

Ormiston Academies Trust

Ormiston Venture Academy Grievance Procedure

Policy version control

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	Introd	luction
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1.1.	The purpose of this policy is to give all employees working in academies a means to resolve concerns problems or complaints relating to their employment.
1.2	This procedure has been adopted by the Governing Body of Academy o
	(date) following consultation with the recognised teachers' and support staff trad

2. Principles

- 2.1 It should be emphasised that the underpinning principle of this process is that employees should, wherever possible, seek to resolve their differences informally in the first instance without recourse to formal procedures. Such informal resolutions generally enable colleagues to resume productive and professional working relationships more easily in the future.
- 2.2 It is a legal requirement to ensure that these procedures are made known to all staff (for example it would be good practice for a copy to be displayed on the staff room notice board).
- 2.3 At all stages of the process, confidentiality should be maintained and respected by all parties.
- 2.4 Formal grievance procedures are designed to provide a fair, transparent and systematic way of investigating and resolving grievances.
- 2.5 Both parties to a formal grievance are entitled to be represented by a Trade Union Representative or Work colleague, at all stages.
- 2.6 For the purpose of the formal procedure, the term grievance means a complaint meeting the following requirements:
- 2.6.1 The grievance must be specific to the individual employee; grievance procedures cannot be used to complain about collective matters e.g. pay, conditions of service issues, general policies/procedures where there is another recognised route available. Where there are several individual grievances about the same issue then this policy may be used to as a means to resolution.
- 2.6.2 The grievance must relate to the individual employee's employment.
- 2.6.3 The grievance must be substantial in the sense that, if the facts were as stated by the employee, it would be reasonable to conclude that significant grounds for complaint existed.
- 2.6.4 The grievance must involve a complaint about unfairness, e.g. where an employee complains that he/she has been deprived of some benefit to which he/she is entitled, or, has been treated in a biased manner or has been induced to do something by a misrepresentation. A grievance is not established simply because an employee disagrees with a decision that has been taken.
- 2.6.5 Redress must not be impracticable.
- 2.7 The grievance procedure is essentially a residual procedure. It will not be used when a more specific procedure has been devised for dealing with issues. For example, if there is to be a staffing reduction at an academy, an employee selected for displacement, must if aggrieved at his/her selection, apply for a review of the decision under the terms of that procedure.
- 2.8 The grievance procedure may be used when dealing with matters which could relate to harassment and bullying, unless a specific Anti-Harassment & Bullying policy is in force. Please see appendix 4 for further guidance on harassment and bullying.



- 2.9 In some cases, and where the informal process has been unsuccessful outside help from an independent mediator can help, especially with problems involving working relationships. To discuss mediation you may wish to contact your OAT HR Advisor.
- 2.10 Written records of any grievance that is dealt with should be kept. Records should be treated as confidential and be kept no longer than necessary in accordance with the Data Protection Act. Records should include:
- The nature of the grievance.
- What was decided and actions taken.
- The reason for the actions.
- Whether an appeal was lodged.
- The outcome of the appeal.
- Any subsequent developments.
- 2.11 Notes should be taken at all grievance meetings. The employee raising the grievance and the employee who has had the grievance raised against them, should be asked to sign the notes from their own meetings. Witnesses should be informed that their statements/meeting notes maybe disclosed to all parties concerned. However, in certain special circumstances (for example to protect a witness) the employer might withhold some information.
- 3. Scope of Procedure
- 3.1 Former Employees The Grievance Procedure is for current employees only. However, occasionally an employee's letter of resignation may indicate that their decision relates to a perceived grievance; it is possible that such a resignation could be a precursor to the former employee taking a 'Constructive dismissal' claim to an Employment Tribunal. In these circumstances the Principal may wish to seek advice from OAT HR.
- 3.2 Third Parties Employees might raise issues about matters not entirely within the control of the organisation, such as issues around the behaviour of parents towards them. Academies should treat these in the same way as other grievances and make it clear to third parties that issues will be dealt with seriously, and action taken, if necessary to protect employees.
- 3.3 Current Employees within academies an employee's grievance will be dealt with differently depending on the nature of the grievance and/or who it is against.

