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GRIEVANCE PROCEDURE

**Policy and Procedure for Use by
All Schools and PRUs**

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GRIEVANCE PROCEDURE

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GRIEVANCE PROCEDURE

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SECTION A: POLICY

1. INTRODUCTION

Grievances are concerns, problems or complaints raised by an employee, or a group of employees. Any employee may at some time have problems or concerns with their work, working conditions or relationships with colleagues that they wish to raise with management. A grievance is a problem or concern that employees have about their work, working conditions or relationships with colleagues that they raise with their employer. The employer may be vicariously liable for the actions or inactions of other employees.

Governing Bodies of Schools with delegated budgets are required, under the School Staffing Regulations, to establish procedures by which staff may seek redress for any grievance relating to their work at the school. This requirement also applies to PRU Management Committees who must adhere to relevant sections of the School Staffing Regulations.

Employment legislation requires all employers to have in place procedures for dealing with employee grievances. Grievance procedures in place must be fair and reasonable to all parties in terms of process. Employers are also strongly advised to have regard to the ACAS (Advisory, Conciliation and Arbitration Service) Code of Practice on handling grievances at work. Employment Tribunals are legally required to take the Code into account when considering relevant cases. They are able to adjust any compensatory award made in these cases by up to 25 per cent for unreasonable failure to comply with any provision in the Code.

This *School/PRU* is committed to ensuring that the Grievance Procedure contained within this document follows all the principles of natural justice, as highlighted in the ACAS Code and associated guidance.

It should be noted that complaints about bullying and/or harassment should initially be raised under the document **'Dealing with Bullying and Harassment in the Workplace: Guidance and Policy For Use By Schools, PRUs and Employees'**. That document is linked with this Grievance Procedure as a complaint about bullying and/or harassment will ultimately become a formal grievance if the matter cannot be resolved informally. All managers and employees are advised to familiarise themselves with both documents.

It is accepted that, in the course of their employment, employees may raise issues or complaints with their manager. This is part of normal working relationships and it is in the interests of all parties that such matters are dealt with informally wherever possible. Employee grievances may arise amongst members of staff, or with the Headteacher, and can be of a relatively minor nature or of great importance.

Both this document and the document 'Dealing with Bullying and Harassment in the Workplace' recognise the need to have in place:

- **an informal process** which will enable an issue to be resolved without recourse to any other person or formal procedure; and
- **a further, two-stage formal procedure** for use where the informal process has been exhausted without satisfactory resolution, or it is otherwise inappropriate.

The aim of the two procedure documents is to encourage the swift resolution of issues and

grievances and to minimise the use of the formal process. Consequently it is the responsibility of all parties to make every attempt to actively resolve their problems.

Any employee raising a grievance is strongly advised to use the 'Grievance Notification Form' provided as part of this document. However, case law has determined that a written complaint that falls within the scope of a grievance should be dealt with using the grievance procedure. In these circumstances the *Governors/PRU Management Committee* will address any relevant complaints under this procedure, whether or not they are presented on the recommended form. Similarly, where 2 or more employees are jointly raising a collective grievance, they are advised to use the form provided with appropriate attachments as indicated on the form.

A model 'GRIEVANCE NOTIFICATION FORM' is attached at Appendix 1 to this document.

2. SCOPE AND APPLICATION OF THE GRIEVANCE PROCEDURE

This Grievance Procedure relates to those employees for whom the *Governing Body/PRU Management Committee* has a direct responsibility.

Where an employee is not the direct responsibility of the *Governing Body/PRU Management Committee*, for example, an unattached teacher or centrally employed member of staff, an alternative Corporate procedure is likely to apply. In circumstances where an individual is not an employee of the Governors or the Council, for example, any Agency worker or a worker employed by an external company, the procedure may need to be applied with appropriate modifications, depending upon the circumstances. Any action to be taken against a worker employed by an Agency or external company would need to be addressed by that Body. In any such circumstances, further advice should be sought from the Schools' Personnel Service.

An employee may on occasion raise an issue where the employer has less control, for example, in relation to customers, suppliers or other visitors. In such cases, although action will be taken to protect employees as far as possible, it will not normally be appropriate to address it under this grievance procedure. It will be the responsibility of the third party organisation to take any necessary action. It will be made very clear to the third party that any grievances are taken seriously and the *Governing Body's/PRU Management Committee's* responsibilities for the protection of its own employees are paramount.

There are some situations where use of the Grievance Procedure is inappropriate and/or where other procedures or mechanisms are already in place for addressing particular issues. These are:

- Job Evaluation and salary gradings for Support Staff, where a separate appeal process exists;
- Issues relating to teachers' pay decisions and/or appraisal statements, where a separate procedure already exists as part of the school's/PRU's pay policy;
- Disciplinary, Capability, Redundancy matters and/or Dismissals, where separate procedures apply;
- Collective disputes, which are more appropriately dealt with by liaison between the Local Authority and the Professional Associations/Trade Unions; and
- Matters relating to the Statutory Sick Pay (or other Statutory Pay, e.g. Maternity Pay) or Pension/Superannuation arrangements which are governed by Regulations and are outside the control of the employer.

It should be noted that the Grievance Procedure will also not apply where an employee raises a concern as a “protected disclosure” under the provisions of the Public Interest Disclosure Act 1998, as amended. This is known as ‘whistle blowing’ and employees should refer to the *school’s/PRU’s* **‘Whistleblowing Policy’** for further information.

In circumstances where a specific matter has been raised, investigated and/or addressed under another procedure it may not be raised or reopened under this Grievance Procedure, either concurrently or subsequently.

It is recommended that, before initiating any formal action in respect of a grievance, employees consult a representative of their trade union or professional association or the Schools’ Personnel Service as to whether the matter falls within the scope of this grievance procedure.

