

Complaints and Grievance Policy

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Red Balloon Educational Trust's Vision and Core Values

Red Balloon Educational Trust (RBET) provides a robust programme of academic education, wellbeing and therapy, and social re-engagement for young people aged 11 –21 who are out of school due to bullying, trauma and/or mental ill-health. The overall aims of the Red Balloon Learner Centres are that students will regain their self-esteem, get back on an academic track, and return to mainstream education, and that the staff are given opportunities for personal and professional development.

Our Vision

To provide the Red Balloon Recovery Programme to more of the young people who self-exclude from school; to employ well-trained employees to support that programme.

Our Values

- Inclusivity
- Negotiating the Curriculum
- Student Voice
- Unconditional Positive Regard

RBET fully supports the independence and distinguishing characteristics of its Learner Centres, each of which is committed to the aims and values of Red Balloon whilst adhering to those of its own.

RBET is committed to supporting its Learner Centres for the benefit of the communities that they serve. RBET expects the Centres to work together and provides a strong, responsible foundation enabling them to develop and grow, offering the best possible learning experiences for their students.

Complaints and Grievance Policy

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1. Introduction

RBET is committed to ensuring that the employment arrangements meet the highest standards of fairness and statutory entitlements in employment. We seek to build a workplace environment where colleagues are treated fairly and can work with dignity and respect.

The aim of the Staff Complaints and Grievance Procedure is to address any complaints fairly, consistently and promptly. We believe that the fair and effective resolution of staff concerns is beneficial to harmonious working, job satisfaction, productivity and ultimately to the effective education of our students.

The Staff Complaints and Grievance Procedure is not contractual and may be varied by the Trust.

2. General Principles and Definitions

- 2.1 This procedure applies to all staff employed by the Trust in respect of whom the responsibility for seeking redress of any complaint (except those matters which are subject to separate procedures such as flexible working and pay relating to their employment).
- 2.1. Complaints made under this procedure should be made as soon as possible (and in any case within 6 months of the alleged event(s) in order that the Trust can resolve matters. The employee should not deliberately or unreasonably delay in bringing the matter to the Trust's attention.

3. Definitions of bullying, harassment and discrimination

ACAS states that most people use the terms bullying and harassment interchangeably. However, ACAS provides the following definitions:

Bullying

- *"Offensive, intimidating, malicious or insulting behaviour, or*
- *an abuse or misuse of power that undermines, humiliates, or causes physical or emotional harm to someone".*

Harassment

“When bullying or unwanted behaviour is about any of the following protected characteristics under the discrimination law: age, disability, gender reassignment, race, religion or belief, sex, sexual orientation. For it to count as harassment the unwanted behaviour must have either violated the persons dignity, whether it was intended or not or created an intimidating hostile, degrading, offensive, environment for the person, whether it was intended or not”.

Discrimination

By law, being discriminated against is when you're treated unfairly because of any of the following:

1. Age
2. Disability
3. Gender reassignment
4. Marriage or Civil Partnership
5. Pregnancy or maternity
6. Race
7. Religion or belief
8. Sex
9. Sexual orientation
10. Membership or non-membership of a trade union or involvement in trade union activities
11. Status as an ex-offender
12. Status as a part-time worker
13. Fixed-term status

4. Responsibilities under this procedure

Management

Managers should be aware that in law an employer may be held responsible for the actions of its employees regardless of whether or not they are aware of those actions. It is therefore essential that the Trust takes appropriate measures to ensure that bullying, harassment, or discrimination do not occur. All meetings and proceedings should be confidential.

It is the responsibility of the Trust's management to:

- Make all members of staff aware of the policy and ensure their compliance.
- Deal with all issues in a timely, serious, and sensitive manner.

- Maintain confidentiality when dealing with cases and ensure that a written record is kept of all informal and formal meetings and discussions.
- Make every effort to resolve complaints informally by discussion between the individual member of staff and the appropriate level of management; the resolution of employee complaints should form part of everyday informal managerial action.

Individual members of staff

Each individual is responsible for their own actions whilst at work. It is the responsibility of all employees to:

- Be mindful of their own behaviour and treat others with dignity and respect.
- Try to resolve problems informally by discussion with colleagues and/or management.
- Report incidents of harassment or bullying either personally experienced or witnessed, immediately to the appropriate line manager.
- Ensure confidentiality is maintained at all times.

