



'Individual Growth, Individual People'

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Harassment Procedure for School Staff

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HARASSMENT PROCEDURE FOR SCHOOL STAFF

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HARASSMENT PROCEDURE FOR SCHOOL STAFF

INTRODUCTION

The purpose of this document is to provide schools with:-

- Background information about harassment and the relevant legislation
- Guidance on the management of complaints of harassment
- A recommended harassment code of practice for school staff ([Appendix 1](#))
- A recommended harassment procedure for school staff ([Appendix 2](#)) which comprises:

Informal procedures

Stage One

Formal procedures

Stage Two - (Investigation - communication of findings to all parties - decision made regarding disciplinary action)

Stage Three - (Governors' disciplinary hearing if appropriate).

Harassment in any of its forms should have no place in our schools. The onus is on the Local Authority, governors and school leaders to combat harassment by setting high standards of behaviour at all levels and ensuring that employees follow their lead. All employers and employees should strive to bring about a climate and culture in our schools where harassment has very little chance of taking hold or being used. Where it does occur or exist it should be dealt with swiftly utilising the procedures in this policy.

The Education (School Staffing) (England) Regulations 2003 require governing bodies to establish procedures for giving members of staff the opportunity of seeking redress for any complaint relating to their employment. Technically, the harassment procedure is a type of grievance procedure and the governing body must establish such procedures and make them known to staff. A copy of the school's adopted harassment policy and procedure should be made available to all new employees when they commence employment and be freely available to all staff including supply and other temporary staff.

Harassment is a particularly sensitive and complicated area of industrial relations and employment law. Governors acting on behalf of the LA as employer of staff in community schools, or in the case of voluntary aided schools and foundation schools as the contracted employer must take steps to prohibit discriminatory behaviour as governing bodies can be held vicariously liable for the action of their employees in school. Due to the complexities of this area of employment and education law, therefore, governing bodies are strongly advised to adopt the attached policy and procedures without amendment and seek advice on individual cases from the Children and Young People's Services (CYPS) - HR Team.

Should, exceptionally, a governing body seek to amend this recommended document or adopt an alternative procedure, they will need to undertake formal consultation collectively with all of the Secretaries of the recognised trade unions and confirm any amendments with the Local Authority. Governing bodies are strongly recommended to seek advice from the CYPS - HR Team in these circumstances. It is recognised that some Voluntary Aided or Foundation schools may choose to adopt the procedures recommended by their Diocesan Authority or other personnel service provider. Where this is the case, the recognised trade unions should be informed.

Advice on procedural matters, counselling and mediation is available from the CYPS HR Team, who can also arrange for any legal advice that may be required.

Scope of the Harassment Procedure

- The **Harassment Procedure** is designed to address employee complaints about the conduct of a fellow worker where bullying, harassment or some form of discriminatory behaviour may be involved. The complaint of harassment will, therefore, normally be made against a named individual.
- The **Grievance Procedure** is designed to cover employees' grievances against the decisions made or actions taken by the organisation, i.e. their school or the County Council on any matter relating to their employment. It should not, therefore be used to cover complaints which could constitute harassment e.g. bullying intimidation, unfair treatment, discrimination or victimisation. However, an employee may have recourse to the school's grievance procedure if they believe the school has failed to properly address their harassment complaint.

Defining Harassment

There is no simple definition of harassment. It can take many forms and may be directed at an individual or at specific groups of people. As an employer, the County Council regards harassment as a form of misconduct which covers all unwanted action or conduct which affects the dignity of men and women at work.

Harassment is behaviour which has the effect of diminishing a person's position, status or esteem. It is described by ACAS as "unwanted conduct that violates people's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment." It can be imposed on an individual by another on the basis of perceived differences, particularly in respect of sex, race, sexual orientation, disability or medical condition, religion, cultural or language differences, age, physical attributes or trade union or political affiliation. Such behaviour may range from physical contact such as unnecessary touching and unwelcome sexual advances through to physical abuse or assault. It can be verbal, ranging from suggestive remarks, inappropriate 'jokes' and e-mails, verbal abuse, name calling or persistent denigration. It can be non-verbal, through gestures and body language or by the display of offensive material.

A common feature of harassment is that it is unwanted. Whether or not the behaviour was meant to be offensive, it is the complainant's perception of the behaviour which is important and must be taken seriously. Unwelcome behaviour becomes harassment if it is repeated once it has been made clear by the recipient that it is offensive or unwanted. One incident alone may constitute harassment if it is sufficiently serious. Experience shows that for those who are harassed, the consequences can be that the individual may suffer stress, anxiety, feelings of guilt or depressive illness. It can therefore affect work performance and attendance as well as relationships within the workplace.

Another common feature of harassment is that it is often hidden, as incidents occur in situations where there are no witnesses. However, the absence of direct corroboration should not in itself determine whether the matter should be formally investigated nor whether the matter should be heard by members of the governing body. If presented with such a complaint,

the head teacher and governors will need to determine what action should be taken on the balance of probability, based on the evidence available to them.

Within the work situation, harassment may also take the form of adult bullying i.e. the unjust exercise of power of one individual over another by use of means intended to humiliate, frighten, denigrate or injure. Such means could include:-

- berating or reprimanding in the presence of others
- the setting of unreasonable work allocations or unjustified changes in such allocations
- the inappropriate use of discipline and competence procedures,
- overbearing supervision,
- continual and unnecessary criticism, both verbal and / or written
- malicious isolation.
- unfair application of school policies and procedures
- setting unreasonable or unfair deadlines
- scheduling meetings at unreasonable times or venues

Dictatorial and authoritarian styles of management can inhibit productive working and act as a barrier to employees reaching their full potential. It is important, therefore, for schools to establish a management culture which recognises the dignity of employees and helps managers to acquire and develop the necessary interpersonal skills to carry out their responsibilities in a supportive, fair and non-threatening manner.

As it is difficult to outline and define all types of bullying action, it can be helpful to consider it in terms of its effects on an individual or group of individuals. The physical and emotional effects of bullying are very similar and common to many victims. They can include:-

- low self-esteem and / or lack of confidence;
- physical ill-health;
- mental distress;
- fear of the workplace or people in the workplace;
- feeling intimidated.
- impaired performance
- high absenteeism;
- relationship difficulties

Harassment is sometimes characterised by a series of relatively minor incidents which, in isolation, may appear trivial to an onlooker. Where such behaviour becomes frequent, repetitive or part of a recognised pattern it can have a significant impact on the recipient, affecting their morale and perceived status within the workplace.

Legislation

The Equality Act 2010 replaces previous discrimination legislation such as the Sex Discrimination Act 1975, Race Relations Act 1976 and Disability Discrimination Act 1995.

The Equality Act 2010 prohibits harassment related to age, race, sex, sexual orientation, religion and belief, gender re-assignment, disability, pregnancy or maternity and marriage or civil

partnership These are known as 'protected characteristics'.

It is important for Head Teachers and Governing Bodies to be familiar with these 'protected characteristics' when dealing with Harassment complaints to prevent any claim of discrimination.

The Equality Act 2010 has extended the law relating to harassment:

- A person may be harassed even if they were not the intended "target" and did not possess the 'relevant characteristic' themselves. For example, a person may be harassed by racist jokes about a different ethnic group if they create an offensive environment for that person. Equally, a person may be harassed if they are subjected to homophobic taunts even though they themselves are heterosexual.
- 'Third party' harassment to cover all of the protected characteristics, except for pregnancy and maternity and marriage and civil partnership. Such harassment occurs where a third party harasses an employee in the course of their employment three or more times and the employer is aware that the employee has been harassed before but fails to take reasonably practicable steps to prevent it. It does not matter whether the third party is the same or a different person on each occasion.

Employers have an implied duty to take steps to prohibit discriminatory or harassing behaviour which is detrimental to the well being of their staff and which destroys the trust and confidence between employer and employee. In cases of harassment the employer may be held liable unless reasonable steps have been taken to prevent or discourage such action if it occurs. *If reasonable steps are not taken by the Governing Body, it could be in contravention of the Equality Act.*

In relation to discrimination law, employers can be made directly liable for unlawful discrimination by their employees. Anything which a person does in the course of their employment is treated as having been done by their employer as well as by the employee. It is now increasingly common for complainants to cite both the employer and the individual harasser as respondents. Liability applies whether or not the employer previously knew about what the employee did, or was going to do, and also regardless of whether or not the employer approved of it.

