

Dringhouses Primary School

Complaints Procedure for City of York Maintained, VC and VA Schools

Signature of Chair of Governors

Signature of Headteacher

Date of Adoption: July 2022

Date of Review: July 2023

Reviewing Committee: Full Governing Body

Statutory / Non-Statutory

This is a Local Authority adopted policy

	Contents	Page
1.	Policy Statement	2
2.	Definition and Scope	2
3.	Grievance Policy and Procedure Flowchart	4
4.	Bullying, Harassment and Victimisation	5
	<i>Definitions</i>	5
	<i>Bullying and harassment by non-school employees</i>	6
5.	Principles	6
	<i>Timescales</i>	6
	<i>Right to representation</i>	7
	<i>Appointed Manager</i>	7
	<i>Communication and confidentiality</i>	7
	<i>Grievances involving other employees</i>	8
	<i>Mediation</i>	8
	<i>Employee support</i>	8
	<i>Absence during the grievance procedure</i>	9
	<i>Addressing issues when employment has ended</i>	9
6.	Grievance Procedure	9
	<i>Initial considerations</i>	9
	<i>Possible outcomes</i>	10
7.	Stage 1 – Informal Stage	10
8.	Stage 2 – Formal Stage	11
9.	Stage 3 – Formal Appeal	12
	Appendix 1 – Process to be followed at Stage 3 Appeal Hearing	14

Other school policies referred to within this policy can be accessed from Dringhouses Primary School.

This policy and procedure have been through a consultation process with the Unions and Professional Associations recognised for the school workforce by City of York Council.

1. Policy Statement

- 1.1 This school believes that all employees should be treated fairly and have the right to work in a safe environment without the fear of discrimination, harassment or abuse. The school has a range of policies and procedures aimed at promoting good employment practices but recognises that occasionally problems can arise.
- 1.2 This policy provides the means for employees to raise genuine complaints and concerns and have them dealt with fairly and objectively, without fear of recrimination. The policy is not intended to establish guilt or provide punishment, rather it is a means of resolving problems at work
- 1.3 The policy aims to provide clear and consistently applied rules and processes which will help the school deal with grievances in the workplace as quickly and effectively as possible. This policy is consistent with the Acas Code of Practice on disciplinary and grievance procedures.

