

Guidance for Schools

Grievance and Harassment Procedure

	Recommended by:	HR and People Manager
Note:	Recommendation Date:	October 2020
<i>The Trust has adopted this policy Trust wide.</i>	Ratified by:	HR Committee
<i>Factual amendments for staff at the RSA Academy Tipton to relevant Sandwell references and Partners is assumed.</i>	Signed:	
	Position on the Board:	Chair of the HR Committee
	Ratification Date	7 October 2020
	Next Review:	September 2021
	Policy Tier (Central/Hub/School):	Central

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GRIEVANCE AND HARASSMENT PROCEDURE FOR STAFF IN SCHOOLS

1. INTRODUCTION

1.1 Grievances are serious concerns, problems or complaints that an employee may have about their employment. They may relate to an employee's work, physical working environment, working relationships, bullying and harassment, or their general treatment at school.

1.2 The aim of this procedure is to enable employees to raise grievances and to ensure they are resolved as quickly, fairly and as consistently as possible.

1.3 Employees should aim to resolve most issues informally with their Line Manager or those involved but where it is not possible to resolve issues informally, an individual employee (or employees) may use the formal procedure in the case of a grievance against:

- (a) another employee at the school (Section 4);
- (b) the Headteacher (Section 5);
- (c) the Governing Body (Section 6).

1.4 Exclusions from Access to the Procedure

Access to this procedure is excluded in the following circumstances:

- (a) where resolution of the grievance is beyond the power of the school, e.g. the grievance concerns Tax or National Insurance. In such cases the employee may need to initially speak to the Payroll Section and, if not then resolved, seek redress with the appropriate external agency;
- (b) if an attempt is made to restart the grievance procedure in respect of a grievance which has been considered previously, unless the facts of the matter have substantially altered;
- (c) where there is a failure by the employee to comply with time limits specified in the procedure, unless it has been mutually agreed in advance to vary the time limit(s);
- (d) with issues which should be dealt with or are already being considered under other procedures such as the pay policy, sickness absence, right to request to work flexibly, disciplinary or performance except where a right to use the grievance procedure is referred to under those procedures;
- (e) where the person raising the grievance is not an employee of the County Council/school; (this includes ex-employees).

2. GRIEVANCES RELATING TO HARASSMENT

- 2.1 The School believes that every employee has the right to be treated with dignity and work in an environment free from harassment. It will not tolerate any form of harassment. The School will, so far as is reasonably practicable ensure that its employees are protected from third party harassment and employees can use this procedure to raise a grievance if any form of harassment should occur. Any differences in how the procedure should be applied in cases of harassment are set out in Appendix 1. The definition of harassment used in this procedure (see Appendix 1), includes bullying as a form of harassment but it is recognised that many people use the terms interchangeably. Where reference is made to harassment it applies equally to bullying.

3. GENERAL COMMENTS APPLICABLE TO ALL STAGES

- 3.1 Periods of time and deadlines in this document may be varied by mutual agreement of the parties concerned and it should be noted that a satisfactory resolution should not be sacrificed in the pursuit of a particular time limit.
- 3.2 An employee may withdraw their grievance at any stage by confirming this in writing to management.
- 3.3 Confidentiality will be maintained throughout the process wherever possible but there may be circumstances where this is not possible in order to progress the grievance.
- 3.4 All formal stages in this procedure should be initiated by:
- (a) the employee informing the school of the grievance in writing by completion of the Statement of Grievance Form (Appendix 3(i)); and
 - (b) receipt of the Statement of Grievance by Headteacher/Chair of Governors/Clerk to Governors (see appropriate section).
- 3.5 However, schools should note that the law may recognise complaints raised under other formats as a grievance. Therefore, it is important that schools question the intention behind criticism or complaints raised in other ways, e.g. by letter, to ensure they are dealt with under this procedure if appropriate. Where it is established that the employee wishes to pursue a formal grievance he/she should complete the Statement of Grievance Form.
- 3.6 Special arrangements and requests for reasonable adjustments will be considered to accommodate needs arising from a disability.
- 3.7 For shared grievances where a number of employees are similarly aggrieved, the group may identify an individual or a trade union representative to take the group grievance forward on their behalf.

