

Jan 2015

POLICY FOR STAFF GREIVANCE



# WATERMILL SCHOOL

# GRIEVANCE PROCEDURE FOR SCHOOL- MANAGED EMPLOYEES AND TEACHERS IN CENTRALLY MANAGED EDUCATIONAL SERVICES

## 1. INTRODUCTION

- 1.1. This document applies to all employees; permanent, temporary, full-time, part-time, fixed term and casual, managed within schools.

Governing Bodies are required to determine their arrangements for dealing with grievances and disciplinary matters. It is a legal requirement to ensure that these procedures are made known to all our staff.

A copy is displayed on the school notice board. This document takes account of employment law and good practice and has been agreed with the recognised trade unions.

- 1.2. The Employment Act 2002 defines a grievance as “**a complaint by an employee about an action which his employer has taken or is contemplating taking in relation to him/her**”.

This definition also covers the actions of a third party (e.g. a colleague) in cases where the employer would be vicariously liable for those actions. Examples of issues giving rise to grievances could include:

- Conditions of employment
- Supervision or management
- Workplace relations
- Working environment
- Health and safety
- Organisational change
- Discrimination on the grounds of race, sex, disability, sexual orientation, religion or belief or age.

Please note that this list is not exhaustive, nor exclusive to grievances.

- 1.3 Where separate procedures already exist for dealing with grievances on a particular issue these should be used instead of the normal grievance procedure, e.g. Bullying and Harassment, Discrimination,

- 1.4 It should be emphasised that the underpinning principle of this process is that employees should, wherever possible, seek to resolve their differences informally in the first instance without recourse to formal procedures. Such informal resolutions generally enable colleagues to resume productive and professional working relationships more easily in the future.

If the alleged grievance cannot be settled informally, then the employee should move to the formal stages of this procedure. This procedure is based on the statutory minimum (Appendix 1).

- 1.5 At all stages of the process, confidentiality should be maintained and respected by all parties.

## **FORMER EMPLOYEES AND GRIEVANCE PROCEDURES**

- 1.6 The School's Grievance Procedure is for current employees only.

Where an employee submits a Grievance following the termination of their contract the matter should be dealt with under the Statutory Grievance Procedure. Occasionally, an employee's letter of resignation may indicate that their decision relates to a perceived grievance; it is possible that such a resignation could be a precursor to the former employee taking a "Constructive Dismissal" claim to an Employment Tribunal. In such circumstances, it is important that the Headteacher/Line Manager should follow the Statutory Modified (2 Step) Grievance Procedure. Further advice and guidance is available from the CYPS - HR.

## **2. INFORMAL STAGE**

- 2.1 Subject to paragraphs 2.2 and 2.3, where an employee is aggrieved about any matter relating to their employment, the appropriate course of action, in the first instance, is for the employee to discuss their concerns with their line-manager/ Headteacher. At this initial stage of the process the meeting should ideally be as informal as possible and, consequently, it should not be necessary to involve outside parties, however, a request from the employee for professional association or trade union involvement will not be unreasonably refused.
- 2.2 Where a school-managed employee has a grievance against a member of the Authority's staff, the appropriate course of action, in the first instance, is for the employee to discuss their concerns with that officer. At this initial stage of the process the meeting should ideally be as informal as possible and, consequently, it should not be necessary to involve outside parties. However, if the employee's grievance cannot be resolved they should seek advice from their professional association/trade union representative or a member of Human Resources.
- 2.3 When the employee's grievance is against a colleague, it would be good practice for the employee to approach the other member of staff concerned to see whether the grievance can be resolved by informal discussion, before approaching the Headteacher/their line-manager.
- 2.4 Where the grievance is against the Headteacher the employee should approach the Headteacher to see whether the grievance can be resolved by informal discussion. Should the employee wish to request to be accompanied by their professional association or trade union representative, this will not be unreasonably refused.

