

GRIEVANCE PROCEDURE FOR COTTESBROOKE INFANT SCHOOL

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PREFACE TO THE MODEL GRIEVANCE PROCEDURE FOR SCHOOLS

1. Governing bodies are required by law (paragraph 7 of the *School Staffing (England) Regulations 2009*) to “*establish procedures by which staff may seek redress for any grievance relating to their work at the school.*”
 2. The attached model procedure has been prepared in consultation with the recognised unions and teachers’ associations, and is commended to schools. It is suitable for voluntary aided and foundation schools as well as community, community special, voluntary controlled and nursery schools, but it is recognised that voluntary aided schools may prefer to continue to use the model procedures recommended by the appropriate diocesan authorities.
 3. The procedure will apply only if formally adopted by the governing body of the school. If a grievance is already being pursued under the governing body’s previous procedure then it should continue under that procedure (unless all parties agree that the new procedure can be used) and the governing body’s resolution should permit this.
 4. Schools may seek advice on the application of this procedure from the Employee Relations Team. Advice may include the application of the ACAS Code of Practice on disciplinary and grievance procedures (the Code), which replaced the statutory dispute resolution procedures in April 2009 and which sets out principles for handling grievances in the workplace.
 5. The procedure also takes into account guidance issued by ACAS on handling grievances at work which complement its Code. The guidance urges employers to remember that a grievance hearing is not the same as a disciplinary hearing, and “*is an occasion when discussion and dialogue may lead to an amicable solution*”.
 6. Employment tribunals are legally required to take the Code into account when considering relevant cases. Tribunals can also adjust any compensatory award made in these cases by up to 25 per cent for unreasonable failure to comply with any provision of the Code. This means that if the tribunal feels that an employer has unreasonably failed to follow the guidance set out in the Code it can increase any award it has made by up to 25 per cent. Conversely, if a tribunal believes that an employee has unreasonably failed to follow the guidance set out in the Code, it can reduce any award it has made by up to 25 per cent. Whilst tribunals are not legally required to have regard to the guidance that does not form part of the Code, it contains good practice and advice for employers who are handling grievances.
4. The *Employment Act 2008* abolished the statutory dispute resolution procedures from 6 April 2009. Employees are no longer required to raise grievances in writing with their employer before initiating a claim

to an employment tribunal. However, employment tribunals will have regard to the Code, which provides for a formal grievance to be put in writing, and to the employer's own grievance procedure. As the attached model procedure provides for a formal grievance to be put in writing the repeal of the statutory dispute resolution procedures is unlikely to make any difference in practice.

(The statutory dispute resolution regulations still apply in the following circumstances:

- Where the matter about which the employee has complained occurred wholly before 6 April 2009;
- Where the matter about which the employee has complained began before 6 April 2009 but continued on or after that date provided that the employee has submitted a written complaint to the School or to the Tribunal on or before 4 July 2009, or on or before 4 October 2009 in relation to a complaint about equal pay or a redundancy payment.)

WHAT IS A GRIEVANCE?

8. The model procedure defines a grievance as a concern, problem or complaint that an employee or a group of employees might raise with their employer about their work, their terms and conditions of employment, their working environment or their relationship with colleagues. The grievance could be in relation to an action which has been taken, or is contemplated. The model grievance procedure excludes certain types of grievance for which the governing body should have adopted other procedures (see paragraph 1.12 of the model procedure).
9. The model procedure covers both individual and collective grievances.

THE RIGHT TO BE ACCOMPANIED

10. Employment law (*s.10 Employment Relations Act 1999*) and the Code provide that an employee has the right reasonably to request to be accompanied at any formal grievance hearing or appeal. The chosen companion may be a fellow worker, a trade union representative or an official employed by a trade union. A trade union representative who is not an employed official must have been certified by his or her union as being competent to accompany a worker; certification may take the form of a card or a letter. However, as union representatives do not always carry cards, the accredited status of a union representative (whose name may not be familiar) may be ascertained before the day of the meeting either with the Employee Relations Team or with the union itself. A 'school representative' of a teacher association, as distinct from a local officer of the association, is unlikely to have been certified as having the experience of, or having received training in, acting as a worker's companion at disciplinary or grievance hearings,

but may nonetheless be chosen to act as a companion in the capacity of a fellow worker. Where an employee chooses to be accompanied or otherwise assisted by a representative in accordance with the legislation, the head teacher, or the clerk to the governing body as the case may be, should seek to arrange hearings etc. in consultation with the chosen trade union officer or official or chosen employee.

11. The chosen companion will be allowed to address the meeting, respond on the employee's behalf to any view expressed during the hearing, confer with the employee during the hearing and sum up the case on the employee's behalf. However, the employer is not required to permit the companion to answer questions on behalf of the employee, address the hearing if the employee does not wish the companion to do so, or to use his or her powers in such a way as to prevent the employer explaining his or her case or any other person at the hearing from contributing to it.
12. A failure on the part of the school to allow an employee the rights set out in s.10 may lead to a tribunal complaint under s.11 *Employment Relations Act 1999*. Compensation is limited to two weeks' pay, but the more serious consequence is that a failure to respect this right may amount to a fundamental breach of contract allowing the employee to resign and claim constructive unfair dismissal.
13. *Section 10 of the Employment Relations Act 1999* requires employers to permit a worker to take time off during working hours for the purpose of accompanying another of the employer's workers at a grievance hearing.
14. It is good practice for a mutually agreed time to be arranged for meetings under this procedure, in order to avoid having to re-arrange meetings because the employee's chosen companion is not available. *Section 10 of the Employment Relations Act 1999* provides that where the employee's chosen companion is unavailable on the day or time for which the employer has called the hearing, the employer must postpone the hearing to the time proposed by the employee. However, the alternative time and day proposed by the employee must be reasonable and within five working days of the original suggested date. In exceptional circumstances the five working days can be extended by mutual agreement.

GRIEVANCE PROCEDURE FOR COTTESBROOKE INFANT SCHOOL (2010)

1. INTRODUCTION

- 1.1 The following procedure has been adopted by the governing body of Cottesbrooke Infant School in accordance with the requirements of paragraph 7 of the *School Staffing (England) Regulations 2009* (the Regulations) for the governing body to establish procedures for the regulation of the conduct and discipline of staff at the school and by which staff may seek redress for any grievance relating to their work at the school.
- 1.2 The procedure sets out the steps that will be taken when a grievance is raised by an employee. A grievance is a concern, problem or complaint that an employee or a group of employees might raise with their employer about their work, their terms and conditions of employment, their working environment or their relationship with colleagues. The grievance could be in relation to an action or actions which has been taken, or is contemplated.
- 1.3 The procedure is designed to
 - ensure that employees who have a grievance about their employment are aware of their rights and have a clear framework to enable the grievance to be dealt with;
 - encourage employees to communicate their problems with the appropriate people i.e. between employees and their head teacher (or between head teachers and their chair of governors); and
 - encourage parties to deal with grievances fairly, consistently and speedily and as near as possible to the point of origin.
- 1.4 The governing body encourages employees to resolve grievances in an informal manner and without recourse to the formal grievance procedure wherever possible.
- 1.5 Employees raising a grievance should be able to do so without fear of victimisation as a result of the grievance or any subsequent investigation/management action. All grievances shall be dealt with in a non-discriminatory and consistent way.
- 1.6 Where an employee pursues a grievance in good faith, which is not upheld following an investigation, no further action will be taken by the governing body. However, all parties involved have a duty to act

honestly and without malice to anyone else. Employees who are found to be raising frivolous, vexatious or malicious complaints may therefore be subject to disciplinary action under the governing body's disciplinary procedure.

- 1.7 The local authority's guidance on the conduct of hearings applies to this procedure (Appendix N). The model letters referred to in this procedure are not part of the procedure, but guidance which the governing body commends to those using the procedure within the school.
- 1.8 Any part of these procedures, other than a statutory requirement, may be varied in a particular case by mutual, explicit agreement between the employee and the person(s) acting on behalf of the governing body. If there are points in the procedure where the preferred timescales are not reasonably practicable, the employee should be provided with an explanation and informed of when a hearing or response can be expected.
- 1.9 In this procedure working days are defined as the 195 days on which classroom teachers and classroom-based support staff may be directed to work at the school. With the mutual, explicit agreement of all parties concerned, any part of this procedure may take place on days falling outside of this definition.

