

Ysgol Dyffryn School



Grievance Policy 2016

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1. SCOPE

- 1.1 This policy applies to all employees appointed by the Governing Body.
- 1.2 Grievances may be concerned with a wide range of issues, including:
- Terms and conditions of employment
 - Health and safety
 - Work relations e.g. treatment by other employees, not covered by the Dignity at work policy for school based staff.
 - New working practices e.g. which may impact upon your ability to undertake your role, or new targets that have been introduced.
 - Working environment e.g. work place facilities arrangements, such as parking or unreasonable and unsatisfactory places of work..
 - Organisational change e.g. dissatisfaction with the application of a re-structure process.
 - Recruitment and selection
- 1.3 A formal grievance is concerned with the way in which an employee has been treated by the School or Headteacher/line manager acting on its behalf.
- 1.4 If the complaint relates to bullying and/or harassment the Dignity at Work Policy should be referred to for guidance and advice on how to deal with this particular type of grievance.
- 1.5 Issues relating to a grievance may also involve the use of the Whistle Blowing policy.
- 1.6 Complaints that amount to an allegation of misconduct on the part of another employee will be investigated and dealt with under the disciplinary procedure. The employee who raised the complaint will not be informed of any disciplinary proceedings.
- 1.7 Whilst a grievance is being considered under this procedure, the working and management arrangements (which may have given rise to the complaint) will not be altered until a resolution has been reached or the procedure exhausted, providing this does not have an adverse or detrimental impact on an individual or the School.
- 1.8 Exceptions
- This procedure will not apply to:
- Matters subject to collective bargaining machinery
 - Results of job evaluation/grading appeals
 - Matters covered by the following policies and procedures:-
 - (i) Capability
 - (ii) Maximising Attendance
 - (iii) Disciplinary
 - (iv) Probation

- Dismissal for any other reason (e.g. redundancy, or some other substantial reason)
- Former employees (these matters will be addressed by the School's Complaints Procedure).
- **Grievances which have previously been dealt with and frivolous or trivial allegations (please refer to Appendix A for further guidance).**

1.9 Joint/Multiple Grievances

Where a group of employees raise the same grievance, then the same basic process will still be followed. Where there are more than three employees submitting the same grievance, then employees will be asked to nominate representatives to attend any meetings along with, where requested, a trade union representative.

No more than three nominated representatives in any grievance investigation or hearing.

A joint grievance must be signed by all parties raising and affected by the grievance, at the outset.

1.10 Collective Matters

Any concerns raised by more than one trade union relating to collective bargaining matters, should be discussed in the first instance at the Local Government Service group .

1.11 Overlapping grievance and disciplinary cases

Complaints that an employee may have about any disciplinary action taken against them should be dealt with as an appeal under the disciplinary procedure.

Where an employee raises a grievance during a disciplinary process, the disciplinary process may be temporarily suspended, by the employee's Headteacher (Chair of Governors if grievance is in relation to the Headteacher), in order to deal with the grievance. In such cases, a new timetable will be agreed to ensure both processes are concluded without unnecessary delay.

Where the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently or, where the grievance has any bearing on the disciplinary proceedings, it may be raised as a relevant issue in the course of those proceedings.

1.12 An employee can raise a grievance after they have left employment. It is good practice to follow the same process had the employee still been in employment.

2. DEFINITION OF TERMS

For the purpose of this policy, grievances are concerns, problems or complaints that employees raise with the School as their employer, via their Headteacher/line manager. Any formal grievance must be made in writing.

3. POLICY STATEMENT

- 3.1 Whenever the grievance procedure is being followed, it is important that issues are dealt with fairly. There are a number of elements to this:
- Headteachers/line managers and employees should always try to resolve problems in the workplace at the earliest possible opportunity and usually, with the least possible formality.
 - Ideally, matters should be addressed before they reach the stage of becoming a formal grievance issue.
 - Headteachers/line managers and employees should raise and deal with issues promptly and should not unreasonably delay meetings, decisions or confirmation of those decisions.
 - Headteachers/line managers and employees should act consistently.
- 3.2 The School recognises that a formal grievance procedure can be a stressful and upsetting experience for all parties involved. Everyone involved in the process is entitled to be treated calmly and with respect. The School will not tolerate abusive or insulting behaviour from anyone taking part in or conducting grievance procedures and will treat any such behaviour as misconduct under the disciplinary procedure.

