



MANAGERS GRIEVANCE TOOLKIT FOR HARROW SCHOOLS

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1. INTRODUCTION

- 1.1 Grievance procedures have been determined in law to be contractual. The expectation is that the provisions contained in the School's Grievance Policy and Procedure will be adhered to. It is important to remember that tribunals have upheld complaints of constructive dismissal for management failure to follow procedure.

This toolkit aims to provide practical guidance on how the policy should be implemented and to support managers and employees through what can be a difficult process. The guidance notes contained in the Toolkit are **not mandatory** but are intended to assist with promoting best practice in managing grievance matters.

Please read through this before seeking further professional advice from Human Resources (HR).

The Grievance Policy and Procedure for Schools provides a structured 3 Stage procedure comprising of:

- Informal
- Formal – Stage 1
- Formal Appeal - Stage 2 (conclusion of the grievance process)

- 1.2 This policy enables employees to raise concerns related to their employment. Its aim is to resolve grievances as quickly and as close to the point of origin as possible in an equitable way, which does not hinder the provision of an effective and efficient schools operation.
- 1.3 An expectation of this policy is that before employees invoke the formal stage of this procedure they first of all attempt to resolve their complaint through implementation of the Informal process. Managers are strongly encouraged to try to resolve grievances informally, which may include the use of mediation.
- 1.4 A grievance may be considered to be a complaint by an employee about the action, which their employer (or another employee) has taken or is contemplating taking in relation to them. A grievance could be regarded as any one of the following:
- Terms and conditions of employment
 - Working hours
 - Unfair treatment
 - Health and safety
 - Working relationships
 - Harassment or bullying
 - Working conditions
 - Equal opportunities
 - A breach of statutory employment rights
 - An employee feels that an employment condition has been used incorrectly against them

N.B. This list is not exhaustive nor is it an attempt to give a definition of a grievance.

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- 1.5 In addition to these examples, the following could constitute a grievance:
- A grievance can be contained within a resignation letter.
 - It is not necessary for the employee to make it clear that the letter is a grievance or that they are invoking the grievance procedure.
 - A “Without Prejudice” letter before action from a solicitor may amount to raising a grievance.
 - Letters with another purpose e.g. an application for flexible working.

- 1.6 A formal grievance must be in writing, either in a letter, or by completing the Formal Grievance Form (Appendix 2) to ensure that:

- a full written account of the perceived nature and extent of the problem is received, together with details of any informal attempts have been made to resolve the issue.

- 1.7 The letter should be specific and not a generalisation e.g. ‘I wish to complain against the treatment received from my work colleague’ or ‘I have been treated unfairly’. The letter needs to include the following information:

- The nature of the grievance – what is alleged to have occurred, by whom and when
- The reason for dissatisfaction with the informal solution (where appropriate)
- The remedy the employee is seeking
- Any witnesses to support the complaint

If you are in any doubt whether a letter or email you have received constitutes a grievance letter, please ask the individual concerned to clarify if they are raising a grievance.

- 1.8 It is important to note that an employee may, (in the event that they believe they have been harassed in the course of their employment), raise a grievance about a third party e.g. a supplier or an employee from another Council.

An employer will be treated as subjecting an employee to harassment by a third party in the course of their employment even if there has been an investigation, whether or not it is the same party on each occasion. The employer must deal with the complaint as a grievance and take all reasonably practicable steps to prevent further harassment by the third party.

- 1.9 This policy does not apply to the following categories:
- a. Employees appealing against a dismissal/disciplinary decision. This is dealt with through the appropriate appeals procedure.
 - b. Whistleblowing Complaints. These are dealt with under the Harrow Council Whistle Blowing Policy and Procedure for Schools
- 1.10 This policy is not intended for employees to raise a grievance about a School policy, although it may be used to make a complaint about the way the School’s policies and procedures have been applied.

- 1.11 A flow chart which provides an overview of the Grievance Policy is shown in Appendix 1 at the end of this document.

2. SCOPE

- 2.1 The policy and procedure set out in this document applies to all Teachers on Teachers pay and conditions and Harrow employees employed in schools under the terms of Harrow Council Pay Employment Conditions.
- 2.2 Where a grievance concerns a Headteacher, the employee should raise their concern with the Chair of Governors.
- 2.3 If a grievance is raised by an employee against the Chair of Governors, or any other member of the Governing Body, this should be dealt with through the Grievance Policy and will be heard by an Employee Grievance Committee.

2.4 Grievances against a Local Authority Officer

In the event that a complaint is raised by an employee in a School against a Local Authority Officer, if the complaint could form the basis for an Employment Tribunal claim against the Local Authority or the School, it should be dealt with under the Grievance Policy. If the complaint could not form the basis for an Employment Tribunal claim, it should be dealt with under the Complaints procedure.

3. ROLES AND RESPONSIBILITIES

- 3.1 Both managers and employees have a responsibility within this procedure. Participants in this process shall be respectful of one another and refrain from using language that could be perceived as insulting, offensive or abusive or intimidating. Any person found to have breached the terms of this policy may be subject to action under the School's Disciplinary procedure.

