the end of their employment contract, the director of the music trust will provide a written response based on the submission. However, grievances submitted over 12 weeks after the end of the employment contract will not normally be considered.
- 10.3 If the grievance raised by an ex-employee relates to the actions of the director of the music trust, the chair of governors should provide a written response following an internal investigation (which could involve a meeting with the director to ascertain the circumstances).

## **11. Non-attendance during grievance investigation or appeal**

- 11.1 If an employee is unable or unwilling, without good reason, to attend meetings concerning the resolution of a grievance and/or to communicate with the director of the music trust (or designated manager), the director may proceed to make a decision (in determining the grievance) based on the available evidence.
- 11.2 If an employee is unable or unwilling, without good reason, to attend a grievance appeal hearing, the panel may proceed to make a decision (in determining the appeal) based on the available evidence.



## Appendix 1: Grievance Proforma – Formal Resolution

### Section 1: Employee Details

Name: .....

Contact Details: Number: ..... Email: .....

Post: ..... Location: .....

### Section 2: Employee Representation Details

Please provide the name of your trade union representative (you are entitled to be represented by a trade union representative or work colleague at any stage of the formal procedure).

Name: .....

Name of Trade Union: .....

Contact Details: Number: ..... Email: .....

### Section 3: Grievance Details

Please detail your grievance giving full details of dates, incidents, parties involved, witnesses, circumstances etc. Additionally, where possible, please ensure that you include or reference the following specific details:

- the date that this issue commenced
- whether this is a one-off issue, or part of a sequence of events
- which policies, procedures or employment terms do you believe have been breached?
- what action/steps you have taken to resolve the issue informally, when and who with?
- copies of any relevant documentary information
- what are you looking for in terms of a redress/satisfactory outcome?

*Note: this procedure is intended to support the resolution of any grievance(s) as quickly and fairly as possible to avoid any minor issues developing into more serious matters.*

**Please state your grievance:**

*(please continue on a separate sheet if necessary)*

**Please state what you are seeking as a satisfactory outcome to your grievance:**

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Signed: ..... Date: .....

Name (Printed): .....

## Appendix 2: Grievance Proforma – Appeal

### Section 1: Employee Details

Name: .....

Contact Details: Number: ..... Email: .....

Post: ..... Location: .....

### Section 2: Employee Representation Details

Please provide the name of your trade union representative (you are entitled to be represented by a trade union representative or work colleague at any stage of this procedure).

Name: .....

Name of Trade Union: .....

Contact Details: Number: ..... Email: .....

### Section 3: Appeal

As you are appealing against the outcome of the formal stage of the grievance procedure, you must ensure that you state why you are dissatisfied with the manager's decision. Your appeal should focus on specific reasons for not accepting the previous decision. Appeals which fail to identify any actual grounds of appeal will be rejected:

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

**Please state your reasons for appealing against the previous outcome:**

**Please state what you are seeking as a satisfactory outcome:**

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Signed: ..... Date: .....

Name (Printed): .....