



# **DORE PRIMARY SCHOOL**

## **Collective Disputes Model Policy for Staff in Schools**

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## **PREAMBLE**

The Governing Body expects the Headteacher and managers, trade union representatives and employees to seek to avoid the need for formal dispute processes, wherever possible by ensuring constructive and reasonable responses to the resolution of problems. Schools should engage in regular meetings with school Trade Union representatives to minimise the possibility of formal disputes e.g. at termly intervals.

A collective dispute is a complaint by a group of employees relating to their employment. This procedure will apply to collective disputes about those issues of pay and conditions of employment within the delegated powers of the Governing Body

Where a dispute concerns issues outside the control of the Governing Body this document will not apply. Instead, where such issues are within the remit of Sheffield City Council as the maintaining authority, the relevant corporate Collective Disputes procedure will apply.

The corporate procedure will be used to address collective grievances where there are Corporate or Corporate Policy implications, where a group of employees has complaints about their employment or treatment at work, or from an alleged failure to agree to a negotiated agreement (made by the Council). The corporate procedure will not apply to those matters of pay and conditions of employment where National, Regional or Local Collective Agreements apply unless the dispute concerns alleged failure to observe these agreements.

This procedure should not inhibit the use of informal discussion as a means of resolving potential collective disputes. The Governing Body would like issues to be raised with the leadership of the school prior to a dispute being lodged and efforts made to resolve these issues before proceeding to a formal dispute.

## **SECTION 1: INTRODUCTION**

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- 1.1 The procedure set out below applies to all teaching and support staff employed at the school. It should be recognised that this procedure is only available to Trade Unions recognised for representation of the parties to a dispute.
- 1.2 The procedure may be used where a group of employees has complaints about their employment, treatment at work or working conditions. The procedure is not applicable to individual grievances from individual employees for which there is a separate procedure.
- 1.3 Changes in legislation will not be the subject of a collective disputes process. This procedure is not applicable to disputes which fall to be dealt with under specific legislation e.g. Teachers Superannuation Acts and it is expected that matters listed below will be dealt with outside this guidance:
  - Income Tax, National Insurance, Statutory Sick Pay, Statutory Maternity Pay and other rules and Regulations made by bodies other than the employer

- The rules of pension schemes and matters related to pension schemes
- Issues of pay and conditions of employment outside of the delegated powers of the Governing Body
- Alleged failure to observe National, Provincial or Local Collective Agreements in relation to pay and conditions of service if this matter cannot be resolved at school level and is within the remit of Sheffield City Council as the maintaining authority. In these circumstances the Collective Disputes procedure relevant to the employee group will apply (see preamble).

## **SECTION 2: PURPOSE**

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- 2.1 The purpose of this procedure is to provide schools with guidance regarding the process available for resolving potential disputes at a local level within a school and to avoid a formal dispute and the need for industrial action.
- 2.2 The aim of this policy is to:
- provide a means for dealing promptly and satisfactorily with such complaints whilst maintaining constructive relationships and enabling the school to carry on functioning without disruption
  - reduce the possibility of disputes arising between school based staff and their school
  - ensure that there are established procedures for resolving disputes at a local school level
  - establish a process which can be used for disputes between the school, city Council and the Unions in cases where matters cannot be resolved through informal routes of consultation and negotiation

## **SECTION 3: APPLICATION OF THE POLICY**

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- 3.1 In the event that notification of an individual grievance is received from two or more employees about the same issue which may impact on other employees, the Headteacher will contact the Trade Unions to discuss the matter including whether the grievances could be dealt with on an individual basis under the individual grievance policy or collectively under this policy. The trade union(s) should agree with the employee's concerned how they would like their grievance to be managed.
- 3.2 Once agreement is reached this should be confirmed in writing to the Trade Union and affected employees.
- 3.3 In a community school where the dispute impacts outside the school the Headteacher should notify the Director of HR for the City Council who will

consider the action required to attempt to seek a resolution and advise accordingly.

- 3.4 Formal disputes should wherever possible be raised in the first instance at the lowest possible level and there will be three opportunities to resolve the matter as follows:

**Stage 1-** Informal discussion/Manager/Headteacher (or Governor where the dispute relates to the actions of the Headteacher.