SCOPE OF THE PROCEDURE

- 1.10 The procedure applies to all employees at the school. 'Employee' means a person employed to work at the school or in provision made by the governing body under the Education Acts, other than a person employed by a contractor, including by the authority acting as contractor, or who is self-employed.
- 1.11 The procedure applies to both individual and collective grievances, i.e. those grievances raised by two or more employees about an issue that affects them all (see section 5 of this procedure).
- 1.12 The procedure does **not** apply to:
 - Concerns, problems or complaints made under the *Public Interest Disclosure Act*, which should be dealt with under the whistle-blowing procedure adopted by the governing body.
 - Allegations of bullying or harassment, which should be dealt with under the anti-harassment procedure adopted by the governing body, unless an employee chooses to use the grievance procedure, in which case the employee must adhere to the grievance procedure and may not subsequently ask for the same allegation(s) to be considered under the anti-harassment procedure.

- Concerns, problems or complaints that an employee may have about pay or grading, which should be dealt with under the pay policy adopted by the governing body.
 - Concerns, problems or complaints about actual or contemplated disciplinary action, which should be dealt with under the disciplinary procedure adopted by the governing body (unless the complaint is that disciplinary action taken was discriminatory, e.g. on the grounds of race, sex, disability, age, religion and belief or gender reassignment).
 - Concerns, problems or complaints about an actual or contemplated dismissal by an employer, which should be dealt with under the procedures adopted by the governing body for the actual or contemplated dismissal.
 - Concerns, problems or complaints about recruitment and selection of employees, which should be dealt with under the governing body's recruitment and selection complaints procedure.
 - Concerns, problems or complaints that an employee may have over national insurance, income tax or rules of pension schemes, which are generally outside of the school's control and which should be raised with the appropriate bodies such as the Inland Revenue or the Teachers' Pension Scheme.
 - Concerns, problems or complaints that an employee may have about conditions of service outside the control of the governing body (for example, the sick pay and maternity leave schemes adopted by the employer under national or local agreements) as distinct from the way in which those conditions have been interpreted and applied by the governing body or staff of the school.
 - Any other matters which are outside the control of the school.
- 1.13 The governing body acknowledges that there may be rare occasions when an employee is aggrieved with a decision taken, or policy adopted by, the whole governing body. In these circumstances the way in which a grievance is dealt with is constrained by the fact that there is no appeal outside the governing body. This procedure permits an employee to explain why he or she is dissatisfied with the governing body's decision or policy to the chair of the governing body, with an appeal to the appeals committee, either of which could decide to recommend the governing body to vary a policy or reverse a decision. The governing body will require governors to conduct hearings into such grievances in good faith and will consider any recommendations arising from them. Depending on the nature of the grievance, the employee might have the subsequent option of complaint to an employment tribunal.

- 1.14 If an employee raises multiple grievances including one or more which, if submitted individually, would be dealt with under one of the procedures listed above, or if it is unclear whether the complaint is a grievance which should be dealt with under this procedure or whether it falls within other procedures (examples of which are listed in 1.12 above), the employee will be asked whether he or she wishes the grievances to be heard under the grievance procedure or under another procedure (such as anti-harassment).

PRINCIPLES

- 1.15 The governing body accepts the following principles:

- Employees with a grievance about their employment have a right to raise that grievance and to have it heard.
- Wherever possible, grievances should be dealt with at the early stages of the procedure and by way of informal discussions.
- Where formal action is needed, what action is reasonable or justified will depend on all the circumstances of the particular case.
- Whenever formal action is taken, it is important to deal with issues fairly.

- 1.16 In addition, the governing body acknowledges that the Code includes the following key principles:

- Employers and employees should raise and deal with issues promptly and should not unreasonably delay meetings, decisions or confirmation of those decisions.
- Employers and employees should act consistently.
- Employers should carry out any necessary investigations, to establish the facts of the case.
- Employers should allow employees to be accompanied at any formal grievance meeting.
- Employees should be given a chance to appeal against any formal decision made.

- 1.17 If any aspect of the grievance procedure causes an employee difficulty on account of any disability that he or she may have, or if the employee requires assistance because English is not his or her first language, the employee should raise this issue with his or her line manager, supervisor or other senior member of staff, who will make appropriate arrangements. Reasonable adjustments may include offering an

interpreter or allowing an employee extra time or other help, although these examples are not exhaustive.

RECORDING PROCEEDINGS

1.18 The following apply to this procedure:

- The governing body will require its clerk or an appropriate substitute to attend and make a full record of any hearing held by a committee under these procedures. It will expect the head teacher to arrange for a full written record to be made of any hearing conducted by him or her under these procedures (see appendix M).
- Minutes of hearings will be available to the employee or the employee's representative if requested and should normally be provided within five working days of the meeting, other than in exceptional circumstances.
- No participant should make a sound or video recording of a meeting without the consent of all the participants, including witnesses.
- If the content of the minutes is questioned, the person who wrote the minutes should check his or her notes of the hearing in question and, if no reason is apparent for altering them, refer the question to the person or committee conducting the hearing (as the case may be) for verification. If a disagreement over the content remains, then the employee may append his or her version of the disputed part to the original minutes, which shall remain unaltered.
- All records should be treated as confidential and be kept no longer than necessary in accordance with the *Data Protection Act 1998*, having regard to the possibility that records will have to be disclosed in the event of a tribunal hearing. In addition to records of meetings and hearings, the records of the case should include the written submission of the grievance and any letters written in response to that grievance, including those recording the conclusions of meetings and hearings. An optional form for recording a case of grievance appears at Appendix M.

2. MEDIATION (OPTIONAL)

2.1 Mediation is a voluntary process whereby an independent and impartial third party intervenes in a problem such as a grievance. The aim of the process is to enable two or more people to reach a mutually acceptable agreement.

2.2 The governing body acknowledges that some grievances may lend themselves to the possibility of mediation. Therefore, if the parties involved in a grievance express a mutual desire to attempt mediation in order to resolve the grievance, the person in receipt of the written grievance will decide (subject to advice from Employee Relations

where necessary) whether mediation is appropriate. The person in receipt of the written grievance may also propose mediation to the parties. Mediation may be appropriate

- For conflict involving colleagues of a similar job or grade, or between a line manager and his or her staff;
- To rebuild relationships after a formal dispute has been resolved;
- To address issues such as relationship breakdowns, personality clashes, communication problems or perceived discrimination.

Mediation may be **in**appropriate if:

- Used as a first resort – as individuals should be encouraged to speak to each other and to their line manager or supervisor before seeking a resolution via mediation;
- It is used to avoid managerial responsibilities;
- An individual who has raised a grievance that they have been discriminated against would like the matter to be investigated;
- One party is completely intransigent and mediation would only raise unrealistic expectations of a positive outcome.

2.3 Mediation may be attempted at any stage of the grievance process subject to agreement between the relevant parties (including the employee, any person against whom the grievance has been raised and the person in receipt of the written grievance).

2.4 If and when mediation is attempted, the person in receipt of the written grievance will suspend the formal grievance process pending the outcome of the mediation process. If the mediation is unsuccessful, the grievance procedure will resume at the appropriate point.

3. INFORMAL RESOLUTION

3.1 The governing body encourages employees to resolve grievances in an informal manner and without recourse to the formal grievance procedure wherever possible.

3.2 The governing body acknowledges that the Code does not prescribe how grievances should be dealt with or resolved informally. Informal resolution is likely to involve direct discussions between an aggrieved employee and the person or persons perceived to be either the source of the grievance or who are best placed to assist in its resolution. However, it is recognised that employees may be reluctant to engage in such discussions without the support of a companion, a mediator, or an intermediary and that persons able to fulfil that role, subject to the

agreement of all parties, may include trade union representatives, on the understanding that the meeting takes place on an informal, non-adversarial basis. In such informal meetings either party may withdraw at any point. If a direct approach to the person or persons perceived to be the source of the grievance is inappropriate or unsuccessful, even with the support of a companion, the employee may wish to seek resolution indirectly, by asking someone, such as a manager, phase leader, or head of department, to try to resolve the grievance on his or her behalf.

- 3.3 A mediator internal or external to the school may be involved in helping to resolve the grievance at this or any other stage of the procedure (see 4 below).
- 3.4 If, however, an employee does not feel able in good faith to pursue a grievance informally, he or she may make a formal complaint. Similarly, an employee who has endeavoured to resolve the grievance informally but without apparent success may also lodge a formal grievance.