2. Definitions and scope

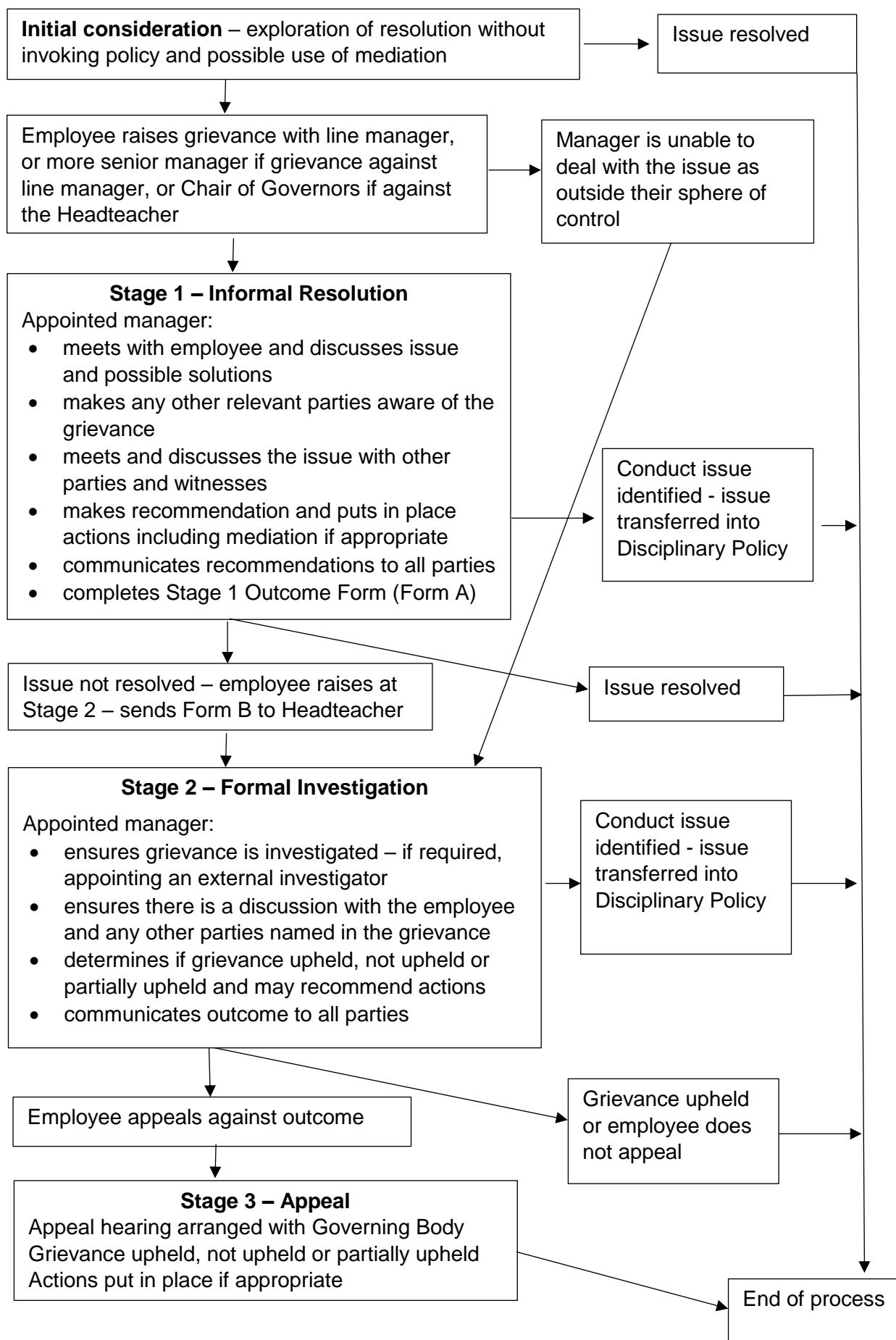
- 2.1 Grievances are concerns, problems or complaints that an employee, or group of employees, has about their work, working conditions or relationships with colleagues.
- 2.2 The issues that may be dealt with through this policy include:
 - relationships at work (with colleagues/manager)
 - discrimination
 - harassment and bullying (see section 4 below)
 - working practices
 - working environment
 - health and safety
 - application of terms and conditions of employment
 - organisational change (where not a reason for appeal under Restructure and Redundancy Policy)
- 2.3 The list in 2.2 is not exhaustive and the school will determine whether a matter will be dealt with under this policy or whether it would be more appropriate to deal with it under another policy or process. This determination will be undertaken once the employee has raised their grievance.
- 2.4 Employees may not raise a grievance if the matter is already covered by or connected to another policy or procedure, or the appeal mechanism related to these, unless that procedure has not been correctly applied. This includes:
 - **Pay and Grading issues** – these may be addressed through the appeals process under the pay policy.

- **Collective disputes** – a collective dispute normally relates to conditions of service, and matters arising from such, which affect the general relations between employees and/or recognised unions/ professional associations and their employer
- **Actions under another policy** - complaints raised in relation to matters being dealt with under another policy e.g. disciplinary, capability, attendance management, restructure and redundancy, etc. will generally be addressed under that other policy or the associated appeal process. However, on those occasions where it is appropriate to raise issues under this policy, this will not halt the other process. The treatment of each case will be considered on its individual merits
- **Pension decisions** – complaints about decisions made under the pension scheme will be dealt with under that scheme's internal dispute resolution procedure where applicable
- **Whistleblowing** - matters that are in the public interest, and where the interests of others or of the organisation itself are at risk, should be raised under the Whistleblowing Policy

