

Model Collective Dispute Policy & Procedure for Schools

This policy and procedure has been developed to provide a means for trade unions and the school to seek to resolve disputes that might arise in relation to groups of employees.

Updated : September 2018



EICH CYNGOR arleinamdani
www.sirgar.llyw.cymru
YOUR COUNCIL doitonline
www.carmarthenshire.gov.wales

MODEL COLLECTIVE DISPUTE POLICY & PROCEDURE FOR SCHOOLS

TABLE OF CONTENTS

<u>No.</u>	<u>Title</u>	<u>Page</u>
1.	Introduction	2
2.	Definition	2
3.	Legal Background	2
4.	Policy Statement	2
5.	Application	2 - 3
6.	Scope	4
7.	Formal Procedure for Resolving Collective Disputes	4
	Stage One	4 - 5
	Stage Two	5
8.	General Considerations	5
9.	Outside Conciliation Stage	6
10.	Agreed Settlement	6
11.	Confidentiality	6
12.	Collective Dispute Meetings	6
13.	Disputes from employees who have left or leave the Authority during the procedure	6
14.	Keeping Records	6 - 7
15.	Monitoring this Policy & Procedure	7
16.	Ensuring Equality and Equity of Treatment	7

APPENDICES

1.	Formal Collective Dispute Procedure Form	8
2.	Referral to ACAS Form	9

POLICY

1. INTRODUCTION

The school seeks to ensure that its policies and procedures provide fair treatment to all employees. However, in any organisation collective disputes may nevertheless arise. This policy and procedure has therefore been developed following negotiation with the recognised trade unions to provide a means for those trade unions and the school to seek to resolve disputes that might arise in relation to groups of employees.

2. DEFINITION

For the purposes of this document a 'collective dispute' is defined as a dispute notified by a recognised trade union, in accordance with the collective disputes procedure, on behalf of a group of school employees.

3. LEGAL BACKGROUND

The requirement in law on the part of the employer to have a formal means for dealing with employee grievance was first included in the Industrial Relations Act 1971, and is now incorporated into the Employment Rights Act 1996, the Employment Relations Act 1999, and as updated by the Employment Act 2002.

4. POLICY STATEMENT

The School is committed to the resolution of collective disputes fairly and at the earliest opportunity. The Collective Disputes Procedure aims to settle disputes as near to the point of origin as possible.

A commitment to this policy and procedure will mean that both parties are willing to examine and discuss the subject of the dispute and negotiate possible means of jointly resolving the dispute in the best interests of all concerned.

5. APPLICATION

The School will only acknowledge a dispute if it is lodged by a recognised trade union on behalf of the group of employees in dispute regarding matters arising from their employment.

The procedure shall be flexible enough to allow for the first formal stage to be heard by a member of the Senior Management Team.

Both parties will accept that normal working practices prevailing prior to the dispute shall continue to operate pending settlement and both parties will co-operate to ensure that the spirit of this clause is maintained, except where to continue the existing practice would constitute a hazard, or where statutory obligations apply. The

MODEL COLLECTIVE DISPUTE POLICY & PROCEDURE FOR SCHOOLS

above clause will not apply in situations where changes are made to working arrangements and the change is in line with contracts of employment such as a change of base for example.

There will be no strike or any form of industrial action whilst this procedure is in progress.

Employees who wish to pursue a collective dispute should be allowed reasonable time off to seek the advice of their trade union representative. The prior permission of the manager must be obtained which, subject to operational needs of the service, would not be unreasonably withheld.

PROCEDURE

6. SCOPE

This Policy & Procedure applies to staff working in the school, except those who are directly employed by the Local Authority and those working in the school via an employment agency.

It does not cover: individual grievances, grading of posts, disciplinary matters, non-confirmation of employment during probationary periods, equal pay grievances, matters more appropriately dealt with under an alternative policy or procedure or any collective issues for which more extensive collective bargaining arrangements exist.

Complaints about bullying or harassment should be dealt with under the School's Behavioural Standards in the Workplace Guidance. Employees raising a concern under the Public Interest Disclosure Act should refer to the Whistleblowing Policy.

Any collective disputes relating to matters more than three months old or which have been the subject of a dispute between a Trade Union and the School at any time during the preceding 12 months will not be accepted unless any action decided upon by management to redress that dispute has not been implemented.

For collective grievances please refer to the Model Grievance Policy for Schools.