To decide which procedure to use, please consult the following table:

Who is the grievance against ?	Nature of the Grievance	Which grievance procedure will/maybe used ?
Any employee of the academy (not the Principal)	Any matter	Standard Academy Procedure (Please refer now to section 4)
The Principal	Any matter	Principal Grievance Procedure
		(Please refer now to section 5)

- 4. Standard Academy Procedure
- 4.1 Informal Stage



- 4.1.1 When the employee's grievance is against a colleague, it would be good practice for the employee to approach the other member of staff concerned to see whether the grievance can be resolved by informal discussion, before approaching the Principal.
- 4.1.2 Where an employee is aggrieved about any other matter relating to their employment, the appropriate course of action, in the first instance, is for the employee to discuss their concerns with their Principal. At this stage the meeting should ideally be as informal as possible and a request from the employee for professional association or trade union involvement will not be unreasonably refused.
- 4.2 Formal Stage

Stage One

- 4.2.1 If the employee remains dissatisfied in terms of the outcome from the informal stage the grievance they should request a formal investigation of his/her grievance by the Principal, or other designated senior leader. The request should be made in writing setting out the facts and nature of the grievance. A copy of the documentation must be given to the other party involved including witness statements. Both parties to the formal grievance are entitled to be represented by a trade union representative or work colleague, at all stages.
- 4.2.2 The Principal should arrange for the matter to be investigated without reasonable delay (ideally within 5 working days). (This should be conducted personally or through a nominated representative). The investigation MUST include a meeting with the person bringing the complaint. This may include interviewing both parties either separately or jointly agreed together.
- 4.2.3 The Principal should then convene further separate meetings of witnesses if necessary and carry out any other investigations that are needed.
- 4.2.4 The Principal could then convene further separate meetings of the parties involved and inform them of the results of the investigation. The decision MUST be confirmed in writing, where possible within ten working days of the outcome of the Investigation, offering the right of appeal within five working days.

Stage Two (Appeals)

- 4.2.5 If either party is dissatisfied with the outcome of the Principal's investigation of the grievance, he/she may request a hearing before a committee of the governors appointed for the purpose this would normally be the Appeal Committee (Refer to Appendix 2 Procedure for Governors' Appeal Meeting). The appeal must be lodged within 10 working days of receipt of the outcome of the stage I investigation.
- 4.2.6 The employee should prepare a written statement of her/his views incorporating a clear statement of the nature of the grievance and of her/his reasons for being dissatisfied with the results of the investigation by the Principal. The Principal should prepare a written report based on the findings of the investigatory meeting(s).
- 4.2.7 The decision of the Appeals Committee must be communicated in writing. With regard to this procedure, the Appeal Committee decision is final.
- 5. Principal Grievance Procedure
- 5.1 Informal Stage
- 5.1.1 Where the grievance is against the Principal the employee may approach the Principal to see whether the grievance can be resolved by informal discussion. Should the employee wish to request to be



accompanied by their professional association or trade union representative, this will not unreasonably be refused. Principals should ensure that they keep records of the grievance raised and the action taken. These records should be treated as confidential and should be kept no longer than necessary in accordance with the Data Protection Act 1998.

Where the employee wishes to do so, a grievance can be bought to the Regional Director's attention. The Chair can arrange to resolve the matter informally.

5.2. Formal Stage

Stage One

- 5.2.1 Where the employee's grievance is with the Principal and has not been resolved by informal action, he/she may request a formal investigation of his/her grievance. The request must be in writing to the Regional Director of the academy and must specify the nature of the grievance. A copy of the request must be given to the Principal.
- 5.2.2 Without reasonable delay (ideally within 5 working days), the Regional Director of the Academy should discuss the matter with OAT HR who will advise on the process. The Regional Director should be notified by the Chair. The Regional Director will need to nominate an individual governor at the academy to carry out the investigation, or another external third party to carry out the investigation, after consultation with all parties.
- 5.2.3 The nominated Investigating Officer should initiate an investigation without unreasonable delay. The Investigating Officer should:
- Meet with the employee to hear his/her grievance (this is a statutory requirement).
- Interview the parties.
- Produce a report on the matter and pass to the Regional Director.
 - Both parties to the formal grievance procedure are entitled to be represented by a trade union representative or work colleague, at all stages.
- 5.2.4 The Regional Director should inform the parties as quickly as possible after the end of the investigation, of the results. Copies of the report should be forwarded to both the complainant and the Principal against whom the complaint has been made. The complainant MUST be offered the right of appeal.