- 2.5 Where a collective grievance is raised by, or by a union on behalf of, a group of employees then it may be considered under this policy. The same principles and procedure will apply for collective grievances, however, it may be necessary to amend the process to the extent that it deals with groups of employees rather than individuals.
- 2.6 Should the grievance relate to potential misconduct, or where any alleged conduct issues arise during the investigation, the grievance process will be brought to a close and all parties informed that it is deemed that the issues would more appropriately be dealt with under the Disciplinary Policy.
- 2.7 In the event that serious concerns are raised with a manager, consideration and advice should be sought as to whether the allegation is a criminal matter, which warrants reporting to the Police.
- 2.8 Status quo is the term used to describe the working conditions prior to a grievance being raised. There is no status quo clause or entitlement within this policy, however, schools may wish to consider, in exceptional circumstances, to delay the implementation of a workplace change for an individual whilst their grievance is resolved. This may be appropriate where the employee's grievance relates to a proposed change that they believe will have a particularly detrimental effect on them due to a characteristic protected under the Equality Act 2010. Delayed implementation should not be considered where there would be a detrimental impact on service provision or where there are over-riding statutory obligations.

3. **Grievance Policy and Procedure Flowchart**

- 3.1 The flowchart below provides an overview of the Grievance Policy and Procedure:



4. Bullying, Harassment and Victimisation

- 4.1 Dringhouses Primary School is committed to the promotion of dignity at work and aims to establish a working environment which is inclusive, free from discrimination and based upon the values of dignity, courtesy and respect. It recognises the right of every person to be treated in accordance with these values.
- 4.2 Harassment, bullying and victimisation are unacceptable forms of behaviour which will not be tolerated by the school. Any allegation of this nature will be treated seriously, and as a matter of priority, regardless of the seniority of those involved, and anyone found to have behaved unacceptably may be the subject of disciplinary action up to and including dismissal. It is important to recognise that bullying and harassment may not necessarily be face-to-face, it may also occur through written communications, visual images, email, phone or through social media.
- 4.3 Behaviour may not be intended to harass or bully, but it may be perceived or felt to do so by the recipient. In short, it is the recipient who decides what potentially constitutes harassment / bullying in terms of what is unacceptable / offensive to them personally.
- 4.4 However, behaviour that is considered as harassment/bullying by one person may be considered firm management by another. Behaviour of people in the workplace can also vary from day-to-day and consideration should be given to what would be found reasonable by most people.
- 4.5 Where there is good evidence that an employee has deliberately bullied, harassed or victimised another employee the matter will usually be dealt with under the Disciplinary Policy.

Definitions

- 4.6 Bullying, harassment or victimisation may be by an individual against an individual (perhaps by someone in a position of authority) or involve groups of people. There are broad ranges of behaviours that fall under these categories and, in all instances and in whatever form it takes, the actions are unwarranted and unwelcome to the individual.
- 4.7 **Harassment** is defined as unwanted conduct affecting people's dignity in the workplace. It may be a serious one-off incident or repeated behaviour. Harassment is unlawful under the Equality Act 2010, where it relates to age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex or sexual orientation (the protected characteristics). Harassment on other grounds is still not acceptable and will not be tolerated by the school. The key is that the actions or comments are viewed as demeaning and unacceptable to the recipient.

- 4.8 **Bullying** may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient. Generally, bullying which is characterised by a persistent pattern of behaviour over a period of time, will be raised under this policy.
- 4.9 **Victimisation** is the term used where a person is subject to a possible detriment because they have, in good faith, complained (whether formally or otherwise) that someone has been bullying or harassing them or someone else, or supported someone to make a complaint, or given evidence in relation to a complaint.

Bullying and harassment by non-school employees

- 4.10 Where the bullying, harassment or victimisation has been carried out by someone other than a school employee, the employee affected must inform their manager, who should then take actions to investigate the concern and safeguard the employee if necessary. This may involve a range of actions, including, but not limited to:
- Raising the matter with the individual concerned and outlining the school's expectations around the behaviour of adults in the school environment
 - Discussing the matter with the individual's employer, where they are working on behalf of that employer in the school community
 - Ensuring that the school's zero tolerance position is clearly stated and effectively communicated
 - Involving other services should the situation warrant it e.g. Health & Safety, Police, etc.
- 4.11 Where concerns have been raised around the behaviour of non-school employees, these would generally be dealt with outside the grievance policy and procedure.