4. FORMAL RESOLUTION

- 4.1 If an employee wishes to raise a grievance formally, he or she must, in accordance with the Code, state the grievance in writing. The employee may submit the grievance by completing the Statement of Formal Grievance Form (attached at Appendix A). Otherwise the employee must write a letter covering the same points. The employee is required to be explicit about the nature of the grievance and wherever possible to indicate the desired resolution or action that he or she would like the school to take to resolve the grievance. Employees should indicate whether there has been an attempt to resolve the grievance informally. Employees should also stick to the facts and avoid language which may be considered insulting or abusive. If the employee wishes to submit written evidence in support of his or her formal grievance, it should be attached to the statement of formal grievance or letter. If the written statement of grievance is unclear, the employee may be asked to clarify it before any meeting takes place.
- 4.2 The employee should submit his or her written grievance to the head teacher. If the grievance is against the head teacher, the employee should submit the written grievance to the chair of governors, unless the grievance is also against the chair of governors, in which case the written grievance should be submitted to the vice-chair of governors. If the head teacher has a grievance, he or she should submit the grievance to the chair of governors, or to the vice-chair of governors in the event that the grievance is against the chair of governors. In the event of a grievance against the whole of the governing body, the written grievance should be submitted to the chair of governors. When the chair, or vice-chair as the case may be, is in receipt of a written grievance he or she should take advice from the local authority

(through School and Governor Support, which will take advice from Employee Relations as necessary).

- 4.3 The person in receipt of a written Statement of Formal Grievance shall acknowledge the complaint in writing within five working days (and refer to the date of receipt), unless there are exceptional circumstances in which case the response will be made as soon as reasonably practicable, and inform the employee that he or she will be invited to attend a meeting to discuss the grievance(s) (see model letter at Appendix B).

GRIEVANCE HEARING

- 4.4 The person in receipt of a written Statement of Grievance will write to the employee inviting the employee to a grievance hearing. The hearing will be held as soon as is reasonably practicable, wherever possible within ten working days of receiving the formal written grievance. The letter will explain the purpose of the hearing, i.e. to discuss the concerns that have been raised and ways of resolving the issues. The employee should also be informed of his or her right to be accompanied by a trade union representative or fellow-employee (see model letter at Appendix C).
- 4.5 If the Statement of Grievance received by the head teacher or chair of governors concerns allegations made against another employee or employees at the school, he or she shall write to the employee(s) concerned to notify them of the allegations being made and explaining the next steps. If the allegations are serious, the head teacher (or chair or vice-chair of governors as the case may be) may decide to suspend an employee on full pay pending the outcome of investigation meeting(s) with the employee in question and the aggrieved employee (see model letter at Appendix D).
- 4.6 The hearing will be conducted by the person in receipt of the written statement of grievance, who may be accompanied by an appropriate person to take notes and a representative from the local authority. The aim of the hearing is to find a way forward. A recommended order of proceedings for the hearing is located at Appendix E. At the hearing, the employee will be asked to explain the nature of the grievance and invited to suggest how it might be resolved. Whilst the employee should be given every opportunity to explain his or her case fully, he or she should confine his or her explanation to matters that are directly relevant to the complaint. The person chairing the meeting will ensure that the discussion concentrates on the grievance(s) set out in the Statement of Formal Grievance or grievance letter.
- 4.7 Where appropriate, the hearing may be adjourned for investigations to take place. The nature of those investigations shall be agreed by the participants. They may agree that the grievance may not warrant a full, detailed investigation but that some further enquiries should be made

to establish some facts or take advice on the feasibility of suggested solutions. Mediation or support from an intermediary may be helpful at this stage. In certain cases a formal investigation may be deemed necessary.

- 4.8 The employee will be informed in writing of the outcome of the grievance hearing within ten working days of the hearing. This letter will include a summary of the action that is proposed to resolve the grievance, where possible, together with the right of appeal (see model letter at appendix F).
- 4.9 When it is agreed that a formal investigation shall take place the person in receipt of the statement of grievance shall commission that investigation. Subject to the need to find a suitable investigator, a formal investigation should be commissioned within fifteen working days of an agreement that such an investigation shall take place. In small schools it may be difficult to find a senior employee who is not already aware of the alleged grievance(s). If a suitable investigator cannot be found within the school, the head teacher, or chair or vice-chair as the case may be, should secure the services of an appropriate, trained investigator external to the school (through School and Governor Support, which will take advice from Employee Relations Team as necessary). The investigation should be conducted in accordance with guidance on investigations from the local authority (see appendix G). The guidance specifies that investigations should be completed between ten and twenty working days from receiving the terms of reference from the commissioning officer unless there are exceptional circumstances.
- 4.10 When the investigator has submitted his or her report to the person who is in receipt of the written grievance and who commissioned the investigation, the grievance hearing shall be reconvened as soon as practicable. However, if the contents of the report are such that the person in receipt of the grievance considers that disciplinary proceedings against another employee should be considered, then there may be a short delay in reconvening the hearing, in order to allow for
- The person in receipt of the grievance to take advice from the Employee Relations Team
 - A preliminary investigation to take place, including an interview with the employee who might be the subject of disciplinary proceedings, in accordance with the school's disciplinary procedure
- 4.11 If disciplinary proceedings are instituted, then at the reconvened hearing the employee who submitted the grievance shall be informed of that decision. The person conducting the hearing should explain that because of the confidential nature of disciplinary proceedings the report of the investigator cannot be released. The complainant may be

asked to appear as a witness in those proceedings. When the disciplinary proceedings have been completed the complainant will be advised in a meeting of their completion and informed whether or not a disciplinary sanction has been imposed (though not of the details of the case or the level of any sanction imposed).

- 4.12 If no disciplinary proceedings are instituted, then at the reconvened grievance hearing the employee who submitted the grievance will be given a written summary of the findings of the report, with due regard to the rights of third parties under the Data Protection Act. The head teacher should confirm that any witnesses named have been interviewed by the investigator, but not disclose which particular piece of information has been given by which witness. If there were no witnesses and the report deals only with statements from the complainant then the full report should be released. (If assistance is needed in deciding how much of the report can be shared a request should be made to the Employee Relations Team for advice, which may be referred to one of the City Council's special teams for the Freedom of Information Act.) The parties to the hearing shall then endeavour to resolve the grievance in the light of the findings of the report.
- 4.13 The person in receipt of the written grievance shall summarise the conclusions of the hearing. This may be done orally at the hearing and in any event must be confirmed in writing. The complainant should be informed of the right of appeal, both at the hearing and subsequently in writing.

APPEAL

- 4.14 An employee who is dissatisfied with the conclusions of the grievance hearing has the right of appeal. An appeal will be heard by the governing body's Appeals Committee ('the Committee'). The governing body will ensure that members of the Appeals Committee have not been involved in the grievance. Where this is not possible because the complaint is about a policy or a decision of the full governing body, the chair, who will have heard the grievance in accordance with this policy, should not be a member of the Appeals Committee.
- 4.15 The appeal should be made in writing to the clerk to the governing body within ten working days of receiving the written conclusions of the grievance hearing. The appeal letter must state all the grounds of the appeal, i.e. why the appellant thinks that the conclusions were wrong or that the proposed action or action taken was inappropriate. The grounds for appeal should be accompanied by any additional evidence to be presented in support of the appeal. If the appellant so wishes there is no requirement to submit any documentation, other than a statement from any witness who may be called by the appellant. However, if the appellant does not intend to submit any documentation

there should be a positive statement from the appellant or the appellant's representative to this effect and the employee will not be able to use at the appeal hearing any evidence not previously provided.

- 4.16 The clerk to the governing body will immediately notify the person who conducted the grievance hearing of all the grounds of appeal and any additional evidence, with a request to submit any additional papers in response to the clerk within seven working days.
- 4.17 The clerk to the governing body should make every effort to agree a date, by discussing options with the appellant's union/professional association if they are already involved in the case, before sending the formal invitation to attend the hearing. The clerk will then arrange an appeal committee hearing as quickly as possible, to take place, other than in exceptional circumstances, within twenty working days of the appellant's notice of appeal. The appellant may suggest an alternative time and date as long as it is reasonable and is not more than five working days after the original date. The committee may reject this suggestion if it is unreasonable and may proceed to hear the appeal in the absence of the appellant or the appellant's representative, but also has the discretion to defer the date of the hearing in order to reach mutual agreement on a convenient date, having particular regard to the availability of the appellant's representative.
- 4.18 The clerk to the Committee shall give fifteen working days' formal notice of the hearing to all the participants, and in the same letter shall set out the order of the proceedings, remind the appellant of the appellant's rights at the hearing, including the requirement to state in advance whether he or she wishes to be accompanied at the hearing by a representative of his or her choice who is either a trade union representative or another of the employer's employees, list the members of the appeal committee, give the names of any witness(es), and confirm the options for action which the appeal committee may take (see below). All documents relevant to an appeal hearing shall be enclosed with the letter. The witnesses may include, as appropriate to the circumstances of the case, the person who conducted the grievance hearing. (For model letter see Appendix H.)
- 4.19 The Committee will hear the appellant's case in accordance with the order of the proceedings set out in the letter giving notice of the hearing (see copy at Appendix 'I').
- 4.20 At the conclusion of the hearing the Committee may either
 - Dismiss the appeal; or
 - Uphold the appeal in whole or in part and specify the action to be taken to resolve the grievance; or

- Uphold the appeal in whole or in part and modify some or all of the action proposed by the person who conducted the grievance hearing
- 4.21 The Committee will notify the appellant of the outcome in writing within ten working days of the appeal hearing. The decision of the Committee will be the final stage of the process and this should be explained to the appellant in the appeal outcome letter (see model letter at Appendix J).

