

GRIEVANCE AND DIGNITY AT WORK POLICY AND PROCEDURE

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Signed by Trust/Committee Chair

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Grievance and Dignity at Work

Policy & Procedure

(herein after referred to together as the Policy)

1. Introduction

The Trust recognises that there are occasions where disputes may arise in the employer/employee relationship. The purpose of the Grievance and Dignity at Work Policy & Procedure is to address matters within the workplace that are of concern to employees in order to promote a positive and constructive working environment and working relationships.

The Policy's aim is to ensure that there are consistent principles and processes that are applied regardless of the nature of the complaint. It is recognised that there are different types of complaints and those that fall under the remit of a Grievance will differ from those that fall under the Dignity at Work complaints and will be treated accordingly whilst ensuring the same process is followed.

As an employer the Trust is under a legal obligation to have a Grievance policy in place and to also ensure that certain requirements are met.

2. Policy Statement

The Policy provides a framework for resolving disputes in a fair, reasonable, timely and consistent manner at the earliest possible stage and with due regard to legal obligations. The policy therefore encourages proactive and meaningful discussions to take place at the informal stage of these procedures.

Disputes will be dealt with promptly and the procedures will be applied evenly and consistently by all managers and should be used with confidence by all employees.

The Trust will ensure that all staff and managers are aware of the expectations regarding their behaviour, conduct and actions as employees.

3. Legislation/conditions of service

NJC for Local Government Services (Green book) Part 2 (16) regarding Grievance Procedures states that the employing authority should ensure that all employees are aware of the person to whom they should apply in the event of their having a grievance and of the procedure to be followed in that instance.

The Conditions of Service for School teachers in England and Wales (Burgundy Book) states that Local education authorities and Academy Committees shall draw up appropriate procedures at local level to deal with individual grievances, breaches of discipline and dismissal.

An Acas Code of Practice on Disciplinary and Grievance Procedures (the Code) _ came into force on 6 April 2009 and sets out five key elements of fairness being:

1. matters should be raised and dealt with promptly
2. parties should act consistently
3. employers should carry out the necessary investigations to establish the relevant facts
4. employers should inform employees of the basis of the problem and allow the employee to put their case
5. employees should be allowed to be accompanied at any formal disciplinary or grievance meeting.

The Equality Act 2010 – this replaces the Discrimination Laws with a single Act which protects individuals on the grounds of sex, race, age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, religion or belief (including lack of belief) and sexual orientation. These are referred to as "protected characteristics".

4. Delegated authority

Authority to take action under this policy and procedure will be as set out within the Trust Delegation arrangements.

5. General Principles

The aim of the Policy is to ensure that employees are aware of:

- The expectations within the role they are employed to carry out and the standards they should aim to meet
- The expectations of the way they behave towards each other / customers whilst at work
- Treating their colleagues with dignity and respect
- Being aware of how their own behaviour may affect others and changing it, if necessary (e.g. they can still cause offence even if they are 'only joking')
- The need to intervene, to report harassment or bullying to their manager and supporting the Trust in the investigation of complaints
- The expectation that they will informally address minor grievances before using the formal procedure
- The expectation that they will raise and deal with issues promptly and should not unreasonably delay any meetings held further to the Policy
- Making it clear to others when they find their behaviour unacceptable, unless it should be obvious in advance that this would be the case

To ensure that managers:

- Develop, promote and maintain a work environment that is free from unacceptable behaviour and where all staff to treat one another with respect and dignity
- Uphold and promote the [Academy/Trust's] core value of valuing diversity and promoting inclusion
- Take prompt and appropriate action when a workplace dispute arises and do not unreasonably delay meetings, decisions or confirmation of decision
- Are consistent in the way disputes are handled ensuring that issues relating to any protected characteristic do not affect any decisions made
- Maintain confidentiality regarding individual employees' personal situations, including sexual orientation and sexual identity (how they view their gender), gender reassignment, age, race, disability or other personal characteristics which have no good reason to be disclosed, and also throughout any dispute;
- Keep accurate and confidential written records of every stage of the dispute
- Intervene, and report promptly to the Headteacher any complaint of bullying or harassment, or any incident of bullying or harassment witnessed by them
- Set a good example by their own behaviour
- Ensure that there is a supportive working environment, and framework for employees who have a complaint
- Make sure that staff know what standards of behaviour are expected of them