3. GENERAL PRINCIPLES RELATING TO THE GRIEVANCE PROCEDURE

All parties should actively seek to resolve problems and grievances informally under the **‘Informal Grievance Procedure’** set out in **Section B** of this document. In most cases, it is in the best interests of all parties to settle grievances informally if at all possible. For the individual employee, this approach means that it is more likely that the issue will be settled quickly and with less distress. It is in the employer’s interests to resolve any problems early and before they develop into more major difficulties for all concerned.

However, in circumstances where this has not proved possible, or is inappropriate, a formal process is in place to address the matter. The **‘Formal Grievance Procedure’** is set out in **Section C** of this document. **The formal procedure has the following two main stages:**

Formal Stage 1- The employee informs the Headteacher/Chair of *Governors/PRU Management Committee* of his/her grievance in writing.

If not involved at an earlier stage, the Headteacher, or otherwise a *Governor/PRU Management Committee member* nominated by the Chair, arranges a meeting with the employee to discuss the grievance.

Following the meeting with the employee, the Headteacher (or assigned senior leader on behalf of the Headteacher), or *Governor/PRU Management Committee member*, will then investigate the matter. The investigator may, as relevant and appropriate in seeking to resolve the grievance, bring the parties together in an attempt to facilitate a resolution. S/he then produces a written report of his/her findings and the Headteacher or *Governor/PRU Management Committee member* reaches his/her decision in the matter.

The decision is communicated to the employee who is also informed of his/her right to an appeal if not satisfied.

Formal Stage 2- If there has been no resolution to the satisfaction of the complainant, s/he may submit an appeal. An appeal meeting will be arranged for the *Governing Body’s/PRU Management Committee’s* Grievance Appeals Panel to hear the employee’s case and reach a final decision.

(The employee has the right to be accompanied at the meetings arranged and must take all reasonable steps to attend).

Note that, **where an employee has a grievance against the Headteacher**, s/he should first try to resolve the matter by direct approach to him or her. If this is not possible or

practical, or does not resolve the matter, s/he should submit a written grievance to the Chair of the *Governors/PRU Management Committee* in line with Section C of this document 'Formal Grievance Procedure – Stage One'. The grievance will then be investigated and dealt with by a person nominated by the Chair as appropriate, in accordance with the procedure.

Where a collective grievance is raised by a group of staff (i.e. 2 or more people), the principles contained within Section B 'Informal Grievance Procedure' and Section C 'Formal Grievance Procedure' will apply as far as possible. Section D 'Employees who leave while their Grievance is in Progress' will apply where the relevant circumstances arise. Some necessary differences in relation to the process where a collective grievance is raised are highlighted in Section E of this document 'Collective Grievances – Procedural Differences'.

Note that, **where a Headteacher has a grievance**, s/he should first try to resolve the matter by direct approach to the person concerned. If this does not resolve the matter, s/he should submit a written grievance to the Chair of the Grievance Panel in line with Section C of this document 'Formal Grievance Procedure – Stage One'. The grievance will then be investigated and dealt with by the *Governing Body's/PRU Management Committee's* Grievance Panel and Grievance Appeals Panel as appropriate, in accordance with the procedure.

On occasion, **an employee may raise a grievance during a disciplinary process**. In these circumstances, it may be decided to temporarily suspend the disciplinary process to deal with the grievance. Alternatively, where the grievance is related to the disciplinary matter or process, it could be decided that it is more appropriate for the employee to present the grievance as part of his/her case at the disciplinary hearing/appeal. An impartial person, normally a *Governor/member of the PRU Management Committee* who has not been involved in and has no personal interest in the matter, will decide upon the appropriate course of action to follow in this situation.

In the context of this procedure, **working days** shall be regarded as school working days (determined according to the particular terms and conditions of employment of the staff concerned).

All those involved in the grievance process should treat the stated **timescales** as maximums and strive to respond within the time limit. All stages of the procedure should take place without unreasonable delay. It is recognised, however, that school holidays/closures may present difficulties in meeting these timescales.

Consideration may need to be given to **working arrangements and/or practices when a grievance is raised** by an employee.

Where possible, normal working arrangements will be maintained until all stages of the procedure have been exhausted. When the grievance concerns proposed changes to conditions e.g. working hours, the 'status quo' should not be disturbed while the matter is under consideration i.e. the conditions in force prior to the grievance will continue or be restored.

In relation to a complaint of **bullying and/or harassment**, in particular, the following options may also be considered:

- Precautionary suspension of the alleged harasser under the terms of the school's disciplinary procedure while the investigation continues.
- Granting of authorised absence for the complainant (for example, if very distressed).
- Relocation of the alleged harasser (or complainant, if requested) to other duties/place of work, as appropriate, for the duration of the investigation.
- Transfer of the complainant, if practical or possible (but only if s/he requests it).

The practicality of the above options will depend upon the case and all the prevailing circumstances at the time, including whether it is a collective grievance.

Note also that the outcome of a grievance, including a complaint of bullying or harassment, may result in **disciplinary action**. This could relate to either party (i.e. if the grievance is upheld/found to be proven **or** if a complaint/grievance raised by an employee is found to be malicious).

Exit Interviews, Resignation Letters and Raising Grievances when leaving the School/PRU: If the Headteacher or *Chair of Governors/Chair of PRU Management Committee* receives a letter of resignation from an employee which states what s/he considers to be a grievance, s/he will write to the employee and ask him/her whether s/he would like a response to his/her grievance. An issue that is raised in an exit interview or leavers' questionnaire might also constitute a grievance. Where there are any concerns about the content of a resignation letter or leavers' questionnaire, advice will be sought from the Schools' Personnel Service before responding.

It should be noted, however, that **any grievance must be raised during an individual's employment with the school/PRU** and will not be addressed through the formal grievance procedure if raised after his/her last contractual day of service.

Where an employee who is leaving raises a grievance and it is still in progress on the employee's last day of contractual service, s/he will be given options about how to proceed as set out in **Section D** of this Procedure **'Procedure for Employees who Leave while their Grievance is in Progress'**.

4. MEDIATION

The *Governing Body/PRU Management Committee* has responsibility for grievance matters. However, it may wish to call upon the services of an independent body or individual to mediate in a dispute.