3.8 **Record of Meeting**

Audio or visual recorders may not be used to record the hearing as they may inhibit the flow of proceedings.

The employee and his/her representative may make notes as they wish during the meeting but there is no obligation to provide transcript notes of the meeting taken by management or the Human Resources representative present, other than the written outcome.

3.9 If it is not possible to respond in the specified time period, the employee will be given an explanation for the delay and be told when a response can be expected.

3.10 **Employee Representation and Time Off**

The employee has the right to be accompanied at formal grievance meetings/hearings by a trade union representative or colleague who may present the grievance on his/her behalf. The person against whom the grievance has been raised may also be accompanied by a representative. In cases of grievance relating to harassment, the alleged harasser has the right to be accompanied/represented.

3.11 It is the employee's responsibility to confirm the attendance of their chosen representative or colleague. In the case of trade union representatives/colleagues who are employees of Worcestershire County Council, reasonable time off work with pay will be granted to attend grievance meetings which take place within normal working hours.

3.12 Human Resources will be available to give advice on the process.

3.13 References to the Director of Children, Families and Communities include any Officer acting on his/her behalf.

3.14 **Malicious Grievances**

If a grievance is found to be malicious this may result in disciplinary action being taken against the employee.

4. **GRIEVANCE AGAINST AN INDIVIDUAL EMPLOYEE**

Informal Discussion

4.1 An employee who has raised a verbal grievance can agree to discuss the matter initially with the employee against whom he/she is aggrieved. If the employee feels unable or unwilling to do this they should raise the matter with their immediate Line Manager or with the Headteacher if the grievance concerns that Manager (see Section 5 for instances where grievance is against a Headteacher).

4.2 The Line Manager should explore the employee's concerns with him/her and where possible, reach an agreement on how to move forward. If such action has failed to resolve the grievance, the aggrieved employee may wish to raise a formal grievance.

4.3 Where a grievance is submitted in writing, consideration should still be given to whether it can be resolved informally before using the formal procedure.

Formal Procedure

- 4.4 Where an employee wishes to pursue a grievance formally, he/she must report the matter to the Headteacher (see Section 5 if grievance is against Headteacher) by presenting him/her with a completed Statement of Grievance^{*3}. Following receipt of the Statement of Grievance the Headteacher will provide a copy of it to the person/s against whom the Grievance has been raised.

At this point, the Headteacher may need to establish facts or clarify issues contained in the grievance statement. Such enquiries may take the form of an investigation depending on the complexity or seriousness of the grievance.

4.5 Formal Grievance Meeting.

The Headteacher will hold a meeting within 10 working days inviting both parties to that meeting. The purpose of the meeting shall be to attempt to resolve the grievance. The meeting should take place at a time and place reasonable for all parties. All parties must take reasonable steps to attend the meeting.

- 4.6 Unless mutually agreed otherwise, or unless exceptional circumstances apply, any papers to be used during the meeting must be made available by both parties to each other at least 5 working days in advance of the meeting. Following the exchange of such papers, it may be appropriate for the Headteacher to investigate any matters raised in order to facilitate the running of the subsequent grievance meeting.

- 4.7 At the Formal Grievance Meeting the Headteacher will see both parties together unless he/she deems it more likely to assist a resolution for them to be seen separately. The Headteacher will listen to the grievance and any response and may ask such questions as he/she deems fit. The Headteacher may also decide to adjourn the meeting if it is necessary to investigate any new facts which arise.

- 4.8 The Headteacher should consider how an employee's grievance can be resolved. The potential responses to a grievance can be summarised as follows:

- the Headteacher decides that the grievance is genuine and agrees action(s) to resolve it;
- the Headteacher requires more information or needs more time to consider the grievance before he/she can reach a decision. The employee will be told when they can expect to know the outcome;
- the Headteacher determines that the grievance is unfounded.

After the meeting the Headteacher must confirm his/her decision in writing. The written decision will be sent to both parties not more than 5 working days following the meeting.

Right to Appeal

The written decision of the Headteacher must detail the right of appeal, who to make an appeal to and by what deadline.