### 3. FORMAL GRIEVANCE PROCEDURE – OVERVIEW (see Appendix 2 for flowchart)

**Employees are encouraged to seek advice from their professional association/trade union at the earliest opportunity.**

- 3.1. Formal grievance procedures are designed to provide a fair, transparent and systematic way of investigating and resolving grievances.
- 3.2. Both parties to the formal grievance procedure are entitled to be represented by a trade union representative or work colleague, at all stages.
- 3.3. For the purpose of the formal procedure, the term “grievance” means a complaint meeting the following requirements:
  - 3.3.1. The grievance must be specific to the individual employee; grievance procedures cannot be used to complain about collective matters e.g. pay, conditions of service issues, general policies/procedures.
  - 3.3.2. The grievance must relate to the individual employee’s employment.
  - 3.3.3. The grievance must be substantial in the sense that, if the facts were as stated by the employee, it would be reasonable to conclude that significant grounds for complaint existed.
  - 3.3.4. The grievance must involve a complaint about unfairness, e.g. where an employee complains that he/she has been deprived of some benefit to which he/she is entitled, or, has been treated in a biased manner or has been induced to do something by a misrepresentation. A grievance is not established simply because an employee disagrees with a decision that has been taken.
  - 3.3.5. Redress must not be impracticable.
- 3.4. The grievance procedure is essentially a residual procedure. It will not be used when a more specific procedure has been devised for dealing with issues. For example, if there is to be a staffing reduction at a school, an employee selected for displacement in accordance with the Authority’s RITSSE Document, must, if aggrieved at her/his selection, apply for a review of the decision under the terms of that Procedure.
- 3.5. The formal grievance procedures set out in this document are as follows:
  - 3.5.1. **The Standard School Procedure (Section 4)** - this is the normal procedure applicable to the majority of school-managed employees; but it does not apply when one of the other procedures listed below applies.

This procedure would also apply where a centrally managed teacher has a grievance against a school employee.
  - 3.5.2. **The Local Authority Procedure (Section 5)** - this procedure is used where the employee’s grievance is against an officer of the local Authority rather than against any member of school staff or the governors. For this purpose employees are defined as School Managed Staff or Centrally Employed Teachers.
  - 3.5.3. **The Enhanced School Procedure (Section 6)**; this procedure differs from the standard procedure in that the Director of Children and Young People’s Services may

decide to intervene and has the option of bringing the case for consideration outside the school. This procedure is used where the grievance:

- Involves contravention of any aspect of the following Acts;
  - Equal pay Act 1970
  - Race Relations Act (1976)
  - Sex Discrimination Act (1975)
  - Disability Discrimination Act 1995
  - Fixed-Term Employees Regulations (2002)
  - Employment Equality Regulations (Religion or Belief 2003/Sexual Orientation 2003/Age 2006)
  - Part Time Workers (Prevention of less Favourable Treatment) Regulations 2003
- Relates to the employee's trade union membership.
- Legal proceedings are available and may/will be followed.

#### **4. STANDARD SCHOOL PROCEDURE**

##### **STAGE ONE**

- 4.1. If the employee considers that the grievance has not been resolved by informal action, he/she may request a formal investigation of her/his grievance by the Headteacher. The request must be made in writing and must specify the nature of the grievance. A copy of the documentation must be given to the other party involved, in accordance with the Data Protection Act, including witness statements. Both parties to the formal grievance procedure are entitled to be represented by a trade union representative or work colleague, at all stages.
- 4.2. Within 5 working days of receipt of the formal request, the Headteacher should initiate an investigation into the grievance (which he/she may conduct personally or through a nominated representative). The investigation MUST include a meeting with the person bringing the complaint as a minimum and may include interviewing both parties either separately or together.
- 4.3. The Headteacher should then convene further separate meetings of the parties involved and inform them of the results of the investigation. The decision MUST then be confirmed in writing, offering the right of appeal, as quickly as possible and within 5 working days from the outcome of the investigation.

##### **STAGE TWO (APPEAL)**

- 4.4. If either party is dissatisfied with the outcome of the Headteacher's investigation of the grievance, he/she may request a hearing before a committee of the governors appointed for the purpose - this would normally be the Appeal Committee (Ref. Appendix 3 – Procedure for Governors' Appeal Meeting). The appeal must be lodged within 10 working days of receipt of the outcome of the stage 1 investigation.
- 4.5. The employee should prepare a written statement of her/his views incorporating a clear statement of the nature of the grievance and of her/his reasons for being dissatisfied with the

results of the investigation by the Headteacher. The Headteacher should prepare a written report based on the findings of the investigatory meeting(s).