5. Principles

Timescales

- 5.1 All issues raised under this policy will be dealt with promptly and fairly. Every effort will be taken to ensure there will not be unreasonable delay in arranging meetings and hearings and in the making and communication of decisions. As a guide, issues raised at the informal stage of the procedure should usually be concluded within 10 working days. However, cases at Stage 2 involving more complex and detailed investigations will inevitably take longer to finalise. In these cases, the appointed manager must keep the aggrieved employee regularly informed of progress and notify them of any delays and the reasons for this.

- 5.2 Employees should raise any grievance they have as soon as it arises, with the aim of addressing issues before they escalate and whilst events can be reasonably recalled and evidence gathered.

Right to representation

- 5.3 Employees may be accompanied to meetings held at all stages under this policy by a work colleague or recognised trade union/professional association representative. If the employee's representative is not available to meet at the time proposed, the meeting will be rearranged to a time suitable for all parties and within a reasonable timeframe (usually 5 working days).
- 5.4 The right to be accompanied applies to the employee raising the grievance, any employee against whom a complaint has been raised and witnesses.

Appointed Manager

- 5.5 Grievances at stage 1 will initially be raised with the employee's line manager. The exception to this will be where the line manager may be the subject of, or otherwise involved, in the grievance, in which case the issue should be raised with a more senior manager. Where the grievance is against the Headteacher, it should be raised with the Chair of Governors.
- 5.6 Where possible, the informal stage of the process will be managed by the line manager. Where the initial complaint is to a more senior manager another manager of suitable seniority may be appointed to try and resolve and/or investigate the complaint. Where a complaint has been made to the Chair of Governors about the Headteacher, a member of the governing body may be appointed to undertake this role. It is important that the appointed manager is impartial and sufficiently removed from the issues raised under the grievance.
- 5.7 If the grievance is not resolved at Stage 1, then the formal Stage 2 grievance should be submitted in writing to the Headteacher using Form B. The Headteacher may appoint a different manager of sufficient seniority to investigate the matter at Stage 2.
- 5.8 Cases appealed to Stage 3 will be heard by the Appeals Committee of the Governing Body.

Communication and confidentiality

- 5.9 In all cases, the appointed manager should ensure that those involved are kept informed of the progress of the case and, at its conclusion, the relevant findings and/or actions within 5 working days. The expectation is that the appointed manager will meet with the aggrieved employee and feedback their findings, the outcome and any actions which will be put in place. If any action is being taken against another employee as a result of the grievance, the details of this will not be shared with the employee for reasons of confidentiality.

- 5.10 As far as is possible, all grievance issues will be dealt with in the strictest confidence. However, where other employees are involved or impacted by any agreed actions as a result of the grievance finding, the necessary information will be shared with them to enable this to be implemented and monitored.

Grievances involving other employees

- 5.11 Where the grievance is against another employee then they must be informed that a grievance has been received relating to them within a reasonable timescale, and, as a minimum requirement, before any potential witnesses are interviewed. At this stage, the employee may ask for further details and it is advisable to only provide a brief and general summary of the concerns raised, reminding them of confidentiality.
- 5.12 The employee will be notified of the outcome of any grievance raised against them, as soon as possible, and informed should an appeal be made regarding the outcome of each stage of the procedure.
- 5.13 Where the case is appealed to Stage 3 and considered by the Appeals Panel of the Governing Body, the employee who is the subject of the grievance should be given the right to attend the appeal hearing to state their account of events.

Mediation

- 5.14 In some cases, mediation may help to resolve grievances, especially those involving working relationships. Mediation can be used either before grievances escalate or as part of the recommended actions at any stage of the procedure. Mediation is a voluntary process where the mediator helps two (or more) people in dispute to find a solution to the issue that they can both agree to. Mediators must be impartial and appropriately trained.