3.2 Headteachers/Chair of Governors will:

- Delegate authority to implement the grievance process to specified levels of management, identifying those with the appropriate level of authority to make a decision on the outcome of the formal grievance process at Stage 1 and the appeals process at Stage 2 of the Grievance Policy and Procedure.
- Identify the appropriate Investigation Officer(s) to undertake grievance investigations.
- Monitor the use of the grievance processes for effectiveness and fairness.

3.2 Delegated Managers will:

- Ensure that employees are made aware of the Grievance policy and how to access it.
- Treat all grievances seriously, dealing with each one consistently and sensitively ensuring fairness and equality whilst maintaining confidentiality at all times.
- Try to resolve any issues that arise in the workplace through the informal procedure, prior to the issue escalating to a formal grievance. Where appropriate consider mediation, please refer to Paragraph 6 of this document.
- Ensure the aggrieved employee is aware of the option to use mediation before they invoke the formal process.

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- Respond promptly and without unreasonable delay to try to resolve any informal and formal grievances.
- Ensure the aggrieved employee has completed a Formal Grievance Form (Appendix 2) and arrange for Stage 1 of the formal grievance process to be implemented if the grievance cannot be resolved informally.
- Ensure the Formal Grievance Form (Appendix 2) explains the basis of the grievance, the full reasons for submitting it and the possible remedy-outcome sought. Where this is not the case the manager should seek further written clarification from the aggrieved employee.
- Ensure the grievance procedures are followed correctly, seeking advice from HR when they are unsure.
- Consider arranging for an interpreter where the employee has difficulty speaking English.
- Consider whether any reasonable adjustments are necessary for anyone involved in the grievance and implement as appropriate.
- Investigate thoroughly establishing the source of the grievance, the circumstances of the grievance and the sequence of events leading to the grievance being lodged.
- Ensure that the employee is given appropriate notice of any grievance meeting and is informed:
 - ❖ of the Grievance Policy and Procedure.
 - ❖ that they have the right to be accompanied at any stage of the Grievance Policy and Procedure by a trade union representative or work colleague.
- Ensure that the employee is given ample opportunity at any grievance meeting to explain the grievance and any background information prior to a decision being made.
- Ensure that the subject of the grievance is given the opportunity to respond to the grievance that has been raised.
- Ensure that notes are taken during any grievance meeting.
- Provide the aggrieved employee and subject of the grievance with copies of any formal meeting notes that have been taken.
- Confirm in writing the outcome of the grievance and the reasons for the decision.
- Keep records of the formal Conduct and Discipline warnings given under the procedures on the employees' personnel file and disregard them in terms of further action under the procedure after the stated time.
- Notify the employee in writing of the right to appeal under Stage 2 at the conclusion of the formal process at Stage 1.
- Arrange for an Appeal under Stage 2 of the formal procedure where the grievance cannot be resolved under Stage 1. This is the **final stage** and concludes the grievance process.

3.3 All Employees

Employees have a contractual responsibility to be aware of, and to conform to, the Schools' rules, policies and procedures. They also have a responsibility to co-operate with any investigation and attend any meetings convened in accordance with the Grievance Policy. They are also required to submit their grievance in writing for the formal stage of the process i.e. Stages 1 & 2 by completing the Formal Grievance /Appeal Forms at Appendices 2 and 3.

During the process, the employee is expected to continue to work normally and with full co-operation while their grievance is being dealt with. In exceptional circumstances, where this is not possible or where the working arrangements are such that the grievance is likely to disrupt normal business operations, the employee must approach their manager to discuss alternative working arrangements.

Employees must not raise a grievance maliciously and must maintain confidentiality throughout and on conclusion of the process.

3.4 Managers

Managers/Headteachers should familiarise themselves with the Grievance Policy and Procedure and should be trained for the task.

Managers/Headteachers are responsible for applying the School's Grievance Policy in a fair and consistent manner, dealing promptly with any concerns or grievances raised with them, and seeking to resolve them informally if possible. Mediation may be appropriate at any stage in the process, please refer to Paragraph 6 of this document. Where informal resolution is not possible, the Manager/Headteacher should deal with the grievance without delay through the formal procedure. Managers/Headteachers are also responsible for making sure employees are aware of the School's rules, policies, practices and procedures.

The manager chairing the meeting (Hearing Officer) is responsible for ensuring that the grievance is managed effectively and that the aggrieved employee, investigating officer and witnesses are notified in writing at least 5 working days prior to any formal meeting; that a room is booked, and a note taker is appointed to record details at formal grievance meetings i.e. Stages 1/2.

If there is a need for an investigation to clarify the facts of the case, the Hearing Officer may investigate the matter themselves or appoint an Investigating Officer. Please refer to Paragraph 10 Appointment of an Investigation Officer. Once a full investigation has taken place the Hearing Officer will convene a formal grievance meeting.

3.5 Headteacher or Chair of Governors (Hearing Officer or Chair)

The Headteacher or Chair of Governors is responsible for dealing promptly with any formal grievance. If they are unable to hear the case themselves, the Hearing Officer must be at a senior level to the manager that heard the grievance under the informal procedure. The Hearing Officer is responsible for ensuring that the grievance is managed effectively, a room is booked and a note taker is appointed.

If there is a need for an investigation to clarify the facts of the case, the Hearing Officer may investigate the matter themselves or appoint an Investigating Officer. Please refer to Paragraph 10 Appointment of an Investigation Officer. Once a full investigation has taken place the Hearing Officer will convene a formal grievance meeting.