Stage Two (Appeal)

- 5.2.5 If the employee or the Principal is dissatisfied with the result of the investigation of the grievance, he/she may request a hearing before an Appeal's Committee of three governors with no prior involvement in the case. (Refer to Appendix 2 Procedure for Governors' Appeal Meeting).
- 5.2.6 The Appeals Committee will consider the Regional Director report, the parties' statements and any oral representations made to them before coming to a decision on what findings or acts should be made and what action should be taken or recommended.
- 5.2.7 Before the Panel considers its decision, both parties should withdraw. The decision should then be confirmed in writing, With regard to this procedure the decision of the Appeal's Panel is final.



Appendix I

Guidelines for Conducting an Investigation

Pre-Investigation

- Leave at least half a day to see the complainant and the person against whom the grievance is made.
- Invite the complainant to an interview first, ensuring they are:
- I. offered the right to be accompanied
- 2. reminded that they should bring along any documentary evidence that they may think is useful
- 3. asked to bring the name of any witnesses that they think should be seen and why
- Arrange a room with ample space and free from interruptions
- Prepare Questions
- Inform the person against whom the grievance has been made that a grievance has been received and invite to interview, ensuring that they are:
- I. offered the right to be accompanied
- 2. reminded that they should bring along any documentary evidence that they may think is useful
- 3. asked to bring the name of any witnesses that they think should be seen and why

Conducting the Interview

Introductions

- Spell out the rules of confidentiality and that information will be shared with either party and disclosed in the course of the investigation to relevant parties.
- Explain the procedure that the investigation will follow and ensure that they are in receipt of a copy of this procedure.
- Explain the process that the interview will take i.e:
- I. that they can break any time
- 2. that everything said will be noted and they will be asked to sign the interviewers notes to confirm that an accurate record has been made.
- 3. anything forgotten about can be mentioned at a later date
- 4. questions will be asked
- 5. witness names and details of what they can offer will be asked for
- 6. counselling Service Leaflet issued

Interviews with Witnesses

- Welcome the witness and explain why they have been called.
- Stress that they ARE NOT BEING ACCUSED OF ANYTHING, they are there to help.
- Witnesses to be informed that it their statements may be disclosed to all parties concerned. (However, in certain, special circumstances - for example to protect a witness - the employer might withhold some information.)



Appendix 2

Procedure for Governors' Appeal Meeting

The Governor's Appeal Committee may ask a representative of OT HR to attend to offer specialist advice.

- 1. Chair to provide introduction and explain the ensuing procedure.
- 2. Appellant, or their representative, presents their case, explaining their objection to the decision of the Stage I investigation.
- 3. Stage I investigator may ask questions of the appellant or their representative.
- 4. Members of the Appeal Committee and OAT HR representative may ask questions of the appellant or their representative.
- 5. Stage I investigator (e.g. Principal), responds to appellant's case.
- 6. Appellant, or their representative, may ask questions of the Stage 1 investigator.
- 7. Members of the Appeal Committee and OAT HR representative may ask questions of the Stage 1 investigator.
- 8. The Principal to be invited to express her/his views if not already done so.
- 9. The Stage I investigator to sum up case.
- 10. Appellant, or their representative, to sum up case.
- II. Parties retire, the OAT HR representative to remain to advise the governors.

The above procedure may be varied by agreement of all parties.



Appendix 3 Standard letter templates: Invite letter

Strictly private and confidential
Dear ***********,
Re: Grievance Meeting at ****** Academy
I am writing to you in response to your written request to invoke the first stage of the Grievance Procedure, in relation to issues whilst employed as a **** within this academy.
In accordance with the procedure, I would be grateful if you could attend a meeting arranged for ***********************************
Yours sincerely
(Name) (Position) (Academy)