- 4.6 The decision of the Appeals Committee must be communicated in writing. With regard to this procedure, the Appeal Committee decision is final.

#### **School Procedures Where the Employee's Grievance is with the Headteacher**

- 4.7 Where the employee's grievance is with the Headteacher and has not been resolved by informal action, he/she may request a formal investigation of her/his grievance by the Director of Children and Young People's Services. The request must be in writing and must specify the nature of the grievance. A copy of the request must be given to the Headteacher.

- 4.8 Within 5 working days of receipt of such a formal request, the Director of Children and Young People's Services should initiate an investigation by appointing a nominated representative to investigate the grievance. The investigating officer should:

- meet with the employee to hear his/her grievance (this is a statutory requirement)
- interview the parties
- produce a report on the matter

Both parties to the formal grievance procedure are entitled to be represented by a trade union representative or work colleague, at all stages.

- 4.9 The Director should inform the parties as quickly as possible as (and no later than within 5 working days) of the results of the investigation. Copies of the report should be forwarded to both the complainant and the Headteacher against whom the complaint has been made. The complainant **MUST** be offered the right of appeal.

- 4.10 If the employee or the Headteacher is dissatisfied with the result or absence of result of the Director of Children and Young People's Services' investigation of the grievance, he/she may request a hearing before the governors appointed for the purpose - this would normally be the Appeal Committee. (Ref. Appendix 3 – Procedure for Governors' Appeal Meeting).

### **The Review Panel**

- 4.11 Although it is intended that consideration of grievances under this procedure will normally be confined to school, if the employee is represented by a recognised trade union, and it appears to the trade union that the grievance raises an issue of general importance to other employees, the trade union may refer the matter to the Review Panel established by the CCG Education (see section 7). Every effort should be made to ensure that the individual concerned can not be identified.

## **5. THE LOCAL AUTHORITY PROCEDURE**

### **STAGE ONE**

- 5.1. If the employee considers that the grievance has not been resolved by informal action, he/she may request a formal investigation of her/his grievance by the Director of Children and Young People's Services and shall notify the other party. The request should be made in writing and should specify the grievance precisely.
- 5.2. Within 5 working days of receipt of such a formal request, the Director of Children and Young People's Services should initiate an investigation into the Grievance by appointing a nominated representative. The investigation MUST include a meeting with the person bringing the complaint as a minimum and may include interviewing both parties either separately or together. The nominated representative must produce a report on the matter as quickly as possible and a copy supplied to the employee. The report MUST be accompanied by a letter offering the right of appeal. Any other member of staff against whom the employee has made complaints should also receive a copy of the report.

Both parties to the formal grievance procedure are entitled to be represented by a trade union representative or work colleague, at all stages.

- 5.3. If either the employee or the member of staff against whom the employee made a complaint are dissatisfied with the result of the Director of Children and Young People's Services' investigation of her/his grievance, either may request a hearing before the City Council Appeals Committee. Any such request should be made in writing and state both the original grievance and the reason why the employee or the member of staff is dissatisfied with the outcome.

## **STAGE TWO (APPEAL)**

- 5.4. The Appeals Panel will consider the Director of Children and Young People's Services' report, the parties' statements and any oral representations made to them before coming to a decision on what findings or acts should be made and what action should be taken or recommended.
- 5.5. Before the Panel considers its decision, both parties should withdraw. The decision should then be confirmed in writing. With regard to this procedure the decision of the Appeals Panel is final.

### **Review Panel**

- 5.6. If the employee is represented by a recognised trade union, and it appears to the trade union that the grievance raises an issue of general importance to employees in the City, the trade union may refer the matter to the review panel (see section 7.)
- 5.7. If the matter is not referred to the review panel under paragraph 5.6 but the Director of Children and Young People's Services considers that it would be appropriate for the panel to examine it, he/she will refer it to the Panel.