Appeals shall be considered at an Appeal Hearing by the Employee Grievance Committee normally comprising of 3 Governors.

3.6 Witnesses

Witnesses may be called by the Investigating Officer, including witnesses requested by the aggrieved employee. They may be interviewed as part of an investigation and may be called to give evidence at a grievance meeting. Witnesses are required to attend the grievance meeting where they have been requested to do so by the Investigating Officer.

Situations may arise where other employees, young people or vulnerable adults in the Council's care are asked to be a witness during the grievance investigation meeting.

During a Grievance Investigation meeting, witnesses should be prepared to answer questions relevant to the allegations. However, in exceptional circumstances, records of interviews may stand- alone or a witness's evidence may be summarised and presented by the Investigating Officer. Any evidence submitted on behalf of this witness must be weighted accordingly.

Witnesses must make themselves available to attend any investigation meetings called by the investigating officer.

3.7 HR

The HR Employment Relations Team will provide advice and support to managers and employees on the application of the policy and may be present at formal Appeal Stage 2 grievance meetings to support the Employee Grievance Committee in more complex cases.

3.8 The Role of the Trade Union Representative or Work Colleague

The representative will be an accredited union representative or a work colleague.

The representative may:

- Address the meeting to put the employee's case forward.
- Respond on the employee's behalf to any view expressed at the meeting. However if the employee indicates that they do not want their representative to do so, then the Hearing Officer need not allow them to. The representative **MAY NOT** answer questions on the employee's behalf.

Neither the representative nor the work colleague may discuss the grievance case or related meetings with other colleagues. If found to do so, they will be subject to the Schools' Disciplinary procedure or, if an official of the Union, the matter will be dealt with by the Union.

3.9 The costs associated with any witnesses attending a grievance meeting may be met by the School. Typically, this would include any additional travel costs, over and above the person's usual travel costs. In exceptional circumstances, childcare costs may be covered if the meeting takes place during the witness's non-working time.

Any additional costs associated with the grievance procedure must be approved by the Hearing Officer/Employee Grievance Committee prior to the cost being incurred.

4. PRINCIPLES

4.1 The School's Grievance policy and procedure is founded on the following principles:

- a. To enable genuine grievances to be resolved quickly and consistently across the school in order to maintain good working relationships.
- b. To resolve grievances informally before implementing the formal process. The aggrieved employee shall make a genuine attempt to resolve their complaint informally, by discussing their complaint with their line manager, or their line manager's manager where their grievance concerns their line manager.

In instances where an employee's performance is being managed by their manager, this fact alone is not considered grounds for raising a grievance. However, if an employee is unhappy with the way they are being managed and have specific instances that they are concerned about, this may be grounds for a grievance

- c. To ensure that the issues raised are investigated fairly, thoroughly and promptly, and that the outcome is confirmed in writing without unreasonable delay.
- d. To ensure that the employee does not suffer any detriment in the form of victimisation by asserting their statutory right to raise a grievance.
- e. All genuine grievances raised will be treated seriously. However, employees should be aware that they must not use the policy to raise concerns without just cause and with the intent of causing distress to others. Inappropriate use of the policy may result in the employee who has raised the grievance being subject to disciplinary action.
- f. A grievance can be closed at any point during the process, if the aggrieved employee is in agreement. For example, evidence may come to light at any point during the grievance process that suggests an employee/manager should be subject to the School's Disciplinary Policy. In this case, the grievance should be closed and the matter pursued under the Disciplinary Policy.
- g. Grievances will be dealt with on a case by case basis, and where the aggrieved employee is agreeable, it may be beneficial to deviate from the process to achieve a satisfactory resolution to the grievance.
- h. Not to discriminate against any individual in the application of this policy and procedure on the protected characteristics of age, disability, gender reassignment, marriage and civil partnership, maternity and pregnancy, race, religion or belief, sex, sexual orientation, or other grounds protected in law (e.g. part-time worker status, trade union membership or HIV positive status).

5. RIGHT TO BE ACCOMPANIED

5.1 The aggrieved employee has the right to be accompanied by a trade union representative or work colleague at any formal grievance meeting. It is the responsibility of the employee to ensure that their chosen representative knows as soon as possible to attend. Where the employee's chosen representative cannot attend on the proposed date, an alternative may

be arranged. This should normally be within five working days and without unreasonable delay from the first working day after the original date proposed by the manager. Employees should ensure that their chosen representative does not have any conflict of interest or issues that may prejudice the grievance.

