Willow Vale
School

Grievance Resolution Procedure

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Be Safe – Be Kind - Belong

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1. Introduction

1.1 The purpose of the procedure is to allow the school to deal fairly and consistently with a concern or complaint relating to an aspect of an employee's employment. The school want to ensure that when an employee raises a concern or a complaint, it will be dealt with promptly and an effective resolution achieved.

Once adopted, this procedure will apply to concerns or complaints relating to the way in which an employee believes they have been treated by the school/ academy or by Managers acting on its behalf. Some examples would include concerns about:

- working relationships with other colleagues or Managers;
- bullying, harassment, victimisation and discrimination; For further information on bullying and harassment please see Appendix 16 and refer to the Dignity Code of Practice - alongside this policy.
- new work practices, i.e. working patterns, new systems;
- working environment or working conditions;
- the impact of organisational change;
- health and safety.

The school/academy recognises that bullying, harassment and discrimination linked to protected characteristics under the Equality Act 2010 are particularly serious and may constitute unlawful discrimination or harassment. Allegations will be investigated promptly, and appropriate support will be offered to affected staff.

This procedure may also be used by employees who believe they have experienced bullying, harassment, intimidation, abuse, discrimination or victimisation from pupils, parents/carers, governors, trustees, contractors or other third parties where they believe the school has not taken appropriate action to address such behaviour.

This procedure will <u>not</u> apply where the school already has well established alternative procedures for dealing with such matters as:

- pay and grading (Pay Policy);
- selection for compulsory redundancy (Redundancy Procedure);
- ill health retirement (Sickness Absence Management Policy);
- requests for flexible working (Flexible Working Policy);
- whistle blowing / public interest disclosure (Confidential Reporting code);
- disciplinary matters. Complaints that amount to an allegation of misconduct on the part of another employee will be investigated and dealt with under the disciplinary procedure. Complaints about any disciplinary action taken against an employee will be dealt with as an appeal under the disciplinary procedure;
- issues that are the subject of collective negotiation or consultation with recognised trade unions.

Please contact the school's HR Advisor if further advice is needed.

2. Principles

2.1 The primary objective of the Grievance Resolution Procedure is to seek to resolve workplace concerns as quickly as possible in a non-adversarial way and as close to the source of the problem as possible.

2.2 Individuals must be reassured that they will not be victimised for raising a concern or acting as a witness or representative for another employee. If there is an allegation of victimisation against an employee by the complainant or witness, the matter will be dealt with through the disciplinary procedure.

2.3 The school expects that all concerns are raised in good faith. Any employee raising a concern which is considered to be vexatious or malicious will be dealt with through the disciplinary procedure.

2.4 It is important that it is recognised that there is often more than one party in a workplace dispute:

- The person who experiences the problem (the complainant); and
- The person or persons identified as being the cause of the problem (the subject of the complaint).

In seeking a resolution, it is important that no party is pre-judged.

2.5 The school expects, as far as possible, all parties to be involved in the process of seeking a resolution and expects all parties to co-operate with the process of achieving a resolution.

2.6 All parties should be provided with support/contact from a Manager who is not involved in the process.

Formal Grievance Hearings will be heard by the Headteacher, or if the Headteacher is the source of the complaint or is unable to be impartial due to having prior knowledge of or involvement in the matters under consideration, by a Governor or a panel of 2 or 3 Governors, normally with the school's professional HR Advisor also in attendance.

Employees, or their representatives, are not permitted to record electronically any meeting held under this grievance procedure including investigation meetings. This is to encourage openness and full participation by all parties during meetings. Any breach of this provision may lead to disciplinary action against the employee, up to and including dismissal.

2.7 An employee is not able to raise concerns on behalf of other colleagues.

Managers are strongly advised to seek support from their professional HR Advisor in relation to conducting investigations and grievance hearings.

3. Disciplinary Action

3.1 During the procedure of trying to achieve a resolution, if at any time Managers identify that a breach of the Dignity at Work Code of Practice has occurred, or other breaches in procedures or misconduct by staff, they should consider applying the Disciplinary Procedure and undertaking a formal investigation under that Procedure.

3.2 Where it is decided to invoke the Disciplinary Procedure, management reserves the right to determine the level of confidentiality to be maintained regarding the outcome of the hearing. While it would be considered appropriate for the complainant to know there has been a disciplinary hearing/disciplinary action, in most cases, it would not be considered appropriate to report to the complainant the details of the disciplinary action taken.

4. Counter Claims

4.1 Managers/Governors should be aware of the potential for counter claims to be made by those against whom the original complaint has been made.