## **6. ENHANCED SCHOOL PROCEDURE**

- 6.1. Where it appears to the aggrieved employee (or to the Headteacher when he/she is made aware of the complaints) that the enhanced school procedure should apply, he/she should promptly notify the Director of Children and Young People's Services of the position.
- 6.2. If the Director of Children and Young People's Services agrees that the procedure applies, he/she will nominate a representative to investigate the grievance jointly with the Headteacher.
- 6.3. The procedure set out in paragraphs 4.2 - 4.3 will apply, but with the addition that reports will be produced by the person nominated by the Director of Children's and Young People's Services as well as by the Headteacher. These reports may be either joint or separate.
- 6.4. If the employee is dissatisfied with the result of the Director of Children and Young People's Services' consideration of the matter, he/she may request a hearing before the Joint Monitoring Group (JMG) Appeals Panel, as per section 5.3.

## **7. REVIEW PROCEDURE**

- 7.1. A review panel will be established comprising 3 members from each side of the CCG Education. The panel will elect a chair who will not have a casting vote.
- 7.2. References to the panel will be made only by the parties to the Corporate Consultative Group. The issue referred must arise from the grievance but will not necessarily be identical to the issue initially raised by the aggrieved employee.
- 7.3. The panel will be primarily concerned with matters of general policy. Grievances turning upon purely personal disputes will not be considered by the panel.

## **APPENDICES**

1. Summary of Statutory Grievance Procedure
2. Grievance Procedure – Flowchart
3. Guidelines for conducting an investigation
4. Procedure for Governor's Appeal Meeting
5. Copies of Standard letters
6. Sources of relevant legislation
7. Useful web-sites