Mediation is a form of 'alternative dispute resolution' (ADR), a way of resolving disputes between two or more parties. Typically, a third party, the mediator, assists the parties to the dispute to negotiate an agreement. Mediation may take place in a variety of domains, such as commercial, legal, diplomatic, workplace, community and family matters. It is considered that it is particularly helpful in relation to resolving grievances.

Mediation has a structure, timetable and dynamics that "ordinary" negotiation lacks. Participation is voluntary and the process is private and confidential. The mediator acts as a neutral third party and facilitates rather than directs the process. The mediator is not there to judge or to tell those involved in the mediation what they should do. The mediator is in charge of the process of seeking a resolution to the problem but not the outcome. Any agreement comes from those in dispute, not from the mediator. Mediators use various techniques to open, or improve, dialogue and empathy between disputants, aiming to help the parties reach an agreement.

Mediators may be employees trained and accredited by an external mediation service who act as internal mediators in addition to their day jobs. Or they may be from an external mediation provider. They can work individually or in pairs as co-mediators.

There are no hard-and-fast rules for when mediation is appropriate but it can be used to address a range of issues, including relationship breakdown, personality clashes, communication problems, bullying and harassment, for conflict involving colleagues of a similar job or grade, or between a line manager and their staff. It may also be used to rebuild relationships after a formal dispute has been resolved. Mediation may be used at any stage of a conflict.

The use of mediation has a number of benefits. These can include:

- **Cost and time** - While a mediator will charge a fee, the mediation process takes less time than a case going through a legal process. Less time means less money on fees and other costs. It is also in the interests of all parties to resolve a grievance as soon as possible and without undue delay.
- **Confidentiality** – Mediation is strictly confidential. Only the parties to the dispute and the mediator know what happened.
- **Control** – Mediation increases the control that the parties have over the resolution. It is more likely to produce a result that is mutually agreeable for the parties.
- **Mutuality** - Parties to mediation are usually ready to work mutually toward a resolution. In most circumstances the mere fact that parties are willing to mediate means that they are ready to "move" their position. Both parties may be more amenable to listen and understand the other's point of view.
- **Compliance** – As the result is attained by the parties working together and is mutually agreed, compliance with the mediated agreement is usually high.
- **Support** - Mediators are trained in working with difficult situations. The mediator acts as a neutral facilitator and guides the parties through the process. The mediator helps the parties think "outside of the box" for possible solutions to the dispute, broadening the range of possible solutions.

The *Governing Body/PRU Management Committee* will consider the use of mediation if this is deemed to be appropriate taking into account all the circumstances, including the wishes of the individuals concerned.

All parties may find mediation helpful, especially in particularly difficult disputes or appeal situations. In any such circumstances, the *Governors/PRU Management Committee* will retain control of the grievance, in relation to organisation, timescales etc. All parties would need to agree beforehand to accept the outcome of mediation.

The grievance procedure will be suspended while mediation takes place.

5. MONITORING

The Manager/Headteacher (or Chair of *Governors/PRU Management Committee* where applicable) should start completing a 'Complaint Record Form' upon receipt of a grievance (including a complaint under the Bullying and Harassment Policy). At the conclusion of the case this monitoring form will be kept by the Manager/Headteacher (or Chair of *Governors/PRU Management Committee*) for 12 months in case of challenge.

A Model 'COMPLAINT RECORD FORM' is attached at Appendix 2 to this document.

6. COLLABORATION ARRANGEMENTS AND FEDERATIONS

School Federation arrangements allow two or more schools to federate under one Governing Body, subject to the procedures set out in the relevant Regulations.

School Collaboration arrangements enable the Governing Bodies of two or more maintained schools to work together in relation to staffing functions. Each school within a collaborative arrangement will retain its own Governing Body and will have joint committees. Collaborating Governing Bodies may delegate functions to a Headteacher or joint committee in the same way that they may delegate them to the Headteacher or a committee of a single Governing Body. (Similarly, one or more Governing Bodies may make collaboration arrangements with one or more Further Education Bodies).

The framework for the above arrangements are set out in specific legislation relating to School Governance (Federations, Collaborations, Constitution and Procedures, as relevant) as well as within Education and Inspections, Standards and Framework Acts and School Staffing Regulations. These apply to Federation and Collaboration arrangements, as appropriate.

Any references in this document to schools, Headteachers, Governing Bodies and Governing Body Panels shall, normally, also be taken to include:

- Schools, Headteachers, Governing Bodies and Panels working together under **Collaboration** arrangements (as well as Principals, Further Education Bodies and Committees, where relevant); and
- Those staff and others attached to, or associated with, schools which are part of a statutory **Federation** under the Federation Regulations and should be interpreted accordingly.

The above arrangements will also apply in the case of PRUs and PRU Management Committees, if applicable at any time.

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SECTION B: INFORMAL GRIEVANCE PROCEDURE

IMPORTANT: It is in the interests of all parties to resolve a grievance informally wherever possible

1. Grievances NOT RELATING TO Bullying and/or Harassment

Before initiating action under the formal grievance procedure, consideration should be given to approaching the person(s) concerned in an attempt to resolve the matter informally. Employees may wish to seek the assistance of a Trade Union/Professional Association Representative or a colleague to accompany them or mediate on their behalf.

Where this fails to resolve the matter, or is inappropriate to the circumstances, the employee may invoke the formal procedure.

Employees invoking the Formal Grievance Procedure should first of all complete the **'GRIEVANCE NOTIFICATION FORM' attached at Appendix 1 to this document.**

2. Complaints / grievances RELATING TO Bullying and / or Harassment

Where an employee has a complaint/grievance that relates to bullying and/or harassment s/he should first ensure that s/he has read the document **'Dealing with Bullying and Harassment in the Workplace: Guidance and Policy for use by Schools, PRUs and Employees'**.