The other important piece of legislation to consider when dealing with Harassment Complaints is the Health and Safety at Work Act 1974, as this states that the employer must provide a healthy and safe place in which to work, or a duty otherwise to be a good employer.

Article 6 of the Education (Modification of Enactments Relating to Employment) Order 2003 provides for a governing body to be the respondent in relation to any application to an employment tribunal arising from a harassment complaint. In law, the Local Authority is the employer for community and voluntary controlled schools, and will therefore be primarily responsible for the payment of any compensation order by an employment tribunal in respect of a finding relating to a complaint of harassment. However, where it is reasonable to do so, the Local Authority is

empowered to deduct such compensation from the school's budget. It is unlikely that the Local Authority would wish to adopt such a course of action provided that the governing body has not acted contrary to law or in some other way failed to observe their agreed procedures.

Whole School Management Issues

Apart from the legal requirements placed upon them, head teachers and senior managers in schools also have a responsibility to create a climate amongst staff in which mutual respect and a supportive environment are indicators of an effective management culture and where harassment of staff is regarded as an extremely serious issue. Such cultures are created not just through discussions with staff, policy statements and effective management procedures, but also through individual management style. In this context, staff in a managerial position should not use that position to harass, bully or threaten staff. Where such conduct occurs, managers must expect that the abuse of their powers will be an additional element which the Governing Body may take into account when considering any resultant disciplinary action.

Although this guidance concentrates, as it must, on procedures for dealing with the conduct of employees, it must be remembered that school staff are part of a wider community which comprises pupils, parents and governors together with employees of the County Council or contractors working on site. Every individual within that community has the right to be treated fairly, equally and with respect. Each individual also has a responsibility to treat other members of the community in such a manner. Such wider considerations should be incorporated within the school's equal opportunity policy which should be a matter for consultation within the community and with representatives of the trade union at local level. ([See Appendix 1 - Code of practice - Complaints of Harassment by School Staff](#))

GUIDANCE ON MANAGING THE HARASSMENT PROCEDURE

Principles

- School staff have a right to expect that management will act on their complaint quickly, efficiently and effectively. The procedure establishes timescales which facilitate prompt resolution of the harassment complaint. Whilst these should be adhered to wherever possible, they may, exceptionally, be varied by mutual agreement. Where a member of staff feels that their complaint has not been managed properly and in accordance with these procedures, they have the right to raise this through the school's Grievance Procedure.
- Where a complaint is made against an alleged offender which results in a counter claim against that complainant, care must be taken to treat both claims fairly. In these circumstances, it will be appropriate for both cases to be considered and heard as part of the same investigation. Findings should then be presented on both claims.
- Any dispute, including complaints of harassment, should be dealt with as quickly as circumstances allow. Guideline timescales are specified in the Harassment Procedure, which should be adhered to whenever practicable. If difficulties occur which mean that the agreed timescales cannot be met, the aggrieved employee should be informed and a new timescale should be agreed as appropriate with all parties. The Harassment Procedure should normally be followed sequentially although there may be occasions when the complaint is sufficiently serious to warrant consideration under the formal stages of the procedure immediately.
- The opportunity to resolve disputes and raise a grievance with the employer is an

important feature of an employee's contract of employment. Its provision should be respected and not taken lightly and should not be abused, misused or initiated vexatiously. Vexatious or malicious complaints may lead to disciplinary action being taken.

- In some circumstances, mediation i.e. the involvement of an impartial third party may assist in dealing with the complaint. If this is deemed appropriate, the mediator should be agreed by all parties including the Trade Unions. There may be occasions where it will be necessary to enlist specialist support to assist with particular problems in schools and the CYPs - HR Team can advise and facilitate appropriate support. Where mediation has been agreed this will not prejudice the right of the employee to continue the grievance procedure if a resolution is not achieved by this means and there are grounds to proceed.
- Employees have a right to be accompanied by a trade union representative or other person of their choosing at any stage of the Harassment Procedure.
- A record should be kept by the school of all complaints of harassment raised, the employer's responses, any actions taken and the reasons for such actions. Such records must be kept confidential and retained in accordance with the provisions of the Data Protection Act 1998. Notes should be taken at all meetings, whether formal or informal, and shared with all parties involved.

Roles and Responsibilities

When dealing with a potential complaint of harassment, it is important to establish at the outset who will undertake the necessary roles and responsibilities under this procedure. This must then be communicated to all parties to avoid any misunderstandings or possible conflicts of interest.

- **The complainant**

The essence of the complaint of harassment is that an employee perceives the actions of another employee as harassment and wants that behaviour to cease. For an employee to make such a complaint against a colleague is a serious matter. The provisions of the Harassment Procedure must, therefore, be respected and not instigated or taken lightly or abused. Vexatious allegations could result in disciplinary action being taken against the complainant. An important element of this procedure is the expectation that the complainant allows an opportunity for the alleged offender to become aware of the effects of their behaviour so that they can modify their conduct as appropriate to the situation. It is anticipated, therefore, that in the majority of cases the employee will wish to resolve their complaint as quickly as possible without resorting to the formal procedures.

- **Head Teacher**

The precise role of the head teacher should be determined at the outset on a case by case basis and should be clarified to all parties at the outset. In many situations the head teacher will have a key role in facilitating an informal resolution to a harassment complaint received in the school. However, in other cases it may be appropriate for this role to be delegated to another appropriate senior manager or governor.

Where the **Head Teacher is the complainant** the matter should be raised with the Chair of Newark Orchard School – Harassment Procedure for School Staff – April 2017

Governors or complaints governor, as appropriate, who should then seek immediate advice from a senior officer from CYPs HR.

Where the **Head Teacher is accused of harassment**, the matter should be raised with the Chair of Governors who should seek immediate advice from a senior officer from CFCS HR. If the formal harassment procedures are invoked, then, by arrangement with the Chair of the Governing Body, any investigation and presentation of evidence to a Governors' Discipline Panel will be undertaken by a senior officer from CFCS HR.

- **Trade Unions or other Representatives**

During the process the employee will have the right to be accompanied or represented by one person which could be a trade union official or other representative of their choosing. The role of the representative is to support the individual and to provide advice, guidance and representation where appropriate. The right to be accompanied and the right to be represented are different.

- The right to be **accompanied** means that the employee may bring a representative with them to support them at meetings. They must represent themselves and should answer and ask any questions themselves. They may wish to discuss their answers with their representative before providing them.
- The right to be **represented** means that the employee may ask their representative to speak on their behalf. This could include answering and asking questions, or presenting all or part of the case at any hearing.

Head teachers may wish to arrange for the school staff to determine an appropriate person from within the whole school staff who would be prepared to take responsibility for supporting a complainant through the harassment complaint process. However, this would not preclude the complainant choosing an alternative person to support them through the process if they so wished. The role of this person would largely be a supportive listening one and does not replace the more specialist support offered by trade unions and CFCS HR officers. This "support colleague" should be allowed to accompany the complainant through each stage of the procedure as a moral support rather than as a representative of the complainant. Where a complaint is made against a head teacher, the complainant may request that a CFCS HR officer fulfils this role.

- **Investigating Officer**

The investigating officer will be responsible for conducting the investigation and presenting the findings to the head teacher and/or disciplinary panel. The arrangements for dealing with a disciplinary investigation will need to be considered within the framework of the current school staffing regulations as well as the principle of natural justice. It is not, therefore, possible for the head teacher to be the investigating officer as well as the person responsible for deciding whether or not to dismiss the employee or to issue a formal warning. The head teacher can only be the investigating officer, therefore, in circumstances where they will not be given delegated responsibility for making any decisions about a potential staff dismissal.

Where the disciplinary decision is delegated to the head teacher, either on their own or as part of the Disciplinary Panel, another appropriate member of the leadership team should take on the role of Investigating Officer. In certain cases, for example where the head teacher is the subject of the investigation, the school is strongly advised to consider engaging the services of a

senior LA officer to conduct the investigation for which an appropriate rate will be charged. There is usually one lead Investigating Officer appointed, however in certain cases there may be more than one person appointed. Schools are advised to contact HR for further advice on the role of the Investigating Officer.

The role of the Head Teacher includes consideration of the sensitivity of the situation and the welfare of the employee involved.

