

GRIEVANCE POLICY AND PROCEDURE

Approving Body	Trust
Date of Last Review	November 2022
Statutory (Y/N)	Y
Responsible Officer	BMAT CEO for and on behalf of the Trust

I. INTRODUCTION - PURPOSE AND SCOPE

1. This Policy has been drafted in line with the relevant legislation and with guidance from ACAS.¹

2. This Policy aims to ensure that:

- a. BMAT employees obtain a speedy and fair resolution to problems relating to their employment;
- b. Where appropriate, grievances are resolved informally;
- c. BMAT provides a professional environment in which all employees feel comfortable and in which everyone is treated with respect and dignity, in line with the Equality Act 2010 and the BMAT [‘Dignity at Work Policy’](#).

3. Scope.

- a. This Policy is for any BMAT employee with a grievance relating to their employment.²
- b. This Policy does not apply to collective disputes or grievances brought by an appropriate representative for two or more employees. Such matters fall under BMAT’s procedural agreement with its recognised trade unions.

II. GUIDING PRINCIPLES

4. **Non-contractual.** This Policy does not form part of employee’s contracts of employment and may be amended through normal BMAT procedure.

5. Responsibility.

- a. All employees who raise grievances are responsible for doing so honestly and in good faith, in line with this Policy and the [‘Disciplinary Policy and Procedure’](#).
- b. All managers are responsible for handling grievances that are raised with them fairly and consistently, in line with this Policy
- c. The BMAT Trust Executive is responsible for the overseeing the fair and consistent implementation of this Policy, and is accountable to the Board of Trustees.

¹Including: The ACAS Code of Practice on Disciplinary and Grievance Procedures 2015; The Dispute Resolution Regulations 2004; The Employment Act 2002; The School Staffing (England) Regulations 2003; and The Equality Act 2010.

² This may include working conditions (including working relationships with colleagues; health and safety; new working practices and organisational changes; and equal opportunities) and alleged bullying and harassment (i.e. where an individual feels that they have been subjected to unwelcome and unwarranted treatment, thereby causing him/her a detrimental effect; or where an individual wishes to complain of behaviour directed at others that they find offensive.)

6. **Timescales.** Reasonable efforts will be made to deal with grievances promptly and in line with the timescales set out in this Policy. Those timescales may be varied in exceptional cases (e.g. due to an unforeseen lack of resource or a particularly complex case). All parties will be informed of any variance to timescales and their consent will be sought.
7. **Stage of implementation.** Informal resolution is preferred, where appropriate, but this Policy may be implemented at any stage if the circumstances warrant (e.g. if the issues are so serious that informal action would be inappropriate).
8. **Equal treatment.** In line with the Equality Act 2010, the grievance process will not be used to discriminate unlawfully against any individual or group.
9. **Statutory Right of accompaniment:**
 - a. Employees have a statutory right to be accompanied at formal grievance hearings by a colleague, trade union representative or an official employed by a trade union ['companion']. They should be advised of this in writing.
 - b. External lawyers, other than those who are employees of a recognised trade union, may not act as companions.
 - c. The right of accompaniment does not extend to informal grievance meetings. Employees may make a reasonable request to be accompanied during the informal stages of this Policy, but granting such requests is at BMAT's discretion.
 - d. To exercise their right of accompaniment, employees must make a reasonable request (e.g. by giving BMAT sufficient time to prepare for a companion's attendance).
 - e. If a companion cannot attend a meeting which is subject to the statutory right of accompaniment, then the employee should request to postpone to a convenient time, no more than **five working days** after the original date. BMAT will agree to such a request.
 - f. A trade union representative who is not an employed official must have been certified by their union as being a competent companion.
 - g. Companions may address the hearing, put the employee's case and confer with him/her in private.
 - h. Companions may not answer questions on the employee's behalf, address the hearing against the employee's wishes or prevent either side from putting its case.
10. **Right of Appeal.** Employees have a right of appeal against a formal outcome of this Policy (Section V).
11. **Records.**
 - a. BMAT keeps a written record of grievances.