Employee support

- 5.15 The grievance process can be distressing for all parties involved: those raising a complaint, those against whom a complaint has been made and those who may be called to act as witnesses. Appropriate support arrangements should be considered for all employees impacted by the case.
- 5.16 Employees are advised to contact their trade union or professional association for advice and support. Employees should also be made aware of the support available through the school's Employee Assistance Programme.
- 5.17 Where an employee has a mental health or other condition, which may impact on their ability to participate in the grievance process and which they have previously declared as a disability, the school may make reasonable adjustments to the process, following discussion with the employee. Appropriate medical advice may also be taken.

Absence during the grievance procedure

- 5.18 Where an aggrieved employee is absent from work due to illness, the school may take medical advice on the employee's fitness to participate in the process. In such cases, the grievance will be progressed as far as possible in relation to each case (i.e. interviewing witnesses and collecting relevant information).
- 5.19 Where the employee considers that the absence has resulted from the grievance, the school will progress the process swiftly so as not to prolong the sickness absence unnecessarily.
- 5.20 The school's attendance management processes will continue to be implemented as normal throughout any grievance process. The school will seek to keep the employee at work wherever possible, either in their usual role or with adjustments, for example, through temporary redeployment.

Addressing issues when employment has ended

- 5.21 A revised process will apply to grievances which are first raised after the employment has ended. Such cases will usually be dealt with at Stage 2 - Formal, however, there will be no subsequent right of appeal to Stage 3. In the majority of cases, issues raised after employees have left will be handled in writing by both parties.
- 5.22 Equally, should an employee resign during the grievance process, prior to its conclusion, every attempt must be made to resolve the grievance at the stage they are on. In this case, the individual will have no right of appeal, if applicable, as their employment has ended.
- 5.23 Grievances that are raised in resignation letters/emails or through exit discussions should be followed up as soon as possible, as these may have been raised prior to the employment ending. As with other grievances, the process would normally begin at the informal stage.

6. Grievance Procedure

Initial considerations

- 6.1 Where an employee experiences an issue at work the nature and severity of the issue and the individual's ability to deal with the issue will impact on the method of resolution. It is in the interest of all parties to resolve issues informally, where appropriate, as this often results in issues being settled quickly and successfully.
- 6.2 For minor issues, the employee may wish to speak to the other individual involved without the need to invoke this procedure. This will involve explaining what the issues/ concerns are from their perspective and what they foresee as an expected outcome. However, where this has been unsuccessful or where the employee feels unable to do this, most issues will enter the process at Stage 1 – the informal process.

- 6.3 Occasionally, cases may enter the process at Stage 2, this will include where the issue is outside the line manager's sphere of control. It is a management decision whether to enter the process at Stage 2.

Possible outcomes

- 6.4 The possible outcomes of any formal stage (Stage 2 and Stage 3) of the grievance procedure are:

- **Upheld** - this will be the case where the appointed manager agrees that the employee's complaint is reasonable. Usually, actions will be put in place to resolve or address the issue
- **Partially upheld** – in such cases, the appointed manager agrees with some elements of the employee's complaint but not all. Usually, actions will be put in place to resolve or address the issue.
- **Not upheld** – where the appointed manager does not agree that the employee's complaint is reasonable then the grievance will be not upheld. Despite this, there may be actions put in place to resolve or address issues raised during the process.

- 6.5 At Stage 1, the informal stage, the appointed manager should attempt to resolve the grievance but is not required to reach a formal outcome as above, however, may choose to do so if it is appropriate based on the particular circumstances of the case. Generally, at Stage 1, the manager will make recommendations and put in place relevant actions.