When Head Teachers are notifying employees about formal procedures/dates of hearings they should aim to inform employees at an appropriate time to ensure the employee has the opportunity to contact their union representative or other relevant person for support. We advise that Heads do this, wherever possible, towards the end of the day and that any confirmation letters are sent during the working week to avoid notifications arriving on a weekend or during the school holidays. Where this cannot be avoided due to procedural timescale head teachers are advised to offer to contact the trade union representative and their HR support to advise them of the content of the letter to enable the trade union representative to contact the employee if necessary.

Head Teachers should avoid sending letters in the last three days of a term or half-term. Where this is unavoidable because of procedural timescales heads are advised to offer to alert the trade union representative that a letter is being sent and confirm the content of that letter, to enable the trade union representative to contact the employee if necessary.

- **Governors' Disciplinary Panel**

In relation to the 2003 Staffing Regulations, the LA strongly advises schools that dismissal decisions are best made by a panel rather than by one person acting on their own. It is recommended, therefore, that the Disciplinary Panel should normally consist of the head teacher supported by two governors or three governors.

The head teacher can be a member of the panel but only if they are not directly involved in the harassment complaint or subsequent disciplinary investigation. However, it is recommended that that they should not normally take on this role.

- **Appeal Panel**

All appeals against dismissal or other disciplinary outcomes must be heard by an Appeal Panel. This should consist of three governors who have had no previous involvement in the case.

- **Note Takers**

Notes should be taken at all meetings. The school will need to arrange a note taker, this can be done through Governor Services if the school does not have an appropriate person to undertake this role. The Note Taker must understand the confidential nature of the meetings. Notes are not verbatim but are a record of the content of the meeting. It is the school's responsibility to ensure that notes from meetings are provided to those who were present. This does not prevent the individual or their representative from making their own notes, although the employee is not able to bring an additional note taker to meetings.

- **The Local Authority (LA)**

CFCS - HR Team can support schools in applying the provisions of the school's Harassment Procedure where the school has purchased HR services through Management Choices. LA officers will act as advisers to the governors' panels. In exceptional cases, officers from the *CFCS* - HR Team may be requested to investigate the alleged harassment complaints on behalf of the Governing Body for which an appropriate rate will be charged.

The LA is responsible for considering complaints originating from Head Teachers or other staff in schools which relate to other LA employees. This complaint will be dealt with using the appropriate County Council procedure.

Managing the Informal Procedures (Stage One)

In the first instance the complainant should inform the head teacher of their concerns. Following receipt of a harassment complaint it will then be important to decide who should manage the informal stages of the procedure. Depending on the circumstances, it could be the head teacher or other member of the leadership team, head of department or governor. An initial meeting should then be arranged as soon as possible but no later than 5 working days from the initial notification of the complaint.

Initial Meeting with the complainant

The aim of these procedures is to prevent any further incidents of behaviour which may be interpreted as harassment by an employee. This means that, unless the allegations are serious and/or of a potentially criminal nature, the first stage of the procedure should aim to facilitate an appropriate means of raising the issues either directly or indirectly with the alleged offender. Sometimes people are not aware that their behaviour is unwelcome or upsetting and an informal discussion with them will resolve the matter. Such an informal approach may lead to a better understanding of the complainant's position so that an agreement can be reached that the behaviour will cease.

The initial discussions should, therefore enable the manager to understand the nature of the incidents and their effect on the complainant and to ascertain whether or not the matter has already been brought to the attention of the alleged offender. The complainant should be made aware that a meeting will also be held with the alleged offender to give them a summary of the complaint, in order to ensure (he/she) has a fair opportunity to respond at the informal stage. However, in more serious cases, it may be necessary to consider whether the matter should be immediately investigated under Stage Two of the harassment procedures.

The initial meeting with the complainant should be arranged in a confidential and comfortable environment that is acceptable to the complainant. The complainant may be accompanied by a colleague, trade union representative or other appropriate person. Please see example letter as detailed in Appendix 3.

The meeting with the complainant should be conducted as follows:

- **Allow the complainant to give a full account of the situation**

- Reassure the complainant that they remain in control of the situation during the informal stages of the procedure. However, they must also be advised that the school may have to take action regardless of the complainant's wishes in certain circumstances, eg where there is evidence of a criminal offence, breaches of school policy and procedures, or is sufficiently serious to warrant formal disciplinary action.
- Ensure the complainant has access to and understands the implications of the school's Harassment Procedure.
- Strongly advise the complainant to seek support from their trade union if they have not already done so.
- Advise the complainant that, if they wish to pursue their complaint through the formal procedures, it will be necessary to involve others, for example, as part of any investigation or as members of a disciplinary panel. They must also be prepared for the fact that they will be expected to discuss the issues openly in front of the alleged offender if the matter is addressed at a governors' disciplinary hearing.
- The complainant must then be kept informed about the progress of any agreed action taken. If there are fears of retaliation or victimisation, these should be acknowledged and appropriately addressed.
- The Manager should ascertain whether or not the matter has already been brought to the attention of the alleged offender, and if it has not invite the alleged offender to a similar informal meeting.
Invite letter Appendix 4
- The alleged offender is entitled to hear an account of the complaint from the manager dealing with the issue but is not entitled to see the letter from the complainant at this stage.

Outcomes

The outcomes of the informal stage could be:

- an apology
- greater awareness by the offender that the behaviour is unwelcome or upsetting
- a better understanding by management and the offender of the complainant's position
- an agreement is reached that the behaviour will cease
- an understanding that, if any further incidents occur, disciplinary action may be taken
- a conclusion that the complaint or allegation is unfounded
- advice, guidance, training or counselling for either party
- no further action
- a decision to proceed with Stage Two formal procedures

Any decision to move to the formal stages of the procedures should take account of the following factors:

- Have all the initial / informal options for resolving the complaint been exhausted/
- Is the complaint sufficiently serious or complex to warrant an investigation?
- Is there already evidence that the matter may warrant formal disciplinary procedures/
- Are the complainant's expectations realistic and appropriate in the circumstances?

Both parties should be written to following completion of the informal stage. Please refer to **Appendix 5** for an example letter to the complainant and **Appendix 6** for a letter to the alleged offender.

Suspension

In some serious cases it may be necessary for the Head teacher/ chair of governors to consider suspending the alleged offender. Before taking such action advice should be sought from CYPS HR Team. Whilst suspension is a neutral act, it is normally only appropriate where there is a potential risk in allowing the alleged offender to remain in the workplace. This could be because there is:

- a possibility of intimidation of the complainant or any potential witnesses
- a need to reduce tensions in the working environment
- a need to facilitate a full investigation

Alternatives to suspension may include temporary redeployment to a different environment or department but it is recognised that this is not always feasible in a school environment.

Further guidance on managing the suspension of an employee is given in the [School Disciplinary Procedure - Part A1](#). A standard letter for suspension of an employee is attached as **Appendix 7**

Managing the Formal Procedures - (Stage Two and Three)

Implementation (Stage Two)

The formal procedures will normally be implemented if one or more of the following circumstances apply:-

- The informal procedures have been implemented but the problem has continued.
- The allegations suggest a criminal offence may have been committed.
- There may have been a serious breach of school policy and procedures.
- The allegations are sufficiently serious to warrant formal disciplinary action.

The first formal step is for the complainant to notify their head teacher of their wish to proceed either at a meeting or, preferably in writing. The information given should include:

- Clear, specific, allegations against named people.
- Dates, times and witnesses provided where these are known.
- Factual descriptions of events rather than opinions or assumptions.
- Direct quotes if these can be remembered.
- A brief description of the context of each incident.
- An indication of how each incident made the complainant feel and the effect it had.
- Any documentary evidence.
- Details of any action that has already been taken.

Investigating the complaint

It should be clearly understood by the alleged offender and interviewees that the investigation is in accordance with the Disciplinary Procedure for School Staff.

It should be acknowledged that formally interviewing the complainant, alleged offender and any other relevant witnesses may be a stressful process for all parties. Letters inviting complainant, alleged offender and any witnesses to a formal investigatory interview are attached as **Appendix 8 a,b** - 5 days notice must be given. Included in the invite letter there should be a copy of the Investigation Interview Handout - **Appendix 9**. At the beginning of an investigatory meeting, the investigating officer(s) should explain why they are there, and confirm that, as far as possible, confidentiality will be maintained. The purpose and process of the interview should also be explained. When interviewing the complainant and alleged offender the investigating officer(s) should state precisely what the complaint is and outline the case briefly.