The employee should initially take the steps set out in Appendix 1 of that document **'FOR EMPLOYEES: Guidelines and Initial Steps to take if you consider that you are suffering from Bullying and/or Harassment'**. If the employee has taken all the steps set out in that document, or it is otherwise inappropriate to do so, s/he may invoke the Formal Grievance Procedure.

Employees invoking the Formal Grievance Procedure should first of all complete the **'GRIEVANCE NOTIFICATION FORM' attached at Appendix 1 to this document.**

On receiving a complaint/grievance from an employee, the Manager/Headteacher or *Governor/member of the PRU Management Committee* (as appropriate) should first of all clarify with him or her whether s/he wishes to continue to try and resolve the matter informally or if s/he is now invoking the Formal Grievance Procedure.

Where an informal approach is preferred, Headteachers/Managers should follow the steps set out in Appendix 2 of the document **'Dealing with Bullying and Harassment in the Workplace: Guidance and Policy for Use By Schools and Employees'**.

Where the employee wishes to invoke the formal process the case will be referred to Stage One of the Formal Grievance Procedure.

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SECTION C: FORMAL GRIEVANCE PROCEDURE

IMPORTANT NOTES:

(1) The Chairperson or Panel presiding over any meetings that are part of this procedure will normally have a notetaker for their own purposes only. Others present at any such meetings may take their own notes. However, they may not record a meeting, or any part of it, unless this is with the agreement of the person chairing the meeting and with the knowledge of all participants, including witnesses.

(2) Where this is a collective grievance, the procedural differences in 'Section (E) Collective Grievances – Procedural Differences' should be noted.

1. FORMAL STAGE ONE – MEETING AND INVESTIGATION

Please note that any information gathered from Stage One will be used in any appeal meeting that may take subsequently take place under this formal Procedure.

1.1 Where an informal approach fails or is inappropriate, the employee may decide to make a formal complaint in writing and submit this to the Headteacher (where not previously involved) or Chair of *Governors/PRU Management Committee*.

It is strongly recommended that, for this purpose, individuals use the 'Grievance Notification Form', attached to this document as Appendix 1. If, however, the recommended form is not used, the employee must still submit his/her grievance in writing, setting out the nature of the grievance, with evidence, and the resolution s/he is seeking. In the case of a collective grievance, the nominated spokesperson should set out these details in writing and also attach details of other members of the group raising the grievance, including names, signatures to indicate agreement to submission of the grievance, their addresses and post titles. Other members of the group may also attach their own evidence, examples, dates etc. However, it must be made clear who is the nominated spokesperson.

1.2 If not involved at an earlier stage, the Headteacher, or otherwise one *Governor/member* nominated by the Chair of *Governors/PRU Management Committee* will arrange a meeting with the complainant, to discuss the grievance.

To assist in a speedy resolution **this meeting will normally be within 7 working days of receipt of the written grievance.**

1.3 The complainant will be notified in writing of his/her **right to be represented and/or accompanied by:**

- a local area or regional official of a Trade Union/Professional Association;
- a workplace Trade Union/Professional Association Representative, as long as s/he has been reasonably certified in writing by their union as having experience of, or having received training in, acting as an employee's companion at grievance hearings. Certification may take the form of a card or letter; or
- a work colleague.

(If the employee's companion cannot reasonably attend the Hearing, the employee can suggest an alternative date and time so long as it is reasonable and preferably **not more than 5 working days after the original date**).

A model letter 'FORMAL STAGE ONE: INVITE TO AN INITIAL MEETING TO DISCUSS GRIEVANCE' is attached at Appendix 5 to this document

1.4 At the end of the meeting with the complainant, the Head teacher, *Governor/member of the PRU Management Committee* (as appropriate) will **inform the complainant that the matter will be investigated further, as necessary**, providing him/her with an estimated timescale for reaching a decision in the matter (see 1.6 below). The Headteacher or *Governor/member of the PRU Management Committee* (as appropriate) will also inform the complainant that s/he will confirm his/her decision in writing, and invite him/her to a further meeting to discuss the outcome should s/he wish to do so.

(NB. If, in exceptional circumstances, the complainant does not, or is unable to, attend such a meeting, the Headteacher, *Governor/member of the PRU Management Committee [as appropriate]* may decide, at his or her discretion, to continue with progressing the grievance by investigating the matter further, as necessary. S/he will write to the complainant to this effect. The Headteacher [*Governor/member of the PRU Management Committee*] will also inform the complainant that s/he will confirm his/her decision in writing, and invite him/her to a meeting to discuss the outcome should s/he wish to do so).

1.5 The Headteacher (or assigned senior leader on behalf of the Headteacher) or *Governor/member of the PRU Management Committee*, as investigator, will **carry out a full and proper investigation in seeking to establish the facts** of the matter. This may involve meeting with parties identified by the complainant, as well as any parties the investigator considers relevant to the grievance. The specific nature of the investigation will depend upon all the circumstances of the case. (Note that the subject(s) of the grievance will, in any event, be given a copy of the written complaint that has been made against him/her).

1.6 When the Headteacher (or assigned senior leader on behalf of the Head teacher) or *Governor/member of the PRU Management Committee*, has concluded his/her investigation, s/he will **produce a written report of his/her findings and the Headteacher or Governor/member of the PRU Management Committee will reach a decision** in the matter.

The investigation, report and decision should be concluded within a timely period, where possible within 30 working days following the initial meeting with the complainant (or otherwise within 30 working days of the date of the Headteacher's [*Governor's/member of the PRU Management Committee's*] letter to the complainant if s/he did not attend any initial meeting). In circumstances where it becomes apparent that the investigation is likely to take longer, the complainant will be notified and provided with an estimated new timescale.

1.7 When the decision has been made it will be confirmed in writing to the complainant, normally within 5 working days. In confirming the decision in writing the Headteacher or Governor/member of the PRU Management Committee (as appropriate) will include a copy of the report from the investigation and invite the complainant to a meeting to discuss the outcome should s/he wish to do so. The date, time and venue for the meeting will normally be within 5 working days of the date of the letter. The complainant will also be informed of his/her entitlement to be accompanied at the meeting, as set out in 1.3 above.