- b. All records are processed in line with the Data Protection Act 2018 and the [BMAT Data Protection Policy](#).
 - c. Copies of meeting records should be given to employees as standard or on request. BMAT may withhold information to protect witnesses and to maintain the confidentiality of the disciplinary process, if disciplinary action is taken against the subject(s) of a grievance.
 - d. Informal action under this Policy will not be stored on personnel files but a record should be kept by managers and those involved.
 - e. All records are processed in line with the Data Protection Act 2018 and the [BMAT Data Protection Policy](#)
 - f. Electronic recordings of formal or informal meetings under this Policy are not permitted.
12. **HR and legal involvement.** HR and legal advice will be obtained as appropriate. Legal and/or HR advisors may attend meetings at the formal stage of this Policy, as appropriate and on notice to all parties. A member of HR or a suitable delegate should attend meetings at the formal stage of this Policy to take a note and provide advice.
13. **Confidentiality:**
- a. Grievances are confidential and will not be disclosed unless required by law or this Policy. Employees will be updated on the handling of their grievance and informed if attempts are made to resolve it with other parties. However, if a grievance results in disciplinary action by BMAT against an employee, then this would be a confidential matter.
14. **Overlapping Grievance and Disciplinary Matters:** Where an employee raises a grievance during a disciplinary process (see '[Disciplinary Policy and Procedure](#)'), it may be temporarily suspended in order to deal with the grievance. Where the grievance and disciplinary cases are related, it may be appropriate to deal with both issues concurrently.
15. **Mediation:** Subject to the agreement of all parties to a grievance, the procedure may be suspended at any stage for informal mediation.
16. **Monitoring:** HR will monitor the implementation of this Policy across BMAT.

III. STAGE ONE – INFORMAL PROCEDURE

- 17. After the event(s) or issue(s) concerned, the employee should raise an informal grievance directly with the subject(s) of the grievance, if they feel comfortable doing so.
- 18. If they do not feel comfortable raising an informal grievance with the subject(s) of that grievance, employees should raise an informal grievance with:

- a. Their manager;
 - b. The next most senior manager or a member of SLT, if the employee’s manager, or next most senior manager, is a subject of the grievance;
 - c. A BMAT school principal, if the grievance is about a member of SLT or the Trust Executive, not including school principals or the BMAT CEO.
 - d. A member of HR, in confidence, if the grievance is about a BMAT school principal or the BMAT CEO (HR will give confidential advice about the best person(s) to raise the grievance with).
19. BMAT will not penalise employees for discussing informal grievances with colleagues with whom they have a good relationship, in confidence and in good faith. However, the reporting structures set out in this policy (at the informal stage and the formal stages) need to be followed for a grievance to be “raised” under this Policy: discussing a potential grievance with a colleague in the first instance falls outside the scope of this Policy.
20. If possible and appropriate, informal grievances should be raised within **ten working days** of the event(s) or issue(s) concerned. Employees will not be penalised if they do not raise genuine “good faith” grievances within this suggested timeframe.
21. Those involved should work together towards swift and amicable resolution, within **ten working days** of a grievance being raised informally.

IV. STAGE TWO – FORMAL STATEMENT OF GRIEVANCE

22. Employees should engage Stage Two if:
- a. The grievance is too serious to be raised informally (this should ideally be based on advice from HR);
 - b. They are dissatisfied with the response at Stage One; or
 - c. No response has been received **within ten working days** of raising a grievance informally and the reason for the delay was not communicated.
23. To engage Stage Two, the employee must set out their grievance in writing using the Statement of Grievance Form (Appendix A).
24. The completed form must be submitted to HR, in person or at hr@beaconacademytrust.co.uk.
25. Further details may be requested if the specifics of a grievance are unclear.

26. A member of the Trust Executive or SLT will be appointed to act as an investigating officer³. This role may be delegated to line managers who are not a member of the Trust Executive or SLT, if appropriate.
27. Awareness of the circumstances of the grievance will not preclude an investigating officer from handling the grievance unless it specifically relates to their behaviour.
28. A deadline will be set for a clarification meeting between the investigating officer and the employee who raised the grievance, within **ten working days** after the submission of the grievance.
29. The employee will be notified of the name of the investigating officer and the date of the clarification meeting within **five working days** of the grievance being received.
30. If the employee intends to be accompanied at the meeting, s/he should make a reasonable request at least two days before the meeting. If a companion is unavailable, then the employee should request to postpone the meeting to a convenient time, no more than **five working days** after the original date.