For further information as to how to conduct an investigation, please see separate guidelines on the school's portal.

The main purpose of the interviews is to hear the views of all parties and to listen carefully to what is being said. Facts should be checked and clarified. When interviewing witnesses it is not necessary to state all the facts of the case, only those on which the witness has something relevant to say. For all such interviews, the tone adopted by the investigating officer(s) should not be accusatory. A list of open questions should have been prepared prior to the interview, which should be followed up with prompts as necessary, e.g. 'And what happened after that?', 'I'm not quite sure what you meant when you said'. The questions should be used to clarify all the issues and to check that what has been said is understood by all.

The investigating officer(s) should ensure fairness to both parties in their questioning, which may need, at times, to be direct and probing in an attempt to establish the facts. It is important for the investigating officer(s) to avoid confrontation, defuse potential arguments and avoid the use of remarks which could be construed as personal or demeaning in any way. Listening attentively and being sensitive to silence can be a constructive way of encouraging the interviewee to be more forthcoming. If the interviewee becomes emotionally distressed during the interview a short break should be suggested to allow them to compose themselves before continuing. However, if the interviewee continues to be so distressed that the interview cannot continue, or if threatening language or physical violence occurs during the interview, it should be adjourned for a short time, or, if necessary reconvened at another time.

At the conclusion of each interview the investigating officer(s) should acknowledge that the process may have been difficult for all parties and thank them for their time and contribution. All parties, including any witnesses, should be told what will happen next and the likely timescales. They should also be told to maintain confidentiality and, therefore, not to discuss the complaint with other parties or work colleagues, other than those providing support as agreed. After the interviews a witness statement should be prepared and sent to each party under confidential cover to check, sign and date, verifying that it is an acceptable and accurate version of the interview.

After the signed statements have been returned, the Investigation Officer should then compile a report. A Template for an Investigation report is attached as **Appendix 10**.

Outcome of the investigation

Unlike a Court of Law, the harassment investigation and any subsequent disciplinary hearing does not need to establish guilt on the basis of "beyond reasonable doubt" but on the lower test of "the balance of probabilities" ie "Is there a reasonable suspicion amounting to a belief in the guilt of the employee of the alleged complaint and are there reasonable grounds for that belief?"

The following points should be considered by the investigating officer(s) if they are making recommendations about action:

- Is the misconduct sufficiently serious to justify disciplinary action?
- Has due regard been paid to any mitigating circumstances put forward by or on behalf of the alleged offender?
- Are the recommendations being considered reasonable in the light of all the known circumstances?

There are several possible outcomes to such an investigation. For example:

- If the alleged offender **admits the allegation**, there may be no need for the investigation to continue unless the investigating officer(s) feel that further confirmation of the facts is needed. Consideration will need to be given as to whether any disciplinary action should be implemented against the offender.
- The investigating officer(s) may conclude on "the balance of probabilities" that **all or some of the alleged behaviour did occur** and will need to consider whether formal disciplinary action should be implemented against the offender in line with Stage Three of the Harassment Procedures.
- the investigating officer(s) may conclude on "the balance of probabilities" that **none of the alleged behaviour occurred**. Consideration may then need to be given as to whether there are any issues relating to the complainant's behaviour or perception of the situation which need to be addressed.
- the investigating officer(s) may conclude that **both parties had contributed to the situation** and appropriate action will need to be taken, including mediation, to resolve the issues.

Communicating the outcome

The complainant, alleged offender and any recognised representatives should be told separately of the recommendations and be given the opportunity to comment on the investigation (process and recommendations) prior to the head teacher/ investigating officer confirming the decision and any recommendations in writing.

If the decision does not result in disciplinary action and if either the complainant or alleged offender is not satisfied with this outcome, they will have recourse to the school's Grievance Procedure. In such cases the specific grounds for raising the grievance must be stated in writing to the Head Teacher or Chair of Governors as appropriate.

If the outcome of the investigation is to convene a governors' disciplinary hearing (Stage 3 of Newark Orchard School – Harassment Procedure for School Staff – April 2017

the Formal Harassment Procedures) this must be held in line with the School's Disciplinary Procedure - Part A1 (Conduct) Any concerns raised by the alleged offender will be considered as part of that process. However, regardless of whether the complaint is upheld or not it will be necessary to consider what steps need to be taken to restore good working relationships between the respective parties and to manage the aftermath of the situation. (See section below - Managing the Aftermath.)

Governors' Disciplinary Hearing (Stage Three)

Complaints raised formally through the Harassment Procedure may, subject to the findings of a full investigation, result in a governors' disciplinary hearing. This hearing will be arranged and conducted in line with the School's Disciplinary Procedure - Part A1 (Conduct). Sample letter to alleged offender inviting to a disciplinary is attached as **Appendix 11** and to witnesses **Appendix 12**.

In view of the sensitivity of the situation, particular consideration will need to be given to the arrangements for the hearing. For example, the venue will need to comfortably accommodate all parties during the course of the meeting and provide a suitable room for any witnesses waiting to give evidence. Arrangements must also be made for an appropriate person to take notes throughout the hearing

The governors' disciplinary panel should comprise three governors who will take responsibility for considering the harassment complaint under the formal Harassment Procedure - (Stage Three). The governors included in a panel hearing a harassment complaint should have had no previous direct involvement in the case in question. However, where this presents a problem, for example in very small schools or exceptionally complex cases, membership of the panel should be considered on a case by case basis and be subject to agreement by all parties. The head teacher can be a member of the Harassment Panel but only if they are not directly involved in the complaint or investigation. However, it is recommended that that they should not normally take on this role.

The panel should be as representative as possible according to the circumstances of the complaint. Ideally, at least one member should have received training or be experienced in dealing with harassment complaints. Due to the sensitive nature of harassment, it is acknowledged that the panel may wish to make revisions to the formal conduct of the hearing. However, the rules of natural justice must be observed by the Disciplinary Panel in affording both sides the opportunity of a thorough exploration of the issues. The formal order of events for such a hearing is shown at [Appendix 13](#).

In coming to a judgement the panel will need to consider the following:

- Has there been as much investigation as is reasonable?
- Has the investigation paid sufficient regard to the explanation put forward by, or on behalf of, the alleged offender?
- Does the panel believe the alleged offender has committed the act or behaviour?
- Does the panel have reasonable grounds on which to sustain that belief on the balance of probabilities?

Rights of Appeal

There is no further right of appeal by the person who has raised the harassment complaint. However,

- an employee has the right to raise a grievance if they have grounds for complaint about the school's implementation of the harassment procedures.
- the employee against whom the harassment complaint has been made has the right to appeal against a decision of the Governors' Disciplinary Panel regarding their conduct. This must be notified to the Head Teacher in writing within 10 working days of the outcome letter. Arrangements for the appeal to be heard will then be made in line with the school's Disciplinary Procedure - Part A1 (Conduct).
- there is no recourse to an appeal or grievance procedure if the complainant is dissatisfied with the outcome of a disciplinary hearing held to consider the conduct of the employee against whom their harassment claim was made.

Managing the aftermath

After the conclusion of a case brought under the school's Harassment Complaints Procedure the school is still responsible for maintaining a harassment-free and fair workplace, whatever the outcome. Successful management of the aftermath of a harassment complaint will largely depend on the quality of support to the complainant and alleged offender from managers, along with appropriate structures being put in place etc.

- Victimisation is unlawful. This means that management must ensure that there is no victimisation - whether intentional or not - of any of the parties involved. It will be important, therefore to reassure the complainant and consider how they may be affected. Victimisation can lead to the following typical comments from complainants:-
"I feel I have been made to seem as if I'm the trouble maker."
"I am afraid to go to work."
"I am too scared to speak now."
"People think that I'm the problem."
- Whether the complaint is resolved through the initial stage or through the formal stage, the manager must ensure that any action decided upon is properly and fully followed through.
- It is important to recognise the potential damage to relationships that may occur and that such feelings may be long term.
- A complainant or alleged offender may be absent from work for a lengthy period through stress or depression arising from the situation. This will need to be sensitively handled with reference, as appropriate, to the school's Attendance Management Policy.
- The County Council's counselling service can be used as necessary for individual/group counselling or to offer training and support where teams have become dysfunctional. This and other sources of support, can be accessed in consultation with the CYPS HR team

and the trade union representative as appropriate.