Stage I outcome

3
Strictly private and confidential
Dear ************************************
Re: Grievance Meeting
I am writing further to our meeting on ********* which was arranged in accordance with the Stage One of the Formal Grievance Procedure, to enable us to discuss your concerns. For information, please find attached a copy of the notes of the meeting.
Having explored the issues fully with you and fulfilling the appropriate investigations in order for me to build up a complete picture, I am now in a position to deliver my response.
You raised concerns regarding ************************ (summarise the grievance and the information that has been gathered to substantiate/refute these allegations)
I trust that you will have found my response helpful, and should like to thank you for bringing these issues to my attention. It is always useful to receive feedback from staff on their experiences in order that we can continually improve our working practices. In accordance with the agreed Grievance Procedure, should you remain dissatisfied with the outcome of the grievance meeting, you may take your concerns to the appeal stage within 10 working days. However, I do hope that you feel that your issues have been addressed.
Should you wish to discuss any aspect of the above, please do not hesitate to contact me.
May I take this opportunity to wish you all the best in the future.
Yours sincerely
(Name) (Position) (Academy)



Invite letter for Stage 2 (Appeal)

Strictly private and confidential

Dear ************,
Re: Grievance Appeal Meeting at ******** Academy
I am writing to you in response to your written request to invoke the appeal stage of the Grievance Procedure in relation to issues whilst employed as a **** within this academy.
In accordance with the procedure, I would be grateful if you could attend a meeting arranged for ***********************************
Yours sincerely
(Name) (Position) (Academy)



Stage 2 outcome

Private and confidential

Dear **	*****
Re: Stag	e 2 Grievance Appeal Hearing

I am writing to confirm the outcome of the Hearing on ****. You attended the hearing and were represented by ------ You clarified that your grievance was in relation to (nature of grievance and brief summary of effects on individual/reasons feel aggrieved).

Following the hearing, careful consideration has been given to the matters that you raised and to the investigatory evidence collated by (*** during the first stage of the procedure). In the light of these deliberations, the Appeal Panel have decided not to/to* (*delete as applicable) uphold your grievance.

The reason for not upholding/upholding* (*delete as applicable)

If you have any queries regarding any aspect of the decision made, please do not hesitate to contact myself on ************************, or the Principal* (*if this is appropriate, delete as applicable).

This is the final stage of the grievance procedure.

Yours sincerely

Mr/Mrs (Position) **** Academy



Appendix 4

Additional Guidance note - Harassment and Bullying

Allegations of harassment and bullying should be dealt with under this grievance procedure. This purpose of this guidance note is to give Managers and employees additional information in this specific area which could give rise to a grievance.

Overview

- I. All colleagues are entitled to be treated with dignity and respect at work. Employees in academies need to work in an environment where diversity is valued and they are free from harassment and bullying.
- 2. Harassment or bullying will not be tolerated; Principals, Governors and Managers should ensure that all complaints raised are treated seriously and dealt with promptly.
- 3. In certain circumstances a Principal may believe that they are being subject to bullying or harassment and he/she has an equal right to the protection of this procedure and the support of Academy Governors.
- 4. Advice will be available to employees about how to deal with situations where they feel they are (or someone they know is) being harassed or bullied at work. All employees should ensure they understand their own responsibilities to treat others with dignity and respect at work.
- 5. Employees are entitled to be informed as soon as possible that a complaint has been made against them.
- 6. Where a serious incident occurs which may warrant disciplinary action, the disciplinary procedure should be followed. If an outcome of the Harassment & Bullying investigation is that there should be disciplinary action it may be necessary to conduct further investigatory interviews, in line with the Disciplinary Procedure. In addition, potential witnesses must be approached for their consent to participate in a disciplinary hearing, if appropriate.

Guidance for Principals/Managers

- I. As part of your duty of care as a Principal/Governors to provide a safe and healthy work environment you need to ensure that all employees are treated with dignity and respect at work. This includes ensuring that diversity is valued and that the workplace is free from harassment and bullying.
- 2. It needs to be made clear within your academy that harassment and bullying will not be tolerated and that any complaints raised will be treated seriously and dealt with promptly.
- 3. It should be recognised that what most people regard as acceptable language or conduct may be offensive to others. Although someone may apparently accept something that is said or done and no offence was intended, it doesn't mean they are not upset or offended by it. Similarly with bullying, it is the <u>person's perception</u> of what is happening to them that is important not the apparent or claimed motive or intent.
- 4. You should try to ensure that all staff understand their responsibilities to treat others with respect and dignity at work. Principals can set a good example through effective communication and listening to and respecting the views of others.
- 5. Principals should also ensure that employees are aware of the Grievance Policy and that they will be supported in dealing with situations where they feel they are (or someone they know is) being harassed or bullied at work.