^{*3} Statement of Grievance form is available at Appendix 3

4.9 **Formal Grievance Appeal**

Where the aggrieved employee does not consider that his/her grievance has been resolved he/she may appeal in writing to the Clerk to the Governors within 10 working days of receipt of the decision, stating the reasons for the appeal. Grounds for appeal should normally relate to one or more of the following:

- there was a procedural error;
- new evidence has emerged which was not available at the grievance meeting;
- the conclusion reached by the Headteacher was unreasonable.

This notification should be made by completing the Grievance Appeal Form (Appendix 3(ii)) and must be copied to the Headteacher.

4.10 Upon receipt of such notification the Clerk to the Governors will call a meeting of the Grievance Appeal Panel and follow the procedure as laid out below.

Formal Grievance Appeal Panel

4.11 In order to allow the hearing of any appeal the Governing Body will establish a Grievance Appeal Panel usually comprising three members.

4.12 The panel should meet as soon as is reasonably practicable, normally not more than 15 working days following receipt of the notification.

4.13 Unless mutually agreed otherwise, or unless exceptional circumstances apply, any papers to be used during the meeting must be made available at least 5 working days in advance of the meeting. Details of any witnesses to be called by either party must be given at the same time.

4.14 The business of the panel will be conducted in accordance with the procedure described in Appendix 5.

4.15 A written copy of the resolution of the panel will be sent to the parties concerned within 5 working days of the meeting.

4.16 There is no further appeal to the Governing Body.

5. GRIEVANCE AGAINST THE HEADTEACHER

5.1 Where the Headteacher is the subject of the grievance, the same procedure will apply as follows:

- Informal Stage – discussion of matter with the Headteacher;
- Formal Procedure - send completed Statement of Grievance to Chair of Governors;
- Formal Grievance Meeting - held by Chair of Governors (or other nominated Governor);
- Formal Grievance Appeal - heard by a panel of the Governing Body.

6. GRIEVANCE AGAINST THE GOVERNING BODY

6.1 Informal Stage

Where an employee has a grievance about an act or omission of the Governing Body they shall attempt to resolve the matter with the Chair of Governors (or Governor nominated by him/her) in an informal manner. (The involvement of the Headteacher, Staff Governor or other appropriate third party may be useful.)

6.2 Where an attempt at an informal resolution has failed and the employee wishes to pursue the matter, he/she may request a hearing before the Governing Body by applying to the Clerk to the Governors in writing and providing a Statement of Grievance (Appendix 3). A copy of this application must be sent to the Headteacher.

6.3 It is recognised that there may be a delay before a meeting can be held. However, it must be held as soon as is reasonably practicable - normally not more than 20 working days following receipt of the application.

6.4 The business of the meeting will be conducted in accordance with the procedure described in Appendix 6.

6.5 A written copy of the resolution of the Governing Body will be sent to the employee concerned within 5 working days of the meeting.

6.6 There is no further right of appeal against this decision.

GRIEVANCES RELATING TO HARASSMENT

Definition

Harassment in relation to employees and applicants is made unlawful by section 40 of the Equality Act 2010. Harassment is defined in the Equality Act 2010 as follows:

a person (A) harasses another (B) if -

(A) engages in unwanted conduct related to a relevant protected characteristic, and the conduct has the purpose or effect of -

- (i) violating (B)'s dignity, or
- (ii) creating an intimidating, hostile, degrading, humiliating or offensive environment for (B).

Harassment includes unwanted conduct of a sexual nature that has the purpose or effect referred to above, or that is related to gender reassignment or sex, where the victim suffers less favourable treatment because of his or her rejection of, or submission to, that conduct.

In deciding whether conduct has the effect referred to in section 5.4, each of the following must be taken into account -

- (i) the perception of (B);
- (ii) the other circumstances of the case;
- (iii) whether it is reasonable for the conduct to have that effect.

The Equality Act introduced the concept of "protected characteristics" which are:

age;
disability;
gender reassignment;
marriage and civil partnership;
pregnancy and maternity;
race;
religion or belief;
sex;
sexual orientation.