4. TIME LIMITS

- 4.1 This procedure allows both the employee and the Headteacher/line manager the flexibility to resolve problems at an early stage in a way that suits both parties best.
- 4.2 Issues should be raised as soon as is reasonably practicable in order that matters can be dealt with quickly and the grievance progressed without unreasonable delay. The School will not hear a grievance which relates to a matter occurring more than 3 months prior to the complaint.
- 4.3 The timescales set out in this procedure are an indication of good practice and should be complied with. However, the timescales can be varied by mutual agreement and dependent upon the circumstances of a particular case.
- 4.4 The timescales provide reasonable time for representation to be arranged.
- 4.5 To ensure there is no undue delay where a designated line manager or Headteacher is unavailable within a reasonable period, e.g. due to leave, action may be taken by the Deputy Headteacher for him/her, or another person allocated to hear the case.

5. REPRESENTATION

- 5.1 At all formal stages of this procedure, employees raising a grievance have a statutory right to be accompanied by a representative of a trade union representative, an official employed by a trade union or work colleague.
- 5.2 The choice of representative is a matter for the employee; however, the School reserves the right to refuse to accept a companion whose presence would undermine the grievance process. It should also be noted that individual employees are not obliged to agree to accompany an employee.
- 5.3 It is the responsibility of the employee to contact their chosen representative and ensure that they are willing to act in that capacity.
- 5.4 If the representative cannot attend on the proposed date, the employee may suggest an alternative time and date, so long as it is not more than 5 working days after the original date. This may be extended by mutual agreement.
- 5.5 The representative is allowed to address the hearing in order to put forward the employee's case, sum up the employee's case, and respond on the employee's behalf to any view expressed at the hearing.
- 5.6 The representative may also confer with the employee and ask questions of witnesses, but has no right to answer questions on the employee's behalf or to address the meeting if the employee does not wish it, or to prevent the employer explaining their case.

6. PROCEDURE – INFORMAL STAGE

- 6.1 Any employee with a grievance within the scope of the procedure should discuss it initially with the immediate line manager/ Headteacher, who will wherever possible, respond to the grievance at the time. If this is not possible, the line manager/Headteacher will respond orally within 5 working days of the discussion.
- 6.2 **Only in exceptional circumstances will a grievance progress to a formal stage if there has been no attempt by the aggrieved party, to seek an informal resolution with an appropriate level of management.**

7. PROCEDURE - INVESTIGATIONS

- 7.1 It may be necessary to carry out investigations of any allegations made by the employee, prior to or at other stages of the procedure; although confidentiality of the grievance process will be respected.
- 7.2 If any evidence is gathered in the course of these investigations, the employee will be given a copy in advance of the hearing in order that they may consider their response. In exceptional circumstances, the evidence given by individuals may have to remain confidential. Where confidentiality is necessary, this will be explained to the employee and an appropriate summary of the evidence (approved by the Chair of Governors) will be provided.

8. PROCEDURE – FORMAL STAGE ONE

- 8.1 If the employee is dissatisfied with the response received at the Informal Stage of the procedure, the employee, assisted by a trade union representative or a work colleague, if necessary, may submit a written grievance to the next stage. This must be done within 5 working days, using form GR1 that is attached in Appendix C.
- 8.2 The Headteacher/ Line manager will investigate the grievance and will convene a hearing with the aggrieved employee. The employee will be made aware of the right to be accompanied at the hearing. The Headteacher/Line manager will also use the grievance form GR1 to formally respond within 10 working days of receiving the form, unless for specific reasons, this is not possible and the manager/supervisor has agreed a revised date with the aggrieved person. The employee will be advised of their right of appeal against the manager's response.
- 8.3 If the written response is not acceptable or the Headteacher/ line manager/supervisor fails to respond within 10 working days, then the employee or the employee's representative may write directly to the Chair of Governors enclosing the grievance form GR1 (parts A&B). The appeal letter must state clearly why the employee remains aggrieved. The letter and form must be submitted to the Chair of Governors within 5 working days of the Headteacher/ line manager's response.
- 8.4 Please note that grievances raised against the Headteacher will be dealt with by the Chair of Governors or the Chair of Governors will nominate another governor or committee.