- As a matter of principle, all the parties involved should be offered an opportunity to consider how they are to continue to work together. The overriding concern is the complainant's right to a safe, supportive and healing working environment. If the complaint is upheld, it should be the offender's working relationships which are changed. However, the complainant's normal working practices and relationships should not be altered unless it is their explicit wish.
- It will be important to consider what information should be issued to other staff i.e. to the immediate team as well as to the whole school workforce. It is likely that gossip, rumour and misinformation will be widespread so school managers will need to be briefed appropriately so they can give agreed information to their teams about a particular case.

Employment Tribunals

In certain circumstances e.g. if dismissal occurred as a result of a harassment complaints case, an employee may be entitled to take their appeal against disciplinary action to an Employment Tribunal.

A complainant may also take his/her case of discrimination or harassment to an Employment Tribunal. To do this they must present evidence of being treated to their detriment because of discrimination attributable to age, race, sex, sexual orientation, religion and belief, gender re-assignment, disability, pregnancy or maternity and marriage or civil partnership. These are known as 'protected characteristics' and are grounds recognised by the Equality Act 2010.

The Employment Tribunal will comprise a panel of three people - one legally qualified Chair and two lay advisers. Their task will be to decide whether to uphold the appellant's claim, and in doing so will consider the nature and fairness of the investigation, the conduct of the disciplinary hearing, and whether any disciplinary action was reasonable and appropriate in the circumstances. The investigating officer (s) or chair of the Disciplinary Panel may also be called as witnesses.

CODE OF PRACTICE: COMPLAINTS OF HARASSMENT BY SCHOOL STAFF

School complaints of harassment

1. Introduction

1.1 The Governing Body of this school and Nottinghamshire County Council are committed to promoting equality of opportunity for all staff within the school. In doing so, neither the Governing Body nor the County Council will tolerate any form of harassment, intimidation, adult bullying, unfair discrimination or victimisation by and against any staff in school. Both sexual and racial harassment are unlawful and the Governing Body in the exercise of its powers and responsibilities is determined to eliminate such harassment and other forms of unacceptable behaviour in order for all staff to work in a climate and culture which are supportive and non-threatening.

1.2 The aim of the school's harassment policy and procedure is to ensure that mechanisms exist within school supported by the local authority which:

- aim to prevent harassment within the school by ensuring that all staff and governors understand their responsibilities in this respect.
- enable staff to raise complaints in the knowledge that the Governing Body and senior management will take such complaints seriously, listen to the concerns and respond appropriately.
- deal with the problem of harassment in a manner which respects the rights of the complainant to confidentiality and support in pursuing their complaint.
- ensure there is no repetition of harassment and that appropriate action can be taken within the framework of the school disciplinary procedure if harassment has occurred.

1.3 The Governing Body recognises that in some circumstances thorough investigation of some complaints may be very time consuming. However, in most circumstances it is anticipated that from the receipt of the complaint to the notification to the complainant of the action to be taken, the procedure should normally not exceed a period of 20 working days, *wherever possible*.

2. Scope and definition

2.1 There is no simple definition of harassment. It can take many forms and may be directed at an individual or at groups of people. As an employer the County Council regards harassment as a form of misconduct which covers all unwanted action or conduct which affects the dignity of men and women at work. It is described by ACAS as "unwanted conduct that violates people's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment."

- 2.2 Harassment is behaviour which has the effect of diminishing a person's position, status or esteem. It can be imposed on an individual by another on the basis of perceived differences, particularly in respect of sex, race, sexual orientation, disability or medical condition, religion, cultural or language differences, age, physical attributes or trade union or political affiliation.
- 2.3 Such behaviour may range from physical contact and unwelcome sexual advances such as unnecessary touching and suggestive emails or text messages through to physical abuse or assault. It can be verbal ranging from suggestive remarks, inappropriate 'jokes', verbal abuse, name calling or persistent denigration. It can be non-verbal such as gestures and body language or the display of offensive material.
- 2.4 Within the work situation, harassment may take the form of adult bullying - the unjust exercise of power of one individual over another by use of means intended to humiliate, frighten, denigrate or injure. Such means could include berating or reprimanding in the presence of others, the setting of unreasonable work allocations or unjustified changes in such allocations, the inappropriate use of discipline and competence procedures, overbearing supervision, continual and unnecessary criticism, both verbal and/or written, and malicious isolation. For the purposes of this document, the definition of the term harassment includes adult bullying.
- 2.5 A common feature of harassment is that it is unwanted. Whether or not the behaviour was meant to be offensive, it is the complainant's perception of the behaviour which is important and must be taken seriously. Unwelcome behaviour becomes harassment if it is repeated once it has been made clear by the recipient that it is offensive or unwanted. One incident may constitute harassment if sufficiently serious. Experience shows that for those who are harassed, the consequences can be that the individual may suffer stress, anxiety, feelings of guilt or depressive illness and therefore it can affect work performance and attendance.
- 2.6 Another common feature of harassment is that mostly it takes place in situations where there are no witnesses. The absence of direct corroboration should not determine whether the matter should be formally investigated nor whether the issue should be placed before members of the Governing Body. The Governors may then determine that action should be taken on the balance of probability based on the evidence heard.
- 2.7 Although this procedure concentrates, as it must, on procedures for dealing with the conduct of employees, it must be remembered that school staff are part of a wider community which comprises pupils, parents and governors together with employees of the County Council or contractors working on site. Every individual within that community has the right to be treated fairly, equally and with respect. Each individual also has a responsibility to treat other members of the community in such a manner. Such wider considerations should be incorporated within the school's equal opportunity policy which should be a matter for consultation within the community and with representatives of the Trade Union at local level.

Legal requirements - responsibility of governors and staff

- 3.1 Harassment may under certain circumstances constitute a criminal offence or may

contravene other obligations imposed by the law, such as Equality Act 2010, Health and Safety at Work etc, Act 1974 (which states that the employer ensures the provision of a healthy and safe place of work) or a duty, contractual or otherwise to be a good employer. Where a criminal offence is suspected, the member of staff should be advised to contact the Police. In such cases, the perpetrator may subsequently face court action as well as disciplinary proceedings.

- 3.2 Governors acting on behalf of the employer have an implied duty to take steps to prohibit discriminatory behaviour which is detrimental to the well being of the employees affected and which destroys the trust and confidence within the workplace. While the harasser is always liable, the employer can also be held liable unless reasonable steps have been taken to prevent or discourage such action if it occurs. This could place the Governing Body in contravention of the Equality Act 2010 if an employee can prove to an Industrial Tribunal that they have been subjected to a detriment.
- 3.3 Briefly, in relation to discrimination law, employers can be made directly liable for unlawful discrimination by their employees. Anything which a person does in the course of their employment is treated as having been done by their employer as well as by the employee. It is now increasingly common for complainants to cite both the employer and the individual harasser as respondents in applications to Industrial Tribunals.
- 3.4 Liability applies whether or not the employer previously knew about the employee's actions, and also regardless of whether or not the employer subsequently condemned them.
- 3.5 Conversely, all staff have a duty and a responsibility to assist in the creation of a safe work environment where unacceptable behaviour is not tolerated. Therefore they must ensure that the standard of conduct for themselves and for colleagues respects the dignity of others and does not cause offence.
- 3.6 Every member of staff has a duty to contribute to preventing and stopping harassment in the workplace by:
- challenging and helping to stop unacceptable behaviour in the workplace.
 - informing the appropriate manager of any incidents of harassment.
 - providing support to any colleague subjected to harassment.
 - ensuring that their conduct does not in any way contribute to incidents of harassment.
 - not colluding with any inappropriate behaviour.
 - cooperating fully in any investigation undertaken.
- 3.7 Victimisation of those making or supporting a harassment complaint is unlawful under the Equality Act 2010. Victimisation may arise when:-

- after having made a complaint the recipient of the harassment is treated unfavourably or detrimentally by their manager or colleagues, or
- a member of staff who has supported a colleague or colleagues in challenging unacceptable behaviour finds that they are treated in an unfavourable or detrimental manner by their manager or colleagues.

3.8 It is therefore the responsibility of the employer to ensure that this does not arise by monitoring the situation and taking the appropriate steps to prohibit it. Where victimisation or retaliation does occur, the employer must take immediate action to stop it or be held liable. In dealing with such issues the Trade Unions will also monitor the situation on behalf of their members.