5. COLLECTIVE GRIEVANCES

- 5.1 The governing body acknowledges that provisions of the ACAS Code on grievance procedures do not apply to grievances raised on behalf of two or more employees by a representative of a recognised trade union or other appropriate workplace colleague and therefore provides for these grievances to be handled in accordance with this section of the grievance procedure adopted by the School, although the relevant stages referred to above will still apply.
- 5.2 If more than one employee within the school raises an identical grievance the person in receipt of those employees' grievances shall draw their attention to this section of the procedure and, if the employees have not already nominated a representative or representatives, invite them to do so and to proceed with a collective grievance. If any of the employees declines that invitation and asks for his or her grievance to be heard separately as an individual grievance, the person in receipt of the grievance shall consider and decide on that request, having regard to the circumstances giving rise to the grievance on the part of that employee.

Nominated Representatives

- 5.3 Employees wishing to pursue a collective grievance should nominate individual(s) known as "nominated representatives" to represent their interests throughout the process. Nominated representatives may be another employee at the School or a recognised trade union official and will be responsible for representing the interests of all employees who are party to the collective grievance, including presenting the case on their behalf at hearings.

Informal Resolution

- 5.4 The governing body encourages employees to resolve grievances in an informal manner and without recourse to the formal grievance procedure wherever possible. Employees who consider that they have a collective grievance are therefore encouraged to follow the guidance on informal resolution set out in section 3 of this procedure.

Formal Resolution

- 5.5 Once the relevant employees have nominated a representative or representatives and wish to proceed to formal resolution of their collective grievance, the representative(s) should prepare a written statement setting out that grievance and arrange for that statement to be signed by all employees who are party to the grievance (alternatively, employees may sign separate copies of the statement and forward those copies to their nominated representative(s)).
- 5.6 The statement should be headed “Formal Collective Grievance” and should be sent to the head teacher, chair of governors or vice-chair of governors as the case may be, according to whether or not the head teacher or the chair of governors is the subject of the grievance.

The written statement should include:

- The names, job titles and contact details of all employees wishing to raise the grievance;
- The name and contact details of the nominated representative(s) and whether they are acting in the capacity of trade union representative;
- Details of the complaint including explicit examples, dates and times of issues and events giving rise to the collective grievance;
- Details of how they would like the grievance to be resolved;
- Confirmation that each employee has voluntarily consented to invoke the collective grievance procedure;
- Confirmation that each employee understands that the grievance will give each employee the right to only one collective grievance hearing, one identical outcome and (if applicable) one appeal hearing and appeal outcome.
- The signatures of all relevant employees to whom the grievance applies to confirm that they give consent to be represented by the nominated representative(s); and
- The date.

Formal Collective Grievance Hearing, investigation and appeal

- 5.7 Arrangements for formal collective grievance hearings, including investigations where agreed, will follow the procedure for hearing individual grievances, except that correspondence will be between the person in receipt of the written grievance and the nominated representative(s) rather than the employees. Prior to the grievance hearing, the nominated representatives must inform the clerk to the governing body of the names of the employees attending the hearing and any witnesses they wish to attend.

- 5.8 The results of any investigation shall likewise be shared with the nominated representative(s) on behalf of the employees.
- 5.9 If, following the grievance outcome, some employees are satisfied with the outcome and do not wish to proceed to an appeal, the request for an appeal should clearly identify those employees who are withdrawing from the process and those wishing to pursue the appeal. In the event of more than one employee wishing to appeal, the nominated representative(s) will be responsible for submitting the appeal in writing to the clerk to the governing body in accordance with the procedure for appealing in the case of individual grievances and the correspondence will be between the clerk and the nominated representative(s). If only one employee wishes to appeal, the individual grievance procedure will apply.
- 5.10 Following the appeal hearing, the nominated representative will be informed of the outcome within ten working days. The outcome of this hearing will be final.

Failure to Agree following Negotiation

- 5.11 In exceptional circumstances, the parties to a collective grievance may still fail to agree despite the collective grievance procedure being exhausted. If a dispute is declared, the matter may be referred for conciliation in accordance with section 6 below.

6. COLLECTIVE DISPUTES

- 6.1 The Burgundy Book provides a “model procedure to facilitate the resolution of collective disputes between teachers and a school governing body”. That procedure “is complementary to the school’s grievance procedure; it is not an alternative.” It defines a collective dispute as arising “from a difference between the governing body and all, or at least a substantial number of, teachers at the school. The school’s own collective disputes procedure applies only to those matters which fall within the purview of the governing body.” The governing body accepts that this procedure for teachers should apply equally to support staff. The governing body notes that unions representing teachers and support staff may advise their members on a collective dispute, even when their members do not form a substantial proportion of the total number of employees at the school.
- 6.2 The Burgundy Book states that the “prime objective is to reduce the possibility of disputes arising between teaching staff and the governing body. That is best achieved by the establishment of agreed, standing arrangements at the school for regular consultation between staff and the governing body.”

- 6.3 When a dispute cannot be resolved within the context of the recommended consultative arrangements the Burgundy Book provides that “the assistance of a third party conciliator can be sought”, but “the conciliator can be invited to make a determination only if the two sides to the dispute agree to such a course of action.” The Burgundy Book states that “There is no recourse to another stage in the process.”
- 6.4 Governing bodies are advised to make similar arrangements for consultation with support staff.

7. GRIEVANCES FROM EX EMPLOYEES

- 7.1 Wherever possible, a grievance should be raised by an employee and dealt with by a School before an employee leaves employment.
- 7.2 Prior to the repeal of the statutory dispute resolution procedures, a modified two-stage procedure applied in circumstances where the employee had left his or her employment and both parties had agreed in writing that it should apply. Whilst the new ACAS Code does not expressly require employers to hear or consider grievances from ex employees it may be viewed as good practice by an Employment Tribunal to do so. Therefore, provided that an ex employee sets out his or her grievance and the basis for it in writing within (other than in exceptional circumstances) one calendar month of ceasing to be employed by the School, the head teacher or, where the head teacher is the subject of the grievance, the chair of the governing body, will:
- Acknowledge receipt of the grievance within 10 working days of receipt (for model letter see Appendix K);
 - Investigate any issues raised on the basis of the letter received within 10 working days of receipt where practicable; and
 - Respond in writing to the employee (see Appendix L). However, the employee will not be entitled to a meeting and there will be no further right of appeal on the written response from the school.

8. POLICY MONITORING AND REVISION

- 8.1 This procedure will be reviewed on a regular basis and may be amended to reflect changes in legislation and guidance.

APPENDIX A

STATEMENT OF FORMAL GRIEVANCE/GRIEVANCE LETTER

Use this model letter if you wish to lodge a formal grievance with the school where you are employed.

Dear.....

I am writing to advise you that I would like to raise a grievance.

The grievance is on the grounds of.....

The details of my grievance are as follows (please include examples, dates and times of issues and events giving rise to the grievance):

I believe that my grievance could be resolved by [Explain necessary action e.g. mediation between me and X, moving my desk so that I am not sitting adjacent to X, or letting me have the same amount of holiday as my male counterpart].

[I have tried to resolve this grievance informally, by....., but without success.]

I am aware that I am entitled to a meeting to discuss this matter and would like to be represented at the meeting by [my trade union representative or/a companion who is a fellow employee].

I hope that this grievance can be resolved within the time limit specified in the grievance procedure.

Yours sincerely

[Name of employee]

APPENDIX B

LETTER ACKNOWLEDGING RECEIPT OF A FORMAL GRIEVANCE

Use this model letter to acknowledge receipt of a formal, written grievance.

Dear [Name]

I am writing to confirm receipt of your formal grievance dated [Insert].

In accordance with the model grievance procedure adopted by the School (see copy attached), I will be inviting you to attend a meeting to discuss the concerns that you have raised and will let you have the proposed date and time of that meeting as soon as is reasonably practicable, and, if possible, within ten working days of this letter.