To ensure that both managers and employees:

- Are aware of the Code's requirements relating to work place issues;
- Are aware of the Trust's approach to workplace disputes;
- Are aware of what constitutes "reasonable" behaviour within the workplace;

- Are encouraged to improve unsatisfactory conduct/behaviour

Further Reading [delete as applicable to the School/Trust]

- Employee Code of Conduct
- Health & Safety Policy
- Whistleblowing Policy
- ICT Policy
- Disciplinary Procedure

Scope

- The Policy applies to all employees of the Trust.
- In educational establishments with fully delegated budgets, it is for the relevant Trust to decide whether or not it is appropriate to apply this policy. Where it is decided that it is not appropriate, the Trust is reminded of its obligation as an employer to nevertheless satisfy the requirements of the law and, where appropriate, the requirements of specific conditions of service.
- The term 'employee' refers to any member of staff, whether teaching or support employed to work by a School within a Trust or the wider Trust.
- The term 'Headteacher' refers to Headteacher/Executive Head or CEO

Delegation

- See relevant paragraph - Grievance and Dignity at Work policy and Procedure
- Appeals will be heard by the Headteacher or a panel of Trustees depending on line management structure within the Trust

Amendments

This policy replaces the previous Grievance Procedure and the Dignity at Work procedure and written with reference to Stonewall Transgender Equality Advice September 2016

Updated with examples of complaints where Dignity at Work Policy should be implemented with reference to Stonewall Transgender Equality Advice September 2016 and August 2017.

2. Grievance Policy

2.1 Introduction

The purpose of the Grievance Policy is to enable employees to raise problems or concerns that they may have about work or their working environment. It is important that all parties use the procedure to seek reasonable resolution of issues and work together in the spirit of cooperation.

The policy applies to all employees of the Trust.

The Trust encourages its staff to make proper use of existing forums and processes (for example Supervision, Appraisals, Whistleblowing Procedure, informal meetings) to resolve any disputes, misunderstanding or concerns before resorting to the formal stages of the Policy.

The Trust hopes that many issues or concerns are resolvable informally. For example, a quiet word is often all that is required to resolve an issue. Where an issue cannot be resolved informally then it should be pursued formally.

The Grievance Policy should be adopted when an employee has a complaint relating to how they have been treated by the organisation (including its employees)

This includes, but is not limited to:

- Health and Safety
- Work relationships
- New working practices (i.e. the process for implementation)
- Working environment
- Organisational change (i.e. the process)
- Equal opportunities

This is not the correct procedure for complaints relating to bullying and harassment.

It also does not apply to:

- Disciplinary matters or outcomes (for which there is a separate disciplinary appeals procedure)
- Capability outcomes (for which there are separate appeals procedure)
- Procedure for dismissal on grounds of ill health (for which there is a separate appeals procedure)
- Redundancy procedure (for which there is a separate appeals procedure)
- Support Staff Flexible Working application (for which there is a separate appeals procedure)
- Support Staff Probation procedure (for which there is a separate appeals procedure)
- Income Tax, National Insurance matters
- Trust policy not affecting staff directly
- Pension Schemes
- Support Staff Job Evaluation (for which there is a separate process)
- Complaints that clearly relate to a previous matter that has been dealt with through the Grievance and Dignity at Work procedure within the previous 12 month period
- Teachers Pay Appeals (for which there is a separate process set out in the Teachers Pay policy)

The Acas Code of Practice on Disciplinary and Grievance Procedures sets out the process for dealing with grievance matters and states that:

1. the employee should set out in writing the nature of the complaint
2. the employer should hold a meeting with the employee
3. the employer must allow the employee to be accompanied at that meeting by a colleague or trade union representative
4. the employer must decide on appropriate action
5. the employer must allow the employee to take the grievance further if not resolved.

Employees should raise grievances with their immediate line manager; if, however, the grievance relates to their manager, then they should raise the matter with their manager's line manager.

Unless there are exceptional circumstances the complaint must be raised within three months of the incident or action giving rise to it. Any grievance complaint raised outside of that time limit may not be considered.

The Trust recognises that the complainant may be an individual, or a collective grievance.