The Trust has delegated the following powers to hear grievances to the following levels (or above) of staff:

Complainant	Grievance Officer	Appeal Officer
Staff below level of Assistant Head of Centre	Assistant Head/ Deputy Head	Head of Centre
Assistant Head of Centre	Deputy Head of Centre/Head of Centre	Head of Centre/Chair of Governors
Deputy Head of Centre	Head of Centre	Chair of Governors
Head of Centre	Chair of Governors	Nominated Trustee(s)
Chief Executive	Nominated Trustee(s)	Nominated Trustee(s)

Where the complaint regards an employee at the level of the appointed Grievance Officer, then the next level of management up will ordinarily deal with the matter (e.g. where an complaint is raised (by any member of staff) regarding an Assistant Head of Centre a

Deputy Head of Centre will ordinarily be the Grievance Officer and the Head of Centre will ordinarily be the Appeal Officer).

For complaints regarding the Head of Centre a nominated Governor/Trustee shall have the authority to be the Grievance Officer and a nominated Governor/Trustee will hear any appeal.

For complaints regarding the Chief Executive the Chair of Trustees shall have the authority to be the Grievance Officer and a nominated Trustee will hear any appeal.

5. Right to be accompanied

The employee may bring a companion to any grievance meeting or appeal meeting under this procedure. The companion may be either a trade union representative or a work colleague. The employee must tell the Trust who their chosen companion is, in good time before the meeting.

At the meeting, the employee's companion may make representations and ask questions, but should not answer questions on the employee's behalf. The employee may confer privately with them at any time during the meeting.

Acting as a companion is voluntary and the employee's colleagues are under no obligation to do so. If they agree to do so they will be allowed reasonable time off from duties without loss of pay to act as a companion.

If the employee's choice of companion is unreasonable, the Trust may ask the employee to choose someone else, for example:

- If in the Trust's opinion the companion may have a conflict of interest or may prejudice the meeting; or
- If the companion is unavailable at the time a meeting is scheduled and will not be available for more than five working days afterwards.

The Trust may, at its absolute discretion, allow the employee to bring a companion who is not a colleague or union representative (for example, a member of the employee's family) if this will help overcome a disability.

6. Postponement of hearings and appeals

In accordance with Section 10 (4) of the Employment Relations Act 1999 the complainant may seek a postponement of a complaint hearing and propose an alternative time, if their chosen trade union or professional association official or work colleague is not available at the time proposed for the hearing by the employer. The Act states that the alternative time proposed by the employee must be reasonable and fall within five working days beginning the first working day after the day proposed by the employer.

In exceptional circumstances, where the efficient running of the Trust or the interests of the health and wellbeing of the parties involved is being compromised by the process; the hearing may be held in the absence of the complainant after considering representations.

7. Record keeping and confidentiality

It is important that accurate and contemporaneous records are kept throughout the complaints handling processes, including any initial informal processes. Copies of meeting records should be given to the employee, including copies of any formal minutes that may have been taken.

Records should be held in a secure and confidential manner. Often the issues raised are particularly sensitive and it is essential that the circulation of information be minimised to that which is necessary to ensure a fair investigation and hearing. All meetings, documentation and proceedings should be confidential.

In the event of a complaint being made, the management of the Trust/Centre may inform the Chair of Governors or Trustees.

8. Resolving complaints Informally

Every effort should be made to resolve complaints informally by discussion between the individual member of staff and the appropriate level of management. This can often lead to a speedy resolution of the problem and is likely to be less damaging to working relationships.

The Individual

In cases where an employee feels aggrieved by the words or actions of another; it is important for the employee to deal with this at an early stage. The employee should address the issue by one or more of the following options:

- An employee with a complaint must start by discussing it with their line manager at the earliest opportunity; it may be possible to resolve the complaint informally through discussion.
- If the employee has a complaint regarding their line manager, she or he may seek assistance from a more senior manager.
- The employee may also seek support from their Trade Union representative, Occupational Health, or a mediation service (see paragraph 9).

If the complaint is against a Head of Centre or a member of the Chief Executive see paragraph 16.

Management

When a complaint has been raised verbally or in writing in the first instance the line manager should offer a meeting to discuss the details of the complaint and seek to gain the employee's agreement to address the complaint informally. The line manager may decide to address the complaint by one or more of the following options:

- Offer the complainant a meeting with their manager and the person whom they have a complaint against to openly discuss any issues and agree a way forward.
- Speak to the person whom the complaint is made against on the employee's behalf.
- Refer the complainant and the person whom the complaint is made against to Occupational Health for support (if necessary).
- Arrange external mediation subject to agreement by both parties.