Harassment can take the form of either a series of incidents or a one-off act. Examples of harassment include:

- physical contact ranging from touching to assault
- verbal and written comments including emails, jokes, offensive language, comments about an employee's personal appearance, size, clothing, etc.
- innuendo, gossip
- visible display of offensive photographic or other material or obscene gestures
- ignoring or failing to co-operate with others at work or exclusion from work related activities
- coercion, e.g. pressure for sexual favours, pressure to participate in political/religious groups, etc.
- verbal or physical bullying
- cyberbullying, e.g. detrimental comments/images of colleagues on external websites
- abuse of position.

The above list is not exhaustive and there will be other examples which are equally unacceptable. It is not always necessary for these activities to actually take place within the workplace (e.g. social events outside work organised by the school) in order to amount to harassment. The individual circumstances relating to each complaint will need to be considered.

Informal Procedure (see para. 4.1)

The complainant asks the alleged harasser to stop the unwanted behaviour. If the complainant is unwilling or unable to do this, he/she raises the matter with his/her line manager/Headteacher who will meet the alleged harasser.

Formal Procedure

Informal resolution of complaints of harassment should be considered first. If this is not possible, the formal procedure should be used.

The Headteacher*, advised by Human Resources, may decide immediately that the case is sufficiently serious to invoke the disciplinary procedure. This may involve suspending the alleged harasser pending an investigation.

1. Investigation
The Headteacher†, with appropriate HR advice, will conduct a thorough investigation into the allegation of harassment. This should include interviewing/obtaining witness statements from all those concerned. The necessary enquiries should be completed as soon as possible and normally within 10 days.
2. While investigating the complaint, the Headteacher* should be sensitive to the feelings of the individuals concerned. The complainant may find it difficult and stressful to talk about the incident to a third party. Equally, the person against whom the allegations have been made needs to be assured that the matter has not been pre-judged. The investigation should consider all the circumstances before reaching a conclusion and particularly the perception of the complainant as harassment is often felt differently by different people.
3. Depending on the nature of the complaint, consideration should also be given to the working environment during an investigation. If practicable it may be appropriate to arrange for the complainant and alleged harasser to work apart.
4. Grievance Meeting
On concluding the investigation, the Headteacher† should invite the employee and the alleged harasser to a grievance meeting as soon as possible. At least 5 days' notice should be given in writing of the date, time and place of the meeting. The invitations (to both the employee and alleged harasser) should confirm the right to be accompanied. If the employee, the alleged harasser or their representatives request an adjournment because they feel they have insufficient time to prepare for the meeting, an alternative date should be offered within 5 days of the original date. A longer extension or adjournment may only be agreed by the manager convening the meeting in exceptional circumstances.
5. In some cases, due to the nature of the complaint it may be unreasonable to require the two parties to meet. When this occurs alternative means should be found, e.g. working through representatives, to achieve the same end.