3. Dignity at Work Policy

3.1 Introduction

The Trust has a zero-tolerance approach to instances of bullying, harassment or unacceptable behaviour in the workplace. All allegations will be investigated, and disciplinary action will be taken against the culprit if necessary. The Trust will also not tolerate victimisation of a person for making such allegations or supporting someone to make such a complaint.

The Trust expects all staff to commit to treating one another with respect and dignity and wishes to promote a work environment that is free from unacceptable behaviour. The Policy provides a framework for resolving Dignity at Work disputes in either an informal or formal way and the Trust will attempt to resolve complaints carefully and sensitively. Often individuals accused of unacceptable behaviour or bullying, and harassment will be unaware of how their behaviour has affected the complainant and raising the issues informally either directly or through their line manager may be sufficient to resolve the issues. This further provides them with an opportunity to amend their behaviour before any formal action is taken.

The Trust takes issues of bullying, harassment and victimisation in the workplace extremely seriously and will deal with these matters using this policy.

3.2 What does Dignity at Work Policy cover?

- Bullying/ Intimidation
- Victimisation
- Harassment
- Discrimination
- Unwanted conduct

Bullying/ Intimidation

Bullying could relate to offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, or injure the person on the receiving end. This is not an exhaustive list.

Bullying is not 'legitimate, constructive or fair criticism of an employees' performance or behaviour at work' (Chartered Institute of Professional Development). Appendix 3 gives examples of such.

Similarly, intimidation is a personalised form of bullying with behaviour aimed at specific individuals.

Victimisation

This is covered by the Act and occurs when someone subjects another to a detriment because they have (or there is belief that) that person has supported another (given evidence) who has complained (either given evidence or made an allegation) under the Policy or has themselves complained under the Policy.

Harassment

This is defined in Act as

"Unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual"

Both bullying and harassment can be passive and difficult to recognise. It may be physical, verbal or non verbal and is not always face to face. It may occur through written communications, visual images (for example pictures of sexual nature), email, and phone calls.

Discrimination

Direct discrimination occurs where someone (with a Protected Characteristic) is treated less favourably than another person is or would be treated. This includes discrimination on grounds of perceived, as well as actual, discrimination.

Indirect discrimination occurs when there are rules, regulations, procedures or practices, which have the effect of discriminating against certain groups of people whom have a Protected Characteristic.

Intimidation

This includes deliberate exclusion of a person(s) from conversations, rejection or isolation of an employee by refusing to talk or work with them, unfair allocation of work, unjustified supervision of an employee, making threats against a person or group of people, attempts to stir up ill-feeling against an individual or group of employees.

3.3 Conduct

Conduct may be harassment whether or not the person behaving in that way intends to cause offence. Everyone has a right to decide what behaviour is acceptable to them and to have their feelings respected by others.

Behaviour, which objectively would cause offence (even in absence of the recipient notifying of this) will be unwanted conduct and therefore harassment.

If behaviour has unintentionally caused offence (and that behaviour continues even if advised to stop), the Trust reserves its right to investigate.

3.4 Examples of complaints where Dignity at Work Policy should be implemented

This is a non exhaustive list and further examples, and workings can be found at Appendix 3

- physical conduct ranging from unwelcome touching to serious assault
- unwelcome sexual advances
- the offer of rewards for going along with sexual advances, e.g. promotion, access to training
- threats for rejecting sexual advances, e.g. suggestions that refusing advances will adversely affect the employee's employment, evaluation, pay, advances, assigned work, or any other condition of employment or career development
- unnecessary and/or unwelcome and/or degrading nicknames, jokes, banter, or comments of a sexual or racial nature, or about an individual's sexual orientation, sexual identity (how they view their gender), gender reassignment, age, race, disability or other personal characteristics, or references to any of these;
- asking questions of a person about their sex life and/or sexual orientation
- 'outing' someone—by revealing, without their permission, an individual's sexual orientation and/or sexual identity (how they view their gender) and/or that they have chosen to undergo, or have undergone, gender reassignment
- malicious incorrect use of an individual's preferred pronoun (e.g. he, she, zie, etc) to the individual or to others