In all circumstances, managers should try to resolve the underlying problem informally as part of good management practice. However, the decision to attempt to achieve an informal resolution ultimately rests with the complainant.

9. Mediation

Mediation is a voluntary process where the mediator helps two or more people in dispute to attempt to reach an agreement without recourse to the formal procedures. Mediation should be undertaken by a neutral third person who is trained in mediation techniques. Mediation, where it is successful, can produce quicker and more satisfactory results for the parties involved and may reduce the damage caused to working relationships and the health and wellbeing of both parties. Employees may be offered mediation at any stage of the complaints process. Equally, either party or their trade union representatives may make this suggestion.

Even if mediation is not initially agreed by the parties, the offer of a mediated process can be re-offered as the case progresses.

Mediation may be used for:

- Resolving conflict between colleagues of a similar job or grade, or between a member of staff and their line-manager
- Rebuilding relationships after a formal dispute has been resolved
- Addressing personality clashes, communication problems and bullying and harassment

Please note, where disciplinary action is required; this process should be completed prior to mediation.

The details of discussions within mediation processes are confidential to the parties involved.

The mediation process is normally carried out without the involvement of trade union or management representatives.

10. The Formal Procedure

If it is not possible to resolve a complaint informally employees should raise the matter formally and without unreasonable delay (see paragraph 1.2) to the Head of Centre, or to the Chief Executive if the complaint is against the Head of Centre or the Chair of Trustees if the complaint is against the Chief Executive. This should be done in writing and set out the details of the complaint and state that the complaint is being made on a formal basis.

Step 1 – The Complaint Letter

Details of the complaint should be forwarded in writing to the Head of Centre/Chief Executive/Chair of Governors/Chair of Trustees (see above) by the complainant. The complainant should normally receive an acknowledgement of the complaint within five working days. A formal complaint should normally be submitted without unreasonable delay following the action or decision under dispute (see paragraph 1.2).

The letter of complaint should carefully describe the complaint, giving a detailed account of what is alleged to have occurred, who was involved, detail any witnesses and state when the event/s happened. In some situations, the Trust may need to ask the complainant to provide further information.

Should an investigation be necessary then the timescales for arranging a complaints hearing may vary. To minimise employee stress and to facilitate the efficient running of the Trust, all attempts will be made to complete the process in a timely manner.

The complainant must co-operate fully and promptly in any investigation. This may include informing the Trust of the names of any relevant witness, disclosing any relevant documents and attending interviews, as part of the investigation.

The Trust may initiate an investigation before holding a complaint meeting where the Trust considers this appropriate. In other cases, the Trust may hold a complaint meeting before deciding what investigation (if any) to carry out. In those cases, the Trust will hold a further complaint meeting with the complainant after the investigation and before the Trust reaches a decision.

Step 2 – The Complaint Meeting

The Trust will arrange a complaint meeting, normally within a week of receiving the written complaint or as soon as is practicable.

The complainant and their companion (if any) should make every effort to attend meetings. If the complainant or their companion cannot attend at the time specified, the complainant should inform the Trust immediately and the Trust will try, within reason, to agree an alternative time.

The purpose of a complaint meeting is to enable the complainant to explain their grievance and how the complainant thinks it should be resolved, and to assist the Trust to reach a decision based on the available evidence and the representations the complainant has made.

Witness evidence (save for additional matters that the employee wishes to raise) is provided through witness statements. There is no right for the Trust or the employee to call witnesses to the hearing. As such, there is no power for the Trust or the employee to cross examine witnesses (albeit that the Grievance Officer may ask questions of the employee).

Should the employee wish to question the evidence provided by another witness in the investigation, this should be raised by the employee during the investigation or upon receipt of the investigation documents.

After an initial complaint meeting the Trust may carry out further investigation and hold further complaint meetings as the Trust considers appropriate. Such meetings will be arranged without unreasonable delay.

There are two possible outcomes:

Complaint – not upheld

The Trust may conclude that the complaint is not upheld, e.g. because the behaviour complained of did not occur or because there is insufficient evidence to support the complaint. If, in such a case, the Trust is nonetheless satisfied that the complainant's distress is genuine and/or that there has been a serious breakdown in relationships the Trust may offer support to the colleagues in the restoration of their working relationship through mediation or other methods as appropriate.