9. PROCEDURE – FINAL STAGE (APPEAL HEARING)

- 9.1 The Vice Chair of the Personnel Committee or other committee of the Governing Body with delegated powers, or a nominated representative, will arrange a grievance hearing at the earliest opportunity, but not later than 10 working days following receipt of the form. A member of the Human Resources section may attend the hearing at the invitation of either party to the grievance.
- 9.2 Where the Stage One was heard by the Headteacher The Vice Chair of the Personnel Committee or other Committee, or a nominated representative, of the Governing Body with delegated powers will convene a grievance hearing.
- 9.3 The Headteacher/Vice Chair/ Committee or nominated representative will consider the grounds that the employee has put forward and assess whether or not the conclusion reached in the original hearing was appropriate. The appeal is not a re-hearing of the original grievance, but a consideration of the specific areas with which the employee is dissatisfied in relation to the original grievance. Therefore, the discussion can be confined to those specific areas rather than reconsider the whole matter afresh.
- 9.4 Following the hearing, the Headteacher/Vice Chair/ Committee or nominated representative, will confirm his/her decision in writing to the employee and/or their representative.
- 9.5 The procedure to be followed at the Headteacher/Vice Chair/ Committee or nominated representative, Appeal Hearing is as detailed under Appendix D.
- 9.6 If an employee fails to attend without explanation, or if it appears that they have not made sufficient attempts to attend, or not attend on the second occasion, the hearing may take place in their absence.
- 9.7 Should an employee wish, they may request that a trade union representative attends instead of them, at a hearing. The trade union will not be allowed to answer questions on behalf of the employee however.
- 9.8 A flowchart is shown in Appendix B, confirming the process in its entirety.

Appendix A

False or malicious allegations

Where the employer believes that an employee is seeking to use the grievance procedure to make deliberately false allegations, or as a form of bullying against a colleague or manager, this can be treated as misconduct, and in serious cases can justify dismissal. For example, in one case, two employees were dismissed after making multiple grievances alleging race discrimination, which the employer found they had made in bad faith. The employees' dismissals were found to be fair by reason of their conduct in raising grievances against colleagues in bad faith, and for "some other substantial reason", in that there had been an irreparable breakdown in working relationships in the department in which the employees worked. However, an employer considering disciplinary action will need clear grounds for a belief that the

grievance was made in bad faith. In particular, the employer should be cautious where the employee makes allegations of discrimination, as action taken against him or her can amount to victimisation if the employee is acting in good faith in making the allegations. Accordingly, the employer should instigate its disciplinary procedure only where the evidence of bad faith is clear. Where this is not the case, the employer should manage the situation by ensuring that grievances made without substance do not lead to an excessive waste of management time and resource.

Frivolous or trivial grievances

If the grievance is clearly frivolous, the employer should inform the employee that it will not be dealt with in accordance with the grievance procedure, unless the employee can show that it is based on a legitimate concern. It should not amount to a breach of contract for an employer to refuse to address a grievance that does not raise any legitimate or genuine concern. The Employment Appeal Tribunal has held that there is an implied term in the contract of employment that the employer will promptly afford a reasonable opportunity to employees to obtain redress of any work-related grievance that they may have. However, that case was concerned with an employer that refused to discuss a reorganisation that had resulted in a reduction in two employees' take-home pay. There would seem to be no reason to extend the principle to cover situations in which the employee's complaint is manifestly frivolous. Even if, on the face of it, the grievance procedure entitles the employee to a hearing, it can probably be implied into the contract of employment that he or she will not raise frivolous issues in this way. In any event, it is difficult to see how an employee whose trivial grievance is rejected without a hearing would have suffered any loss capable of sustaining a tribunal claim. Where the employer believes that the grievance is too trivial to warrant a meeting, it should write to the employee and explain that this is why no further steps are to be taken. The employer should make clear that the employee is entitled to resubmit the grievance together with any further evidence or explanation that throws new light on it and demonstrates that a substantive complaint is in fact being made.