The complainant may decide that s/he does not wish to meet with the Headteacher or *Governor/member of the PRU Management Committee* (as appropriate) to discuss his/her decision but may wish to go straight to appeal. Therefore, **the letter will also inform the complainant of his/her right of appeal** to *Governors/PRU Management Committee members* - who will have had no previous involvement and who have no personal interest in the matter - if s/he is not satisfied with the outcome. The complainant will be informed that any appeal, setting out the grounds for dissatisfaction with the previous Stage, must be submitted to the Chair of the Grievance Appeals Panel within 7 working days of the date of the decision letter, or otherwise within 7 working days of the meeting with the investigator to discuss his/her decision where such a meeting takes place.

A model letter 'FORMAL STAGE ONE: DECISION TO COMPLAINANT FOLLOWING INVESTIGATION' is attached at Appendix 6 to this document

1.8 The decision will also be communicated (in writing, as appropriate to the circumstances) to the subject(s) of the grievance. S/he will also receive a copy of the investigator's report. A meeting(s) will also take place with the subject of the grievance to discuss the decision and any further action, as appropriate to the circumstances.

2. FORMAL STAGE TWO – GRIEVANCE APPEAL MEETING

Before the Appeal Meeting

2.1 If the complainant is dissatisfied with the decision reached at Stage One, s/he may refer the matter to the Grievance Appeals Panel.

2.2 Within 7 working days of receipt of the written decision, or otherwise within 7 working days of the meeting with the investigator to discuss his/her decision where such a meeting has taken place, the written notice of appeal must be submitted, together with the grounds for dissatisfaction with the previous Stage, to the Chair of the Appeals Panel. The complainant will also provide the Chair with a copy of the investigation report and letter communicating the investigator's decision in the matter.

If part of the grievance has been resolved at an earlier stage, the original written grievance should be annotated or a note attached (as appropriate) to make clear precisely what has now been resolved and what is still outstanding.

2.3 The Appeals Panel will consist of up to 3 members of the *Governing Body/PRU Management Committee*. The intention is that the matter will be addressed by three members unless there are not enough members who have had no previous involvement and no personal interest in the matter. Any Appeals Panel established will, in any event consist of no fewer members than the first Panel.

2.4 The Chair of the Panel will arrange for a meeting of the Grievance Appeals Panel to be convened and circulate all relevant documents, including a copy of the investigation report from Stage One and letter communicating the Headteacher's or Governor's/member of the *PRU Management Committee's*, decision in the matter, to the Panel.

The Panel may be advised on procedure by a member of the Schools' Personnel Service.

2.5 Arrangements will be made for a formal written record of proceedings to be taken. Subsequently, this formal record will normally be made available to the employee. However, it should be noted that, in certain circumstances (for example, to protect a witness) the Panel may decide to withhold some information.

2.6 The date of the hearing will be arranged within 15 working days of receipt of the written grounds for dissatisfaction and the parties notified of the date.

(Note: This does not mean that the hearing must be 'convened' or 'take place' within 15 working days. It should be interpreted that a date for the hearing will be arranged within that time, but it can take place at a later date. This will, however, be at the earliest practical opportunity).

2.7 The complainant **will receive 7 working days' notice of the time and place of the appeal meeting** and may be represented and/or accompanied by:

- a local area or regional official of a Trade Union/Professional Association;
- a workplace Trade Union/Professional Association Representative, as long as s/he has been reasonably certified in writing by their union as having experience of, or

having received training in, acting as an employee's companion at grievance hearings. Certification may take the form of a card or letter; or

- a work colleague.

(If the employee's companion cannot reasonably attend the Meeting, the employee can suggest an alternative date and time so long as it is reasonable and preferably **not more than 5 working days after the original date**).

(NB. If, in exceptional circumstances, the complainant does not, or is unable to, attend an appeal meeting, the Chair will decide whether to proceed in the employee's absence or whether to reconvene the meeting at some other time. Before such a decision is taken, and where no prior notification of non-attendance has been received from the employee, all reasonable attempts will be made to contact the employee or to consider any reasons presented by him/her for not attending, in order to ascertain and take account of the reason for his/her absence. Where an employee is unable to attend through sickness, medical evidence to that effect will be required to enable a postponement to be considered. The Chair may seek HR advice before reaching a decision to proceed or otherwise).

2.8 The Headteacher or Governor/PRU Management Committee member (as relevant), as decision maker at Stage One of the procedure, will also be required to be available to attend the Appeal meeting to answer any questions arising from his/her decision. **S/he will also receive 7 working days' notice** of the time and place of the Appeal. If the investigation was carried out by an assigned senior leader, s/he may also be required to attend the Appeal meeting as a witness to answer any questions arising from his/her report.

2.9 If the complainant wishes to call any witnesses to the Appeal meeting, any supporting statements and the names of the witnesses s/he intends to call must be received by the Chair of the Panel 3 working days prior to the Hearing. (If any witnesses are unable or unwilling to attend the Hearing, written statements only may be accepted by the Panel). The Chair may also decide to call witnesses.

The Chair will dispatch this information, upon receipt, to the other Panel members and any adviser to the Panel, as well as the complainant and his/her companion, as appropriate.

A model letter 'INVITE TO AN APPEAL MEETING WHERE COMPLAINANT HAS SUBMITTED FORMAL APPEAL AGAINST OUTCOME OF STAGE ONE' is attached at Appendix 7 to this document

At the Appeal Meeting

It should be remembered 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.

2.10 The employee, as complainant, or his/her companion, will first be asked to re-state their grievance and how they would like to see it resolved.

The companion will be allowed to address the meeting, respond on behalf of the employee to any views expressed at the meeting, or confer with the employee during the hearing. The companion does not, however, have the right to answer questions on behalf of the employee.

2.11 The Headteacher or Governor/PRU Management Committee member as decision maker from Stage One, Investigator (if different) and other witnesses will be called, as relevant and appropriate, to present, and/or be questioned on, their evidence by the Panel and the employee or his/her companion.