3.9 The Equality Act 2010 strengthened the law relating to Harassment in that

- employees will now be able to complain of behaviour that they find offensive even if it is not directed at them,
- the complainant need not possess the relevant characteristic themselves
- employees are protected from harassment because of perception and association.
- Governing bodies are liable for harassment of employees by people (third parties) who are not employees of the school, if harassment has occurred twice, you are aware it is taking place and you do not take reasonable steps to prevent it from happening.

HARASSMENT PROCEDURE FOR SCHOOL STAFF

Stage One Procedures (Informal)

- 1 Naturally, a member of staff may feel reluctant to pursue a complaint because of their vulnerability or embarrassment. It is acceptable to discuss the matter, in complete confidence, with a suitably trained officer in the CYPS HR or with a representative of a trade union. At this stage the officer or representative will be no more than "a listening friend" to advise and support. No action will be taken without the express approval of the member of staff concerned.

- 2 The first step in proceeding is for the complainant to make clear to the harasser that the behaviour is unacceptable. This may be difficult and the complainant may feel he/she would wish to be accompanied by a trade union representative or a colleague/friend. Alternatively, the complainant may approach his or her trade union who may write to the individual concerned. The approach should be clear and specific about the behaviour which is offensive and ask for it to be stopped. The objective at this stage is to secure the understanding of the individual that the complainant finds the behaviour unacceptable. It may be in securing that understanding from someone who is unaware of the effect of his/her actions, the matter is resolve.

- 3 Alternatively, the complainant may raise the issue with his/her head teacher, either orally or in writing, requesting that the head teacher speak to the individual involved. The complainant may be accompanied by a trade union representative or a colleague/friend in raising this issue quickly and provide feedback on the action taken. If the complainant decides not to proceed and the matter has been submitted to the head teacher in writing, the complainant may decide whether the letter should be retained or returned. The head teacher, however, should keep a note of the action he/she has taken, but should not take copies of the original letter.

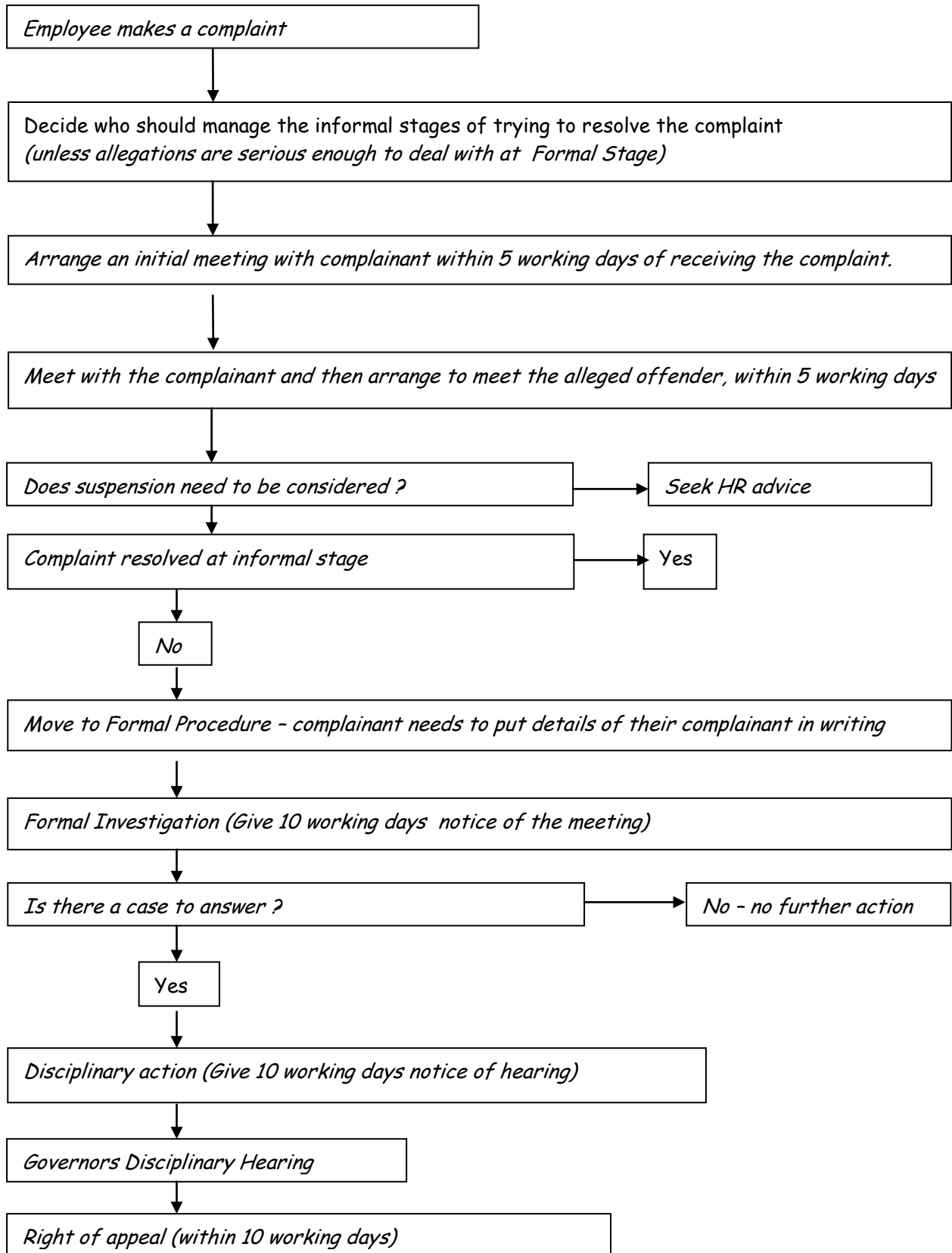
- 4 If the complainant is not satisfied of the outcome of the informal stage or if the harassment continues, the complainant is entitled to treat the harassment as intentional. The complainant is entitled to take the matter further to the next stage set out below. However, some complaints may be sufficiently serious to invoke the formal stage or immediately and advice on this is available from *CFCS* HR and the recognised trade union.

Stage Two and Three Procedures (Formal)

- 5 The first formal step to take is for the complainant to notify their Head Teacher of their wish to proceed either at a meeting or, preferably in writing. (Stage Two) The information given should include:
 - clear, specific, allegations against named people.
 - dates, times and witnesses provided where these are known.
 - factual descriptions of events rather than opinions or assumptions.
 - direct quotes if these can be remembered.

- a brief description of the context of each incident.
 - an indication of how each incident made the complainant feel and the effect it had.
 - any documentary evidence.
 - details of any action that has already been taken.
- 6 At this point the issue becomes a management responsibility and the school's disciplinary procedure invoked. This will involve consideration of:
- suspension (in serious cases or where the continued presence of the individual would hamper matters this will be the norm)
 - a full investigation
 - a subsequent decision on whether to proceed to Stage Three by placing the matter before governors in accordance with the school's disciplinary procedure.
- 7 The complainant should be kept fully informed of progress as the matter progresses. If the complainant needs to appear as a witness, then arrangements should be made to ensure that he/she does not feel intimidated or vulnerable during the process. Advice on this is available from *CFCS* HR.
- 8 At the conclusion of the process, head teachers have a responsibility to ensure proper integration of the complainant back into the workplace. This may involve discussion with staff, changed working arrangements or initial support. The prime consideration must be for the welfare of the complainant and any reasonable request for assistance should be acceded to. In some cases the same may apply to the alleged harasser and similar arrangements may need to be initiated to secure appropriate working relationships within school.
- 9 Where the alleged harasser is the head teacher, the chair of the governing body may request that the investigation and presentation of evidence to any Discipline Panel will be undertaken by a senior officer from *CFCS* HR in line with the terms set out in *Services to Schools*.
- 10 This procedure fulfils the requirements introduced under the Employment Act (Dispute Resolution) Regulations 2004 and the *ACAS* Code of Practice on Disciplinary and Grievance Procedures.
- 11 This recommended policy and procedure has been agreed with the recognised trade unions through the Joint Consultative and Negotiating Panel process.

Flowchart for dealing with a Harassment complaint



Appendix 3 - Invite complainant to informal meeting

Dear (Name)

Re: (Name of school) - Harassment Procedure - Initial Stage

I acknowledge receipt of your complaint received (detail date, how complaint received). This matter will be managed in accordance with the initial stage of the Harassment Procedure for School Staff, copies of which are enclosed for your information.