***The Employment Act 2002 made it a legal requirement for employers to operate a three stage grievance procedure.***

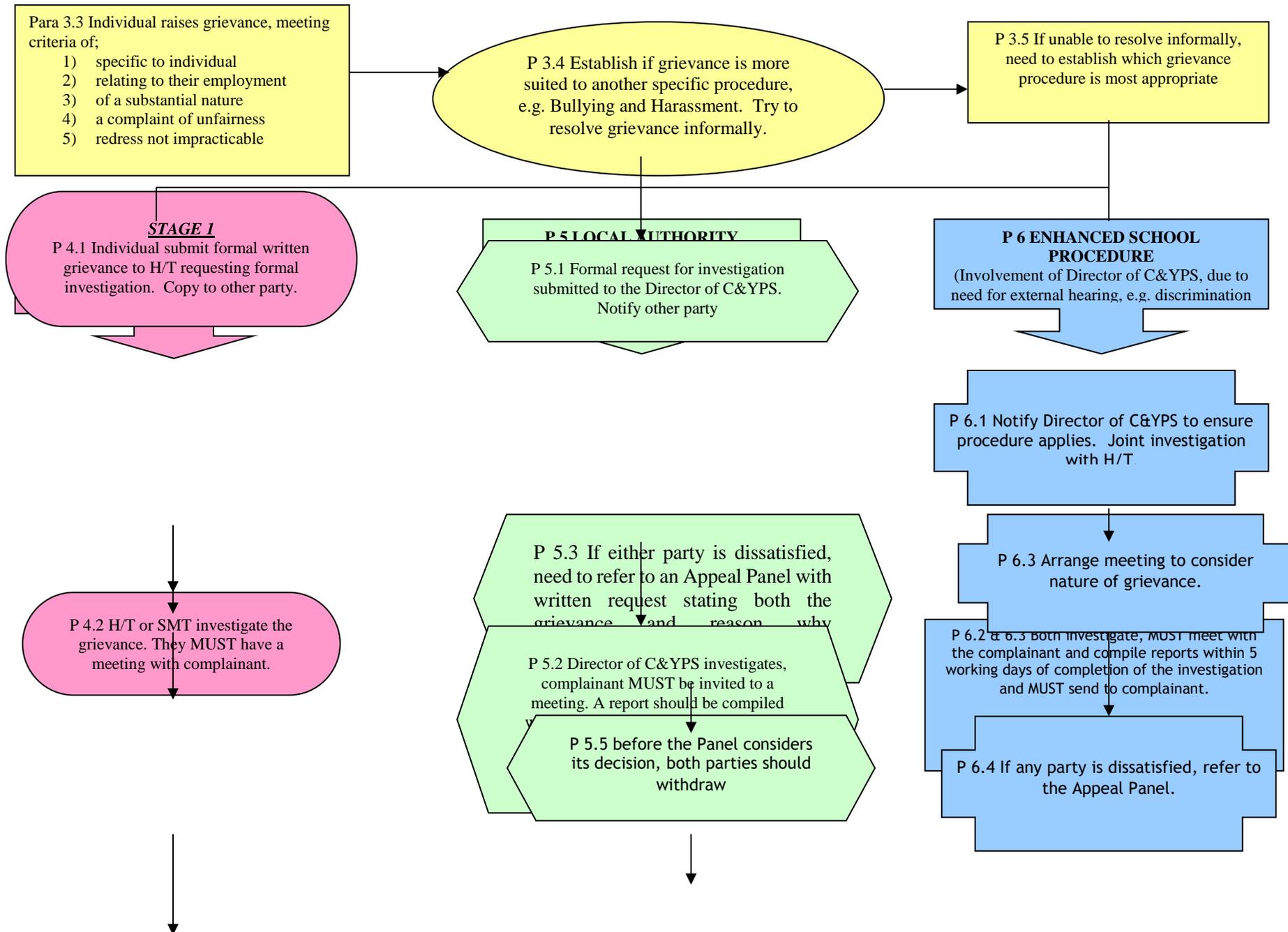
**SUMMARY OF THREE-STEP STATUTORY GRIEVANCE PROCEDURE**

1. *The employee must set down in writing\* the nature of the alleged grievance and send the written complaint to the employer*
  
2. *The employer must invite the employee to at least one hearing at a reasonable time and place at which the alleged grievance can be discussed.*
  - i. *The employee (or their representative) must inform the employer what the basis for the grievance is.*
  - ii. *After the meeting, the employer must inform the employee of the decision and offer the employee the right of appeal.*
  
3. *If the employee considers that the grievance has not been satisfactorily resolved he/she must inform the employer that she/he wishes to appeal against the employer's decision, or failure to make a decision.*
  - i. *Where possible, a more senior manager should hear the appeal.*
  - ii. *After the meeting the employer's final decision must be communicated to the employee.*

*(\*n.b. – for some employees, setting out a grievance in writing is not easy, particularly for those employees for whom English is not their first language, or who may lack basic literacy skills. In such circumstances the employee should be encouraged to seek assistance from a trade union or other representative. Under the Disability Act 1995, employers are required to make reasonable adjustments which may include assisting employees to formulate a written grievance if they are unable to do so themselves because of a disability.)*

**THE FOLLOWING DOCUMENT SETS OUT HOW THE**

**Appendix 2 - Grievance Procedure Flow Chart**



P 4.3 H/T convenes separate meetings to inform of the outcome of the investigation, MUST confirm in writing, ideally within 5 working days.

**STAGE 2 - APPEAL**  
P 4.4 Appeals to Governing Body Appeal Committee, to be lodged within 10 working days.

**P 4.7 GRIEVANCES AGAINST H/T'S**

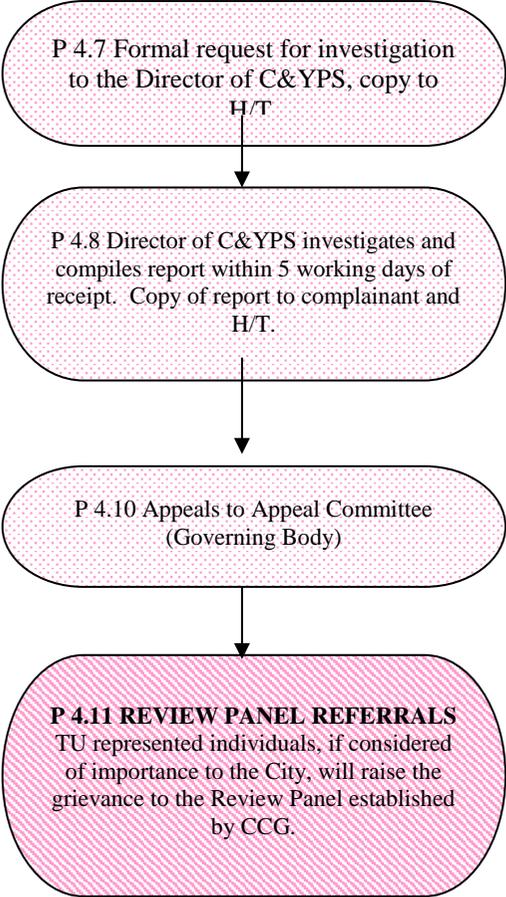
P 4.5 H/T to prepare written report for hearing.