Complaint upheld or upheld in part

If the outcome of the hearing is that the complaint is fully or in part proven on the balance of probabilities, consideration should be given to appropriate actions to prevent reoccurrence of the matters complained of. Disciplinary action may be recommended in appropriate circumstances as a separate procedure.

The complainant should be informed of the outcome, in writing, normally within five working days. The reason or reasons for the outcome should be included as part of the response. If the complaint is not upheld, the employee will be informed of the right to take the complaint to an appeal hearing.

Step 3 – The Appeal

If the complainant is dissatisfied with the decision from the complaint meeting, they should notify the Trust within five working days of receipt of the decision letter of their decision to appeal. The complainant must give specific reasons why they are dissatisfied with the outcome. An appeal can be made on the grounds of:

- Perceived unfairness of the decision.
- Disputing the facts of the case including new evidence coming to light.
- Procedural non-compliance.

The appeal will be dealt with impartially by a more senior Appeal Officer or governor/trustee who has not previously been involved in the case. The hearing will take place as soon as is reasonably practicable. The Trust will confirm its final decision in writing, usually within one week of the appeal hearing. The decision will be final; there is no further right of appeal, and this is the end of the procedure.

11. Disciplinary Implications on the outcome of complaints process

- Where a complaint of bullying, harassment or discrimination is upheld, management may take action under the disciplinary procedures.
- Where the behaviour complained of is found to be inappropriate but not meriting formal disciplinary action, management may work with the person whom the complaint is made against to modify their behaviour through the use of management instruction, coaching, training, mentoring and mediation.
- The making of vexatious or false complaints may result in disciplinary action being taken.

12. Restoring Working Relationships

Whatever the outcome of a complaint, it is management's responsibility to re-establish effective working relationships amongst the employees involved; it is the employees' responsibility to co-operate to achieve this. The Trust may seek agreement from both the complainant and the person who the complaint has been made against for the case to be referred to mediation.

13. Occupational Health Support

The Trust has a duty of care to both parties involved in the case and should recognise that the process may be stressful and have an impact on the health and wellbeing of both parties. The Trust may seek occupational health support for either party where required.

14. In- Trust arrangements

In some cases, it may be difficult for employees to work closely together and, if possible, the Trust may use its discretion to offer suitable alternative employment within the Trust if able to do so.

15. Complaints against a Head of Centre or Chief Executive

Informal

An employee who wishes to make an informal complaint against the Head of Centre with a view to resolving an issue may use any of the following approaches:

- Approach the Chief Executive or another member of the leadership team;

- Contact the trade union representative, who may contact the Head of Centre directly;
- Approach the Chair of Governors/Chair of Trustees.

An employee who wishes to make an informal complaint against the Chief Executive with a view to resolving an issue may use any of the following approaches:

- Approach their Head of Centre
- Contact the trade union representative who may contact the Chief Executive's trade union representative or the Chief Executive directly
- Approach the Chair of Governors/Trustees

Where the situation cannot be resolved through mutual discussion, consideration should be given to the use of mediation.

It must be noted that this is the INFORMAL part of the process and that any person the employee chooses to contact to assist in resolving the problem must deal with the matter on a confidential basis.

16. Complaints made by the Head of Centre or Chief Executive

A Head of Centre / member of the Chief Executive may raise a complaint against a member of staff on the grounds of bullying, harassment or discrimination. A Head of Centre or member of the Chief Executive may raise a complaint against the Local Governing Body /Board of Trustees, but not against an individual Governor/Trustee unless they are exercising a delegated power or function or one conferred by law.

17. Complaints against the Governing Body / Board of Trustees

The Trust's Chief Executive and HR provider, where the complaint relates to staff, should be contacted for advice.

18. Collective Disputes

Where more than one member of staff has lodged a complaint relating to the same or substantially the same issue, the Trust may deal with the complaints together in the interests of fair and consistent decision-making. The trade union may initiate a collective grievance on behalf of more than one named employee where the issues are the same.

19. Overlapping complaints and disciplinary cases

Where an employee raises a complaint during a disciplinary process, the disciplinary process may be temporarily suspended in order to deal with the complaint, at the discretion of the Trust. Where the complaint and disciplinary cases are related it may be appropriate to deal with both issues concurrently or deal with the complaint as part of the disciplinary process.