

**TORFAEN COUNTY BOROUGH COUNCIL
EDUCATION SERVICE**



Griffithstown Primary School

INSPIRE CHALLENGE ACHIEVE

**GRIEVANCE PROCEDURE FOR SCHOOL BASED
EMPLOYEES**

Education Human Resources and Governor Support Services
February 2007

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1 INTRODUCTION

- 1.1 This paper sets out the main principles to be followed when dealing with staff grievances. It applies to all school based employees, including Headteachers, whether they are permanent, temporary or part – time staff. The procedure is based on the ACAS Code of Practice and Advisory Handbook. It replaces the previous procedure to reflect the requirements of the Employment Act 2002 (Dispute Resolution) Regulations 2004 and the Staffing of Maintained Schools (Wales) Regulations 2006.
- 1.2 The policy will also refer to the Council policies on “Equalities” and “Harassment at Work” and the support mechanisms that are in place to enable staff to bring such complaints forward. Complaints about discrimination, bullying and harassment in the workplace are sensitive issues and the Council has separate procedures to deal with them. These procedures are available in school. Where grievances of this nature are made the member of staff bringing the complaint will be offered counselling.

2 PURPOSE

- 2.1 The purpose of this procedure is to enable a grievance to be resolved fairly, consistently, quickly and as near to its point of origin as possible. The main principles behind the procedure are that: -
- all staff (teaching and support) should be treated with respect, justice and fairness;
 - all staff have the right to invoke the grievance procedure;
 - all grievance matters and investigations therefrom will be treated in confidence by all parties involved throughout all stages of the process;
 - all meetings at the various stages of the grievance procedure should be arranged as soon as possible within the time limits specified. If the time limits cannot be met for any justifiable reason they can be extended by agreement on both sides;
 - members of staff will be given at least five working days notice in writing of the time and place of any hearing set up to hear the grievance or any appeal should they still feel so aggrieved;
 - at all stages of the procedure staff have the right to be represented by a work colleague or their trade union; and
 - in the event of a grievance arising about a change in working practices or conditions of employment that cannot be resolved without recourse to this grievance procedure then once the grievance has been submitted the status quo, as it applies to the individual/group grievance must prevail pending a settlement or until all stages of the procedure have been completed.

- 2.2 There will be occasions when it is not possible to comply with the time limits given in this procedure, for example, forthcoming school holidays may make it difficult to conduct an investigation into the grievance or to hold a hearing. In such cases, arrangements need to be agreed by both parties so that the issue can be taken forward in a sensible manner with a mutually agreed time framework so that everyone will know what is happening and be able to make preparations for. To support this there must be an agreement by both parties that they will not exploit the situation.
- 2.3 The above principles apply whether the grievance has been invoked by an individual member of staff or by a group of staff. The procedure is to be used for grievances concerned with all aspects of individual or group employment apart from: -
- pay issues;
 - other employee relations procedures with their own appeals process i.e. capability, disciplinary, redundancy, review of school structures and sickness absence;
 - malpractice or corruption i.e. “whistle – blowing”;
 - child protection;
 - incidents which occurred and ended more than three months ago; and
 - matters that were substantially dealt with under an earlier grievance.

3 DEFINITION

- 3.1 There is no statutory definition of what amounts to a statement of grievance but normally it can be described as: -

“A matter for concern connected with the application and interpretation of terms and conditions of employment or working arrangements that affect an individual directly or affect their personal dealings or relationships with other staff.”

- 3.2 Any written statement is potentially sufficient to raise a grievance which can be described as a concern, problem or complaint. It could arise via an e - mail or even a “post - it” note and so care must be taken in dealing with it because potentially a member of staff is entitled to have each issue treated as a grievance. The onus will be on the line manager/Headteacher to find out what the member of staff is “unhappy” about and address the concerns.
- 3.3 The member of staff must inform their line manager what the basis for the grievance is. The issues that usually cause grievances are: -
- terms and conditions of employment;
 - health and safety;
 - work relations;

- working practices;
- working environment; and
- organisational change.