2.12 Once all the evidence has been presented, **the Chair of the Panel will sum up the main points.** The employee and his/her companion will then withdraw so that the Panel can consider the evidence.

After the Appeal Meeting

2.13 The decision of the Appeals Panel will be notified in writing to the complainant **within 10 working days of the conclusion of the Hearing.** Copies of the decision notification will also be sent to the Headteacher or *Governor/PRU Management Committee member* (as appropriate) as decision maker from Stage One. (The Headteacher will also be sent a copy if s/he was not the investigator/decision maker at Stage One).

2.14 The decision of the Grievance Appeals Panel is **final.**

A model letter 'FORMAL STAGE TWO: DECISION OF GRIEVANCE APPEALS PANEL' is attached at Appendix 8 to this document

2.15 The decision will also be communicated (in writing, as appropriate to the circumstances) to the subject(s) of the grievance. A meeting(s) will also take place with the subject of the grievance to discuss the decision and any further action, as appropriate to the circumstances.

GRIEVANCE PROCEDURE

Policy and Procedure for use by All Schools and PRUs

SECTION D: PROCEDURE FOR EMPLOYEES WHO LEAVE THE SCHOOL/PRU WHILE THEIR GRIEVANCE IS IN PROGRESS

Where an employee leaves *the School/PRU* whilst his/her grievance is in progress, the Head teacher or Chair of *Governors/PRU Management Committee* will write to the former employee to ask whether or not s/he wishes to continue with consideration of the grievance. The options to be provided to the employee where s/he wishes to continue are:

- (a) Continue with the current procedure from whichever point it has reached, to its conclusion, including the appeal stage.
- (b) Regardless of the stage reached in the grievance process, the Head teacher or Chair of *Governors/PRU Management Committee* will respond in writing to the former employee's written grievance within **30 working days of his/her last contractual day of service**. This response will be **final**.

GRIEVANCE PROCEDURE

Policy and Procedure for use by All Schools and PRUs

SECTION E: COLLECTIVE GRIEVANCES – PROCEDURAL DIFFERENCES

Where 2 or more employees are raising the same grievance and consider that it can be dealt with collectively, the principles contained within Section B 'Informal Grievance Procedure' and Section C 'Formal Grievance Procedure' will apply as far as possible.

Section D 'Employees who Leave the *School/PRU* while their Grievance is in Progress' will apply where the relevant circumstances arise.

There will be some necessary differences in relation to the process where a collective grievance is raised and these are highlighted below:

- (1) All employees raising a grievance relating to the same issue(s) must agree to do so collectively. Where not all employees agree to this arrangement, or if the grievances are not identical, the grievances will be addressed on an individual basis.
- (2) All employees must be aware that, in agreeing to a collective grievance process, the same issue may not be raised subsequently as an individual Grievance.
- (3) Where a group of 2 or more employees agree to a collective grievance process, one person should be nominated to act as the group spokesperson. During the grievance procedure, all written and other communications will pass through the nominated spokesperson and/or his/her companion. The spokesperson and his/her companion will be responsible for communicating with the rest of the group and their companions on progress and decisions connected with the grievance.
- (4) The spokesperson and his/her companion will attend meetings relating to the grievance and it will not normally be necessary for all employees raising the grievance to be present. However, one or more members of the group may be called as witnesses by the spokesperson and his/her companion. The Investigator or Chair, as relevant and appropriate, may also require other members of the Group to be present and/or be called as witnesses.

GRIEVANCE PROCEDURE

Policy and Procedure for use by All Schools and PRUs

SECTION F: APPENDICES

This form is for use by employees who wish to lodge a formal grievance (including a formal complaint of bullying and/or harassment). This will then be considered at a Grievance meeting and/or subsequent Hearings. You are advised to read the Grievance Procedure and seek advice from your Trade Union/Professional Association Representative/Companion or the Schools' Personnel Service before completing the form. If your grievance is due to Bullying and/or Harassment, you are advised to also read the document 'Bullying and Harassment in the Workplace: Guidance and Policy for Use by Schools, PRUs and Employees'. **Please also consider whether you have exhausted all informal mechanisms for resolving the matter. It is in the interests of all parties to resolve a grievance informally wherever possible.**

Please explain your grievance in as much detail as possible e.g. give dates, examples etc.

(Please continue on a separate sheet if necessary & firmly attach it)

Please give names of any witnesses willing to support your complaint.

What specific resolution are you seeking?

SIGNED.....DATE.....

NAME (BLOCK CAPS).....

Please forward this form, in an envelope marked 'Private and Confidential' to:

GRIEVANCE PROCEDURE:
Guidance and Procedure for Use By Schools, PRUs and Employees

GRIEVANCE/COMPLAINT RECORD FORM
(For use by the School/PRU)

This form should be used to track progress of the grievance/complaint and held by the Headteacher (Chair of Panel/Chair of *Governors/PRU Management Committee*, as applicable) for 12 months afterwards. The form should **not** be kept on an individual's personal file.

<u>STAGE</u>	<u>DATE</u>	<u>NOTES</u>
<p><u>Informal Stage – Including complaints of Bullying and/or Harassment</u></p> <p>Record the following details, as appropriate:</p> <ul style="list-style-type: none">- Date complaint received- Nature of complaint- Date(s) of any meeting(s)- Outcome (inc. any actions taken/to be taken and reasons) <p><u>Formal Stage One – Investigation and Meeting</u></p> <ul style="list-style-type: none">- Date written grievance received by Headteacher/Chair of <i>Governors/PRU Management Committee</i>- Date(s) of meeting(s) with Headteacher or nominated <i>Governor/PRU Committee member</i> and employee (complainant)- Date(s) of Headteacher (or assigned senior leader) or nominated <i>Governor/PRU Committee member's</i> investigation meetings- Decision Outcome (inc. any actions taken/to be taken and reasons)		

<u>STAGE</u>	<u>DATE</u>	<u>NOTES</u>
<p><u>Formal Stage Two – Grievance Appeal Meeting</u></p> <ul style="list-style-type: none"> - Date appeal notification received by Chair of Appeal Panel/Chair of Governors/PRU Management Committee - Date parties notified of Appeal Meeting - Date of notification of decision - Decision outcome (inc. any actions taken/to be taken and reasons) - To your knowledge was the individual(s) satisfied with Appeals Panel decision? 		