7. FORMAL PROCEDURE FOR RESOLVING COLLECTIVE DISPUTES

STAGE ONE

- 7.1. Where the dispute is against the Headteacher, the dispute will be raised with the Chair of Governors; and where the dispute is against the Governing Body, advice should be sought from the HR Advisor, as it may be necessary to convene an alternative Governing Body.
- 7.2. Where it has not been possible to resolve issues informally the trade union representative acting on behalf of the aggrieved group of employees will raise the collective dispute with the Headteacher, by completing the Formal Collective Dispute Procedure Form (Appendix 1) stating the subject nature and scope of the matter and the solution proposed. A copy should be forwarded to the Chair of Governors for information. The Headteacher must acknowledge receipt of the collective dispute, on behalf of themselves and the Chair of Governors, within **5 working days**.
- 7.3. On examining the written submission the Headteacher will consider if the issue affects other areas of the School and seek advice from the HR Advisor.
- 7.4. If the matter affects one group of staff only, the Headteacher shall convene a meeting with the trade union. Where possible this meeting will take place within **15 working days** of receipt of the formal dispute, with the objective of trying to achieve a resolution. The trade union representative will receive a written reply confirming the outcome and the reasons for the decision within a further **10 working days** of the

MODEL COLLECTIVE DISPUTE POLICY & PROCEDURE FOR SCHOOLS

meeting taking place. A copy should be sent to the Chair of Governors for information.

- 7.5. If the matter affects more than one group of staff the School the Headteacher will discuss the issue with the HR Advisor before convening a meeting as in 7.4 above. Where appropriate, relevant members of the Management Team may also attend the meeting with the trade union representative. Response times will be in accordance with 7.4 above.
- 7.6. If the group of employees are not satisfied with the outcome they may raise the collective dispute at the next stage through their trade union representative. This should be done, in writing to the Chair of Governors within **10 working days** of receipt of the Headteacher's decision.
- 7.7. If a written reply is not received by the accredited trade union representative(s) within the specified time the matter can also be referred to the second stage of the procedure.

STAGE TWO

- 7.8. The accredited trade union representative(s) may raise the collective dispute in writing to the Chair of Governors. This should be done by completing the Collective Dispute Procedure Form (Appendix 1). Copies of any correspondence should be enclosed with the letter. Where the parties have agreed that discussion at the earlier stage is not appropriate and that the dispute should be registered directly at the second stage, the accredited trade union representative(s) should write in similar terms to the Chair of Governors who will acknowledge receipt of the collective dispute within **5 working days**.
- 7.9. The Chair of Governors will convene an Appeals Panel to consider the appeal with the trade union representative(s) to seek a mutually acceptable resolution of the matter. The Appeals Panel will comprise of three Governors (Staff Governors should only be part of the Appeals Panel in exceptional circumstances, please seek advice from the HR Advisor). The Appeal Hearing should be held at a reasonable time and place. This should take place as soon as is reasonably practicable and the trade union representative(s) should take all reasonable steps to attend.

Full account will be taken of information put forward by both sides in support of their respective views and proposals on the issue(s) in question and, if appropriate, written statements may be requested and exchanged prior to the meeting.

- 7.10. The decision of the Appeals Panel will be final and details of any agreement reached, or a summary of the position of the respective parties, as given by either side, together with the decision and recommendations made by the Appeals Panel will be formally recorded and issued to both parties within **5 working days** of the meeting.

8. GENERAL CONSIDERATIONS

MODEL COLLECTIVE DISPUTE POLICY & PROCEDURE FOR SCHOOLS

The time periods to convene meetings and notifying decisions, as specified at each stage above may be varied by mutual agreement if justifiable reason(s) exist.

9. OUTSIDE CONCILIATION STAGE

If there is failure to agree at Stage 2 either party may propose that the matter be referred to ACAS for conciliation. Any such referral will require the terms of reference to be jointly agreed in advance of the referral.

10. AGREED SETTLEMENT

All parties will endeavour to ensure that the terms of any settlement agreed at any of the above stages are observed and implemented.

11. CONFIDENTIALITY

The parties undertake to keep any aspects of the negotiations surrounding the collective dispute confidential until the procedure has been exhausted.

12. COLLECTIVE DISPUTE MEETINGS

During a collective dispute meeting, the trade union representative will be entitled to explain the complaint on behalf of the employees concerned and say how they think it should be settled. If necessary, the Chair of the collective dispute meeting may wish to adjourn to enable him/her to gather further information or obtain advice. A date for a re-convened meeting will be agreed at that time if possible.