- making bi-phobic statements to someone e.g. 'it's just a phase', 'you'll grow out of it', 'you'll have to pick a side eventually'
- the open display of pictures or objects with sexual or racial overtones, even if not directed at any particular person, e.g. magazines, calendars or pin-ups
- the use of obscene gestures
- demeaning comments about a person's appearance
- ridiculing or insulting someone
- spreading malicious rumours or gossip about someone
- picking on someone or setting an individual up to fail
- making homophobic, bi-phobic, transphobic, ageist, racist, anti-disability threats, or other threats based on personal characteristics
- making comments about someone's job security without good reason
- ignoring or excluding a colleague from activities because of their sexual orientation, sexual identity (how they view their gender), gender reassignment, age, race, disability or other personal characteristics or subjecting them to isolation or non-cooperation at work, whether in a fixed workplace or if working in the community;
- making assumptions and judgements about a person based on their sexual orientation, sexual identity (how they view their gender), gender reassignment, age, race, disability, or other personal characteristics
- excluding someone from work related social activities
- using social media to bully another individual, or to make offensive or derogatory comments with the intention to discriminate, bully or harass

Discrimination or bullying actions can range from unintentional misunderstandings and lack of awareness through to deliberate and malicious acts.

4. Grievance and Dignity at Work Procedure (herein after referred to as the Procedure)

The Procedure applies to both Grievances and Dignity at Work complaints.

A complaint made under either the Grievance Policy or Dignity at Work Policy shall be referred to as a “Complaint” hereon in.

To identify a satisfactory resolution to any complaint, it is imperative and helpful that the issues are raised as early and as clearly as possible. Once a complaint has been submitted additional issues may not be considered as part of that grievance.

Most complaints can be dealt with informally in the first instance.

4.1 Stage One (Informal)

It is expected that an employee will seek to resolve their complaint informally in the first instance and will only progress to a formal stage if the issue cannot be resolved by informal means. Only where cases are deemed to be extremely serious, or where (previous) informal action has not stopped the behaviour will the formal process be instigated. Employees are therefore expected to raise any concerns or issues informally with their immediate manager in the first instance. Depending on the nature of the complaint the line manager is able to determine how they will deal with the complaint.

Where the CEO/Headteacher is the employee, then they should raise their complaint with the Chair of Trustees who will determine how they will deal with the complaint.

The manager will aim to meet with the individual who has raised the complaint within 5 working days of receiving notification of the complaint. The purpose of this meeting is to give the employee the opportunity to discuss the issues and the options available to the individual in order to achieve a satisfactory resolution to the complaint.

Depending on the nature of the complaint it may be appropriate for the matter to be dealt with by way of mediation. Mediation involves the appointment of a third party mediator, who will discuss the issues with two parties and seek to facilitate a resolution.

The line manager may also offer to hold a meeting between the two parties in order to facilitate a discussion as a way to resolve the complaint. Depending on the nature of the complaint the line manager reserves the right to deal with the complaint in a way that they deem to be the most appropriate in the circumstances.

In addition to this the individual may feel able to meet with the other party on their own in order to raise their concerns and suggest ways to resolve the complaint.

A written record of any informal discussions that have taken place should be kept on file. The outcome at Stage 1 should be confirmed by the line manager in writing to the employee within 5 working days of the outcome being communicated verbally, together with any agreed action. The manager should inform the employee if there are any delays in dealing with the complaint.

4.2 Stage two (formal)

If the complainant is dissatisfied with the outcome made at Stage 1 they should raise the matter formally to the Headteacher within 10 working days of receipt of the letter confirming the outcome under Stage 1.

The employee should use the proforma in Appendix 1 to provide full details of the nature of the complaint including how the employee feels the matter can be resolved.

The formal stage of the policy will only be adopted where:

- The matter has been raised informally but the issues/concerns continue
- The matter has been raised informally but the outcomes were not satisfactory/ unsuccessful outcome
- The matter is sufficiently serious to warrant moving directly to a formal stage without following the informal stage first

Where the CEO/Headteacher is the employee, then they should raise the matter formally to the Chair of Trustees within 10 working days of receipt of the letter confirming the outcome under Stage 1. The Chair of Trustees will take the role which would otherwise be undertaken by the line manager, or ask another Trustee to take that role, depending on the nature of the complaint and whether the Chair of Trustees themselves sought to resolve the complaint informally in the first instance.

The CEO/Headteacher will write to the employee acknowledging receipt of the complaint, normally within 5 working days. The CEO/Headteacher should seek advice from the HR provider.