- 6. Often where an issue arises, an informal approach by an individual may resolve the matter. However once a Principal is made aware of an issue, it is his/her responsibility to address the matter as a matter of urgency to prevent escalation and demonstrate duty of care.
- 7. Having listened to both parties, wherever possible a serious attempt should be made to resolve matters without recourse to formal procedures. Possible strategies could include:
- Discussion
- Advice/guidance
- Training
- Coaching
- Mentoring
- Mediation
- 8. In cases where a formal complaint is made and a full independent investigation is undertaken, managers should ensure that any recommended action arising from the investigation is acted upon as quickly as possible and the situation kept under review.
- 9. Care needs to be taken that any employee making a complaint does not suffer any detriment as a result. For example they should not normally be moved out of the workplace and/or deployed on other duties. Likewise an employee should not suffer victimisation, retribution or exclusion as a result of making a complaint.
- 10. If a complaint is subsequently found to have been made vexatiously, the matter should then be referred to the appropriate Disciplinary Procedure.
- 11. Where a serious incident comes to light which may warrant disciplinary action being taken, the matter should be referred to the Disciplinary Procedure. In certain circumstances this may require an employee to be suspended immediately from duty pending investigation and (where appropriate) a disciplinary hearing. In such cases the relevant policy should be referred to.

Advice for Employees on Harassment and Bullying in the Workplace

OAT, the Principal and Governors believe that everyone is entitled to be treated with dignity and respect at work and want to ensure that all employees work in an environment which is free from harassment or bullying. As such all employees have a responsibility to ensure that they do not behave in a way which could be interpreted as Harassment or Bullying.

This means that harassment or bullying will not be tolerated and all complaints made will be treated seriously and dealt with promptly.

This advice has been produced to give advice to employees on how to deal with situations where they feel they are (or someone they know is) being harassed or bullied at work.

What is Harassment and Bullying?

- I. This is not always an easy question to answer; often it is obvious to everyone that harassment or bullying is taking place, but at times someone may feel they are being harassed or bullied in ways which don't fit the normal definitions. This means that we always have to try to look at the matter from the individual's perspective and consider how they feel about what is happening to them.
- 2. On the other hand just because we don't always like what we are being told to do, it doesn't mean that we are being bullied or harassed. There has to be a lot of 'give and take' at work with all colleagues and firm management doesn't necessarily amount to harassment and bullying. The manager has the "right to manage" and expect employees to fulfil their job role.



- 3. From the definitions below which ACAS use, you can see what we usually mean by bullying and harassment:-
- Bullying may be offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power by means intended to undermine, humiliate, denigrate or injure the recipient.
- Harassment, in general terms, is unwanted conduct affecting the dignity of men and women in the workplace. It may be related to age, sex, race, disability, religion, nationality or any personal characteristic of the individual, and may be persistent or an isolated incident. The key is that the actions or comments are viewed as demeaning and unacceptable to the recipient.
- 4. The current definition of harassment as applied to sexual orientation, religion or belief and race and ethnic and national origin is: "unwanted conduct that violates people's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment." It should also be noted that extreme cases of harassment can constitute a serious criminal offence.
- 5. Examples of unacceptable behaviour could include:
- Discriminating, spreading malicious rumours, or insulting someone on any grounds (where based on the grounds of race, sex, age, disability, sexual orientation, religion or belief, trade union membership, the behaviour may be unlawful).
- Copying memos that are critical about someone to others who do not need to know.
- Ridiculing or demeaning someone picking on them or setting them up to fail.
- Victimisation or unjustified exclusion.
- Overbearing supervision or other misuse of power or position.
- Unwelcome sexual advances touching, standing too close, display of offensive materials or suggestive comments.
- Making threats about job security.
- Deliberately and persistently undermining a competent worker by constant criticism.
- Preventing individuals progressing by intentionally and unreasonably blocking promotion or training opportunities.
 - (This is by no means a complete list).
- 6. Harassment or bullying can also exist as a result of the general prevailing culture within a work unit or department, for example one in which it is common place to tell homophobic jokes or to swear. Such a culture is unacceptable and should not be encouraged or tolerated.
- 7. Harassment or bullying isn't always face to face for example; it may happen by written communications, e-mails, text messages or telephone. It can be I to I or by employees acting in groups.
- 8. The display of other material within the work environment such as pictures, posters or leaflets which may be deemed offensive is not acceptable. It is obviously not possible to determine what may or may not cause offence to an individual; therefore caution should be exercised at all times.
- 9. Signs of harassment or bullying can often be hard to recognise they may not be obvious to others, and may be insidious. The recipient may think perhaps the behaviour is considered normal by everyone else or that it is their fault that it is happening. They may be anxious that others will consider them weak, or 'not up to the job', if they find the actions of others intimidating. They may think they will be accused of overreacting and worry that they won't be believed if they do report incidents.
- 10. This is why all employees need to make it clear in their own workgroups that harassment and bullying are both unwelcome and unacceptable.