Grievances that repeat earlier complaints

If the employee's grievance restates a complaint that the employer is already dealing with, or that it has dealt with in the past, the employer should ask the employee to explain how the new grievance differs from the previous one, and either what new incident has occurred or what new evidence has come to light.

Where it is clear that there is nothing new being raised, the employer can reject the grievance without a hearing. An employer in this situation should not be in breach of the implied term that it will address the employee's grievances, because it will be able to establish that the grievance has in fact been addressed. There is no implied term in the contract to the effect that an employee will have multiple opportunities to have the same grievance reconsidered. In rejecting the grievance without a hearing, the employer should write to the employee and explain that no further action will be taken because the grievance has already been dealt with. It may be appropriate at this stage for it to refer the employee to the previous correspondence and the outcome of the original grievance. It would also be advisable for the employer to inform the employee that the matter will be considered again if new incidents occur or if new facts come to light.

Reopening previous grievances

Where the new grievance raises issues related to a grievance that has already completed the process, the employer should consider whether or not the new information justifies reopening the issue. Essentially the decision to be made is whether or not the new grievance sheds additional light on the allegations originally made by the employee so that the employer needs to revisit its original conclusions. If, for example, the employer has already decided that the employee is not justified in

objecting to certain behaviours from colleagues or management, the employer can reject a grievance that merely contains further examples of such behaviour, without the need for a full hearing. Where the new allegation would, if true, shed new light on a grievance on which a decision has already been made, and might have led to a different outcome if it had been known about, the employer should make sure that the new allegation is properly considered. In such circumstances, it may be necessary for the employer to allow the new allegation to proceed to a fresh hearing.

Grievances that relate to an ongoing complaint

Where the employee submits a new grievance that is closely related to an ongoing issue, the employer should inform the employee that, because the issues are linked, the new grievance will be dealt with as part of the existing process. It is the substance of the grievance that the employer has a contractual duty to address.

There is no obligation on the employer to run a separate grievance procedure every time an employee raises a fresh grievance, if the separate grievances are properly seen as part of an overall problem or concern and can be fairly dealt with together.

This is true even if the procedure to which the grievance is linked is a disciplinary or capability process, for example if the employee complains that he or she has been bullied by the manager who has initiated disciplinary proceedings against him or her. Unless the grievance throws