The CEO/Headteacher will instigate an investigation and appoint an Investigating Officer to investigate the complaint on their behalf. Where the complaint relates to other employees, those individuals will be informed in writing of the nature of the complaint and will be given the opportunity to respond at an investigation meeting.

The Investigating Officer (who is independent and impartial) will consider all of the matters raised and will meet with the complainant in the first instance, to explore the issue in more detail. The employee will be given every opportunity to explain their case fully however they should confine their explanation to matters that are directly relevant to the complaint. Focusing on irrelevant issues or incidents that have occurred in the past is not helpful and can hinder the effective handling of the complaint. The Investigating Officer will also meet with the individual(s) who the complainant has implicated and any witnesses the Investigating Officer deems appropriate.

The Investigating Officer will submit an investigation report to the Headteacher outlining the findings of their investigation. Following submission of the investigation report the Headteacher will arrange a Grievance and Dignity at Work Meeting. Employees will receive 5 working days notice of the meeting. Employees will be entitled to representation at the meeting. The Headteacher may be supported by a HR representative.

The purpose of the meeting is for the CEO/Headteacher to provide feedback on the outcome of the investigation and any recommendations. At the meeting the Headteacher will also seek any clarification following the investigation and allow the employee to comment on the findings of the investigation. The Headteacher will confirm at the meeting the outcome of the complaint.

The outcome will be followed up in writing within 5 working days of the meeting. The written outcome will summarise the findings of the investigation and confirm if the complaint(s) have been upheld, partially up held or not upheld. The letter will also include the reasons for the Headteacher's decision as well as outline any recommendations made e.g. mediation, changing working practices, team building, matter moving to disciplinary hearing etc. A copy

of the investigation report and witness statements will not be made available to the employee or any employee named in the complaint unless the matter is proceeding to a Disciplinary Hearing, or the complaint is escalated to appeal stage.

Any employee named in the complaint will also be advised in writing of the outcome of the Grievance and Dignity at Work complaint and advised of any recommendations where appropriate.

4.3 Stage Three (Appeal Hearing)

If the employee is dissatisfied with the decision in Stage 2 then they may exercise a right of appeal. The appeal must be made in writing to the CEO or in the case that the CEO provided the outcome, the appeal must be made to the Chair of Trustees, stating the basis for the appeal. The appeal letter must clearly state their grounds of appeal and why attempts to resolve the situation have been unsatisfactory.

If the appeal is to the CEO the panel will be formed of three members, consisting of members of either of the Executive team or Trustees who have had no prior involvement in the case. If the appeal is to the Chair of Trustees, the hearing panel will be formed of the first three Trustees available, providing there is no conflict of interest or prior involvement in the case. The hearing panel may arrange for a Human Resources officer to attend proceedings to advise them if they wish.

The appeal must be made to the CEO via the Trust central address or by email to admin@secat.co.uk or in the case of a referral to the Chair of Trustees, to the Governance Manager, by post via SECAT House or to katylove@secat.co.uk. Appeals must be made within 10 school days of receipt of the outcome.

The CEO/Governance Manager will record the date the appeal is received and acknowledge receipt of the appeal in writing (either by letter or email) within 5 school days. Requests received outside of this time frame will only be considered if exceptional circumstances apply.

The CEO/Governance Manager will write to the appellant to inform them of the date of the meeting. They will aim to convene a meeting within 15 school days of receipt of the appeal. If this is not possible, the Governance Manager will provide an anticipated date and keep the appellant informed.

The employee shall receive not less than 10 working days written notice of the date of the Appeal Hearing along with a copy of any documents to be presented at the Appeal Hearing. Not later than 5 working days before the date of the Appeal Hearing the employee shall provide the CEO/Chair of Trustees with the name and status of any witnesses.

If the appellant rejects the offer of three proposed dates, without good reason, the CEO/Governance Manager will decide when to hold the meeting. It will then proceed in the appellant's absence on the basis of written submissions from both parties.

The panel will consider the grounds that the employee has put forward and assess whether or not the conclusion reached in Stage 2 was appropriate. The appeal is not a rehearing of the original complaint but rather a consideration of the specific areas with which the employee is dissatisfied in relation to the outcome. The Appeal panel conducting the appeal may therefore confine discussions to those specific areas rather than reconsider the whole matter afresh. Therefore, no new documents or witnesses shall be allowed, unless relevant or in the interests of natural justice. This is the final stage of the appeals procedure.