31. At the Clarification Meeting:

- a. The employee will be given the opportunity to explain their grievance, submit any signed witness statements, answer questions and suggest how they would like the issue(s) to be resolved.
- b. If material details emerge at the meeting that were not included in the original Statement of Grievance Form, then the meeting may be adjourned.
- c. See paragraph 9 of this policy on the statutory right of accompaniment.
- d. At the close of the meeting, the investigating officer will summarise their understanding of the grievance and explain the next steps, including whether the investigating officer intends to interview or resolve the issue(s) in consultation with other employees, governors, trustees or trade union representatives.

32. Following the Clarification Meeting:

- a. The investigating officer will meet with the subject(s) of the grievance as well as relevant witnesses, where appropriate, and take statements if necessary.

³ If the grievance is about a member of SLT who is not also a member of the Trust Executive, then the appropriate BMAT School Principal should be the investigating officer. If the grievance is about a member of the Trust Executive, then the BMAT CEO should be the investigating officer. If the grievance is about the BMAT CEO, then a trustee should be the investigating officer.

- b. The investigating officer will keep a written record of the investigation and produce a written report of the investigation and their findings.

33. Within ten working days of the Clarification Meeting:

- a. The investigating officer will issue a decision letter and in addition may in some circumstances meet with the employee who raised the grievance to explain the outcome of the grievance and issue the decision letter (subject to restrictions around confidentiality).
- b. The decision letter will set out the right of appeal, should the employee be dissatisfied with the outcome.
- c. The outcome will be communicated to the subject(s) of the grievance. The subject(s) of the grievance may be informed of the outcome in writing but may not be sent a copy of the full decision letter and report.

V. STAGE THREE – APPEAL

- 34. The appeal process may be suspended at any stage for voluntary and confidential mediation⁴, on agreement between BMAT and the appellant employee. If mediation fails, the appeal process may be restarted.
- 35. If the employee who raised the grievance is dissatisfied with the outcome at Stage Two and thinks that they have a reasonable case for appeal, then they may move to Stage Three.
- 36. Stage Three should only be used to appeal the outcome or decision making process at Stage Two, where the complainant believes, for example, that:
 - a. The decision or decision making process was biased;
 - b. There was a failure to act or investigate the grievance properly;
 - c. New and material information has come to light;
 - d. The decision is irrational (i.e. no reasonable person could have come to the decision that was made);
 - e. A material mistake was made on the facts.
- 37. The onus is on the appellant to clearly establish the ground(s) of appeal; materiality to the decision taken; and the detriment they have suffered as a result

⁴ BMAT will make arrangements for the mediation process, following HR and/or legal advice, as appropriate.

38. Within **five working days** of the outcome at Stage Two, the complainant/appellant must complete a Staff Grievance Appeal Form (Appendix B) and submit it to HR, in person or at hr@beaconacademytrust.co.uk.
39. Within **five working days** of receipt of an appeal, a written acknowledgement will be sent to the appellant outlining the next steps.
40. In exceptional cases, appeals may be dismissed on the papers (i.e. without a hearing) if BMAT has reasonable grounds to believe that the appeal is vexatious, baseless and/or inarguable (e.g. because the evidence in favour of the action that was taken was very strong and/or because the appellant has made no arguable case in response and/or because the appellant has used the appeal form to attack BMAT and/or the person(s) responsible for enforcing the grievance procedure.
41. Malicious appeals may result in disciplinary action.
42. A governors' appeal panel will be held no later than **20 working days** from the submission of the appeal. The Panel will consist of three members of the Governing Body, with advice from HR and/or a legal professional, who should attend the panel hearing.
43. Appeals by employees who provide services directly to BMAT and/or members of the Trust Executive, will be dealt with by an appeal panel of Trustees. The Panel will be held no later than **20 working days** from the submission of the appeal, and consist of three trustees, with advice from HR and/or a legal professional, who should attend the panel hearing.
44. The details of the hearing and copies of any relevant documentation will be sent to the complainant and panel not less than **five working days** prior to the date of the hearing.
45. Appeals will **not** take the form of a rehearing of the grievance; the purpose is to review the decision and the decision making process. Following legal and/or HR advice, exceptions may be made if the appellant submits evidence to suggest that there was bias or discrimination in the decision or decision making process.
- 46. At the appeal hearing, the panel will:**
 - a. Deal with individuals fairly, impartially and in accordance with equality and diversity requirements;
 - b. Ask the appellant employee to put the case for appeal first, before questioning it and considering responses to the appeal (e.g. from the investigation officer), as appropriate.
 - c. Aim to reach a consensus;
 - d. Maintain confidentiality, as appropriate;
 - e. Consider all relevant materials and give all parties the opportunity to make submissions in person;

- f. Consider the grounds of appeal and any responses to them;
- g. Review the record of formal grievance meetings, the investigating officer's report and the decision letter;
- h. Seek clarification from individuals involved in the initial grievance;
- i. Consider whether or not to admit any new evidence, where applicable.
- j. See Para.9 of this policy on the statutory right of accompaniment, which applies to appeal hearings.