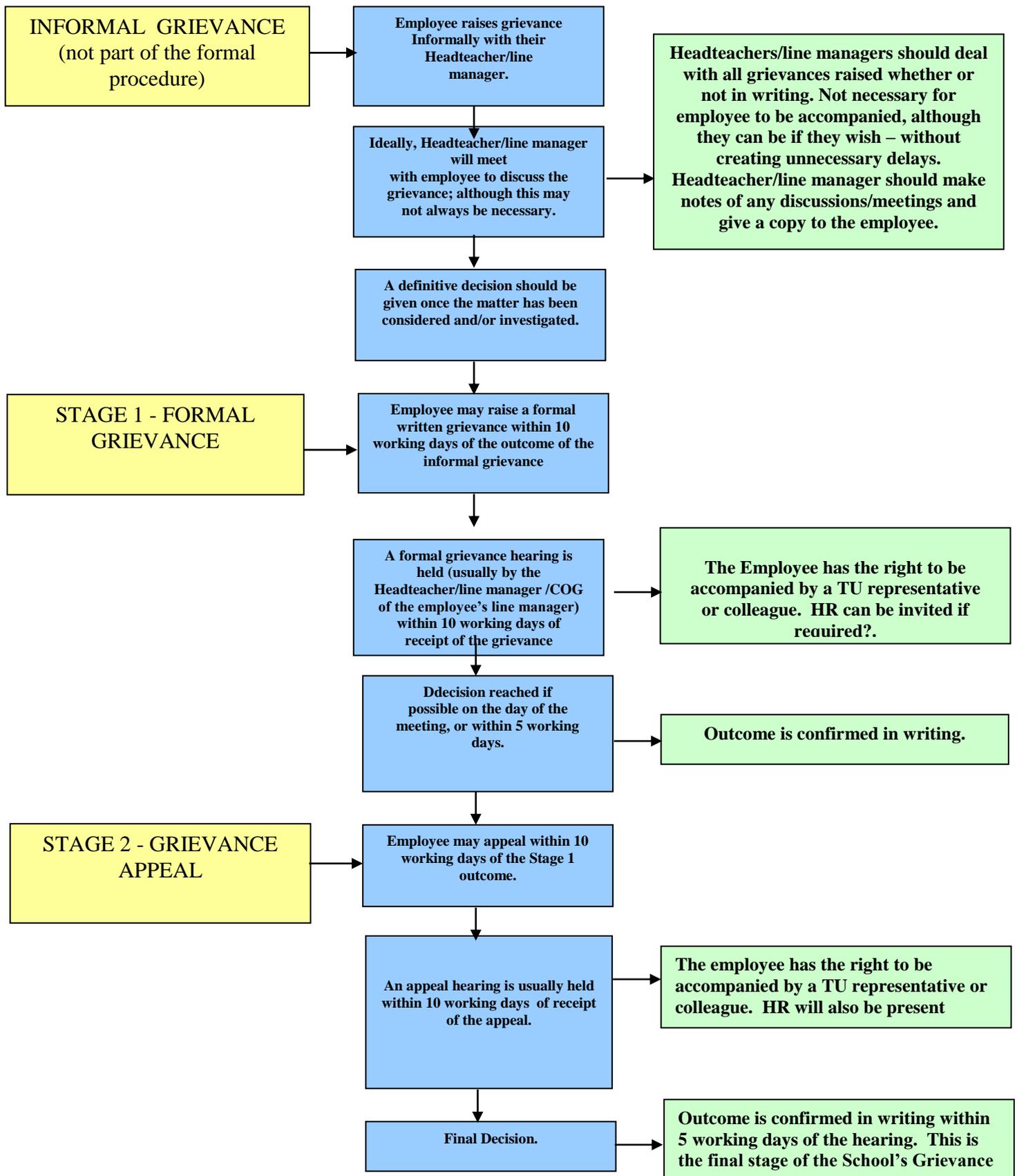
doubt on whether or not that process can be conducted fairly, the employer can tell the employee that the substance of the grievance will be discussed in the context of the disciplinary or capability hearing. When that process has been completed, the employer can deal with any

outstanding grievances raised by the employee under its grievance procedure.

Where the fresh grievance is merely another example of the sort of incident that the employee is already complaining of, the content of the grievance can be forwarded to whoever is dealing with the existing grievance to be added to the bundle of evidence.

Appendix B – Grievance Flow Chart

Grievance policy and procedure - flowchart



GR1 Grievance Form



Schools

GR1 Grievance Form to be used to formally raise a grievance	
PART A - Written notification of grievance – FORMAL STAGE ONE (A copy of this form to be sent to the Human Resources Section at each Stage of the Procedure)	
Section 1	
<p>This section of the form must be completed by any employee or their representative who wishes to raise a formal grievance under formal stage one of the Procedure. When completed, the form should be sent in an envelope, marked CONFIDENTIAL, to the Headteacher/line manager/Chair of Governors</p>	
I Have Discussed With:	
On This Date:	
My Grievance Is:	
Date of issue(s)/incident(s)	Please note that an issue/incident dated 3 months prior to the date of submission of the grievance has expired. Not including holidays.
Name & Job Title of witnesses present during issue(s)/incident(s)	
I remain aggrieved because:	
...and I wish to exercise my rights to register formally my grievance with you.	

<p>The redress I am seeking is:</p>			
<p>Signed</p>		<p>Date</p>	
<p>School</p>			
<p>Name (Please Print)</p>			
<p>Contact Address</p>			
<p>Section 2</p>			
<p>After careful consideration of your grievance under formal stage one of the Procedure, I would inform you that my decision in this matter is as follows:</p>			
<p>Signed</p>		<p>Date</p>	
<p>Position Within the School</p>			
<p>Right of appeal - If the written response is not acceptable or the Headteacher/line manager fails to respond within 10 working days then the employee or the employee's representative may write directly to the Headteacher/Chair of Governors enclosing the grievance form GR1 (parts A&B) – Formal Stage Two of the Grievance Procedure.</p>			

PART B – Written Notification of Grievance – FORMAL STAGE TWO
(A copy of this form to be sent to the Human Resources Section at each Stage of the Procedure)

Section 1

This section of the form must be completed by any employee or their representative who wish to raise a formal grievance under formal stage two of the Procedure. When completed, the form should be sent in an envelope, marked CONFIDENTIAL, to your Chair of Governors or nominated representative or committee.