I am looking to try and resolve this complaint informally at the initial stage and I would like to meet with you at (location) on (date) at (time) to discuss the complaint.

You are entitled to be supported by either a Trade Union representative or friend/colleague. If you wish to have this support you will need to organise this.

You should be aware that I will also be meeting with (alleged offender's name). In order to ensure (he/she) has a fair opportunity to respond to your allegations, I will provide (alleged offender's name) with a summary of the complaint(s) you have made. I will discuss this further with you during our meeting.

If you wish to discuss this matter further or clarify any points before the meeting, please do not hesitate to contact me on (telephone number).

Yours sincerely

(Head Teacher or allocated member of the SLT)
(Post title)

Encs: Harassment Procedure for School Staff

Appendix 4 – Invite alleged offender to informal meeting

Dear (Name)

Re: (Name of school) Harassment Procedure – Informal Stage

Further to our initial discussion I confirm that (complainant's name) has made a complaint against you under the Schools Harassment Procedure, the concerns being:

(Outline the concerns)

As (complainant's name) line manager (or nominated manager), I am looking to try and resolve this complaint informally at the initial stage and I would like to meet with you at (location) on (date) at (time)] to discuss the complaint. The contents of the meeting will be confidential to the process, notes will be taken and you will be sent a copy of them to sign off as a true record.

I have enclosed a copy of the Harassment Procedure for your information.

You are entitled to be supported by either a Trade Union representative or friend/colleague. If you wish to have this support you will need to organise this.

If you wish to discuss this matter further or clarify any points to the meeting, please do not hesitate to contact me on (telephone number).

Yours Sincerely,

(Head Teacher or allocated member of SLT)
(Post title)

Encs: Harassment procedure for school staff

Appendix 5 - Completion of informal stage - Letter to complainant

Dear (Name)

Re: (Name of School) - Harassment Procedure - Initial Stage

Further to your complaint made against (alleged offender's name). Your complaint was that (complaint details). I have met with you both separately under the initial stage of the Harassment Procedure. After careful consideration of the discussions held, I conclude that:

(Outline details of outcome:

- The allegation[s] is[are] unfounded
- It can be resolved through an apology or other means
- Is founded but is sufficiently minor that it requires no further action other than advice, guidance, training and monitoring through the normal supervisory processes
- Is founded and/or is sufficiently serious that it will be investigated further under the formal stage of the Harassment Procedure, insert what will happen next and who will deal with the complaint under the formal stage. I would advise you seek the advice of your representative).

If you have any questions or queries about the content of this letter, please do not hesitate to contact me on (telephone number).

Yours sincerely

(Head Teacher or allocated member of SLT)
(Post title)

Appendix 6 - Completion of informal stage - Letter to alleged offender

Dear (Name)

Re: (Name of School) - Harassment Procedure - Initial Stage

Further to the complaint made against you. The complaint was that (insert complaint details). I have met with the complainant(s) and you separately under the initial stage of the Harassment Procedure. After careful consideration of the discussions held, I conclude that:

(Outline details of outcome:

- The allegation(s) is (are) unfounded
- It can be resolved through an apology or other means
- Is founded but is sufficiently minor that it requires no further action other than advice, guidance, training and monitoring through the normal supervisory processes.
- Is founded and/or is sufficiently serious that it will be investigated further under the formal stage of the Harassment Procedure, (Insert what will happen next and who will deal with the complaint under the formal stage). I would advise you to seek the advice of your representative.

(If there is a need to suspend the alleged offender please refer to Appendix 7 - standard letter for suspension of an employee - seek HR advice prior to any suspension)

If you have any questions or queries about the content of this letter, please do not hesitate to contact me on (telephone number).

Yours sincerely

[Head Teacher or Allocated member of the SLT)
(Post Title)

Appendix 7 - Standard letter for suspension of an employee

Private and Confidential

Name

Address

Dear

Further to our recent discussion, I confirm that in view of the incident(s) which has/have come to light (give reasons) regarding your alleged inappropriate behaviour towards a pupil), you are suspended from your post as * at this school, with immediate effect. As suspension is not a disciplinary measure you have no right of appeal against this decision. However, you will remain on full pay pending the outcome of investigations into the alleged incidents outlined above.

Whilst I cannot confirm at this stage when the investigation will be completed, I can assure you that I am aware of how difficult this situation must be for you and the investigation will take place without delay. However, I consider that by the nature of your employment, i.e. supervision of children (or other reason), your continued presence at work may be prejudicial to the situation. I must advise you that during the period of your suspension you should refrain from entering the school premises and communicating directly with anyone involved in the case. However, this does not prevent you from communicating informally with friends or colleagues about issues not connected with the case.

If you should wish to contact the school for any reason, you can do so through a number of channels:

- (name, post and telephone number of link officer) has agreed to act as your link officer during your suspension
- you can also contact (name of line manager on telephone.....)
- In addition you can also contact (name and post of contact in HR and telephone number.....). If (name of HR person) is unavailable another member of the HR team will be able to assist you.

If, at any point, you wish to speak to me personally about your situation or the procedures then please do not hesitate to contact me. Further support can also be obtained from your Trade Union.

For School Support Staff only add this information on taking annual leave:

During your period of suspension annual leave should be taken in accordance with the normal procedures and should be approved in the normal way. You should be aware that there is no provision for the carry-over of annual leave from one leave year to the next.

Yours sincerely

Head Teacher.

Copies to: Chair of Governors, CFCS HR Team

Appendix 8A - Invite to formal investigation interview - witness/complainant

Dear (Name)

Re: (Name of school) - Disciplinary Procedure: Investigation interview

Further to the (details of the complaint) I have been asked, to undertake an investigation under the Disciplinary Procedure into the following allegations involving (name):

- (details of allegations/concerns as appropriate)

A handout has been prepared summarising the process I will be following (copy enclosed). I understand that you may be a witness to this incident(s) or that you may have relevant information to the investigation. I would therefore like to meet with you to discuss this.

You may, if you wish, be accompanied by a trade union representative or other person of your choice to support with the process. Before the investigation is completed, you will also be invited to submit a signed personal statement if you wish.

The contents of the interview will be confidential in nature but a written record will be taken and you will be sent a copy for you to confirm the accuracy of the meeting. Please note that, in the event of this matter proceeding to any formal disciplinary action, (alleged offenders name), their representative and any parties conducting the disciplinary proceedings may receive a copy of these notes and any other material you may provide. Due to the confidential nature of the proceedings you should not discuss or share details of the investigation with any third party. It may also be necessary for you to attend a formal meeting to consider the allegations, where you will be required to attend as a witness.

I would like to meet with you on (date) at (time) at (location). On arrival at (location) please report to reception and ask for (name). I will be accompanied by (name) who will be assisting me with recording notes of the meeting. Please contact (Investigation Support Officer name) to confirm that you will be attending the meeting.

Should you have any queries or questions in relation to this process please contact me directly on [telephone number].

Yours sincerely

Head Teacher or Allocated Investigation Officer from SLT
(Post Title) cc. CYP HR

Appendix 8B - Invite to formal investigation interview - alleged offender

Dear (Name)

Re: Disciplinary Procedure - Investigation interview

Further to the outcome of the initial stage of the Harassment Procedure I have been asked to undertake an investigation under the Disciplinary Procedure into allegations that you have:

- (details of allegations/concerns as appropriate)

The school will begin an internal investigation into the allegations. If the investigation concludes that there is a case to answer, then a disciplinary hearing will be convened in accordance with the School's Disciplinary Procedure, a copy of which is enclosed. If the allegations are proven, and it is found that they constitute gross misconduct, this may result in you being dismissed.

A handout has been prepared summarising the process I will be following (copy attached). As part of the investigation, I would like to meet with you so that I can explain the investigation process as well as giving you an opportunity to give your full response to the issue under investigation.

Please note that you are entitled to be accompanied by a trade union representative or other person of your choice at all investigation interviews held under the disciplinary procedure. As well as the interview, you may submit a written response if you wish.

I will be accompanied by (name) who will be assisting me with recording notes of the meeting. The contents of the interview will be confidential to the process. A written record of the discussions will be made and you will be sent a copy for your comments.

I would like to meet with you on (date) at (time) at (location)]. On arrival at (location) please report to reception and ask for (name].