4 INFORMAL PROCEDURE

- 4.1 A member of staff may either have concerns relating to their employment or with other members of staff or with their line manager. If so they have the right to have these concerns acknowledged. They should, however, first of all try to resolve the issue informally by directly approaching the member of staff, those others involved or their line manager before invoking the formal grievance procedure. A record should be kept of all such meetings.
- 4.2 If the concern raised with another or other members of staff cannot be settled informally and the member of staff still feels aggrieved s/he should request an interview with his/her line manager. If the grievance is against the line manager the member of staff should request an interview with the next senior manager. The line manager or next senior manager should attempt to resolve the grievance informally and by mutual agreement and, if required, in consultation with other members of staff as soon as reasonably practicable. Even where the concern is resolved informally there must be a check that there is no longer an issue. This is the responsibility of the line manager who must ensure that the issue has been resolved to the satisfaction of both parties. A record should also be kept on file.
- 4.3 Education Human Resources (HR) can be contacted for clarification on procedural issues. The member of staff raising a concern will be able to contact their trade union representative for advice. It may also be possible to resolve the concern raised by mediation. If this is the case the school should contact Education (HR) for advice.
- 4.4 If the member of staff is still aggrieved they can invoke this grievance procedure and request a formal interview with his/her line manager. The line manager should grant this interview within ten working days. The member of staff has the right to be represented by a work colleague or their trade union.

5 STEP 1: FORMAL GRIEVANCE PROCEDURE

- 5.1 When the line manager receives the grievance s/he must: -
- acknowledge receipt of it; and
 - record the date on which it was received.

5.2 The line manager must also decide whether: -

- they have enough information to act on the grievance and if not whether they need to seek further clarification from the member of staff concerned?
- there is anything in the grievance that prevents him/her from dealing with it further and, if there is, who will deal with it?
- the grievance falls within the grievance procedure and, if not, what other remedies are possible?
- the grievance requires immediate action and, if so, what action will that be?
- an investigation should be set up and, if so, who will lead it?
- they require the help of other colleagues and/or specialist advisers?
- anyone else needs to be informed? (e.g. the grievance may involve another member of staff who should be informed and told of its nature) or
- the grievance is against another member of staff? (who may, for example, be subject to disciplinary action under the School's Disciplinary Procedures)

5.3 If the Headteacher feels that an investigation is appropriate it must be undertaken as quickly as possible and, because the Headteacher may be involved later in the proceedings, a senior member of staff must be asked to lead it unless that is not possible.

6 STEP 2: FORMAL GRIEVANCE PROCEDURE

Grievance against other members of staff

- 6.1 Where the grievance is against other members of staff is not resolved at Step1 the member of staff should submit a formal written "Notice of Grievance" to the Headteacher who will consider the grievance within fifteen working days. The member of staff will have the right to be represented at the meeting with the Headteacher by a work colleague or their trade union. It is suggested that the pro – forma given in Appendix 1 should be used to set out the grievance.
- 6.2 If, after this meeting, the member of staff is still dissatisfied the Chair of Governors will arrange for the Grievance Committee of the governing body to hear the grievance within fifteen working days of receiving the "Notice of Grievance." The member of staff will also have the right to appeal to the Grievance Appeals Committee if they are still dissatisfied after the Grievance Committee hearing.

- 6.3 Each committee will elect a Chairperson and be properly clerked. The names of the governors on these committees should be provided to the work colleague or trade union representative who is representing the member of staff. Staff representatives on the governing body should not sit on either of these committees. The terms of reference for both these committees are given in Appendix 2.

Grievance against the Headteacher

- 6.4 Where the grievance is against the Headteacher the member of staff should submit a formal written "Notice of Grievance" to the Chair of Governors who will arrange for the Grievance Committee of the governing body to consider the grievance within fifteen working days of receiving the "Notice of Grievance." This will allow the member of staff sufficient time to provide the Headteacher with any written evidence that they have no later than ten working days before the grievance hearing. This will also give the Headteacher five working days to formulate his/her written response so that at least five working days before the hearing the Grievance Committee will be sent: -
- written details of the arrangements for hearing the grievance;
 - formal written notice of the grievance and any supporting documentation such as witness statements produced by the member of staff; and
 - written confirmation of the Headteacher's response to the grievance with any supporting documentation such as witness statements.
- 6.5 All evidence that will be used at the hearing is provided in confidence and this must remain so throughout the proceedings. No new written material should be introduced in the grievance by either party above and beyond that which has previously been submitted to the Grievance Committee.
- 6.6 In addition, the Grievance Committee should be notified whether any of the parties involved in the grievance intend calling witnesses at the hearing.
- 6.7 At no time prior to or after the hearing will members of the Grievance Committee discuss the grievance.
- 6.8 At the hearing both the Headteacher and the member of staff may wish to be represented by a work colleague or their trade union and efforts should be made with setting the date and time of the hearing to accommodate such requests.
- 6.9 The procedure to be used at the Grievance Committee hearing is attached in Appendix 3.