P 4.6 Appeal Committee decision is final

P 5.4 Appeal Panel consider request and confirm what action should be taken/recommended.

**P 5.6 & 5.7 REVIEW PANEL REFERRALS**  
If TU representation considers that the grievance is of importance to the City, may be referred to Review Panel. The Director of C&YPS also has the ability to refer to the Review Panel.

**P 7 REVIEW PANEL REFERRALS**  
Panel comprising 6 CCG members, who will elect a chair (holding no casting vote).  
May not be concerned with the initial grievance, but concerned only with policy.



## Appendix 3 – Guidelines for Conducting an Investigation

### Pre- Investigation

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

### Conducting the Interview

#### Introductions

- Spell out the rules of confidentiality and that information will be shared with either party and disclosed in the course of the investigation to relevant parties.
- Explain the procedure that the investigation will follow and ensure that they are in receipt of a copy of this procedure.
  - Explain the process that the interview will take i.e.
    1. That they can break any time
    2. That everything said will be noted. [ and they will be asked to sign the interviewer's notes to confirm that an accurate record has been made]
    3. Anything forgotten about can be mentioned at a later date
    4. Questions will be asked
    5. Witness names and details of what they can offer will be asked for
    6. Counselling Service Leaflet issued
    7. Notes will be made available to parties, upon request.

#### Interviews with Witnesses

- Welcome the witness and explain why they have been called
- Stress that they ARE NOT BEING ACCUSED OF ANYTHING, they are there to help
- Witnesses to [be asked to give consent to] be informed that it their statements may be disclosed to all parties concerned. [possible disclosure of their statements.]

#### **Appendix 4 – Procedure for Governors' Appeal Meeting**

The Governor's Appeal Committee may ask a representative of the Director of Children and Young People's Services to attend to offer specialist advice.

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

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

## Appendix 5 – Standard Letter Templates

### Invite letter

#### STRICTLY PRIVATE AND CONFIDENTIAL

Dear \*\*\*\*\*,

#### **Re. Grievance Meeting at \*\*\*\*\* \*\*\*\*\* School**

I am writing to you in response to your written request to invoke the first stage of the Grievance Procedure, in relation to issues whilst employed as a \*\*\*\*\* within this school.

In accordance with the procedure, I would be grateful if you could attend a meeting arranged for \*\*\*\*\* at \*\*\*pm/am, at \*\*\*\*\*. In accordance with the procedure, you may be accompanied by a Professional Association/Trade Union representative or a fellow employee [see paragraph from ACAS below]. I should be grateful if you would please phone \*\*\*\*\* on 01782 23\*\*\*\* to confirm your attendance.

Yours sincerely

(Name)  
(Position)  
(School)

“It is the statutory right for a worker to be accompanied, by a fellow worker or trade union official, at certain disciplinary and grievance meetings. Workers may be overawed or feel intimidated by some hearings, and the accompanying person can help the individual to make all the necessary points. It has always been good employment relations practice to allow a worker to be accompanied or represented, and many organisations include such rights in contracts as a matter of course, sometimes extending the right to include representation or accompaniment by spouses, partners, carers, or friends. Recognition agreements with trade unions will normally include rights for members to be represented by either a lay or full-time official at disciplinary hearings” ACAS 2006 <http://www.acas.org.uk/index.aspx?articleid=917>

## **Stage 1 outcome**

### **STRICTLY PRIVATE AND CONFIDENTIAL**

Dear \*\*\*\*\*

#### **Re. Grievance Meeting**

I am writing further to our meeting on \*\*\*\*\* which was arranged in accordance with the Stage One of the Formal Grievance Procedure, to enable us to discuss your concerns. For information, please find attached a copy of the notes of the meeting.