* or Chair of Governors where the complaint is against the Headteacher

† or Chair of Governors where the complaint is against the Headteacher

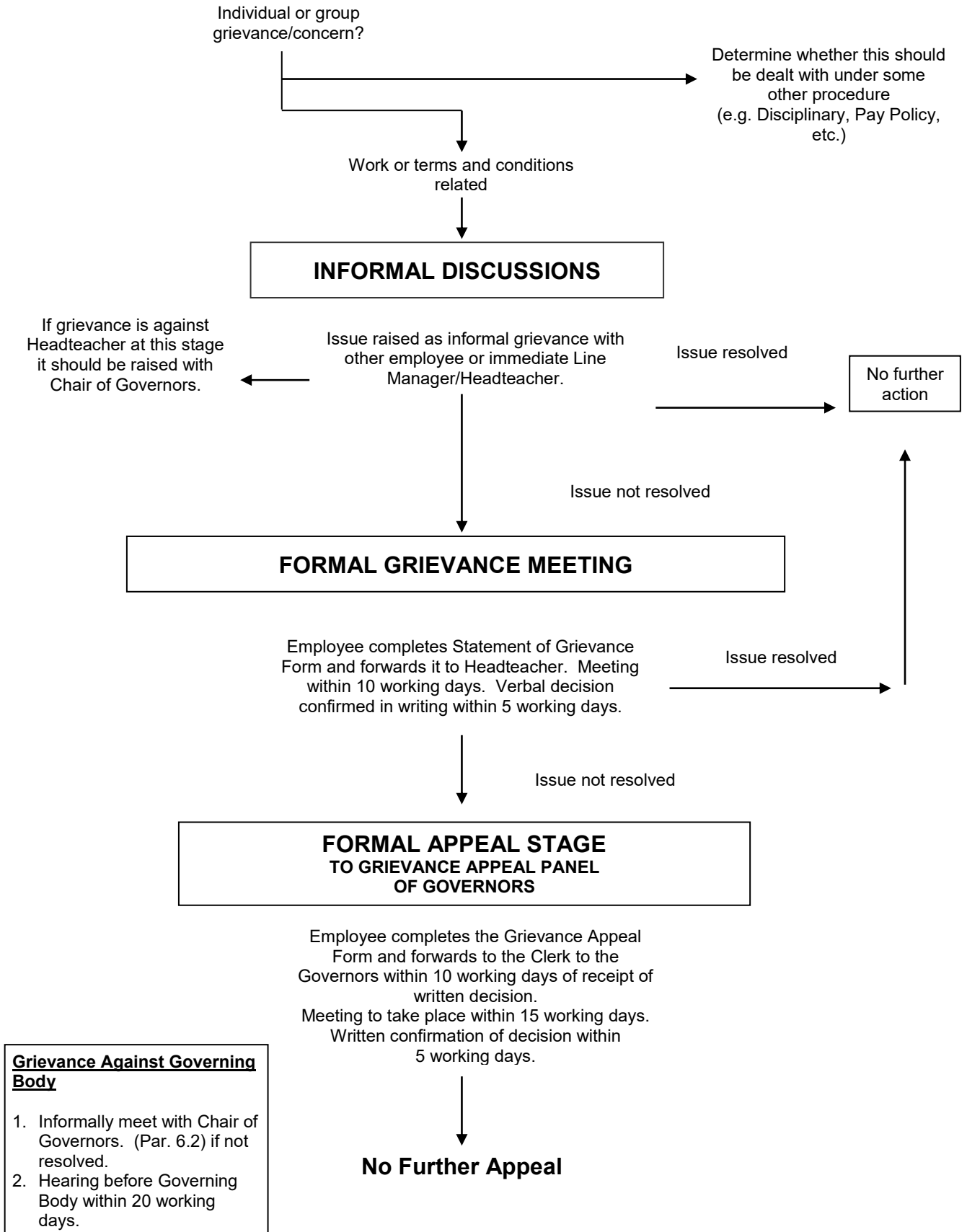
6. Outcome
If, as a result of the grievance meeting, the Headteacher* finds that the alleged conduct constitutes harassment, he/she may decide (with appropriate advice from HR) that it should be dealt with under the Disciplinary Procedure.

Where it is found that harassment has occurred, managers must ensure that the harassment stops and that there is no subsequent victimisation.

If it is found that harassment has not occurred and that there has been a malicious accusation, this may result in disciplinary action against the complainant.

7. Disagreement with the decision – if either the complainant or alleged harasser is not satisfied with the decision to uphold or not uphold the complaint, he/she may have recourse to the Governors' Appeal Panel (see para. 4.9).

SCHOOLS EMPLOYEE GRIEVANCE PROCEDURE



STATEMENT OF GRIEVANCE

This form is intended to help you to make a clear statement of your grievance. You should send the completed form to the Headteacher/Line Manager. If your grievance is against your line manager, you should send the completed form to the Headteacher. If your grievance is against the Headteacher you should send the form to the Chair of Governors.

Employee Details	
Name:	
Job role:	
Contact details (telephone and email):	

Details of the grievance
Who is the grievance against?
Please provide details of your grievance. You should include all relevant details information, e.g. dates, times, locations and the names of other people present (witnesses). Please continue on a separate sheet and attach if necessary.
Have you raised your grievance informally with your Headteacher/Line Manager? If so, what action was taken (please give detailed information and provide dates):

How do you think your grievance should be resolved? Please say how you would like the school to deal with your grievance. You should set out why and how you believe this could resolve your grievance. Please continue on a separate sheet and attach if necessary.

Name, address and contact number of trade union representative or colleague who will accompany you:

Declaration

By submitting this form, I confirm that the information I have provided is true to the best of my knowledge. I understand that the school may take disciplinary action against me if I make false, malicious or untrue allegations.