**Stage 2-** Headteacher/ Governor (minimum) /Panel of Governors (level 2 hearings are recommended to be heard by a panel of 3 governors (rather than 1) where numbers permit)

**Stage 3-** Governor Appeal panel (Including Chair of Governors)

- 3.5 The dispute will be managed by an appropriate manager or school leader at each stage. If the dispute is in relation to actions by the Headteacher, which cannot be resolved through informal discussion with a governor at stage 1, the Trade Union shall have the right to refer the matter to the Governing Body at stage 2.

- 3.6 Every attempt should be made to resolve the dispute at the lowest possible level prior to commencing the formal process. However, it is accepted that in some situations it may be more appropriate (by agreement), to deal with an issue at a higher level and to omit certain stages. Escalation can be requested by either party.

- 3.7 The procedure does not formally provide for a conciliation stage. However where both sides consider that the collective dispute could be progressed using a conciliation approach assistance should be sought from the schools HR provider, the City Council Statutory and Strategic HR service or ACAS to pursue this.

- 3.8 Where a formal dispute is registered whatever practice or agreement that was in place prior to the dispute should continue. There should be no industrial action or changes in working pending a settlement of the dispute or until this procedure has been exhausted and appropriate consideration has been given to resolving the dispute by other means.

Where the existing practice, agreement or arrangement continues, this will be subject to a maximum period not exceeding 2 months unless extended by agreement of all parties to enable the procedure to be exhausted.

- 3.9 Where there is a dispute about the 'status quo' as detailed above, the Director of Human Resources of the City Council and appropriate Trade Unions side secretaries of appropriate local negotiating bodies, are available to either side in order to attempt to resolve the differences. In academies this matter would need to be resolved between the Chair of Governors and the Trade Unions supported by the HR Provider for the academy or ACAS.

- 3.10 This procedure sets time limits on each stage. If a dispute is not satisfactorily progressed within the time limits specified the dispute can be referred to the next stage of the procedure, unless an extension is agreed.
- 3.11 Where there is a reference within the procedure to a working day this shall be taken to mean those days during the school year, with the exclusion of public holidays, when the affected employees would normally attend for duty.
- 3.12 Hearings convened for the purpose of dealing with Collective Disputes may be adjourned where requested.
- 3.13 Either party to the Collective Dispute has the right to invite witnesses to meetings or hearings to support their case. Both parties will be notified of this intention in advance.

## SECTION 4: THE PROCESS

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### 4.1 Notification of the dispute

The trade union should make the Manager / Headteacher /Governor aware of the dispute by outlining their complaint and the outcome they are seeking.

### 4.2 Stage One –Informal discussion/resolution - Manager/Headteacher / (Governor – only in the case of issues relating to the Headteacher)

The Manager/Headteacher (or Governor) should arrange a meeting within 5 working days of receipt of the dispute to discuss the issues informally with a view to seeking resolution

The purpose of the meeting is to discuss informally the points of the dispute and try to seek resolution without the need to progress to a formal hearing. In the event that resolution is not found, the dispute will progress to Stage 2.

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| <b>Stage 1</b>  |
| <b>In attendance</b>  |
| <ul style="list-style-type: none"> <li>• Manager/Headteacher considering the dispute</li> <li>• Trade Union Representatives (From each union where more than one union is involved)</li> <li>• HR provider</li> <li>• Witnesses as appropriate (as notified to either side in advance of the hearing)</li> </ul>  |
| <b>Process</b>  |
| <p>The Manager/Headteacher will outline the outline the current position and invite the trade union(s) to make representations setting out their position and the resolution they are seeking.</p> <p>Where witnesses are used they will be called at the appropriate time to give evidence, they can be questioned by those present and should then withdraw.</p> <p>The Manager/Headteacher will lead the meeting and attempt to:</p> |

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| <ul style="list-style-type: none"> <li>• Identify a shared understanding of the problem or reason for the dispute</li> <li>• Identify, share and analyse all the relevant information and facts</li> <li>• Encourage the identification and evaluation of a number of alternative solutions</li> <li>• Seek compromise or common ground for a workable solution</li> <li>• Plan action to implement a solution</li> </ul> |   |  |
| <p><b>Follow up actions</b><br/>The Manager/Headteacher will provide a written outcome of the meeting and, if the dispute has not been resolved, will provide a position statement to the trade union representatives.</p>  |   |  |
| <p><b>Possible outcomes</b><br/>The possible outcomes are:</p>  |   |  |
| Dispute is resolved   | An adjournment is required to allow further investigation to take place; the Manager/Headteacher (Governor(s)) will advise the trade union of the likely timescales for reconvening the meeting and agree a provisional date. | Dispute is not resolved and either party can consider referral to the next stage |

#### 4.4 Stage Two – Headteacher / Governor(s) Level

The Headteacher / Governor(s) who is to hear the dispute will seek to convene a meeting of all parties to the dispute within 10 working days of receiving written notification of the dispute. If the Headteacher considered the complaint at stage 1, stage 2 should be heard by a Governor or panel of Governors (Level 2 hearings are recommended to be heard by a panel of 3 governors (rather than 1) where numbers permit).