Signed.....

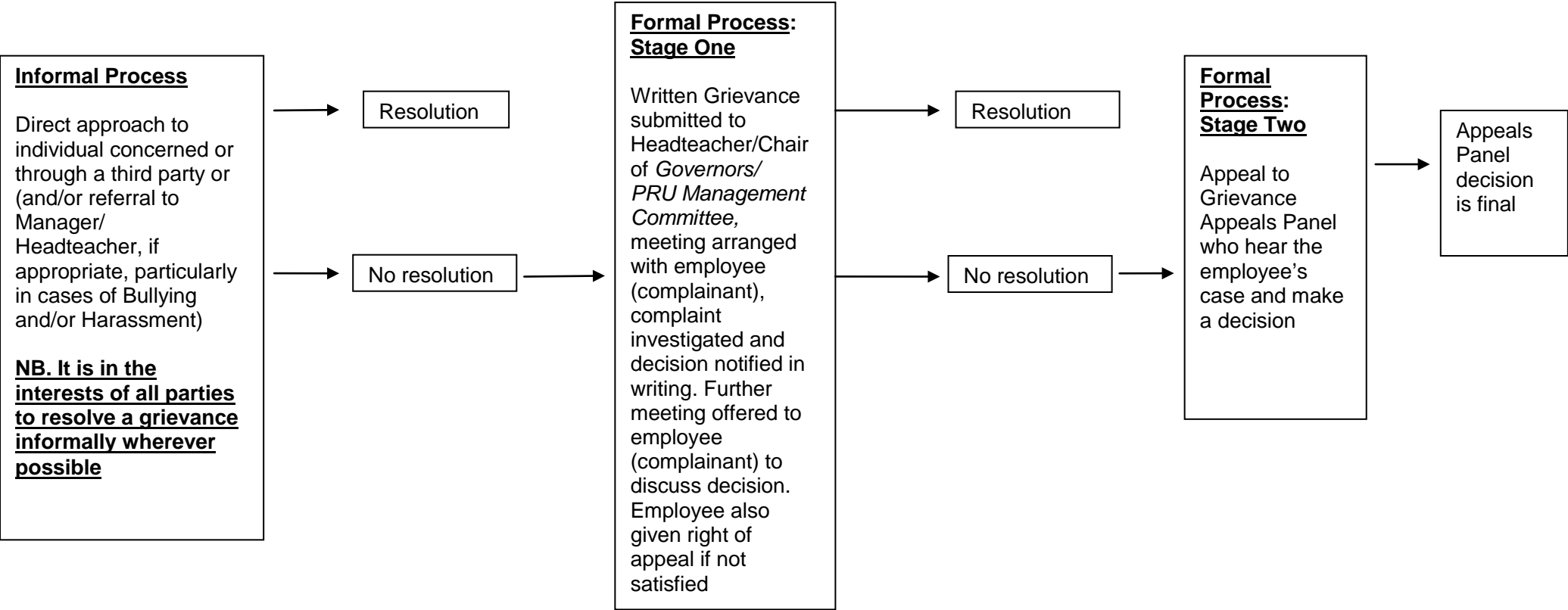
Status.....

Date.....

GRIEVANCE PROCEDURE

Guidance and Procedure for Use By Schools, PRUs and Employees

FLOWCHART FOR INFORMAL/FORMAL GRIEVANCE PROCEDURE



Note:

1. Mediation may be introduced at any stage of the process in attempting to seek a resolution to the grievance
2. The employee (complainant) and other parties to the grievance, including witnesses, are entitled to be accompanied and/or represented by an accredited Trade Union/Professional Association official/representative at any meetings that take place as part of the grievance process.

FORMAL GRIEVANCE PROCEDURE: **SUMMARY OF TIMESCALES**

STAGE ONE – INVESTIGATION AND MEETING

- Grievance received, Headteacher or nominated *Governor/member of PRU Management Committee* arranges meeting with the employee (complainant)
- Headteacher (or assigned senior leader) or nominated *Governor/member of PRU Management Committee* (as approp.) carries out investigation, produces a report of his/her findings and reaches a decision
- Headteacher or nominated *Governor/member of PRU Management Committee* communicates the decision in writing to the employee (complainant) and the subject(s) of the grievance. A copy of the report will be enclosed with the letter.
- The letter advising the employee (complainant) of the decision also invites him/her to a meeting to discuss it, should s/he wish to do so.

TIMESCALE IN SCHOOL WORKING

DAYS (determined according to the particular terms and conditions of the staff concerned)

To take place where possible within 7 days of receipt of written grievance.

Where possible within 30 days of the initial meeting with the employee (complainant)

Normally within 5 days of reaching the decision

The meeting will normally take place within 5 days of the date of the letter communicating the decision.

STAGE TWO – GRIEVANCE APPEAL MEETING

- The employee (complainant) submits notification of appeal, stating grounds for dissatisfaction and enclosing all previous papers, to Chair of Grievance Appeals Panel.
- Chair arranges date of Appeal meeting

Within 7 days of receipt of the written decision from Stage One (or otherwise within 7 days of the meeting with the investigator to discuss his/her decision, where such a meeting has taken place)

Within 15 days of receipt of the notice of appeal (with the Appeal meeting to take place at the earliest practical opportunity thereafter).