I Have Discussed With

On This Date

My Grievance Is

The response I have received is shown under Part A Section 2 of this Form (see overleaf).

I remain aggrieved because:

...and I wish to exercise my rights to pursue formally my grievance with you under formal stage two of the Procedure.

The redress I am seeking is:

Signed

Date

Section 2

After careful consideration of your grievance under formal stage 2 of the Procedure, I would inform you that my decision in this matter is as follows:

This response is final. There is no further right of appeal

Signed

Date

Position Within the School

Appendix D

<p style="text-align: center;"><u>Final Stage - Grievance Hearing Appeal Held by Chair of Governors/Nominated representative or committee with delegated powers</u></p>
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Attendance

- (1) The Chair of Governors (committee or representative)
- (2) The Appellant, together with his/her Trade Union Representative or work colleague
- (3) The Headteacher/ relevant line manager/ (person who heard the formal stage)
- (4) The Human Resources Officer (or representative), if appropriate
- (5) Any Witnesses.

The Procedure

- (1) The parties to the grievance and their respective representatives shall be called in simultaneously before the Hearing.
- (2) The Chair of Governors (committee or representative) will introduce those present and explain how the hearing will be conducted.
- (3) The Chair of Governors (committee or representative) will establish details of any witnesses to be called and also **any** documentation which will be referred to during the hearing, by either side.
- (4) The Appellant (and/or representative) will present details of the grievance, including the submission of any supporting documentation.
- (5) The other parties may ask questions on the presentation in the following order:-
 - (a) The Headteacher/ relevant line manager/ (person who heard the formal stage)
 - (b) Chair of Governors (committee or representative)
 - (c) The Human Resources Officer (or representative), if present.
- (6) The Appellant (and/or representative) will call any Witnesses.
- (7) The other parties may ask questions of the Witnesses in the following order:-

- (a) The Headteacher/ relevant line manager/ (person who heard the formal stage)
 - (b) Chair of Governors (committee or representative)
 - (c) The Human Resources Officer (or representative), if present.
- (8) The Headteacher/ relevant line manager/ (person who heard the formal stage) shall respond to the appeal.
- (9) The other parties may ask questions in the following order:-
- (a) The Appellant (and/or representative)
 - (b) Chair of Governors (committee or representative)
 - (c) The Human Resources Officer (or representative), if present.
- (10) The Headteacher/ relevant line manager/ (person who heard the formal stage) will then call any Witnesses.
- (11) The other parties may ask questions of the Witnesses in the following order:-
- (a) The Appellant (and/or representative)
 - (b) Chair of Governors (committee or representative)
 - (c) The Human Resources Officer (or representative), if present.
- (12) Both sides will then have the opportunity to sum up, the The Headteacher/ relevant line manager/ (person who heard the formal stage) speaking first.
- (13) The Appellant (and representative), the The Headteacher/ relevant line manager/ (person who heard the formal stage) and any Witnesses will then withdraw.
- (14) The Chair of Governors (committee or representative) and the Human Resources Officer, who will act as an advisor, will then deliberate in private, recalling the The Headteacher/ relevant line manager/ (person who heard the formal stage) and the Appellant (and representative) only to clear points of uncertainty on evidence already given and/or to hear further representations in relation to the penalty. If recall is necessary, both parties are to return, even if only one is concerned with the point giving rise to doubt.
- (15) All parties will be recalled and informed verbally of the Chair of Governors (committee or representative) decision. The Chair of Governors (committee or representative) will normally confirm their decision in writing to the employee and/or Trade Union representative, within 7 working days of the hearing.

Approved by Governors on 20th September 2016

Signed Chair of Governors
Review in September 2017