The Headteacher / Nominated Governor will consider the position statements submitted and hear representations from the parties to the dispute. He / she will seek to identify a process for resolving the dispute rather than negotiate on the differences involved. However the Headteacher/Governor(s) will determine an outcome where one cannot be agreed between the parties.

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| <p><b>Stage 2</b></p>   |
| <p><b>In attendance</b></p> <ul style="list-style-type: none"> <li>• Headteacher or Governor representative(s) considering the dispute</li> <li>• Trade Union Representatives (From each union where more than one union is involved)</li> <li>• Manager/Headteacher who made the decision at the Stage 1 meeting</li> <li>• HR provider(s)</li> <li>• Witnesses as appropriate (as notified to either side in advance of the hearing)</li> </ul> |
| <p><b>Process</b></p> <p>The Headteacher/Governor(s) will outline the position statements and invite both sides to make representations setting out their position and the resolution they are seeking.</p> <p>Where witnesses are used they will be called at the appropriate time to give evidence, they can be questioned by those present and should then withdraw.</p>   |

The Headteacher/Governor(s) will lead the meeting and attempt to:

- Identify both parties' understanding of the problem or reason for the dispute
- Identify, share and analyse all the relevant information and facts
- Encourage the identification and evaluation of a number of alternative solutions
- Seek compromise or common ground for a workable solution
- Plan action to implement a solution

**Follow up actions**

Following the meeting the Headteacher / Governor(s) will provide a written outcome of the hearing and, if the dispute has not been resolved, will provide a position statement to the trade union representatives.

**Possible outcomes**

The possible outcomes are:

|                     |   |  |
|---------------------|---|--|
| Dispute is resolved | An adjournment is required to allow further investigation to take place; the Headteacher/Governor(s) will advise the trade union of the likely timescales for reconvening the meeting and agree a provisional date. | Dispute is not resolved and either party can consider referral to the next stage |
|---------------------|---|--|

**4.5 Stage 3 – Governor Appeal Panel**

This is the final stage of the Collective Disputes Procedure

To refer the matter, either party can write to the Chair of Governors attaching a copy of the Stage 2 position statement and outcome letter. Alternatively, referral to Stage 3 could be made at the informal stage therefore a written request will not be necessary.

The Governor Appeal Panel will be convened within 20 working days of the request being received. The Panel will consist of three Governors, including the Chair of Governors. However it is recognised that there may be some situations where sufficient Governors are not available. In all cases Panel members will not have been involved previously in the dispute at an earlier stage.

In addition to the outcome letter and position statement from Stage 2 or any evidence from the informal stage discussion agreed for submission by both sides, written statements should be prepared by both parties to the dispute and should be submitted to the Chair of the Appeal Panel. Submissions should be made at least 5 working days prior to the hearing for exchange between the parties and for dispatch to the members of the panel.

The disputes panel will hear submissions from both parties to the dispute. The role of the panel will be to concentrate on the resolution of the dispute rather than to negotiate upon the differences.

The Governing Body Appeal panel will determine an outcome to the dispute where one cannot be agreed between the parties.

The decision of the Governing Body Appeal panel shall be given at the end of the hearing. The decision will also be confirmed in writing to all parties within 3 working days.

Following the decision of the Governing Body appeal panel it is for the parties to determine what action may be taken in light of the decision made.

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| <b>Stage 3</b>  |  |
| <b>In attendance</b>  |  |
| <ul style="list-style-type: none"> <li>• Governor panel hearing the dispute</li> <li>• Trade Union Representatives (From each union where more than one union is involved)</li> <li>• HR provider</li> <li>• Manager/Headteacher/Governor</li> <li>• Witnesses (may be called if they have a relevant contribution to make to the consideration of the case)</li> </ul> |  |
| <b>Process</b>  |  |
| This is the final stage of the process and the decision at the Appeal Hearing is final.   |  |
| The process is the same as detailed in stage 2  |  |
| The Governor panel will consider the information presented. The parties will be called back into the meeting either to hear the decision or be informed of how they will be notified of the decision.   |  |
| <b>Follow up actions</b>  |  |
| The decision will be confirmed in writing to the parties within 3 days of the meeting.  |  |
| <b>Possible Outcomes</b>  |  |
| The possible outcomes of the Appeal Hearing are:  |  |
| The dispute is resolved, outcome agreed between parties   | <p>The dispute is not resolved, governing body determine an outcome.</p> <p>Both parties can then determine any action to be taken in the light of the decision.</p> |