Following the Appeal Hearing the employee will be informed of the outcome within 5 working

days and there will be no further right of appeal

The procedure for the hearing of appeals is set out in Appendix 2.

4.4 Postponement of a Meeting or an Appeal Hearing

An employee may request for formal meetings or Hearings held under the Procedure to be postponed for up to a week, on one occasion only. The Chair of the Appeal panel will decide upon such requests in consultation with HR Services.

Such requests will be considered in the context of the School/Trust's desire to conduct Grievance and Dignity at Work matters in accordance with the principles of fairness and reasonableness and the desirability for all parties to deal with such matters in the shortest practicable time. Where a request for a postponement is refused, the hearing will take place on the specified date, and the Trust reserves the right to proceed with the meeting in the absence of the employee although they may be represented or submit written documentation for consideration by the Appeal panel.

In the event of a refusal to postpone, the Chair of the Appeal panel will provide the employee with written reasons for the refusal.

4.5 Vexatious Complaint

Should the Line Manager/CEO/Headteacher believe that the employee has made a complaint with the intention of causing deliberate harm to persons, by way of a vexatious complaint(s), consideration must be given as to whether disciplinary action should be taken as a result.

4.6 Outstanding Disciplinary/Contractual Review Matters relating to a Grievance and Dignity at Work Complaint

Where an individual raises a complaint under the Policy which relates to either an ongoing disciplinary or contractual review process; the processes will still continue, and the individual will be asked to raise the issue as part of their response to the case. However, if the concerns raised materially effect the outcome of such processes, the disciplinary or contractual review process may need to be put on hold and the points raised will be considered under the Procedure before proceeding with the disciplinary or contractual review hearing.

The relevant Hearing Officer, after seeking advice from the HR provider, reserves the right to determine how to proceed in such circumstances.

4.7 Mediation

At any stage in this procedure the parties may request that their complaint is referred for mediation. Mediation is likely to be most appropriate in cases involving interpersonal relationships.

Mediation is voluntary and will take place only if all parties agree. It is however hoped that employees will recognise the benefits of seeking to resolve issues via mediation and will be amenable to and cooperate with this approach.

4.8 Suspension and Temporary Redeployment

Prior to the implementation of any stage referred to herein, the relevant line manager, with HR advice, may consider the appropriateness of suspension or temporary redeployment of either party until resolution has been sought. This action may be taken to relieve the stress

and pressure on one or both individuals and/or to prevent the risk of further incidents occurring.

4.9 Right to be accompanied

All employees who are subject to the Procedure will have the right to be accompanied at any meeting held under this procedure by a trade union representative or colleague.

At any meeting and/or appeal hearing a chosen representative will be allowed to address the meeting, respond on the employee's behalf to any view expressed in the meeting and/or hearing and sum up the case on the employee's behalf. However, any questions asked during a meeting and/or hearing should be answered by the employee directly.

When the chosen representative is unavailable on the day scheduled for the meeting or appeal hearing the meeting may be rescheduled providing that an alternative time and date is provided which ensures the meeting/hearing is held within five working days of the original scheduled date.

4.10 Witnesses

When employees are required to participate in the investigation process under the Procedure as a witness, they will be given time during the working day to attend a meeting and/or hearing. Meetings will be carried out with minimum delay in order to bring a resolution to the situation and therefore employees may be expected to attend meetings at short notice. All employees will be expected to fully cooperate with the investigation.

4.11 Raising a Grievance and Dignity at Work complaint when an employee has left the Trust

Wherever possible a complaint should be dealt with before an individual leaves employment. However, an individual who has left employment and wishes to raise a grievance should write to the Headteacher outlining their complaint as soon as possible after leaving employment. The Headteacher will investigate, or may decide to appoint an investigating officer, to consider the individual's complaint. Following completion of the investigation the Headteacher will outline the findings of the investigation and confirm their decision in writing to the individual. There is no right of appeal

4.12 Recording

Where meetings and or hearings are held with the employee and witnesses, non verbatim notes of the meetings/hearing should be taken and retained at all stages of the grievance procedure. The ACAS code of practice advises records should include:

- The nature of the complaint
- What was decided and actions taken
- Reasons for actions taken
- Whether an appeal was lodged
- Outcome of the appeal & any subsequent developments

The Trust shall retain these notes for a period of 3 years.