- | | |
|--|----------------------------------|
| <ul style="list-style-type: none"> Employee (complainant) and Head teacher/<i>Governor/PRU Committee member</i> receive notice of Appeal meeting date. | 7 days' notice. |
| <ul style="list-style-type: none"> Employee submits supporting statements and names of any witnesses to the Chair of the Panel. The Chair may also call witnesses. | 3 days prior to Appeal Meeting |
| <ul style="list-style-type: none"> The Chair dispatches the above information to other Panel members and any adviser to the Panel, as well as the employee and his/her representative | upon receipt of this information |
| <ul style="list-style-type: none"> Decision of Appeal Panel notified, in writing to the employee and respondent, with copies to other relevant parties. | within 10 days of Appeal Meeting |

MODEL LETTER FORMAL STAGE ONE: INVITE TO AN INITIAL MEETING TO DISCUSS GRIEVANCE *(The letter will need to be adapted as appropriate to the circumstances, for example where the matter is a collective grievance)*

Ref.

Date:

Dear

**FORMAL GRIEVANCE STAGE ONE:
INVITE TO INITIAL MEETING**

I am in receipt of your formal written grievance and would like to invite you to an initial meeting to discuss the matter.

I have arranged for us to meet on *(state date – this should normally be within 7 working days of receipt of the grievance)* at *(state time)* in *(state details of venue)*.

At the meeting you are entitled to be accompanied by:

- a local area or regional official of a Trade Union/Professional Association;
- a workplace Trade Union/Professional Association Representative, as long as s/he has been reasonably certified in writing by their union as having experience of, or having received training in, acting as an employee's companion at grievance meetings. Certification may take the form of a card or letter; or
- a work colleague.

Thank you.

Yours sincerely,

Headteacher/Governor/Member of PRU Management Committee

MODEL LETTER FORMAL STAGE ONE: DECISION TO COMPLAINANT FOLLOWING INVESTIGATION *(The letter will need to be adapted as appropriate to the circumstances, for example where the matter is a collective grievance)*

Ref.

Date:

Dear

**FORMAL GRIEVANCE STAGE ONE:
DECISION FOLLOWING INVESTIGATION**

Further to our meeting on *(insert date of meeting)*, I am writing to inform you that the investigation has now been completed and I have reached a decision in the matter. The attached report details the findings and my decision. *(As appropriate to the circumstances, the decision may be stated/summarised here).*

You may find it helpful to meet with me to discuss the report and my decision further. Should you wish to do so, I am able to meet with you on *(state date, normally within 5 working days of date of this letter)* at *(state time)* in *(state details of venue)*. Please let me know by no later than 5pm on *(state date, as appropriate, in advance of meeting date)* if you wish to take up this offer for us to meet. If I have not heard from you by that date and time, I will assume that you do not wish to meet with me.

If you choose to take up the offer of a meeting with me, you are again entitled to be accompanied by:

- a local area or regional official of a Trade Union/Professional Association;
- a workplace Trade Union/Professional Association Representative, as long as s/he has been reasonably certified in writing by their union as having experience of, or having received training in, acting as an employee's companion at grievance meetings. Certification may take the form of a card or letter; or
- a work colleague.

Whether or not you decide to meet with me as offered, you are also entitled to appeal to a Panel of *Governors/PRU Committee members* if you are not satisfied with my decision. If you wish to exercise your right to a formal appeal, you must submit a written appeal notice to the Chair of the Appeals Panel setting out the grounds for your dissatisfaction with the outcome of Stage One. If part of the grievance has been resolved at an earlier stage, the original written grievance should be annotated or a note attached (as appropriate) to make clear precisely what has now been resolved and what is still outstanding. You will also need to provide the Chair of the Appeals Panel with a copy of this letter and a copy of the investigation report attached. You must submit your written appeal within 7 working days of the date of this letter where you are not taking up my offer of a meeting, or otherwise within 7 working days of the date of our meeting where one takes place.

Thank you.

Yours sincerely,

Headteacher/Governor/Member of PRU Management Committee

MODEL LETTER FORMAL STAGE TWO: INVITE TO AN APPEAL MEETING WHERE COMPLAINANT IS DISSATISFIED WITH THE OUTCOME OF STAGE ONE *(The letter will need to be adapted as appropriate to the circumstances, for example where the matter is a collective grievance)*

Ref.

Date:

Dear

**FORMAL GRIEVANCE STAGE TWO:
INVITE TO APPEAL MEETING**

I am in receipt of your written notice of appeal against the outcome of your grievance under Stage One of the Grievance Procedure.

I have arranged for a meeting of the Grievance Appeals Panel to meet on *(state date – the complainant must receive 7 working days' notice of the time and place set for the meeting)* at *(state time)* in *(state details of venue)*.

At the meeting you are again entitled to be accompanied by:

- a local area or regional official of a Trade Union/Professional Association;
- a workplace Trade Union/Professional Association Representative, as long as s/he has been reasonably certified in writing by their union as having experience of, or having received training in, acting as an employee's companion at grievance meetings. Certification may take the form of a card or letter; or
- a work colleague.

If you wish to call any witnesses to the Appeal meeting, any supporting statements and the names of the witnesses must be received by me 3 working days prior to the meeting.

Thank you.

Yours sincerely,

Chair of Grievance Appeals Panel

APPENDIX 8

MODEL LETTER FORMAL STAGE TWO: DECISION OF GRIEVANCE APPEALS PANEL *(The letter will need to be adapted as appropriate to the circumstances, for example where the matter is a collective grievance)*

Ref.

Date:

Dear

**FORMAL GRIEVANCE STAGE TWO:
DECISION OF GRIEVANCE APPEALS PANEL**

Further to the Appeal meeting held on *(insert date of meeting)*, I am writing to inform you of the Panel's decision in the matter.

Your grievance has been very carefully considered, taking proper account of the investigation and report from Stage One of the procedure, all relevant factors and circumstances. The Panel's decision is as follows. *(Set out details of the Panel's decision, as appropriate)*.

The reasons for the Panel's decision in the matter are *(set out reasons/rationale for decision, as appropriate)*.

The decision of the Grievance Appeals Panel in this matter is final.

Thank you.

Yours sincerely,

Chair of Grievance Appeals Panel



(90)

SPS

Schools' Personnel Service

6,000