7 STEP 3: FORMAL GRIEVANCE PROCEDURE (APPEAL STAGE)

7.1 Step 3 is the appeal part of the procedure. It applies to a grievance that has been heard by the Grievance Committee whether or not it was brought against other members of staff or the Headteacher and where the member of staff is still aggrieved. To exercise his/her right to appeal the member of staff must notify the Headteacher that s/he intends to appeal within fourteen working days of receiving written confirmation of the decision of the Grievance Committee.

7.2 On receipt of the written request to appeal against the decision of the Grievance Committee the Chair of Governors will arrange for the Grievance Appeals Committee to meet to hear the grievance. The guidance given in paragraphs (6.4 to 6.8) will still apply. The Grievance Appeals Committee will completely re - hear the case unless there is agreement by both parties where, for example, the member of staff wishes to appeal should only consider the following apposite for the grounds of appeal: -

- the Grievance Committee did not consider all the facts of the case;
- new evidence has come to light that renders the decision of the Grievance Committee “unsafe”; or
- there are procedural failings in the way the grievance procedure has been followed.

7.3 The procedure to be used at the Grievance Appeal Hearing is attached in Appendix 3.

7.4 A diagrammatic representation of the grievance procedure is attached at Appendix 4.

8 HEADTEACHER GRIEVANCE

8.1 Where the Headteacher has a grievance the Chair of Governors should seek to resolve the problem personally or by mutual agreement in consultation with the Chief Education Officer. Where this fails to resolve the grievance the matter should be referred to the Grievance Committee. The matter can then, if necessary, be heard by the Grievance Appeal Committee. The Headteacher will have the right to be represented at these hearings by a work colleague or their trade union.

9 MODIFIED (TWO – STEP) GRIEVANCE PROCEDURE

9.1 The guidance on the Employment Act 2002 (Dispute Resolutions) Regulations 2004 gives details of a modified (two – step) procedure where: -

“Step 1: -

the employee must set down in writing the nature of the alleged grievance and send the written complaint to the employer; and

Step 2: -

the employer must set out his or her response in writing and send it to the employee.”

9.2 The modified (two – step) grievance procedure will apply in circumstances where the standard grievance procedure would otherwise apply but where the employment has ended. It will apply either where the line manager, Headteacher or Chair of Governors (if the grievance was brought by the previous Headteacher): -

- not aware of the grievance before the employment ended; or
- so aware but the standard grievance procedure had not started or had not been completed by the time the employment had ended.

9.3 Both parties must have agreed in writing that the modified, rather than the standard, grievance procedure shall apply i.e.: -

“The modified procedure is applicable in such cases as it would be unreasonable to oblige the parties to follow the standard procedure, including attending meetings, where there is no ongoing employment relationship and the parties have no interest in following the standard procedures, and where they are in mutual agreement on this point.”

9.4 Where both parties agree to the modified (two – step) procedure the Headteacher will consider the matter if the grievance is brought by a member of staff against another member of staff. If the grievance is against the Headteacher the Grievance Committee will consider the matter. If it is the previous Headteacher that has brought the grievance the matter will be considered by the Grievance Committee. Both parties will be informed in writing of the decision.

10 KEEPING RECORDS

10.1 A written record should be kept throughout the grievance process. The record should include: -

- the nature of the grievance raised;
- a copy of the written grievance;
- the manager's (or governors') response;
- action taken;
- reasons for the action taken;
- whether there was an appeal and, if so, the outcome; and
- subsequent developments.

APPENDIX 1

.....**SCHOOL**

NOTICE OF GRIEVANCE

SUBMISSION OF MEMBER OF STAFF/HEADTEACHER

Name:.....

Position:.....

Date of Appointment:.....

Date Grievance Initially Submitted:.....

Dates and Brief Details of Previous Meetings:

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Main Grounds to the Grievance:

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GOVERNING BODY GRIEVANCE COMMITTEES

1 Introduction

- 1.1 The governing body is required to set up a Grievance Committee and a Grievance Appeal Committee at its annual general meeting. The Grievance Committee will hear the grievance and the Grievance Appeal Committee will consider any appeal. At all meetings set up to hear a grievance or an appeal the member of staff must be offered the right to be represented by a work colleague or their trade union.