7. Stage 1 - Informal Stage

- 7.1 To instigate the procedure at this stage, the employee should raise the grievance verbally with their line manager as soon as it arises (although they may do so in writing if they wish).
- 7.2 If the concerns relate to the employee's manager, employees should raise the matter with a more senior manager. Alternatively, and If they feel able to do so, the employee may raise issues directly with their manager
- 7.3 On receipt of the grievance, the manager should meet with the employee, within 5 working days, to discuss the specific concerns and discuss what may be a realistic resolution to the issue.
- 7.4 In some circumstances, it may be necessary for the manager to make further enquiries to establish the facts. If the grievance relates to the actions of another employee, then the manager should inform that individual that a matter has been raised informally, under this policy and meet with them to discuss their account of events.
- 7.5 Depending upon the circumstances, there are a wide range of approaches a manager can adopt when resolving an issue informally. These will usually be informed by the wishes of one or both parties and may include:

- holding a joint meeting with the individuals concerned
 - supporting the employee to discuss the issue with the individual
 - exploring using mediation
 - discussing the issue with the alleged perpetrator on the employee's behalf
 - discussing and putting in place some agreed actions to resolve the issue/ prevent it happening again
- 7.6 The manager would then meet the employee to provide feedback on the outcome of the process and to communicate the agreed actions. The manager would also feedback to the employee against whom the complaint was raised, if relevant, and anyone else impacted by the implementation of the actions (an action plan may be produced if applicable). It is the manager's responsibility to ensure any agreed actions are implemented.
- 7.7 Managers do not need to keep minutes of informal meetings but a note of the recommendations and actions should be recorded, using the Stage 1 Outcome template, shared with relevant parties, within 5 working days. A copy of the outcome should also be retained on file.
- 7.8 As a guide, issues raised at the informal stage of the procedure should usually be concluded within 10 working days.
- 7.9 Where the employee is not satisfied with the recommendations and actions at Stage 1 they may choose to raise the issue formally at Stage 2. Where actions are to be put in place following Stage 1, it may be appropriate for these to be given an opportunity to take effect before the employee decides whether to progress to Stage 2.
- 8. Stage 2 – Formal Stage**
- 8.1 To instigate the formal stage of the procedure, the employee should put their issue/s in writing to the Headteacher. In the event that the grievance involves the Headteacher this should be submitted to the Chair of Governors.
- 8.2 This may take the form of a letter or completion of the template form (Form B). The written grievance will include:
- what the issue is
 - the parties involved
 - what has been done to try and resolve the issue informally and at Stage 1
 - why this has not worked
 - what the employee sees as a resolution to the situation.
- 8.3 The Headteacher may investigate and deal with the grievance themselves, appoint another manager to deal with the grievance or, where appropriate, may commission an external investigator. Acknowledgement of the grievance and notification of who will be dealing with it will be made to the aggrieved employee, within ten working days and without unreasonable delay.

- 8.4 The appointed manager should ensure they, or the external investigator, has a clearly defined remit and scope for the investigation, where possible, listing the issues individually so all are in agreement.
- 8.5 The employee will be asked to explain their concerns and how they feel these should be resolved. The appointed manager will then ensure that the issues are investigated as soon as possible. This may involve a number of meetings with different people (including witnesses), to establish the facts and involve gathering together relevant documents. It is important that the investigation is balanced and thorough and the employee is provided with an anticipated timescale for the investigation to be concluded. Additionally, should the timescales change, the employee should be informed of this and the reasons for it.
- 8.6 Where witnesses are interviewed a written statement or notes of the meeting will be produced which the witness, and their representative if applicable, will be asked to check for accuracy. Witnesses will be informed that these may be shared with the employee should the matter progress to appeal.
- 8.7 Where an external investigator is appointed, their role will be to investigate the grievance in line with the above requirements and inform the Headteacher of their findings. It will be the Headteacher's responsibility to decide on a Stage 2 outcome, informed by the investigation.
- 8.8 The expectation is that the appointed manager will meet the employee to provide feedback on the outcome of the process and to communicate the agreed actions. Following the meeting, these discussions will be confirmed to the employee in writing within 5 working days.
- 8.9 The appointed manager will also feedback to the employee against whom the complaint was raised, if relevant, and anyone else impacted by the implementation of the actions recommended to resolve the issue. It is the appointed manager's responsibility to ensure the actions are implemented.
- 8.10 If the aggrieved employee feels that their grievance has not been satisfactorily resolved they may appeal to Stage 3 of the procedure. Employees may not appeal in relation to the employer actions taken against other employees as a result of the grievance.