Yours sincerely

[Name]

APPENDIX C

LETTER INVITING EMPLOYEE TO ATTEND GRIEVANCE HEARING

Use this model letter to invite an employee to a hearing to discuss a grievance that he or she has raised.

Dear [Name]

Further to my letter of acknowledgement of your grievance and in accordance with the grievance procedure adopted by the School I now invite you to attend a hearing to discuss the concerns that you have raised.

The hearing has been arranged for [date] and will begin at [time]. The hearing will be held at [location].

The hearing will be attended by [List attendees]. You are entitled to be accompanied at the hearing by a fellow worker or trade union official of your choice. EITHER: Please let me know by [date] who will be attending the hearing with you. OR (if the name of the representative is known already): Please confirm by [date] that _____ will still be accompanying you to the hearing.

The purpose of the hearing is to allow you to explain your grievance(s) and to discuss with us how it/they can be best resolved.

If you wish to rely on any additional written materials or documents in addition to your formal grievance, please send me copies by [date].

You should ensure that you attend the hearing at the specified time. If you are unable to attend the hearing because of circumstances beyond your control, you must inform us of this fact as soon as possible. If your chosen companion or trade union official is unavailable on the date mentioned above, please suggest another date up to five working days later. If you fail to attend without explanation, or if it appears that you have not made sufficient attempts to attend, the hearing may take place in your absence.

Should you have any queries about this process or questions about what the grievance hearing will involve, please let me know and I will be happy to discuss the arrangements with you.

Yours sincerely

[Name]

APPENDIX D

LETTER INFORMING EMPLOYEE THAT A FELLOW EMPLOYEE HAS RAISED A GRIEVANCE AGAINST HIM OR HER

Use this model letter to inform an employee about whom a grievance has been raised of the information or allegations contained in the grievance.

Dear [Name]

It is my duty to inform you that a grievance has been raised by another employee that [involves you/makes allegations against you].

The nature of the allegations(s) is: [give details of the allegations].

[In view of the seriousness of the allegations, the [Head Teacher/ Chair/ Vice-Chair of Governors] has taken the decision to suspend you temporarily from work. The suspension will be on full pay and will be for as short a time as possible. You are therefore required to remain away from the workplace and not to make any contact with your colleagues until I contact you further. Suspension for these purposes is solely for the purpose of allowing management to investigate the allegations that have been made and does not indicate that you have been found guilty of any sort of misconduct].

[In the meanwhile, the employee who has lodged the grievance is to be formally interviewed in accordance with the School's model grievance procedure].

I would like to assure you that management has not at this stage made any judgment on the validity of the grievance, and that the matter will be fully and impartially investigated before any decision is made as to what, if any, action needs to be taken. You will be given a full opportunity to provide your version of events at a properly convened investigatory meeting in the near future.

If the outcome of the grievance is that the complaint is dismissed, the employee who lodged the grievance will have a right to appeal against that decision in accordance with the procedure.

If the employee's grievance is upheld (either following the hearing or after an appeal), and if there is evidence to support such course of action, the School may be required to instigate disciplinary proceedings against you. If this occurs, you will be fully informed of your rights under the disciplinary procedure at that time.

May I stress once again, however, that I am merely setting out the relevant procedures and processes at this time and that no judgment or decision has yet been made on the merits of the grievance. You will appreciate, however, that the School is under a duty to take all complaints seriously and to investigate them fully and fairly.

In the meantime, I enclose copies of the relevant grievance and disciplinary procedures that have been adopted by the School.

Yours sincerely

[Name]

APPENDIX E

ORDER OF PROCEEDINGS FOR FORMAL GRIEVANCE HEARING

The hearing will be conducted in accordance with the authority's guidance on behaviour in meetings and hearings.

- 1) The person conducting the hearing (the chairperson) will introduce the participants and explain that the purpose of the hearing is to establish the facts about the employee's grievance and determine what action, if any, can reasonably be taken to resolve it. The chairperson will also confirm that the hearing is being held in accordance with the school's grievance procedure.
- 2) The chairperson will explain that a written record is being made of the hearing which will be sent to participants.
- 3) The chairperson will invite the employee to set out his or her grievance, including the circumstances which have led to the grievance, the nature of the grievance, why he or she feels aggrieved and the remedy being sought to resolve the situation and/or find a way forward.
- 4) The employee or the employee's representative/companion will respond to this invitation by presenting his or her case, referring to any documentation on which he or she is seeking to rely (including calling any relevant witnesses).
- 5) The chairperson and/or the technical adviser may question the employee and any witnesses. The chairperson has the right to ask the employee to answer the question personally, although the employee may on request confer with his or her representative at any time during the meeting.
- 6) The chairperson may present his or her case, including any documentation, or, if the hearing has been reconvened after an adjournment to allow investigations to take place, the outcome of any investigation or enquiries conducted.
- 7) The employee, his or her representative and/or the technical adviser may question the chairperson.
- 8) The employee and his or her representative may sum up his or her case.
- 9) The chairperson will then sum up his or her case and the key points from the hearing. It may be possible to agree on action to be taken to resolve or deal with the grievance at the hearing. If this is not possible the chairperson may reserve his or her decision and should indicate when that decision will be made.

- 10) The chairperson will confirm that a written note of the hearing will be sent to the employee with a letter setting out the decision and suggested method of resolving the grievance(s). The chairperson will inform the employee of the right of appeal if he or she is not satisfied with the outcome.
 - 11) The chairperson will thank the parties for attending and close the hearing.
- NB At any point during the hearing the chairperson may adjourn the proceedings if it appears necessary or desirable, for example, to gather further information.**

APPENDIX F

LETTER CONFIRMING OUTCOME OF GRIEVANCE HEARING

PRIVATE AND CONFIDENTIAL

[date]

Dear

OUTCOME OF GRIEVANCE HEARING

Following the hearing held with you on [date] to hear your grievance, I am now writing to you to confirm the outcome.

After listening carefully to everything that you have said and considering carefully the evidence presented I have reached the following conclusions:

EXPLAIN FINDINGS IN RELATION TO EACH GRIEVANCE RAISED BY THE EMPLOYEE

EITHER

As a result of these findings, I propose to take no further action.

OR

As a result of these findings, I propose to take the following action:

DESCRIBE THE ACTION TO BE TAKEN

I hope that this resolves your grievance(s). However, if you wish to appeal against this outcome you may do so by setting out your grounds of appeal to the clerk to the governing body of the school [INSERT NAME AND CONTACT DETAILS] within ten working days of receiving this letter. Should you wish to appeal the clerk will arrange an appeal hearing with the Appeals Committee of the governing body.

Yours sincerely,

Name

APPENDIX G

GUIDANCE FOR INVESTIGATIONS IN SCHOOLS

This guidance is based on the City Council's guidelines for investigations, with suitable amendments to take account of the governance of schools. In particular it is acknowledged that most schools do not have senior managers with special training in investigation skills and that many schools do not even have enough managers with the seniority and experience required who have not been involved in the alleged misconduct as witnesses or otherwise. This guidance therefore recognises that the functions of 'commissioning officer' and investigator may be undertaken by the same person, and that training, whilst desirable, is not obligatory. Head teachers and other members of the leadership team will have had the opportunity of training in aspects of management involving relevant skills, such as careful questioning. This guidance itself provides some training and should enable a senior manager in a school to conduct a satisfactory, thorough investigation acceptable to all participants and capable of withstanding the rigorous scrutiny of an employment tribunal.

A complaint about recruitment and selection procedures may contain an allegation of unfair and illegal discrimination and therefore the investigation must be conducted having regard to this possibility.

1. INVESTIGATION

The governing body states in its policy that it requires an immediate, short, preliminary investigation of all allegations of misconduct, in order to establish that there are reasonable grounds for a full investigation. This guidance is concerned chiefly with a full investigation of a complex case.

The nature of the alleged misconduct will affect the type of investigation undertaken. Some incidents may be so straightforward and so obvious that, even though they are deemed gross misconduct, a short investigation will suffice. Others may not be counted as gross misconduct but involve perceptions and misunderstandings capable of different interpretations, even if there have been witnesses, and in such cases the investigation may take longer and involve more detailed enquiries.

Investigations should be completed between ten and twenty working days unless there are exceptional circumstances.

1.1 Role of the commissioning officer

When a complaint is received or an incident takes place which requires a full and detailed investigation an appropriate senior manager in the school, usually the head teacher, will undertake the function of a 'commissioning officer'. The commissioning officer will be accountable for commissioning the investigation, receiving the report which should include a summary,

conclusions and agreed recommendations, and making arrangements for appropriate subsequent action. In schools where insufficient senior managers are available to separate the roles of commissioning officer and investigator both roles may be performed by the same person.

