

Guiding Principles on the Arrangement and Holding of Employee Relations Investigations & Hearings Agreed 5 August 2020

1.0 Introduction

As a consequence of business continuity planning, in light of the COVID-19 pandemic, the Education Authority (EA) paused much of its 'business as usual' employee relations case work in order to create capacity within HR teams.

The EA appreciates that this pause has delayed the progression of important staff issues such as staff grievances and dignity at work complaints and has lengthened the timescales for staff involved in difficult and stressful ER processes, for example disciplinary/performance management processes.

As part of restarting our services, it is recognised that it is now time to progress ER casework taking into consideration our requirements for social distancing in the longer term. The Office of the Industrial Tribunal has also, with effect from 5 May 2020, re-commenced the issuing of claims to employers. As the legal process restarts, and as services restart across organisations, it is critical that we progress and conclude the internal procedures associated with these important employment matters.

These guiding principles have been documented by the EA, in agreement with the trade unions, to outline how we will move forward in this regard.

2.0 General Principles

All ER processes will:

- *Be re-commenced taking account of PHA guidance and the requirement for continued social distancing.*
- *Be undertaken as timely as possible to avoid any undue anxiety to the employee involved.*
- *Ensure that the health and safety of all staff and representatives involved is protected.*

- *Provision will be made for conducting meetings either in person or virtually and will be considered on a case by case basis.*
- Where it has been requested and agreed that a meeting/hearing is conducted virtually, it is the responsibility of the employee and their TU representative to confirm and ensure that they have access to the necessary technology to do so. (If they do not have the necessary technology then it must be held in person). Where a meeting/hearing can only be held virtually, i.e. in the case of an employee who is shielding, options for support should be discussed where the member of staff has no access to the necessary technology to participate.

The EA Manager/School Leader/Governor will ensure paperwork is provided to all parties electronically where possible in accordance with requirements of Data Protection. Where this is not possible, due to data protection only, a paper copy will be provided to parties to a home address via recorded delivery.

- It will remain the responsibility of the employee to provide any relevant document they wish to have considered, to the relevant Manager/Panel/Committee either electronically or by post.
- The scheduling of meetings and hearings will be considered in the context of the health and wellbeing of all staff, the application of policies and procedures and our statutory obligations.
- In line with normal practice, Manager/School Leader/Governor should facilitate and enable staff to meet with their Trade Union representatives and may need to consider additional supportive measures such as the provision of a meeting room and/or an extension to timescales for meeting.
- Hand sanitiser and/or washing facilities will be made available for meetings/hearings.
- Facilities booked for meetings/hearings will ensure privacy for the employee and will allow for social distancing. Where meetings/hearings are held virtually, the employee and Trade Union representative must ensure and confirm that their environment is appropriate and free from interruptions - from children, family members, housemates, pets. In advance of meetings/hearings, all participants will be provided with a protocol for virtual meetings.
- At the outset of all meetings/hearings, all participants will be reminded of the requirement for confidentiality and that recording is not permitted.
- Whilst individuals may be participating virtually and from their home, all parties must be reminded that a meeting/hearing is an extension of the workplace and they must display appropriate standards of conduct and behaviour throughout.

3.0 Undertaking investigations and holding hearings

- Grievance Hearing - provision will be made for conducting meetings virtually or in person and will be considered on a case by case basis. An appropriate panel/committee will be constituted to consider the grievance and any subsequent grievance appeal.
- The EA reserves the right to instigate disciplinary processes, performance management processes, dignity at work, investigations of complaints or concerns and to request meetings as necessary for these purposes. With the agreement of the employee and/or their representative a decision will be taken on whether the hearing requires being in person or if there is an option to hold it virtually.
- Disciplinary hearings, particularly those constituted for gross misconduct should be held in person, adhering to social distancing requirements. Consideration may be given to conducting hearings virtually so long as the employee and their representative confirm that they have access to the necessary technology. Where a disciplinary hearing can only be held virtually, i.e. in the case of an employee who is shielding, options for support should be discussed where the member of staff has no access to the necessary technology to participate. Consideration should also be given to health and wellbeing and an assessment by Occupational Health may be required.
- Where a hearing is required to be held in person, it is for the relevant trade union to determine who is best able to do that, in order to avoid any delays for the employee.
- Any delays of meetings or hearings will be recorded locally and reflected in responses to the Tribunals Office where applicable.
- Where reasonable efforts have been made and an employee refuses to participate in a hearing or a meeting either in person or virtually, normal procedures will apply which may include the hearing taking place in their absence or decisions being made as necessary. This will be considered on a case by case basis and with advice from occupational health where necessary.

4.0 Review

These agreed principles will be reviewed after a small number of hearings have taken place, and each month, to ensure they are working effectively.

Date Issued
5 August 2020