47. Following an Appeal Hearing, the Appeal may be:

- a. Upheld in full or in part, with an appropriate remedy;
- b. Dismissed, with no change to the outcome of the grievance.

48. Before reaching a decision, the panel may need to obtain legal or other professional advice.

They will normally communicate their decision and its rationale in writing, within **ten working days**. If they are unable to do so, they will give reasons why not and the date by which a decision is expected.

49. Attendance at each meeting of the panel, issues discussed, and recommendations will be recorded in writing. The Clerk to BMAT keeps a record of appeal hearings, in line with data protection legislation and the [BMAT Data Protection Policy](#).

50. The outcome of the appeal hearing is final in respect of internal procedures.

51. See '[Appendix C – The Appeal Panel](#)'.

GRIEVANCE POLICY

APPENDIX A – STATEMENT OF GRIEVANCE FORM

Contact Details	
Name	
Job Title & Department	
Grievance Information	
Date	
Does your grievance relate to your line manager?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Have you attempted to resolve your grievance informally, in accordance with the 'Grievance Policy'?	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, on what date(s) did you attempt to do so and which member(s) of staff did you contact? If not, why not (why would it be inappropriate to attempt to resolve your grievance directly and informally?)
Summary of Grievance Set out the details of your grievance, providing as much detail as possible (dates, times, locations, any step(s) taken to resolve your complaint and the names and contact details of any people involved in your complaint, including witnesses). Attach additional sheets if required.	

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APPENDIX A – STATEMENT OF GRIEVANCE FORM – Page 2

Grievance Information	
<p>Outcome Requested.</p> <p>Set out what outcome you would like to see your grievance dealt with, and why you believe this will resolve the issue(s) described above.</p>	
<p>Declaration</p>	<p>I confirm that the above statements are true to the best of my knowledge, information and belief.</p> <p><u>Signature:</u></p> <p><u>Date:</u></p>

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APPENDIX B –GRIEVANCE APPEAL FORM

Contact Details	
Name	
Job Title & Department	
Grievance Information	
Date	
Date of raising a formal grievance, via Stage Two of the 'Staff Grievance Policy'	
Date of Clarification Meeting	
Name & job title of the investigating officer.	
Did you receive a final outcome from the investigating officer within 10 working days of your Clarification Meeting?	Yes <input type="checkbox"/> No <input type="checkbox"/> If not, have you been informed of the reasons for delay? Yes <input type="checkbox"/> No <input type="checkbox"/>
Summary of Appeal – <u>Please explain:</u> <ul style="list-style-type: none"> The ground(s) of your appeal; Their materiality to the decision you are appealing; and The detriment you have suffered as a result. Provide as much detail as possible. Attach additional sheets if required.	

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APPENDIX B –GRIEVANCE APPEAL FORM – Page 2

Appeal Information	
<p>Outcome Requested – if your appeal is successful, what steps would you like to be taken and why would be appropriate steps to take?</p>	
<p>Declaration</p>	<p>I confirm that the above statements are true to the best of my knowledge, information and belief.</p> <p><u>Signature:</u></p> <p><u>Date:</u></p>

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APPENDIX C – THE APPEAL PANEL

1. Governors/trustees will be selected based on their eligibility and availability.
2. There should be three and no fewer than two governors/trustees who have no prior involvement in the case and no concern for the case other than in their capacity as governors or, if a parent of a student of BMAT, than in the capacity of such parents generally.
3. Governors/trustees must not be employees of BMAT (e.g. a staff governor or a school principal within BMAT) and any decision(s) to which they are a party must not be under appeal;
4. The committee will be reconstituted for each appeal hearing;
5. The hearing must take place in a suitable room which must be free from interruptions and suitable for any disabled attendees;
6. HR and/or legal professionals will advise the committee if needed and should attend appeal hearings, where appropriate.

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APPENDIX D – FLOWCHART OF PROCEDURE FOR STAFF GRIEVANCES