2 Terms of Reference

- 2.1 The terms of reference for both these committees state that they should have at least three governors with a quorum of three. Any eligible member of the governing body may serve as a substitute but where a governor has previously sat on the Grievance Committee s/he will not be eligible to sit on the appeal for this case only. It is preferable that staff representatives on the governing body do not sit on either of these committees although it is recognised that this is not always possible. Each committee will nominate its own Chairperson.
- 2.2 These committees will hear and deliberate on grievances brought by: -
- members of staff against other members of staff that the Headteacher has heard but the member of staff still feels aggrieved;
 - members of staff against the Headteacher; and
 - the Headteacher.

GOVERNORS' GRIEVANCE COMMITTEE

GENERAL PRINCIPLES: -

The Chair of the Grievance Committee will ensure that: -

- both parties will have the opportunity to state their case, ask questions, present evidence and call witnesses;
- both parties keep to a sensible time framework;
- sufficient time is devoted to questioning and discussion, using an adjournment if necessary, to ensure so far as is practicable, all the facts are established;
- all persons present at the hearing are treated with respect;
- the main points are summarised to ensure that nothing has been missed;
- the decision is based upon an assessment of all matters raised having regard to the circumstances; and
- the matters of fact that have been relied on are clearly recorded in order that they can be made available to an appeal hearing.

PROCEDURE FOR GRIEVANCE HEARING

- 1 The employee (or his/her representative) to put his/her case in the presence of the Headteacher (and his/her representative) and to call such witnesses as s/he wishes.
- 2 The Headteacher (or his/her representative) to have the opportunity to ask questions of the employee and his/her witnesses.
- 3 The employee (or his/her representative) to have the opportunity to re – examine his/her witnesses.
- 4 The Committee may ask questions of the employee (or his/her representative) and his/her witnesses.
- 5 The Headteacher (or his/her representative) shall reply to the grievance(s) raised, in the presence of the employee (and his/her representative) and may call witnesses.
- 6 The employee (or his/her representative) to have the opportunity to ask questions of the Headteacher and his/her witnesses.
- 7 The Headteacher (or his/her representative) to have the opportunity to re – examine his/her witnesses.
- 8 The Committee may ask questions of the Headteacher (or his/her representative) and his/her witnesses.

- 9 The employee (or his/her representative) to have the opportunity to sum up his/her case.
- 10 The Headteacher (or his/her representative) to have the opportunity to sum up his/her case.
- 11 The employee and the Headteacher (and their representatives) and any witnesses to withdraw.
- 12 The Grievance Committee, with the Officer appointed as Secretary, to deliberate in private only recalling the employee and the Headteacher to clear points of uncertainty on evidence already given. If recall is necessary, both parties are to return notwithstanding only one is concerned with the point giving rise to doubt.
- 13 The Grievance Committee to announce the decision to the parties personally or in writing as may be determined, but in any case, written confirmation is to be sent within seven working days of the hearing.
- 14 Where the grievance is found against the employee, the employee must be informed of his/her right to appeal and that this should be submitted to the Headteacher in writing within fourteen days of the decision of the Grievance Committee.