Support Available

Counselling – The Trust may be able to arrange independent, confidential counselling at the request of the employee.

Occupational Health – Any member of staff who is involved in a workplace dispute may experience stress or ill health and may find it helpful to be referred to Occupational Health for support and guidance.

Trade Unions – The Trust will work in conjunction with the trade unions in addressing unacceptable or inappropriate behaviours

Mediation – The Trust may be able to arrange mediation to support with the resolution of the complaint.

CONFIDENTIAL

Grievance and Dignity at Work Form

This form must be completed by any employee who wishes to raise a formal complaint under the Trust's Grievance and Dignity at Work Policy.

Personal Details

Name: _____ Post: _____

Place of work: _____ Address: _____

Telephone: _____

Department: _____

Team: _____

Manager: _____

Representative [if any]: _____

Please indicate if the dispute is:

Grievance

Dignity at Work

Nature of Grievance or Dignity at Work (please continue on a separate sheet if necessary):

Remedy sought:

Signed: **Date:**

Department and section:

Procedure at Grievance and Dignity at Work Appeal Hearing

The procedure to be followed at a Grievance and Dignity at Work Appeal Hearing is set out below:-

- (a) Case and evidence presented by the employee (or nominated representative) and/or the presentation of any written documents.
- (b) Employee can call witnesses and they can be questioned by Presenting Officer and the Panel and their advisers.
- (c) Presenting Officer who conducted Stage 2 to present their case.
- (d) Presenting Officer can call witnesses. Employee or their nominated representative may question the Presenting Officer and witnesses (where appropriate).
- (e) Panel and their advisors may question Presenting Officer and any witnesses.
- (f) Employee (or nominated representative) sums up.
- (g) Presenting Officer sums up
- (h) Panel considers case in private (with any advisers as appropriate) only recalling either party to clear points of uncertainty (in which case both parties will return).
- (i) Decision of Panel is made as soon as possible and then confirmed in writing within 5 working days.

Example definitions of discrimination, harassment and workplace bullying

Discrimination and Harassment	Workplace bullying
Has a strong physical component, e.g. contact and touch in all its forms, intrusion into personal space and possessions, damage to possessions including a person's work, etc.	Almost exclusively psychological (e.g. criticism), may become physical later, especially with male bullies, but almost never with female bullies.
Tends to focus on the individual because of what they are (e.g. female, black, gay, disabled, etc)	Anyone will do, especially if they are competent, popular and vulnerable.
Harassment is usually linked to sex, race, prejudice, discrimination, etc.	Although bullies are deeply prejudiced, sex, race and gender play little part; it is usually discrimination on the basis of competence. It may, however, sometimes be based upon, or develop from, prejudice, e.g. against women or gay people.
Harassment may consist of a single incident, a few incidents or many incidents.	Bullying is rarely a single incident and tends to be an accumulation of many small incidents, each of which, when taken in isolation and out of context, seems trivial.
The person who is being harassed knows almost straight away that they are being harassed.	The person being bullied may not realise they are being bullied for weeks or months – until there's a moment of enlightenment.
Everyone can recognise harassment, especially if there's an assault, indecent assault or sexual assault.	Few people recognise bullying.
Harassment often reveals itself through use of recognised offensive vocabulary.	Workplace bullying tends to fixate on trivial criticisms and false allegations of under-performance; offensive words rarely appear, although swear words may be used when there are no witnesses.
There is often an element of possession, e.g., as in stalking.	Phase one of bullying is control and subjugation; when this fails, phase two is elimination of the target.
The harassment almost always has a strong clear focus (e.g., sex, race, disability).	The focus is on competence (envy) and popularity (jealousy).
Often the harassment is for peer approval, bravado, macho image etc.	Tends to be secret behind closed doors with no witnesses.
Harassment takes place both in and out of work.	The bullying takes place mostly at work.
The harasser often perceives their target as easy, albeit sometimes a challenge.	The target is seen as a threat that must first be controlled and subjugated, and if that doesn't work, eliminated.
Harassment is often domination for superiority.	Bullying is for control of threat (of exposure of the bully's own inadequacy).
The harasser often lacks self-discipline.	The bully is driven by envy (of abilities) and jealousy (of relationships).
The harasser often has specific inadequacies.	The bully is inadequate in all areas of interpersonal and behavioural skills.