- 5.2 To exercise the right to be accompanied the aggrieved employee must first make a reasonable request. What is reasonable will depend on the circumstances of each individual case, although employees are free to choose any fellow worker, trade union representative or official as a companion. In making their choice, however, the employee should bear in mind the practicalities of the arrangements. Thus, it may neither be sensible nor helpful to request accompaniment by a colleague from a geographically remote location when someone suitably qualified is available on site; nor to be accompanied by a colleague whose presence might prejudice the hearing or who might have a conflict of interest. A request to be accompanied does not have to be in writing or within a certain time frame but the employee should consider how they make their request so that it is clearly understood and provides enough time for it to be considered by the manager.
- 5.3 It is recognised that there may be occasions when it may be beneficial to allow an employee to be accompanied by a representative during the informal process but this shall be subject to the manager's agreement.
- 5.4 The employee must advise the manager conducting the meeting of the name and job title of their chosen representative.
- 5.5 The person against whom the allegation has been made to be accompanied by a Trade Union representative or work colleague at any formal grievance meetings.
- 5.6 The School will not meet any of the costs associated with the attendance of the representative at a grievance meeting beyond granting paid time off to a representative who is a School employee.
- 5.7 Employees should be aware that their personal information including possible sensitive information will be shared with their nominated representative unless their permission to do so is formally withheld.

6. MEDIATION

- 6.1 Mediation is a process of conflict resolution whereby a **neutral third party** is invited to intervene into a workplace situation to assist with the constructive resolution of that conflict. The mediator encourages and facilitates open and honest dialogue between the parties, which is an approach that often leads to increased awareness, understanding, and empathy. This encourages a fair and equitable resolution, which in turn often supports sustained, realistic and shared outcomes.
- 6.2 Mediation offers benefits to the organisation in respect of conflict management such as a swift resolution to the grievance, the individual feels heard and supported, not judged or blamed, and they have ownership of the outcomes. Funding for mediation will be the responsibility of the Headteacher concerned.

7. COLLECTIVE GRIEVANCES

7.1 It is important to note that if you receive any sort of petition or letter with several signatures which is presented as a grievance, you should discuss this with the individuals involved and explain that they each need to submit their grievance independently and in writing. The reasons for this are as follows:

- To ensure that the grievance is regarding the same subject
- To capture each individual's version of events
- To ensure that employees are lodging a grievance of their own free will and not through peer pressure

There may be exceptions when a joint letter may be acceptable e.g. where there are allegations of bullying by a manager or employee and the individuals do not feel comfortable raising a complaint independently. Each case must be judged on its own merits and if there is any doubt, contact the HR Employment Relations Team.

7.2 Once the grievance statements have been received, the staff group may nominate up to 2 spokespersons to represent their case. The spokespersons have the right to be accompanied by a Trade Union Representative or work colleague.

7.3 As long as the issue is the same in each case, it will be necessary to hold only one meeting at each stage with the spokesperson(s).

8. INFORMAL APPROACHES TO RESOLVING GRIEVANCES

8.1 Managers/Headteachers are encouraged to be proactive with regards to identifying any potential concerns within the team. They are advised to address any concerns at a very early stage with a view to reaching a satisfactory resolution as soon as possible, rather than waiting until an official grievance is lodged.

8.2 Managers/Headteachers and employees are encouraged to see if any concerns can be resolved informally and without recourse to the formal grievance policy. This approach is likely to result in a quicker and more satisfactory resolution. As part of good management practice, managers/Headteachers are encouraged to have regular meetings and discussions with members of their teams to avoid concerns escalating to the point where formal procedures are the only option to resolve the matter.

8.3 Managers/Headteachers should be aware of, and be prepared to explore alternative methods of resolving any concerns that arise by discussing the issue and examining a range of possible solutions with the employee. For instance, it may be appropriate to consider mediation as part of the informal process.

8.4 An employee should raise an informal grievance as soon as possible after the act or decision complained of, or after the last act or decision if the complaint relates to a series of linked events.

8.5 If an employee approaches you regarding an issue ensure that you:

- Arrange a meeting, as soon as possible, ideally within 5 working days of the issue being raised, away from the immediate workplace in a private location that is free from interruptions. This can be a **verbal or written invitation**.

LETTER 1	MODEL INVITATION LETTER - INFORMAL PROCESS	<u>APPENDIX - 7</u>
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At the meeting:

- Assure the employee that if they wish to keep the matter confidential you will do what you can to comply, although make the employee aware that by keeping it confidential it may be difficult to address the issue. Remind the employee it may not be possible for breaches of School policy e.g. Health and Safety issues to remain confidential and that you will have a duty to follow the appropriate course of action.
- Ensure that you allow enough time to explore the matter fully.
- Take notes during the meeting or make notes directly after the meeting to ensure that you have an accurate reflection of the meeting and the reasons for the decisions made, to refer back to when necessary.
- Allow the person to whom the grievance relates to respond to the grievance.
- Try to establish what action or outcome the employee wants, allow them to suggest solutions and see if an acceptable solution can be reached.
- Adjourn the meeting and seek advice from the HR Employment Relations Team if you think the case may be considered to be a misconduct issue under the School's Disciplinary Policy.
- Confirm any agreement or resolution reached on the day of the meeting where possible or promptly without unreasonable delay. Your decision should be confirmed in writing within **5 working days** of the meeting.
- Inform the employee that if they are dissatisfied with the outcome of the informal process then they can invoke Stage 1 - the formal grievance procedure by completing the Stage 1 Formal Grievance Form at Appendix 2 in writing without unreasonable delay. Mediation may be appropriate at any point in the grievance process, please refer to Paragraph 6 of this document.

LETTER 2	MODEL DECISION LETTER - INFORMAL PROCESS	<u>APPENDIX - 8</u>
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- It may be appropriate for a follow up meeting to be arranged to consider and implement any follow up action to be taken. The aggrieved employee should be informed of possible delays in reaching a decision e.g. time to carry out further investigations and the timescales.