Having explored the issues fully with you and fulfilling the appropriate investigations in order for me to build up a complete picture, I am now in a position to deliver my response.

You raised concerns regarding \*\*\*\*\* (summarise the grievance and the information that has been gathered to substantiate/refute these allegations)

I trust that you will have found my response helpful, and should like to thank you for bringing these issues to my attention. It is always useful to receive feedback from staff on their experiences in order that we can continually improve our working practices. In accordance with the agreed Grievance Procedure for School Managed Employees, should you remain dissatisfied with the outcome of the grievance meeting, you may take your concerns to the appeal stage within 10 working days. However, I do hope that you feel that your issues have been addressed.

Should you wish to discuss any aspect of the above, please do not hesitate to contact me.

May I take this opportunity to wish you all the best in the future.

Yours sincerely

**Invite letter for Stage 2**

**STRICTLY PRIVATE AND CONFIDENTIAL**

Dear \*\*\*\*\*,

**Re. Grievance Appeal Meeting at \*\*\*\*\* \*\*\*\*\* School**

I am writing to you in response to your written request to invoke the appeal stage of the Grievance Procedure, in relation to issues whilst employed as a \*\*\*\*\* within this school.

In accordance with the procedure, I would be grateful if you could attend a meeting arranged for \*\*\*\*\* at \*\*\*pm/am, at \*\*\*\*\*. In accordance with the procedure, you may be accompanied by a Professional Association/Trade Union representative or a fellow employee. I should be grateful if you would please phone \*\*\*\*\* on 01782 23\*\*\*\* to confirm your attendance.

Yours sincerely

(Name)  
(Position)  
(School)

**Stage 2 outcome**

**STRICTLY PRIVATE AND CONFIDENTIAL**

Dear \*\*\*\*\*

**Stage 2 Grievance Appeal Hearing**

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

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

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

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

This is the final stage of the grievance procedure.

Yours sincerely

Mr/Mrs  
(Position)  
\*\*\*\* School

## **Appendix 6 – Sources of Relevant Legislation**

- Commission for Racial Equality - [www.cre.gov.uk](http://www.cre.gov.uk)
- Public Services – [www.direct.gov.uk](http://www.direct.gov.uk)
- Equal Opportunities Commission – [www.eoc.org.uk](http://www.eoc.org.uk)
- Disability Rights Commission – [www.drc-gb.org](http://www.drc-gb.org)
- Office of Public Sector Information – [www.opsi.gov.uk](http://www.opsi.gov.uk)
- ACAS – [www.acas.org.uk](http://www.acas.org.uk)
- Department of Trade and Industry – [www.dti.gov.uk](http://www.dti.gov.uk)
- Chartered Institute of Personnel and Development - [www.cipd.co.uk](http://www.cipd.co.uk)

## **Appendix 7 – Other Useful Web-sites**

- Teacher information - [www.teachernet.gov.uk](http://www.teachernet.gov.uk)
- Department for Education and Skills – [www.dfes.gov.uk](http://www.dfes.gov.uk)
- Support Staff Union - [www.unison.org.uk](http://www.unison.org.uk)
- Teaching Union - [www.nasuwf.org.uk](http://www.nasuwf.org.uk)
- Teaching Union - [www.naht.org.uk](http://www.naht.org.uk)
- Teaching Union - [www.atl.org.uk](http://www.atl.org.uk)
- Teaching Union - [www.nut.org.uk](http://www.nut.org.uk)
- Teaching Union - [www.ascl.org.uk](http://www.ascl.org.uk)
- General Teaching Council for England - [www.gtce.org.uk](http://www.gtce.org.uk)
- Local Government Employers - [www.lge.gov.uk](http://www.lge.gov.uk)