## **SECTION 5: CONCILIATION**

5.1 Subject to the agreement of both parties conciliation may take place at any time during this formal procedure. The Director of Human Resources should be contacted to make the appropriate arrangements. Any advice or recommendation arising from the conciliation will not be taken into consideration in any of the formal procedures.

5.2 Each side will be free to appoint its own conciliator(s) who should have had no prior involvement in the dispute.

**MODEL LETTER INVITING TU / EMPLOYEE REPRESENTATIVE TO MEETING at STAGES 1, 2, 3 of the COLLECTIVE DISPUTES PROCEDURE**

Dear

Further to your letter dated (insert date) raising a collective dispute under (insert name of school) collective disputes procedure on behalf of:

Insert names of employees and post titles

I am writing to confirm that you are invited to attend a meeting at Stage (insert 1 or 2) of the Collective Disputes Procedure. I am enclosing a copy of the Procedure for your information.

This meeting will be held on (date) at (time) in (venue).

The main areas of concern that you have raised, which will be discussed are:

1. (Insert details of concerns)

Please find enclosed the format that will be followed at the hearing.

You will be informed in writing of the outcome of your grievance within three working days after the hearing.

\*If you wish to pursue the matter further following this hearing, you must write to (insert name of next level manager/Governor) setting out your intention to appeal within five working days of receipt of the outcome letter. **Delete this paragraph when inviting to an appeal hearing.**

Yours sincerely

### **MODEL LETTER ADVISING OF THE OUTCOME OF THE COLLECTIVE DISPUTE HEARING**

Dear

I write to confirm the outcome of the Collective Dispute Hearing/decision of the Appeal Panel following the Collective Dispute /Appeal Hearing on.....

The Collective Dispute/Appeal Hearing was heard by #. You were represented by #, your Trade Union Representative.

Careful note was taken of the points made in support of your complaint by you and your Trade Union Representative, #. The points made by #, your Manager/Headteacher in response to your complaint were also considered. After giving your complaint very serious consideration, I have decided #.

\*If you wish to pursue the matter further following this hearing, you must write to (insert name of next level manager/Governor) setting out your intention to appeal within ten working days of receipt of the outcome letter.

Yours sincerely

| Stages<br>Roles and<br>Representation<br>at each level | Informal  | Formal Resolution<br>Stages                               |   | Outside Governing Body Remit   |  |  |
|--|---|---|---|--|--|--|
|  | Stage 1 - Informal<br>Discussion<br>Where resolution is not possible by informal discussion. The formal 2 stage process should begin. | Stage 2 –<br>Head /<br>Governing<br>Body /<br>Manager     | Stage 3 -<br>Governing<br>Body Appeal                     | Conciliation-<br>Where issues cannot be resolved 3 <sup>rd</sup> party intervention is suggested. This stage is outside the formal procedure. Independent conciliators with no prior knowledge of the dispute are required | Authority<br>Level<br>Issues relating to individual schools or a number of Authority Schools. Local Disputes under Burgundy Book | National Level<br>National Collective Disputes rules apply |
| <b>School</b>  | Headteacher or Governing Body nominee if dispute is against Headteacher   | Headteacher / Governor nominee                            | Headteacher   |  | School/s   |  |
| <b>Trade Union</b>                                     | Trade Union – Local TU Officers / Shop Stewards   | Trade Union Local Branch Secretary or Designated Convenor | Trade Union Local Branch Secretary or Designated Convenor | Trade Unions side secretaries of appropriate local negotiating bodies  | PJC/LNC/JNC/ CJC depending on issue  | National Representatives                                   |
| <b>Governors</b>                                       | 1 Governor if dispute against Head  | 1 Governor Nominee if dispute against Head                | Governing Body - 3 Members                                |  |  |  |
| <b>Other</b>   |   | HR Provider plus SCC rep invited                          | HR Provider plus SCC rep invited                          | Director of HR   | Chief Local Authority Officers   | National Negotiating Officers and Ministers                |