8.7 Informal Interventions

Below are some of the informal interventions that can be used to help an individual address a grievance informally. The line manager's role is to support the individual in expressing their grievance but not to take sides and to maintain objectivity at all times.

8.8 Talking to person concerned

In some situations, the employee may be able to approach the person directly if the working relationship is still reasonably positive and the unwanted behaviour/actions are recent. A mutual willingness to discuss the issues and to work towards a win-win solution is a good indicator of success.

There may be certain situations where the employee is concerned about repercussions if they approach the person directly. It can be difficult for an individual to approach the person who is causing them distress. It is important that the line manager supports the individual for them to prepare for this informal meeting.

Before the employee speaks to the other person, it is important that they are clear what problems or behaviours are giving rise to the issues and to give specific examples, clearly defined in terms of time, content and frequency. It is a good idea for them to have notes so that they cover the points and do not get distracted.

During the meeting, the employee is advised to:

- Give a clear description of the behaviour that is causing problems.
- The feeling that the behaviour/action evoked, e.g., 'I feel upset' or 'I feel hurt.'
- To express the way they would rather be treated.
- To action or identify a solution that may be viable for both parties

The benefits of the employee talking to the person directly are that:

- The issue can often be resolved quickly.
- Misunderstandings can be cleared up.
- Relationships can be improved.
- There is less room for misunderstanding if the issue is discussed face to face.

8.9 Counselling

The Manager/Headteacher may wish to offer to arrange for the employee to receive impartial advice, support and guidance. In such circumstances counselling may be appropriate, the funding of which will be the responsibility of the Headteacher concerned.

It is important to note that counselling can be a long-term resolution to a problem at work and therefore it may not be suitable in some situations, particularly where a more immediate solution needs to be found.

Counselling can be valuable for individuals against whom a grievance is being lodged and may be available in appropriate circumstances, the funding of which will be the responsibility of the Headteacher concerned. They may be unaware of, or insensitive to, the

impact of their actions and counselling can help to change behaviour and prevent the occurrence of further issues.

8.10 Training

In some situations, behaviours can be modified through training, and this can be appropriate either for the aggrieved or person against whom the grievance is being lodged. Training will be specific to the issue that has been highlighted. The person undertaking the training needs to be committed to making the changes and recognising where they need to adapt their approach or behaviour.

8.11 Practical Solutions

Some grievances may be based around more practical issues, such as the workstation, health and safety issues, working hours etc. In these types of situation, a practical solution can be the answer at any stage.

9. FORMAL GRIEVANCE PROCEDURE - STAGE 1

9.1 If the complaint has not been resolved informally or the employee is dissatisfied with the outcome of the informal stage then a formal complaint can be made under Stage 1. The employee should put their complaint in writing without unreasonable delay, by completing the Formal Grievance Form (Appendix 2). They should give the reason why the informal stage was unsatisfactory and provide details of their grievance and the resolution they seek from the process. Employees may seek guidance from their Trade Union representative concerning completion of the Formal Grievance Form.

9.2 Formal grievances should be heard by a manager/Headteacher (or Chair of Governors if the grievance is against the Headteacher or other appropriate officer as advised at 8.1 of the Grievance Policy) that have not had direct prior involvement with the grievance.

On receipt of the formal grievance, the manager/Headteacher or Chair of Governors or other appropriate Officer considering the Stage 1 grievance shall acknowledge receipt of the employee's written grievance. They shall either:

- Appoint an Investigating Officer for complex grievances to carry out the investigation. Please refer to Paragraph 10 Appointment of an Investigating Officer. The Investigating Officer should not have had direct prior involvement with the grievance and can be another manager within the school at the same or higher level of authority as the Officer considering the Stage 1 grievance or an independent investigator. The Investigating Officer is responsible for investigating the grievance, including the events surrounding or leading up to the grievance being submitted. The Investigating Officer will arrange to meet with the aggrieved employee, the person against whom the grievance has been lodged and witnesses separately. They shall then compile a written summary of their findings and details of any witnesses interviewed, including, where appropriate, interview notes for consideration by the Officer considering the Stage 1 grievance.
- Where an Investigating Officer has been appointed, confirm the process to be followed by providing an investigation and acknowledgement letter to the aggrieved employee.

LETTER 3	MODEL STAGE 1 –ACKNOWLEDGEMENT AND INVESTIGATION LETTER	<u>APPENDIX - 9</u>
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OR,

- Arrange a formal Stage 1 meeting and invite the aggrieved employee to attend and provide written confirmation in an acknowledgement and meeting invitation letter.

LETTER 4	MODEL STAGE 1 –ACKNOWLEDGEMENT AND MEETING INVITATION LETTER	APPENDIX - 10
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The Headteacher / Manger / Investigating Officer considering the Stage 1 grievance will arrange to meet with the employee to investigate and clarify details of their grievance, gather any relevant documentation and clarify the outcome the employee is seeking. The purpose of the meeting is to explore the complaint in greater detail. The Headteacher / Manager / Investigating Officer will generally meet separately with the witnesses to ascertain the facts of the case. However, where the Headteacher / Manager / Investigating Officer considers it beneficial to do so, joint meetings may be held with all or, specific individuals involved in the grievance. As this is a formal process the aggrieved employee has the right to be accompanied by their trade union representative or work colleague at these meetings, as detailed in paragraph 5 above 'Right to be Accompanied'.