Employee's signature: _____

Date: _____

GRIEVANCE APPEAL FORM

If you feel your grievance has not been resolved, you have the right of appeal. Appeals will be heard by the Grievance Appeal Panel. To appeal, you should complete this form and send it to the Clerk of Governors within 10 working days of the receipt of your grievance decision.

Employee Details	
Name:	
Job role:	
Contact details (telephone and email):	

Summary of your appeal	
Date the outcome of your grievance was confirmed:	
<p>Please set out the grounds for your appeal (there was a procedural error, new evidence has emerged which was not available at the grievance meeting or the conclusion reached by the Headteacher was unreasonable). You should also include the names of other people who are involved (including any witnesses). Please continue on a separate sheet and attach if necessary.</p>	
<p>What outcome do you want from your appeal? You should set out why and how this will resolve your grievance. Please continue on a separate sheet and attach if necessary.</p>	

Declaration

By submitting this form, I confirm that the information I have provided is true to the best of my knowledge. I understand that the school may take disciplinary action against me if I make false, malicious or untrue allegations.

Employee's signature:

Date:

**PROCEDURE FOR A FORMAL
GRIEVANCE MEETING**

(where the grievance is heard by the Headteacher and it is considered appropriate for all parties to be present at the same time)

1. Introductions.
2. Statement of Grievance by aggrieved employee or representative.
3. Questions by Headteacher*.
4. Statement by respondent.
5. Questions by Headteacher*.
6. Final statement by aggrieved employee or representative.
7. Interested parties withdraw.
8. Consideration of grievance by the Headteacher*.
9. Interested parties return.
10. Announcement of decision and comment by the Headteacher*.

* or Chair of Governors if grievance is against Headteacher

PROCEDURE FOR A MEETING OF THE GRIEVANCE APPEAL PANEL

1. Introduction of Panel members and others present by the Chairman and explanation of the purpose of the Meeting.
2. Statement of Grievance by the aggrieved employee or representative and reasons for appeal.
3. Questions by:
 - (a) respondent (person against whom grievance was raised);
 - (b) Headteacher¹ (where appropriate);
 - (c) members of the panel;
 - (d) Human Resources Adviser (where appropriate).
4. Statement by respondent.
5. Questions by:
 - (a) aggrieved employee or representative;
 - (b) Headteacher (where appropriate);
 - (c) members of the panel;
 - (d) Human Resources Adviser (where appropriate).
6. Final summary by aggrieved employee or representative. No new evidence can be raised at this point.
7. Interested parties withdraw.
8. Consideration of grievance by the panel with assistance from HR Adviser, as appropriate.
9. Interested parties return.
10. Announcement of decision and comments of the Governing Body.

Footnote:

1. In cases of grievance against the Headteacher, the Headteacher is the respondent
2. Witnesses may be called and questioned under items 2 - 5 of this agenda

**PROCEDURE FOR A MEETING OF THE
GOVERNING BODY PANEL TO HEAR A GRIEVANCE
AGAINST THE GOVERNING BODY**

Before the meeting begins the Governing Body panel will nominate one of its members to act as spokesman and respondent. This will normally be a Governor who had direct involvement in the act or omission which resulted in the grievance.

1. Introduction by the Chairman of the members of the Governing Body and an explanation of the purpose of the meeting.
2. Statement of Grievance by the aggrieved member of staff or representative.
3. Questions by:
 - (a) respondent Governor;
 - (b) members of the Governing Body;
 - (c) Human Resources Adviser (where appropriate).
4. Statement by respondent Governor.
5. Questions by:
 - (a) aggrieved member of staff or representative;
 - (b) Human Resources Adviser (where appropriate);
 - (c) members of the Governing Body.
6. Final summary by aggrieved member of staff or representative. No new evidence can be raised at this point.
7. Aggrieved employee, representative and respondent Governor withdraw.
8. Consideration of grievance by Governing Body, with HR Adviser, as appropriate.
9. Aggrieved employee and respondent Governor return.
10. Announcement of resolution of the Governing Body.

Footnote:

Witnesses may be called and questioned under items 2 - 5 of this agenda