Please confirm by (date) whether you will be attending this meeting and whether you will be accompanied by contacting (name and telephone number). If this date is not convenient, then it is important that you contact me again by the above date, to arrange a mutually convenient date.

Should you have any queries or questions in relation to this process please contact me directly on (telephone number).

Yours sincerely

Head Teacher or allocated Investigation Officer from SLT

CC : Investigation Support Officer, CYP HR

Enc: Schools Disciplinary Procedure and Employee Investigation Interview handout

Appendix 9 - School - Investigation Interview Handout

The aim of any investigation is to conduct a thorough and impartial enquiry which covers all issues of relevance to the matter under investigation.

The rights of those participating include:

1. Having the process as it affects them explained.
2. Being given the opportunity to express their own view of the complaint / allegations without fear or favour
3. Being appropriately accompanied and supported.

The interview will:

1. Be confidential to those directly involved in the process.
2. Allow the Investigation Officer/team to ask relevant questions, the responses to which will be recorded as notes of the meeting (not necessarily verbatim).

If the interviewee refuses to answer other questions which are material to the investigation, this refusal will be noted by the Investigation Officer/team as part of the interview and may be brought to the attention of the panel at any subsequent hearing.

As an employee you are required to assist the school in any investigation. If you have witnessed anything relevant to an investigation you are obliged to be co-operative which includes being interviewed as part of any process. In assisting in any such process you must be mindful that you are not permitted to undermine any such investigation in terms of delay, collusion or give false / misleading accounts. Should you do so, then you may face the possibility of disciplinary proceedings.

At the conclusion of the interview, the notes will be sent to the person involved within 10 working days wherever at all possible, with a request that the notes are returned within 5 working days, signed and dated in agreement. If the person feels they are inaccurate, or incomplete, they may send amendments/ additions. It is up to the Investigation Officer/team to decide whether to accept these changes - if not this will be recorded as part of the process. It is important that the interviewee is satisfied that the notes of the meeting are an accurate record of what was said at the meeting as the notes may be presented at future hearings and the interviewee may be called and expected to give evidence on the basis of those meeting notes.

Any interviewee should be aware that if the matter were to proceed to a formal hearing, the subject of the investigation will be given a copy of the notes of the meeting and any signed personal statement that the interviewee has provided. At all times interviewees should have due regard to the appropriateness and acceptability of their language and communications. The interviewee should ensure that the contents of the notes are kept confidentially.

The process following the investigation is that a report will be written by the Investigation Officer/Team to determine whether there is a case to answer at a formal disciplinary hearing.

If there is a case to answer at a formal disciplinary hearing, The interviewee can be required to attend the hearing and provide their evidence in person.

Appendix 10 – Template for an Investigation Report

(Insert School Name)

Strictly Private and Confidential: INVESTIGATION REPORT

**REPORT FOLLOWING AN INVESTIGATION UNDER
DISCIPLINARY PROCEDURE**

SUBJECT: [name]

Job Title:

Place of Work:

Subject of Allegations:

Commissioning Officer:

Date of Commission:

Investigating Officer(s):

Date of Report:

CONTENTS

Page Number

1. Investigation Brief/Allegations
2. Process of Investigation
3. Background
4. Analysis of Evidence
5. Conclusion
6. Recommendations

APPENDICES

1. **Investigation Brief/Allegations**

1.1 [This report has been compiled following a request by [state name] to investigate allegations that [xxx]].

1.2 [The purpose of this investigation is to determine whether there is a case to answer in respect of the allegations that (name of employee) has.....]

2. **Process of Investigation**

3. **Background**

3.1 [[name] is a (job title) employed at (location). Include any relevant structural/line management/complaint/witness details

3.2 Explain:

- how potential irregularity came to light, and when;
- action taken by school as a result (i.e suspension, investigation)
- format of investigation (who you spoke to, what evidence you considered, etc)]

4. Analysis of Evidence

This section needs to draw all the evidence together and analyse it in order to demonstrate how you have reached conclusions.

Also evidence from the key witness and any other witnesses.

Concentrate on incident on the day as one element, and then draw in any other allegations made about potential previous incidents.

Do not include personal comments/conclusions/statements:

5. Conclusion

Is the allegation proven "on the balance of probabilities" in your view?

What is the mitigation?

Are there any other conclusions you have drawn from the evidence?

You are looking (from your analysis) for corroboration of evidence

6. Recommendations

Need to make recommendations about:

(a) a disciplinary hearing

(b) anything else which has been uncovered (eg better communication of procedures, or changing system, or changing policy, or training needs, etc).

Appendix 11 - Invite to disciplinary hearing letter - alleged offender

PERSONAL

Name

Address

Dear

(Name of) School - Disciplinary Procedure

Further to our recent discussions, I wish to inform you that you are required to attend a meeting within the framework of the school's disciplinary procedure. A copy of this procedure is available in school in (place) for your information. (A copy of this procedure is enclosed - if suspended).

The meeting will be with myself as investigating officer and the governors' disciplinary panel and will be held in (place) at the school on (date) at (time). Specifically, the meeting will consider your conduct relating to (List each allegation, include information such as date, time, place of incident etc)

(Include the following paragraph If dismissal is a possible outcome of the hearing, i.e. as a result of gross misconduct or following previous warnings, this must be clearly stated in letter).

I must advise you that one possible outcome of the hearing is that you may be dismissed from your post as (job title), for gross misconduct or as you already have a final written warning.

Within the provisions of the school's disciplinary procedure you are entitled to receive copies of the documents which will be considered at the hearing. I attach, for your information, copies of the following documents:-

(List the appendices in order, starting with statement of case)

You have the right to present evidence to support your case. If it is your intention to submit evidence to the panel you must let me have this by (date) so that I can circulate copies prior to the meeting. Otherwise any documents you wish to rely on may not be considered by the panel.

You are strongly advised to be represented at the meeting by your trade union representative or a person of your own choosing. You may, if you wish, call witnesses to support your case and, if this is your intention, please let me know in advance of the meeting so that arrangements can be made to accommodate them.

I will assume you will be attending the hearing unless I hear from you to the contrary. You should be aware that the hearing is likely to proceed in your absence unless you provide appropriate notice and explanation for your non attendance.

Please confirm by (date) that you and your representative are able to attend this meeting on the date and times given.

Yours sincerely

Head Teacher Copy to: CFCS HR Team

Appendix 12 - Invite to disciplinary hearing letter - witnesses

Dear (Name)]

Re: Disciplinary Procedure - Attendance at hearing

Further to your involvement in the investigations into allegations of misconduct made against (name), a formal disciplinary hearing has now been convened for (date) at (venue) at (time). The purpose of this hearing is for management to consider further the allegations against (name), and to make a decision regarding disciplinary action.

The hearing panel will comprise (panel details).

(Name) will present the case for management of the school, and would like to call you as a witness. In appearing as a witness, you will be asked questions relevant to the allegations made and to the statements you have already made during the course of the investigation. Questions may also be asked of you by (alleged offenders name), their representative and by the panel.

You will only be required to attend when your evidence is presented and not for the full duration of the hearing. It is important that you appear as a witness, in order to ensure that the process of hearing the case is a fair one, and that relevant information is made available to the panel to ensure the decision reached is fair and appropriate.

Upon arrival at (location), please report to reception and ask for (name). Arrangements will be made for you to be collected and taken to the room in which the hearing is to be held.

You may if you wish be accompanied at the hearing by a trade union representative or other person of your choice. I must remind you that this is a confidential process, and should not be discussed with anyone other than your appointed representative.

Please contact me upon receipt of this letter to confirm your attendance at the hearing.

Yours sincerely

(Name)

(Post title)

HARASSMENT PROCEDURES - STAGE THREE

GOVERNORS' DISCIPLINARY HEARING

Order of Events

1. Investigating Officer presents the case.
2. Questions from employee and/or employee representative.
3. Questions from the Disciplinary Panel.
4. Employee (or representative) presents their case.
5. Questions from Investigating Officer.
6. Questions from the Disciplinary Panel.
7. Investigating Officer sums up.
8. Employee (or representative) sums up.
9. Both parties withdraw.
10. Panel decision.
11. All parties reconvene. Decision given.
12. Decision confirmed in writing by Head Teacher within 3 working days - including notice of right to lodge an appeal if applicable within 10 working days of the hearing.