The purpose of this/these meeting(s) will be for the Headteacher / Manager / Investigating Officer to consider the facts provided by all parties involved i.e. the aggrieved employee, the person against whom the grievance has been lodged, witnesses and the Headteacher / Manager / Investigating Officer and make their determination concerning the grievance. A note taker will also attend these meetings.

Formal Stage 1 Grievance - Process

The Headteacher / Manager / Investigating Officer must write to the employee and all parties attending a formal grievance meeting in writing, at **least 5 working days** before the meeting informing them of the following:

- The date, time and place of the meeting
- The aggrieved employee's right to be accompanied at the meeting by a trade union or work colleague
- That this is a Stage 1 Grievance meeting (enclose Grievance Policy and Procedure)
- The names of those who will be present at the meeting
- The identification of the Officer considering the grievance e.g. Manager or Investigating Officer.
- That a note taker will be present.
- The names of the relevant parties involved attending a joint Stage 1 grievance meeting (where the Manager / Investigating Officer considers a joint meeting to be beneficial)
- That the aggrieved employee must submit their paperwork to the Headteacher / Manager / Investigating Officer at **least 2 working days** before the Stage 1 meeting or by the date specified in the letter inviting them to the meeting, whichever is earlier. At this point the employee must also confirm their attendance at the Stage 1 meeting.

Formal Stage 1 Grievance Meeting – Process

The Headteacher / Manager / Investigating Officer should explore the following points during the meeting to enable them to make the appropriate decision:

- What informal steps have been taken to resolve the issue?
- What is the nature of the concern?
- What remedy is the employee seeking?
- Who was involved?
- What events/series of events prompted the grievance?
- Is there a history behind the grievance?
- Were there any witnesses?
- Does the employee have concerns about repercussions or reprisals?
- What action does the aggrieved employee wish you to take?
- The meeting may be adjourned if further investigation is required in a complex case to establish the facts surrounding the complaint or to allow the full consideration of the issues raised. In such circumstances an Investigating Officer may be appointed as detailed in paragraph 10 below.

Failure to Attend a Formal Grievance Meeting

When an employee fails to attend a formal grievance meeting due to sickness, or another valid reason, the Headteacher / Manager / Investigating Officer will reschedule the meeting once. If the employee is still unable to attend, the meeting will go ahead in their absence, based on the information provided by the employee in the Stage 1 Formal Grievance Form (Appendix 2) and any subsequent investigation. A decision will be made on this basis.

When an employee fails to attend a formal grievance meeting, or does not respond to the invitation to the formal grievance meeting, with no good reason, the Headteacher / Manager / Investigating Officer will attempt to reschedule another meeting. However, should this second attempt result again in non-attendance without good reason, or failure to respond to the invitation, then the School at this point is no longer legally obliged to consider the grievance and may end the process at this point.

During the meeting the Headteacher / Manager / Investigating Officer should:

- Allow the employee to express their emotions but ensure that they refrain from using language that could be perceived as insulting or abusive.
- Ensure that they listen carefully.
- Ask questions to clarify any points of which they are unsure.
- Let the employee/the parties' concerned talk without interrupting unless they are insulting or abusive. Sometimes people are upset or angry and just need to let off steam. Once they are calmer, ask questions to clarify the situation to ensure you are clear as to the details of the grievance and how it has come about.
- Refrain from quick decisions or judgments and take time to consider responses.
- Explore the desired outcome that the employee wants and allow them to suggest solutions.

The Headteacher / Manager / Investigating Officer should record the following information:

- The nature of the grievance
- The investigation that was conducted
- Their decision
- The reason for their decision
- Any outcome for work and working practices and further follow up actions to be taken as a result of the decision e.g. training, mediation etc.
- Details of any formal meetings and records taken

NOTE: This information will be included in 'the Bundle' in the event that the case is not resolved and proceeds to an Employment Tribunal. Details of information to include in the bundle are shown in Appendix 6.

Copies of meeting records should be given to the employee including copies of any formal records taken.

If mediation is considered to be an appropriate intervention then this should be offered. Mediation will be dependent on the availability of adequate funding and the prior agreement/commitment of both or all of the parties involved. The role of mediators is explained in paragraph 6 Mediation above.

The Manager / Investigating Officer should give the decision in writing.

If the facts are disputed, the Headteacher / Manager / Investigating Officer should decide on the balance of probability what version of the facts is true. They do not have to be sure of what happened - they are entitled to prefer one version of events rather than another provided that they think it more likely.

The Headteacher / Manager / Investigating Officer should ask themselves in their thinking and deliberations, the following questions depending on the situation presented:

- Which version of events do I genuinely believe?
- Why do I prefer the version I do?
- Is my preference reasonable, what evidence supports it?
- Could I justify it to others?
- Has there been a proper investigation? (They may wish to adjourn and request the Investigating Officer investigates further if there are grey areas)
- Was there provocation prior to the event that caused the grievance to be raised?
- Are there any extenuating circumstances that may have led the subject of the grievance to behave in this manner?
- Has the employee had full opportunity to present their case?
- Was the subject of the grievance made aware of the issue, and did they make any attempt to change their behaviour/decision accordingly?
- Has the subject of the grievance made any attempts at reconciliation and if so has the aggrieved employee encouraged these attempts?
- Is the decision within the band of reasonable responses of a reasonable employer?