- 11. Harassment and bullying are not only unacceptable on moral grounds but if unchecked or not handled well, can create serious problems for all in the workplace including:
- Poor morale and poor employee relations.
- Breakdown in working relations within and between teams.
- Loss of respect for managers and supervisors.
- Poor performance.
- Lost productivity.
- Absence.
- Untimely resignations.
- 12. Above all we want to promote a safe, healthy and fair environment in which people enjoy their work and feel valued.

What should you do if you come across harassment and bullying at work?

- 13. If you are the Principal you have a duty of care to maintain a safe and healthy work environment. You must therefore:
- Set standards and make it clear that harassment and bullying is unacceptable in the workplace.
- Make it clear that concerns and complaints will be taken seriously.
- Act quickly to eliminate such behaviour, if it occurs, by discussion with the individuals concerned or taking disciplinary action in accordance with the Authority's procedure, as appropriate in the circumstances.
- 14. If you believe that someone is being harassed or bullied you should report the matter immediately either to the Principal, their line manager (or more senior manager where the line manager seems to be involved).
- 15. If you think you are being harassed or bullied in most instances a quiet word with the person concerned will result in a change in their behaviour towards you. Arrange to speak to him/her in private, explain your concern and make it clear that you want the behaviour to stop. If you need someone there to support you, take along a work colleague but try to make sure that the matter stays confidential between you.
- If an informal approach does not work (or you don't feel confident about speaking directly to the person concerned) then have a word with your own line-manager. Explain your concern and that you want the behaviour to stop. Your manager will look into the matter and try to resolve the situation.
- 16. If it is the behaviour of your own line manager that is of concern to you and it has not been possible to resolve the matter through an informal approach, then you should raise the matter with a more senior manager, the Principal or Regional Director.
- 17. It is always preferable to try to resolve matters informally, wherever possible. However, where this does solve the problem then you should refer to the formal procedure.
- 18. It is recognised that employees may feel anxious about raising a complaint however employees can expect to receive appropriate support and be protected from victimisation and recriminations either during the complaint process or afterwards.
- 19. If you are accused of Harassing or Bullying a colleague you should attempt to resolve the situation informally with the other person, you should however be aware that they may feel sensitive about this



so you should ensure that they are willing to discuss the issue with you, if you need someone there to support you, take along a work colleague but try to make sure that the matter stays confidential between you.

Ensure you listen to the other party to find out what they see the issues as and explain the situation as you see it, often by sharing differing perceptions of the same event a common understanding can be reached and an issue resolved.

- 20. If you feel unable to speak to the individual or if the accusation is being raised at a formal level it is advisable to seek advice from your Trade Union or Professional Association if you are a member. If you are not you may be accompanied at any associated meetings by a work colleague.
- 21. If you are a Principal or Senior Manager and you believe that you are being harassed or bullied you can again attempt to resolve the situation informally with the individual involved.

If this approach does not work or you feel you need to discuss the situation in more detail you could approach the Regional Director who would assume the role as a line manager.

What support is available to me?

- 22. Your trade union representative will advise you about how to raise a formal complaint and support you through the process.
- 23. Your Principal is committed to eliminating harassment and bullying in the workplace; if you have concerns, please let them know.
- 24. OAT's Human Resources Team can also offer guidance.
- 25. Teacher Line can also provide practical and emotional support and advice specifically to Teachers.