The difference between strong management and bullying

Often those accused of bullying find it difficult to recognise themselves as behaving in a bullying or aggressive way. Conversely, some managers are concerned about tackling poor performance and being accused of bullying.

When managers find themselves having to deal with poor performance, part of their role is to motivate people to perform more effectively. The table below looks at the difference between management and bullying behaviour.

Addressing poor performance	Strong management	Bullying
Identifying the performance issue	Looks at all potential reasons for poor performance, e.g., people, training, systems, equipment	Makes no attempt to identify the nature or the source of the poor performance
Seeking the views of individuals to identify the cause of the unacceptable level of performance	Individual takes part in looking at the source of the problem in performance and helps the manager identify solutions	No discussion of the cause of the poor performance or opportunities for individuals to discuss any difficulties
Agreeing new standards of performance with individuals	Involves setting and agreeing standards of performance and behaviours for individuals and the manager	Imposes new standards without discussion
Agreeing the method and timing of monitoring/evaluation of performance	Wherever possible, individuals take part in the monitoring process and the outcomes are discussed	Monitoring can occur at any time and can involve unexpected areas
Failure to achieve performance standards is dealt with as a performance issue	Opportunities are taken to identify individuals who are struggling, and support is provided. If individuals are unwilling to comply with the agreed performance improvement process, disciplinary action may be taken	Individuals who fail to achieve the standards of performance are put under pressure to conform. This may include ridicule, personal criticism, shouting, teasing, sarcasm, withholding of benefits or demotion
Recognising positive contributions	Recognises and rewards improvements in performance, attitudes, and behaviour	Without proper monitoring, it is impossible to recognise where there have been positive contributions. Rewards and recognition are often arbitrary and open to acts of favouritism

Guidance Note – Anonymous Abusive Letters and Hate Mail

The Trust's Grievance and Dignity at Work Policy sets out the expectation that all staff will ensure a culture of working relationships in which everyone is treated with dignity and respect. There may be occasions, however, where these expectations are not met and a member of staff is subject to unacceptable behaviour, such as receiving anonymous abusive letters or hate mail.

Hate mail (which may be postal, electronic, or in some other form) is a form of harassment, usually consisting of abusive and potentially intimidating or threatening comments towards the recipient. It may mock the recipient's appearance or behaviour. Hate mail often contains exceptionally abusive, foul or otherwise hurtful language. The recipient may receive disparaging remarks concerning their ethnicity, sexual orientation, religion or belief, gender identity, disability, or any other perceived difference.

This Guidance Note sets out advice for staff who receive such mail.

1. If you receive such mail in the post you should, as soon as you realise what it is, not handle it or allow others to handle it or the envelope it was sent in. This is because it is possible for the police to take fingerprints from letters.
2. Whether you find the content of the letter or note to be deeply offensive or mildly annoying, you should not destroy it but you should keep it safe and report it to your manager immediately. Do not delete abusive emails. The Council takes all such abusive letters or hate mail seriously and expects to investigate them. We have a zero-tolerance approach to hate crime.
3. You may wish to speak to your manager in confidence or, if you feel unable to do this, to contact Human Resources or your Trade Union representative. Anonymous abusive letters or hate mail will be considered as bullying or harassment under the Grievance and Dignity at Work Policy.
4. We recognise how deeply offensive such letters or hate mail may be and how much they may affect a member of staff. Your manager will work closely with Human Resources to see how they may best support you. They will take matters seriously, report them to the police, check that the member of staff feels safe and offer practical support such as specialist counselling. Our specialist staff forums may also be able to offer support.
5. Although members of staff may be distressed in these circumstances, we do ask that they assist the Trust and/or police investigation as much as they can. If such a letter is sent, then we want to stop this happening again (whether it is to the same member of staff or to others) and to take action against any member of staff whose behaviour is unacceptable. If the person responsible is not an employee, we will seek to prosecute them or take any other action we reasonably can.

We all have a responsibility to help create and maintain a work environment free of bullying and harassment. Any member of staff who has knowledge about someone sending an abusive letter or hate mail has a clear duty to report this and must inform their manager. Failure to do so would, in itself, be a serious matter which would be considered as gross misconduct. If a member of staff feels unable to speak to their own manager then they may speak, in confidence, to Human Resources, A member of the SLT, CEO, Academy Committee, or Trustee.