Note: Managers are not expected artificially to adopt the values and concerns of managers in a separate part of the School. However, it is important to enforce the School standards and values. To ensure that their decision is consistent with corporate practice, they should take advice (where necessary) from the HR Team.

The Headteacher / Manager or if an Investigating Officer has been appointed should notify the employee in writing promptly, without unreasonable delay and **within 5 working days** of the Stage 1 meeting confirming:

- Their decision that the grievance is

(a) Substantiated

or,

(b) Unsubstantiated

- Their reasons for their decision
- The employee's right of appeal under Stage 2 of the Grievance Policy and the requirement to complete and return a Stage 2 Formal Grievance Appeal Form (Appendix 3) within **10 working days** of the date of the Stage 1 decision letter. **The Stage 2 Appeal is the final stage of the Grievance Policy.**

If the grievance is substantiated, further advice may be sought from the HR Employment Relations Team regarding the way forward. Depending on the nature of the grievance and gravity, this may lead to disciplinary action being taken under the Disciplinary Policy and Procedure for Schools.

LETTER 5	MODEL STAGE 1 – DECISION LETTER	<u>APPENDIX - 11</u>
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9.3 Giving the decision

The Investigating Officer should:

- Inform the individual and the person against whom the grievance was lodged clearly of their decision
- Explain the right of appeal under Stage 2 of this procedure, if appropriate, and how it operates
- Explain what the proposed action plan is to resolve the matter going forward
- Confirm the outcome of the meeting in writing normally within 5 working days of the date of the Stage 1 meeting.

There may be certain situations where it is more appropriate to inform both parties of the outcome as a group rather than separately. Where parties are informed separately, ensure that there is no delay between telling one party and the other.

It is important that both the aggrieved and the person against whom the grievance has been raised are supported, with regards to the outcome of the grievance, and that the

decision is clearly explained, giving reasons.

In the circumstances where that the grievance(s) was unsubstantiated It is good practice for the Line Manager to meet with the person who the grievance has been raised against to inform them that *“No further actions is taken, however not to share or discuss the detail as this is confidential to all parties involved. Both employees are reminded to continue to work in a professional manner within the school.”*

9.4 Grounds for Appealing the Decision

The employee must complete and submit a Formal Grievance Appeal Form Stage 2 (Appendix 3) within **10 working days** of the date of the Stage 1 decision letter.

Typically, the grounds for appeal may be as follows:

- The evidence did not support the conclusions of the person who considered the grievance – appeal against the outcome
- There was a procedural defect in the original Stage 1 grievance meeting such that the outcome was unfair
- The time taken to progress the matter
- New evidence has come to light which needs to be heard in full

NOTE: This list is not exhaustive; the employee may provide other grounds for appeal which should be considered under Stage 2 of the appeal process.

The purpose of the Appeal Hearing is to consider the reasons why the employee is dissatisfied with the outcome of the formal Stage 1 grievance process and for the Employee Grievance Committee to hear the case in full.

10. APPOINTMENT OF AN INVESTIGATING OFFICER

10.1 An Investigating Officer may be appointed by the Headteacher / manager to carry out an investigation at Stages 1/2 of the formal process. The Investigating Officer should be someone who has not had direct prior involvement with the grievance and can be another manager within the school at the same or higher level of authority as the as the Headteacher / Manager or an independent investigator. They are responsible for investigating the grievance to ascertain the facts, provide a written report to the Headteacher / Manager, the aggrieved employee, the person against whom the grievance has been lodged and any panel members at a Stage 2 Appeal meeting. Depending on the terms of reference for the investigation, the report may include recommendations to assist in resolving the grievance.

During an investigation the Investigating Officer will make records of any interviews that are held with witnesses and the employee regarding the grievance.

10.2 Two copies of these Investigating Officer’s records will be sent to the interviewee for

signature as an agreed record of the interview and one signed copy returned to the Investigating Officer. If the interviewee disagrees with the content of the record, they have

the right to ask for their written response to accompany the record. The original record should not be substantially altered and should be retained.

- 10.3 If further allegations or information come to light during the course of the investigation, the Headteacher / Manager must be informed. In most circumstances the Headteacher / Manager should allow additional related matters to be raised for the sake of fairness. If the Headteacher / Manager makes the decision to include this additional information as part of the Stage 1 meeting, it is then necessary to advise both the aggrieved and the person against whom the grievance has been raised promptly of this new information.