GOVERNORS' GRIEVANCE APPEAL COMMITTEE

GENERAL PRINCIPLES: -

The Chair of the Grievance Appeal Committee will ensure that: -

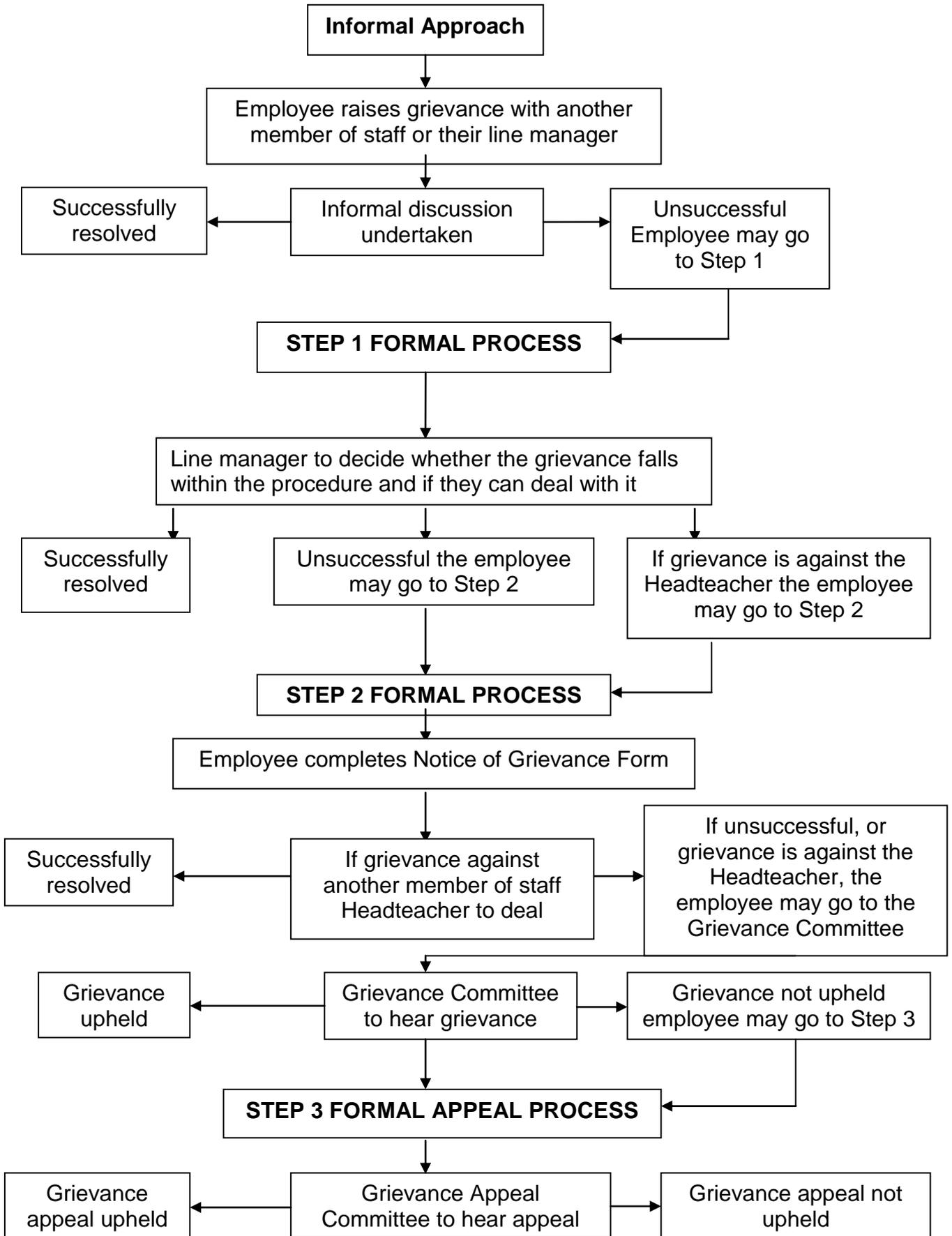
- both parties will have the opportunity to state their case, ask questions, present evidence and call witnesses;
- both parties keep to a sensible time framework;
- sufficient time is devoted to questioning and discussion, using an adjournment if necessary, to ensure so far as is practicable, all the facts are established;
- all persons present at the hearing are treated with respect;
- the main points are summarised to ensure that nothing has been missed;
- the decision is based upon an assessment of all matters raised having regard to the circumstances; and
- the matters of fact that have been relied on are clearly recorded.

PROCEDURE FOR GRIEVANCE APPEAL HEARING

- 1 The employee (or his/her representative) to put his/her case in the presence of the Headteacher (and his/her representative) and to call such witnesses as s/he wishes.
- 2 The Headteacher (or his/her representative) to have the opportunity to ask questions of the employee and his/her witnesses.
- 3 The employee (or his/her representative) to have the opportunity to re – examine his/her witnesses.
- 4 The Committee may ask questions of the employee (or his/her representative) and his/her witnesses.
- 5 The Headteacher (or his/her representative) shall reply to the grievance(s) raised, in the presence of the employee (and his/her representative) and may call witnesses.
- 6 The employee (or his/her representative) to have the opportunity to ask questions of the Headteacher and his/her witnesses.
- 7 The Headteacher (or his/her representative) to have the opportunity to re – examine his/her witnesses.
- 8 The Committee may ask questions of the Headteacher (or his/her representative) and his/her witnesses.

- 9 The employee (or his/her representative) to have the opportunity to sum up his/her case.
- 10 The Headteacher (or his/her representative) to have the opportunity to sum up his/her case.
- 11 The employee and the Headteacher (and their representatives) and any witnesses to withdraw.
- 12 The Grievance Appeal Committee, with the Officer appointed as Secretary, to deliberate in private only recalling the employee and the Headteacher to clear points of uncertainty on evidence already given. If recall is necessary, both parties are to return notwithstanding only one is concerned with the point giving rise to doubt.
- 13 The Grievance Appeal Committee to announce the decision to the parties personally or in writing as may be determined, but in any case, written confirmation is to be sent within seven days of the hearing.

APPENDIX 4



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Author: N Blackburn