The commissioning officer will act on behalf of the governing body and in cases where the conduct of an employee is being investigated will be at an equivalent or higher grade than that employee. The commissioning officer will normally be the head teacher, but in cases in which the head teacher has been involved, for example because he or she is the person against whom the allegations have been made or because he or she has been the person against whom the alleged misconduct has been perpetrated, another person should take the lead. When the head teacher's conduct is to be investigated, the procedure provides for the chair of governors to ask the appropriate Schools Support Manager to make the necessary arrangements. When the head teacher has been otherwise involved he or she should ask another member of the senior management team to act. If such a person is not available, the head teacher may approach the Schools Support Manager or Employee Relations Team for advice and assistance.

1.2 Key activities undertaken by the commissioning officer

- To identify a suitable investigator (see comments above about the practicality of separating the roles of investigator and commissioning officer).
- Consideration needs to be given to the suitability of the investigator, including ability, availability, impartiality, training/experience and also to ensure that there are no conflicts of interest, real or apparent. Preferably, investigators should have undertaken appropriate training.
- The investigation may be undertaken by the line manager or by a person from outside the school. Advice on the appointment of an independent investigator may be obtained from the Schools Support Manager or Employee Relations Team.
- To give a thorough brief (known as the terms of reference) to the investigator.
- To assist the investigator with access to key documents pertinent to the case.
- To identify, where necessary, a key person within the school as a link for the investigator.
- To monitor progress of the investigation and ensure timescales are met.
- To receive the investigation report and, where appropriate, to decide whether the case should be referred to the head teacher or the governing body's disciplinary committee and, if so, to present that case in accordance with the disciplinary procedure.

1.3 Terms of reference

The terms of reference should include:

- The nature of the allegation/complaint, including details of any specific incidents.
- Any relevant background information.
- The remit of the investigation (the aspects that need to be investigated and any that should be disregarded for the purposes of the investigation).
- A list of people to be interviewed initially. If there are witnesses to the allegations they should be interviewed by the investigator and will be expected to provide a signed and dated statement, except for pupils, who should be interviewed in accordance with the guidance for schools associated with the authority's Child Protection Procedures. The investigator may decide during the course of the investigation to interview more people. An employee making an allegation of harassment or with some other grievance will be encouraged to name witnesses for interview and the investigator must make every effort to ensure such interviews take place.
- Any relevant documents known at this stage that should be considered.
- Time limits for the investigation and writing of a report, including interim review dates to ensure that the terms of reference remain relevant as the investigation progresses.

1.4 Responsibilities of the commissioning officer on completion of an investigation

- Once an investigation is complete, the commissioning officer will meet with the investigator
- The commissioning officer will determine whether he or she is satisfied with the substance of the report, that there is a direct correlation between the report and the conclusions/recommendations and that there is no bias. Where the roles of commissioning officer and investigator are combined, the person undertaking the investigation should consider his or her own report critically before proceeding further, taking advice from the Employee Relations Team if he or she feels that questions might be raised over the findings.
- If the commissioning officer is not satisfied with the substance of the report (for example, there are questions over the findings) or if there are any issues requiring clarification, he or she will discuss these directly with the investigator.
- Changes can be made to the report and recommendations as appropriate and agreed by the commissioning officer
- The commissioning officer will then take ownership of the report and is accountable for agreeing an action plan to implement the recommendations. When the commissioning officer is acting on behalf of the chair of governors, the commissioning officer will make

recommendations to the chair of governors, who will be responsible for agreeing an action plan.

- In cases of grievance or harassment the commissioning officer is responsible for arranging to meet with the complainant to discuss the result of the investigation and any proposed actions.
- The commissioning officer may determine that disciplinary action is appropriate and, if so, should present the case in accordance with the disciplinary procedure.

2. CONDUCTING AN INVESTIGATION

2.1 Purpose

An investigation is a structured, impartial process of evidence gathering in response to a specific allegation(s) regarding personal conduct. It should be carried out with terms of reference as described above.

2.2 Good practice

All investigations should:

- Have timescales set in advance by the commissioning officer (as a target completion date rather than a rigid standard).
- Be conducted as soon as possible after the date in question
- Be conducted by someone with the necessary knowledge to understand the situation and implications and who also has the necessary degree of impartiality.
- Have a balanced approach and be conducted in a spirit of openness and fair play which avoids any bias.
- Be conducted using techniques which are sensitive to the individual situation and employees involved.
- Be undertaken in a logical and rigorous manner.
- Seek to explore rather than pre-judge.
- Seek to elicit facts (find out what actually happened rather than arouse emotional reactions on what it is thought happened).
- Be initiated and concluded in a timely manner, but not so as to compromise quality.
- Be based on a process which is respectful to everybody involved (the complainant, witnesses or individual who is implicated).
- Be seen as a learning process where appropriate feedback is given and harnessed for the good of the service.

2.3 Role of the investigator

- Where possible to have received prior training in investigation skills and techniques
- To plan the investigation required in order to establish the facts of the case.
- To identify and gather relevant documents which provide facts concerning the alleged incident.
- To ensure relevant statements are taken which provide facts concerning the alleged incident.
- To produce and present to the commissioning officer a full report of the investigation, the facts established and make recommendations for remedy as appropriate.

2.4 Key considerations

- Be aware of your own potential biases and assumptions and avoid any preconceived ideas.
- Develop an understanding and/or acceptance that different perspectives exist in the same situation.
- Have an understanding of equality legislation.
- Understand any policy of the school, such as the anti-harassment policy, under which the investigation is being conducted.

2.5 Process

2.5.1 Ensure you have terms of reference from the commissioning officer.

2.5.2 Produce a plan, considering the following:-

- Are the terms of reference clear?
- Are you clear about the expectations of the complainant?
- Are there any policy implications?
- What are the potential equality issues/dynamics?
- Who needs to be interviewed, in what order and where?
- Who will confirm the interview arrangements (including advising interviewees who are employees of the school of their right to request to be accompanied by a chosen representative who is either a trade union official or another employee of the school)?
- Who will ask questions and who will take notes?
- What questions should you ask and not ask?
- What other information will be helpful?
- What is the expected timescale?

2.5.3 Conduct structured interviews and gather evidence (see Annex A)

2.5.4 Statements from witnesses

The investigator will consider whether it is appropriate to produce statements by recording questions and answers. In doing this you will need to have regard for confidentiality and the difficulty that may be created if these are made available to all parties. If statements are taken they must be checked, agreed and signed. Annex A gives a suggested format allowing the interviewee to confirm that the account is accurate, make amendments or attach additional comments. If the interviewee makes changes or comments which you do not recall, a record should be made to that effect on the statement.

2.5.5 Review your plan and revise as required in the light of emerging evidence and practical considerations.

2.5.6 Collate and analyse the evidence

- Consider all the facts and evidence presented to you and analyse what can clearly be demonstrated as being factually correct.
- Make judgements on the 'balance of probability', i.e. given what you have found, how likely is it that the action(s) in question have occurred? You do not need to establish the case 'beyond reasonable doubt'.

2.6 Writing the report

A suggested format for reports on investigations is given as Annex C. Although each report is unique, there are some common rules to follow:

- Always include background information on the service within which the incident allegedly took place. The report may be used eventually in an internal appeal process or by an Employment Tribunal, so it is useful to set matters in context.
- Keep it simple, well structured and rigorously written. Make clear which facts are incontrovertible, i.e. what happened, who was involved, when it happened and where, why and how. Draw attention to any differences in the accounts given of the same event.
- Number documents and statements gathered and for ease of reference use those numbers when referring to them.
- Consider the use of tables to compare the response of witnesses to standard questions. This makes it easy to absorb evidence and form a reasonable belief regarding the weight of evidence or balance of probability of what actually occurred.
- Careful proof reading is needed. Avoidable typing errors, spelling mistakes etc. will reflect badly on the rigour with which the investigation was conducted.
- Special consideration must be given when an employee requests access to the report and the report contains information about a third party. There could be a breach of the Data Protection Act 1998 if information is released about a third party. Simply removing the third party's name from the report may be all that is required, but this is not always the case. A balance must be struck between the right of the individual to access and the right of the third party to privacy. **With this in mind it is helpful to write the report in a way that enables it to be issued to all parties.** Advice on confidentiality may be obtained by contacting the Employee Relations Team.
- If statements have been taken there is no requirement to send them out with the report. However, they will still need to be typed, verified and signed so that they are available if there is a request to see or use them at a later date.