11. FORMAL GRIEVANCE APPEAL HEARING STAGE AND CONCLUSION OF THE GRIEVANCE PROCESS – STAGE 2

- 11.1 If an employee is dissatisfied with the response from the formal Stage 1 they may appeal the grievance decision by referring their grievance to the Clerk of the Governors Body (or person advised in the Stage 1 decision letter). The employee should submit the full grounds for their appeal under Stage 2 by completing the Formal Grievance Appeal Form (Appendix 3) within 10 working days of the date of the letter of notification of the Stage 1 decision, clearly stating why they feel the decision was wrong and they continue to be aggrieved. This should include a copy of the Stage 1 Formal Grievance Notification form, the written decision and all copies of all relevant documentation. **The appeal must relate to the original grievance and no new matters may be introduced.**
- 11.2 Appeals under Stage 2 should be heard by the Employee Grievance Committee, a panel of 3 governors, and accompanied by a representative from HR where the grievance is more complex.
- 11.3 The purpose of the appeal will be to consider the reasons why the employee is dissatisfied with the outcome of Stage 1 of the formal grievance process. The employee will have the opportunity to explain their appeal grounds and submit information in support of their claim.
- 11.4 On receipt of the completed Stage 2 Formal Grievance Appeal Form, the Clerk of the Governors Body (or person advised in the Stage 1 decision letter) shall acknowledge receipt of the employee’s appeal. They shall organise a formal appeal meeting under Stage 2, promptly and without unreasonable delay (ideally the employee should be notified in writing of the date of the meeting within **5 working days** of receipt of the form), with the employee and a representative from the HR Employment Relations Team.

LETTER 6	MODEL STAGE 2 – APPEAL INVITATION LETTER	<u>APPENDIX - 12</u>
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- 11.5 The Employee Grievance Committee hearing the Appeal under Stage 2 will meet with the employee promptly and without unreasonable delay and may be accompanied by a representative from HR where the grievance is more complex. The aggrieved employee has a right to bring a trade union representative or a work colleague. For guidance, details of the process that can be followed is provided at Appendix 4.

11.6 The Chair of the Employee Grievance Committee should record the following information in relation to the appeal and the way the investigation that was conducted:

- The decision
- The reason for the decision
- Any outcome for work and working practices and any follow up actions to be taken as a result of the decision e.g. training and mediation
- A copy of meeting records and any formal notes taken

The decision will be conveyed to the employee in writing by the Chair of the Employee Grievance Committee promptly and without unreasonable delay. **The appeal decision is final** and the employee has no further right of appeal and will not be permitted to submit a further grievance on the same facts upon which a decision has been taken.

LETTER 7	MODEL STAGE 2 – APPEAL DECISION LETTER	<u>APPENDIX - 13</u>
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12. GRIEVANCES RAISED AFTER AN EMPLOYEE HAS LEFT THE ORGANISATION

12.1 Where managers are in any doubt as to how to treat a grievance that is raised when an employee is working their notice or has left the School, please contact the HR Employment Relations Team for advice and guidance.

13. MULTIPLE GRIEVANCES / GRIEVANCES DURING THE COURSE OF A DISCIPLINARY

13.1 Where an employee raises a grievance during the disciplinary process the disciplinary may be temporarily suspended in order to deal with the grievance. Where the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently. In such circumstances advice should be sought from the HR Employment Relations Team.

14. RECORDS

14.1 A designated note taker will be responsible for taking confidential notes during formal Stage 1/2 grievance meetings. A member of the panel cannot undertake the role of note taker in addition to their role on the panel. The note taker should be reminded of the need to maintain confidentiality at all times; they should independent of the panel but appointed by the panel. The notes do not have to be verbatim but should record the important elements of the case, e.g. the nature of the grievance, any action taken and any agreed outcome or solutions. Such notes may be helpful in preparing for an appeal or in preparation for an Employment Tribunal. In less complex cases the written confirmation of the decisions may contain all the relevant information and serve as the record of the meeting.

- 14.2 Meeting notes should be signed off by the Hearing Officer/Chair of the Employee Grievance Committee and a copy given to the employee as soon as possible after the meeting.
- 14.3 All notes, taken either at investigation or during formal Stage 1/2 meetings, must be kept in accordance with the Data Protection Act 1998. Within this act, please note that the individual has the right to request and have access to certain personal data. The main points from a witness meeting should be contained in the investigation report, a template is given in the Appendix 14 and any other more detailed notes should be kept securely, in the event that an Employment Tribunal requests to see all the paperwork surrounding the case.
- 14.4 The making of covert recordings during any meetings without the knowledge and consent of all parties will lead to disciplinary action being taken. A written record of all meetings conducted under this procedure will be taken. This will be done either by the person holding the meeting or by an additional person arranged to take notes. The employee, or any person acting on their behalf, are not normally permitted to record electronically any meeting that is held under this procedure. Any breach of this provision may lead to disciplinary action. In certain limited circumstances, we may permit a meeting to be recorded electronically, for example where it is a reasonable adjustment for an employee with a disability. Where we intend to record meetings held remotely, we will comply with our data protection obligations and obtain prior consent from all attendees.

15. GRIEVANCE RAISED BY TRADE UNION REPRESENTATIVES

It is unfair and illegal to discriminate against an employee on Trade Union grounds. Any grievance raised by a Trade Union Representative should follow the same rules set out in the Grievance Policy as any other employee.

16. DISABILITY

If a disabled employee raises a grievance, it is important to allow for any reasonable adjustments to be made throughout the grievance process. This may include ensuring that the employee has assistance in drafting the Grievance Statement, an additional support in the form of a sign language interpreter or holding the meeting in a location that can accommodate a physical disability. Please contact HR Service Desk for advice on reasonable adjustments.