9. Stage 3 - Formal Appeal

- 9.1 Appeals will be heard by a panel ideally made up of three, but not less than two, non-staff governors who have not been previously involved in the case.
- 9.2 The appeal must be submitted in writing to the Chair of Governors no later than ten working days from the date of receipt of the Stage 2 outcome letter. The appeal letter must include the following:
- what the issue is

- the parties involved
 - what has been done to try and resolve the issue informally and at Stage 2
 - why they do not agree with the finding at Stage 2
 - what the employee sees as a resolution to the situation.
 - Any procedural flaws or new evidence
- 9.3 New evidence can be considered at this stage but new complaints cannot be raised.
- 9.4 At this point arrangements will be made for the appeal hearing to take place. This will ideally take place within 10 days of the date on which the appeal was received, though this may need to be extended due to the availability of panel members.
- 9.5 The employee and the Appeal Panel will be provided with access to relevant documentation regarding the findings and actions taken at Stages 1 and 2, which may include:
- copies of letters
 - the Stage 1 Outcome Form
 - the Stage 2 investigatory report including witness statements or other supporting documentation
 - a summary of the outcome at Stage 2 produced by the appointed manager
 - any actions or, where applicable, an action plan
 - the employee's written grounds of appeal
 - any documents which the employee wishes to have considered as part of their appeal
- 9.6 All documentation should be sent to the Appeal Panel and the employee at least 5 working days before the appeal hearing takes place. Therefore, the employee should ensure that they have submitted any documentation this wish to be considered to the chair of the panel in time for this to be shared 5 working days before the hearing.
- 9.7 The Headteacher or appointed manager who decided the outcome of the grievance at Stage 2 will also attend the hearing to explain how they reached their decision.
- 9.8 The panel may be advised by an HR representative and it is recommended that a note taker is also present to make a record of the hearing.
- 9.9 If the grievance was against another employee, they should be afforded the right to attend the appeal hearing to state their account of events.
- 9.10 Witnesses may be called by either side and these must be notified to the Chair of the Panel at least 5 working days prior to the hearing. This is to ensure that all parties can be notified who will be attending the hearing.

- 9.11 Any employee, including the aggrieved, the person against whom a complaint has been raised and any witnesses, may be accompanied at the appeal hearing by a trade union representative or work colleague who does not have a conflict of interest.
- 9.12 The appeal should be conducted to ensure that all parties are able to make their arguments in full. The process to be followed at the appeal hearing is included at appendix 1.
- 9.13 The outcome of the appeal should be provided in writing to the employee within 5 working days of the appeal hearing and this includes confirmation that the decision of the panel is final.

Appendix 1 – Process to be followed at Stage 3 Appeal Hearing

1. Introduction by the Chair of the Appeal Panel
2. Statement of Appeal presented by the Employee and their Representative including the calling of any witnesses
3. Questions to the Employee, their Representative and witnesses by the Headteacher or appointed manager from Stage 2
4. Questions to the Employee, their Representative and witnesses by the Appeal Panel
5. Appeal response including how the decision at Stage 2 was reached presented by the Headteacher or appointed manager from Stage 2, including the calling of any witnesses
6. Questions to the Headteacher or appointed manager from Stage 2 and witnesses by the Employee and their Representative
7. Questions to the Headteacher or appointed manager from Stage 2 and witnesses by the Appeal Panel
8. Summing up by the Employee and their Representative
9. Summing up by the Headteacher or appointed manager from Stage 2
10. Adjournment for the Appeal Panel to consider their decision
11. Notification of decision to all parties either at reconvened hearing or later in writing within 5 working days.