3. PUBLISHING THE REPORT

- Once completed, the report should be presented to the commissioning officer for consideration and action as appropriate.
- Ensure the report is marked 'Private and Confidential' to ensure that only the commissioning officer has access to it in the first instance.
- The commissioning officer will decide whether to support the findings or whether there are further issues to be explored or clarified by the investigator and will meet with the investigator to discuss the report. Changes can be made to the report and recommendations in agreement with the commissioning officer.
- The commissioning officer will then take ownership of the report and ensure that the recommendations in it are carried out.
- The commissioning officer will also be responsible for telling the complainant that the investigation has been completed and what is to happen.
- All sensitive information should be treated confidentially and meet the requirements of the Data Protection Act 1998. If there is to be a disciplinary case the report will not be released to the complainant, because of the confidentiality of disciplinary proceedings.

ANNEX A – INTERVIEW STRUCTURE

Ensure interviews are held in a suitable place, where you will not be interrupted.

Introduction

- Introduce yourself and outline your role in the investigation.
- Confirm details of the interviewee (name, job title, length of time with the school).
- Note the date and time of the interview.
- If the interviewee is an employee of the school confirm the name of the interviewee's representative (if the interviewee does not have a representative, confirm that he or she is aware of the right which he or she has as an employee to request to be accompanied and give him or her the choice of deferring the interview to another day and obtaining representation in the meantime).
- Describe the terms of reference for the investigation.
- If a record of the interview is to be made, tell the interviewee and explain that a copy of the record will be sent to him or her for verification.
- Ask if the interviewee has any questions before the interview starts.

Conducting the interview

- It is vital that any investigation is dealt with sympathetically with due regard to the feelings and emotions of everybody concerned (including the alleged perpetrator).
- In cases of grievance or harassment, the complainant should be interviewed first with the aim of obtaining as much detail about the complaint as possible.
- Ensure that all persons attending interviews have been notified and informed of their rights to be accompanied by a representative.
- Interview all relevant persons using open (descriptive), closed, hypothetical and probing questions as appropriate.
- Do not lead interviewees or put words into their mouth.
- If the witness has already submitted a written statement at an earlier stage in the process ask that witness to confirm the accuracy of that statement and record any amendment or addition he or she may wish to make.
- Attempt to note accurately what is said and probe for clarification.
- **Summarise information at intervals to check understanding and manage the conversation.**
- Repeat what is said when necessary to ensure that there is no misinterpretation.
- As for demonstrations and diagrams if they can help you get a full picture.
- Pay attention to detail.

- When the alleged misconduct concerns something said or the complaint is one of verbal harassment, ask the interviewee to say or write the exact words spoken.
- Should any of the interviewees become distressed or aggressive suspend the interview for a short period or terminate it. In the case of termination consider how and when a fresh interview might be undertaken.
- In the case of a grievance or harassment, ask the complainant what kind of response he or she is seeking, without making any commitments.
- At the end of the interview ask if there is anything in relation to the investigation which the interviewee wishes to mention but which has not arisen during the interview.

Conclusion

- If a record of the interview has been made by way of a statement, confirm that a copy will be sent to the interviewee for verification and signature and indicate how soon the interviewee should return the signed statement. Agree an address for this correspondence (the interviewee might prefer a home address rather than the school).
 - Explain the plan for the investigation, including the planned date for submitting the report to the commissioning officer
 - Explain what might happen after the investigation and any possible consequences for the interviewee.
 - Ask the interviewee not to discuss the content of the interview and explain the possible consequences if confidentiality is breached.
-

ANNEX B –WITNESS STATEMENTS

EITHER

INVESTIGATION
NAME OF SCHOOL
DATE

Record of interview

Name of Interviewee:

Job title:

Length of Service – time in job:

Name of employee's representative:

Investigator:

Place of interview:

Date and time of interview:

In opening the interview the investigator introduces himself or herself and explains the role in the investigation. Explain the terms of reference and confirm that a written record would be made and a copy provided to the witness to verify its accuracy.

Record of questions and responses:

Interview finish time:

Closing: explain that a report would be written and submitted; explain how this might affect them.

Ask the interviewee to maintain confidentiality.

I agree that this is an accurate record of the interview

I have made changes and with those changes I agree that this is an accurate record of the interview

I have attached additional comments

Print Name of interviewee:

Signature:

Date:

OR

**INVESTIGATION
NAME OF SCHOOL
DATE**

Witness Statement

Name of Witness:

Job title:

Name of representative:

- Record of your recollection of what happened giving details on names, dates, and times where appropriate together with details.

Print Name of Witness:

Signature:

Date:

ANNEX C – FORMAT FOR REPORT

Title of Investigation

Investigation into the allegation(s) of XXXXXXXX

Terms of Reference

Describe how the incident came to light and the scope / objectives of the investigation.

Purpose

To establish if there is any evidence to support the allegation(s) / describe the methodology of the investigation.

Findings

Background to the case

Outline of the case

Name of those interviewed

What evidence has been obtained?

Has evidence of other issues been uncovered that is substantial to the case?

Supporting evidence for the allegation (s)

Any conflicting advice

Conclusions

What can be deduced from the evidence?

Consideration of Blameworthiness V Mitigating Circumstances

Recommendations

Is there a case to answer?

Actions to be taken: By whom and by when?

Name of the author of the report:

Position:

Name of the Commissioning Officer:

Position:

Date

Attachments

List of supporting evidence e.g. statements, policies, diagrams, forms etc.

date

Private & Confidential

Dear Name

I am writing to confirm that a formal investigation is being undertaken in accordance with the grievance procedure adopted by the Governing Body of _____ School, a copy of which I enclose for your information.

The allegation to be investigated is –

I will undertake this investigation and will need to meet with you as part of this investigation. I am writing to confirm that you are required to attend an investigation meeting on _____ at _____ hours. The meeting will be held at _____.

As an employee of the school you have the right to be accompanied by a representative of your choice, who is either a Trade union official or an employee of your employer.

At the end of the investigation a written report will be submitted for consideration and you need to be aware that this could lead to a disciplinary hearing.

Yours sincerely

Name
Job title

INVESTIGATION

NAME OF SCHOOL
DATE

Terms of Reference

Title of Investigation

Investigation into the grievance of XXXXXX

Purpose / Background

XXXX has alleged that

- Nature of the grievance including details of any specific incidents.

Investigating Officer

Name of Investigating Officer

Objectives and Scope of the Investigation

To fully investigate the grievance submitted by:-

- Interviewing all persons other than pupils directly involved in the grievance.
- Interviewing any other persons other than pupils who may contribute evidence in relation to the grievance.
- Look at documentary evidence that may be relevant to the grievance.
- Obtaining evidence to assess how all parties involved have conducted themselves during the event, looking at Policies and Procedures.
- To produce a written report to close the investigation detailing the findings, conclusions, and recommendations, including whether there is a case for disciplinary procedures.

Pupils should be interviewed in accordance with the guidance for schools associated with the authority's Child Protection Procedures.

Timescales

The investigation will start on XXXX and is expected to be completed by XXXX. If any extension is needed to this timescale then you will be informed of this in due course.

Between 10-20 working days, any extensions should arrange to meet with employee to explain reasons.

INVESTIGATION
NAME OF SCHOOL _____
DATE _____

Investigation Plan

Are the terms of reference clear?

Are you clear about the expectations of the complainant?

Are there any policy implications?

What are the potential equality issues/dynamics?

Who needs to be interviewed, in what order and where?

Who will confirm the interview arrangements (including advising interviewees of their right to be accompanied by a representative or friend)?

Who will ask questions and who will take notes?

What questions should you ask and not ask?

What other information will be helpful?

What is the expected timescale?

**INVESTIGATION
NAME OF SCHOOL
DATE**

OPENING

- Thank you for attending.
- Introductions.
- Explain that notes will be taken of the meeting.
- Explain the purpose of the meeting.
- Investigation is an impartial process of evidence gathering in response to a grievance, and is done to establish if there is a case to be answered.
- A number of questions will be asked to clarify the events of the day.

MAIN

Main questions that need to be asked to go into here

Example,

- An incident took place on xxxx. Please can you tell me in your own words what happened on that day.

-

CLOSING

- Is there anything else that you feel is important to this investigation that you would like to add?
- You'll be given a written account of this interview, to verify its accuracy. Please ensure these minutes are returned to us within 5 working days.
- When I have completed the investigation I will put together my report and establish if there is a case to be answered or not. You will be advised of this in due course.
- Ask the interviewee not to discuss the content of the interview and maintain confidentiality.
- Anything else.
- Thank and close meeting.