Following the meeting, a written response should be sent to the trade union representative within 10 working days.

13. DISPUTES FROM EMPLOYEES WHO HAVE LEFT OR LEAVE THE SCHOOL DURING THE PROCEDURE

Wherever possible a collective dispute should be dealt with in accordance with this procedure before employee(s) leave employment. However, if employee(s) leave employment with the School partway through the Collective Dispute procedure, then the School is under no obligation to hear their dispute. However, in these circumstances, advice should be sought from the HR Advisor.

14. KEEPING RECORDS

Written records must be kept throughout the collective dispute process, including:

- A copy of the written dispute and subsequent appeals if relevant
- Copies of meeting notes
- A copy of the written response(s) provided to the employee

- Details of action taken

Records should be retained for each employee's involved in the collective dispute within their personal file.

Records should be treated as confidential and kept in accordance with the General Data Protection Regulations (GDPR).

Copies of the collective dispute meeting notices, meeting notes, response letter etc. will be sent to the Trade Union official representing the collective dispute on behalf of employees concerned, unless they advise otherwise, in writing.

15. MONITORING THIS POLICY & PROCEDURE

The application of this policy and procedure will be monitored by People Management. All Schools must ensure that they advise the HR team of all formal and informal disputes raised. This policy and procedure will be reviewed at the appropriate time, and in consultation with the recognised trade unions.

16. ENSURING EQUALITY AND EQUITY OF TREATMENT

This policy must be applied consistently to all employees irrespective of race, colour, ethnic or national origins (including citizenship), language, disability, religion, belief or non-belief, age, sex, gender reassignment, sexual orientation, parental or marital / civil partnership status, pregnancy or maternity.

If you have any equality and diversity concerns in relation to the application of this policy and procedure, please contact a member of the HR team who will, if necessary, ensure the policy / procedure is reviewed accordingly.

If you require this publication in an alternative format please contact People Management on 01267 246129 or e-mail: PMPBusinessSupportUnit@carmarthenshire.gov.uk

This Guidance is also available in Welsh

MODEL COLLECTIVE DISPUTE POLICY & PROCEDURE FOR SCHOOLS

Appendix 1.

FORMAL COLLECTIVE DISPUTE PROCEDURE

THIS FORM MUST BE COMPLETED AT EACH STAGE OF THE PROCEDURE. PLEASE INDICATE WHICH STAGE IS BEING INVOKED.

COLLECTIVE DISPUTE TO BE CONSIDERED AT STAGE 1 / 2 *

*** Delete as appropriate**

Please complete all sections of Part A when registering a formal dispute. Where possible, please arrange for the form to be typed or use capital letters.

PART A	PLEASE ENSURE ALL EMPLOYEES INVOLVED IN THE DISPUTE PROVIDE THE DETAILS REQUIRED IN PART A (CONTINUE ON A SEPARATE SHEET AS NECESSARY)
Name: _____	Job Title: _____
School: _____	Section: _____
Employee No.: _____	Location: _____
Contact Tel No: _____	Line Manager: _____
PART B	Please outline the nature of the collective dispute (using no more than 2/3 sentences)
Please provide full details of the collective dispute including dates wherever possible (if necessary continue on a separate sheet of paper). Copies of relevant documents that relate to the dispute should also be attached.	
In accordance with the Collective Dispute Procedure you need to indicate the trade union representative acting on your behalf.	
Name of Trade Union: _____	Name of TU Rep: _____
E-Mail Address: _____	Contact Telephone Number: _____
What outcome are you seeking to resolve your collective dispute?	
Trade Union Rep's Signature: _____	Date: _____
PART C	TO BE COMPLETED BY THE SCHOOL
DATE RECEIVED: _____	
RECEIVED BY: _____	JOB TITLE: _____

**FORMAL COLLECTIVE DISPUTES PROCEDURE
REFERRAL TO ACAS**

OUTSIDE CONCILIATION REQUEST (Stage 2 Exhausted)

Date Referred to ACAS:

Referred
By:

Referred
To:

(Terms of Reference to be Attached)

REASON:

OUTCOME:

Signed: Conciliation Representative

Signed: Headteacher / Chair of
Governors

Signed: Staff Side Representative

MODEL COLLECTIVE DISPUTE POLICY & PROCEDURE FOR SCHOOLS

Appendix 2.

Date:

.....
.....