MINUTES CONFIRMATION/COMMENTS

Please tick and sign as appropriate

I agree that this is an accurate account of interview

I have made amendments on the document and agree that this is an accurate account of the interview

I have attached additional comments

PRINT NAME:

Signature:

Date:

APPENDIX H

INVITATION TO A HEARING BY APPEAL COMMITTEE

PRIVATE AND CONFIDENTIAL

Date

Dear

GRIEVANCE APPEAL HEARING

I am writing to confirm the invitation to an appeal hearing on *(date)*..... ata.m./p.m. The hearing will be held in *(venue)*..... and will be before the Appeals Committee of the Governing Body. The meeting will be chaired by *(name)* and other members of the committee will be *(name)* and *(name)*

The hearing will be conducted in accordance with the grievance procedure adopted by the School. The purpose of the meeting is to give you an opportunity to appeal against the decision made about your grievance after the hearing at which that grievance was considered on *(date)*.

[A representative of the local authority will be in attendance.]

I enclose a copy of the documentation to be presented in response to your appeal. The committee will also be provided with any documentation submitted with your appeal together with the documentation you presented at the original grievance meeting. The procedure to be used at the appeal hearing is included in the grievance procedure. [The Head Teacher [or], who will be responding to your appeal or re-presenting the case, intends to call *(names)*..... as witnesses.]

You will need to notify me, at least ten working days before the hearing, of the names of any witness(es) whom you have asked, or intend to ask, to appear on your behalf.

You have the right to request that you be accompanied by a representative of your choice who is either a trade union official or who is an employee of your employer. Please let me have this request at least ten working days before the hearing. An additional copy of this letter and the documentation is enclosed for your representative's use.

Please confirm that you will attend at the time and date stated and whether or not you wish to be accompanied by a representative. You may suggest an alternative time and date as long as it is reasonable. It should not be more than five working days after the original date. The committee may reject your suggestion but will do so only if it is unreasonable. In that case the committee may proceed to hear the case in your absence or the absence of your representative.

Yours sincerely

Clerk to the Governing Body

* delete as appropriate

Copy to Employee Relations Team

APPENDIX I

ORDER OF PROCEEDINGS FOR GRIEVANCE APPEAL HEARING

The hearing will be conducted in accordance with the authority's guidance on behaviour in meetings and hearings.

- 1) The appellant and his/her representative and the Head Teacher shall attend the meeting simultaneously to present their cases.
- 2) The Chair of the Appeals Committee will perform the necessary introductions.
- 3) The appellant and his/her representative will present his/her case.
- 4) The Head Teacher may question the appellant and his/her representative.
- 5) The Committee Members and Technical Adviser may question the employee and his/her representative.
- 6) The Head Teacher will present the management case.
- 7) The appellant and his/her representative may question the Head Teacher.
- 8) The Committee Members and Technical Adviser may question the Head Teacher
- 9) The Head Teacher will sum up his/her case.
- 10) The appellant and/or his/her representative will sum up their case.
- 11) The Head Teacher and the appellant and his/her representative will withdraw.
- 12) The Committee will consider the material and evidence presented and decide the outcome.

NB The questioning of any witnesses called will follow the procedure outlined above.

APPENDIX J

LETTER CONFIRMING OUTCOME OF GRIEVANCE APPEAL HEARING

PRIVATE AND CONFIDENTIAL

[Date]

Dear

GRIEVANCE APPEAL HEARING

Following the hearing that was held with you on [date] to consider your appeal against the outcome of your formal grievance, I am now writing to you to confirm the outcome.

Having given careful consideration to the evidence presented by you and _____, the Appeals Committee of the Governing Body of the School, have concluded that:

EITHER

- (i) your appeal against the outcome of the grievance meeting on (*date*) should be upheld. The following action, or modification of action previously determined, is therefore proposed in order to try to resolve your grievance:

[explain action to be taken as a result of the appeal being allowed]

OR

- (ii) your appeal against the outcome of the grievance meeting on (*date*) is dismissed and the decision taken as a result of that hearing will stand.

I hope that this now resolves the matter.

Yours sincerely

Clerk to the Governing Body

* delete as appropriate

Copy to Schools Personnel Services

APPENDIX K

LETTER ACKNOWLEDGING GRIEVANCE FROM A FORMER EMPLOYEE

Dear [Name]

I am writing to confirm receipt of your formal grievance dated [Insert].

In accordance with the model grievance procedure adopted by the School (see copy attached), I will arrange for your grievance to be investigated and will write to you again when that investigation has been completed.

Yours sincerely,

[Name]

APPENDIX L

LETTER RESPONDING TO GRIEVANCE FROM A FORMER EMPLOYEE

Date

Dear

Further to my letter of acknowledgement dated (*date*) your grievance has now been investigated.

After careful investigation and consideration of your grievance(s) we have reached the following conclusions:

EITHER

The School accepts that your complaint that [DESCRIBE NATURE OF GRIEVANCE] is valid and wishes to apologise to you for what has happened. We [have now corrected/will correct] this matter by [STATE ACTION THAT HAS BEEN TAKEN OR WILL BE TAKEN].

OR

The School [does not accept that your complaint is valid/ does not accept your version of events/ denies your claims]. The reasons for this are that [STATE REASONS, FOR EXAMPLE FACTS FOUND DURING INVESTIGATION]. We therefore do not propose to take any further action in response to your letter.

OR

The School accepts that part of your complaint is valid, i.e. we accept that [STATE PART ACCEPTED]. However, we do not accept your other claims, i.e. [STATE PART NOT ACCEPTED].

This letter constitutes the School's full and formal response to your grievance. [We wish you all the best for the future.]

Yours sincerely,

Name

APPENDIX M

GRIEVANCE RECORD FORM

Use this model form to maintain clear, complete and consistent records of grievances raised by employees and steps taken to deal with them.

Name of employee who raised the grievance:

Employee's Job Title:

Date grievance raised:

Date of grievance hearing:

Name and position of person conducting grievance hearing:

Employee accompanied by:

Summary of employee's grievance:

Conclusions reached/decisions made/actions agreed following grievance hearing:

Date employee notified of outcome:

Employee appealed the decision/did not appeal the decision (delete as appropriate)

Date of employee's appeal letter:

Date of appeal hearing:

Name and position of individual conducting appeal hearing:

Employee accompanied by:

Summary of basis for employee's appeal:

Appeal upheld/dismissed/action modified (delete as appropriate):

Rationale for upholding/rejecting appeal:

Date employee notified of outcome of appeal:

Form completed by:

Signature:

APPENDIX N

Guidance for Behaviour at Meetings and Hearings

Any person attending any kind of meeting or hearing in any capacity must comply with acceptable professional standards of behaviour and consequently should adhere to the following Code. Although this protocol is applicable to conduct within formal and informal meetings or hearings, the expectation is that the same standards will apply outside of meetings and hearings. One companion/ representative may accompany the employee and speak on his or her behalf at formal meetings and hearings. The agreement of the Chair is required if the employee seeks additional support (for example, with learning disabilities) or a request is made for an observer to attend.

1. Everyone due to attend the meeting/hearing must make every effort to be punctual in order that the meeting/hearing may begin promptly.
2. The meeting/hearing will be conducted in accordance with the relevant provisions of any procedure adopted by the governing body or by the general procedure for meetings the outline procedure for meetings as recommended by the Employee Relations Team unless the Committee, Head Teacher/Manager and Employee agree variations.
3. Whilst these meetings/hearings are conducted formally they form part of internal procedures not legal proceedings and therefore all persons present should avoid using legal terminology without providing an explanation understandable to a lay audience.
4. All statements, questions and responses must be addressed through the person chairing the meeting/hearing
5. Each person invited to speak by the Chair will be permitted to make his or her contribution uninterrupted by any other person present.
6. All persons present will act respectfully towards every other person present and will not act in a manner that demeans, insults, threatens or intimidates him or her including an attempt to make an audio or video recording of the proceedings. All statements, questions and responses, challenges to statements, complaints or criticisms must be made politely and quietly.
7. All statements, questions and responses must be related to the facts of the case and not be personal in nature. There should be no reference to personal views on any person or in relation to the issue nor should reference be made to previous issues that do not form part of the case under consideration.

8. The meeting/hearing will be conducted with due regard to the needs of the participants for refreshment and rest and will be adjourned as appropriate either for a short break or for conclusion on another day.
9. If any person present fails to comply with this Code then the Chair will warn him or her that further non-compliance may lead to him or her being asked to leave the meeting/hearing. Any further breach of the Code may then lead to the Chair [Committee] deciding that the person should be asked to leave the meeting/hearing or that the meeting/hearing should be adjourned for a period of time to be determined by the Chair [Committee].

FLOW CHART ILLUSTRATING STAGES IN THE GRIEVANCE PROCEDURE

N.B. Mediation is optional at any stage provided that it is agreed by all parties involved.