4.2 A process to seek a resolution to the original complaint should not be discontinued merely because a counter claim is raised subsequently. If possible, the two complaints should be considered together when seeking a resolution.

5. Confidentiality

5.1 As a general principle, confidentiality will be agreed and maintained wherever possible throughout the process of dealing with a complaint.

5.2 However, there may be circumstances where it will be necessary, in order to achieve the required resolution, for other employees/clients to be made aware of the nature of the complaint.

In exceptional circumstances, evidence given by individuals during an investigation into a complainant's concerns may have to remain confidential. Where confidentiality is necessary, this will be explained to the complainant and an appropriate summary of the evidence gathered will be given to them.

5.3 Although a complaint may have been made in confidence, the school will not knowingly aid unlawful behaviour or cases where there is violence or an existing threat of violence and may have no alternative but to breach that confidence in order to comply with its duties under the law.

5.4 The school/academy processes personal data collected during informal complaints and the formal grievance procedure in accordance with its data protection policy. In particular, data collected as part of informal complaints and the grievance procedure is held securely and accessed by, and disclosed to, individuals only for the purposes of responding to the complaints or conducting the grievance procedure. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the school/academy's data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under the school's disciplinary procedure.

6. Internal Advice and Support

6.1 Trade unions and professional associations can play an important role in assisting all parties to a complaint. The school welcomes the clearly stated support for this policy and procedure from the recognised trade unions and professional associations.

6.2 All parties will be able to contact the Employee Assistant programme, the confidential counselling service, (where purchased).

6.3 Complainants may wish to seek advice on how best to resolve a particular complaint from the Employee Assistance Programme, a trades union or an employee support network.

6.4 Where bullying or harassment is alleged, consideration should be given to appropriate support measures for those employees involved, which may include welfare meetings, occupational health referral, risk assessment, temporary workplace adjustments or other reasonable support arrangements.

6.5 Where the alleged perpetrator is not an employee of the school, the school/academy will take reasonable and proportionate steps to protect staff from abuse, harassment, intimidation, discriminatory behaviour or online harassment.

7. Informal Resolution

7.1 Employees can raise any issues about their work with their Line Manager on an informal basis, either orally or in writing. If an employee chooses to submit their concern in writing it is expected that clear details regarding the concern/s are included within the written submission to enable the line manager to provide a full response. Open communication can often be the quickest and best way of resolving grievances, depending on the issues involved.

As a formal process has the potential to polarise positions and ultimately make achieving a satisfactory resolution longer and more difficult, an expectation of this procedure is that before employees invoke the formal stage of this procedure, they first attempt to resolve their grievance informally by discussing their grievance with their Line Manager, or another suitable person. However, if any employee feels that their grievance has not been resolved to their satisfaction, through the informal options below, they can then proceed to the formal procedure as detailed below.

Informal options for resolving complaints informally are set out below.

7.2 Informal processes must not be used in the event of a serious allegation of racial or sexual bullying or harassment, or of an abusive or violent attack, as potentially a criminal act has taken place.

7.3 The Health and Safety Executive "Violence at Work Guidelines" recognise that "violence includes any incident in which a person is abused, threatened or assaulted in circumstances that relate to their work".

7.4 If the Line Manager is the perceived source of the problem the individual should initially raise it formally with either the Line Manager's Manager or in the case of the Headteacher the Chair of Governors.

7.5 Unless the allegation is of a very serious nature, the decision as to how the case should be taken forward will rest with the complainant.

7.6 The following set of Informal Options are not obligatory, and the complainant may decide, if they so wish, to proceed immediately to the first formal stage.

7.7 **Informal Option 1: One to One**

The complainant may choose to talk directly to the person who is seen to be causing the problem.

This may be appropriate when:

- there are times when the working relationship is acceptable;
- the problems are recent;
- both parties are assertive (i.e. not passive or aggressive).

This may not be appropriate when:

- there have been threats or threatening behaviour.

Before the meeting, the complainant should prepare by setting out in writing:

- the behaviour/working practice/dispute that is the source of the grievance;
- specific times, dates.

The complainant may find completing the Employee Concern Form (Appendix 1) a helpful guide when setting out the problem in writing.

At the meeting, the complainant should be prepared to:

- clearly describe the behaviour/working practice/dispute that they are aggrieved about;
- explain why it is unacceptable;
- describe the behaviour/working practice that would be appropriate/acceptable;
- seek a resolution.

Benefits of this approach are:

- issues can be resolved quickly;
- relationships can be improved.

7.8 **Informal Option 2: Facilitation**

The complainant may prefer to talk directly to the person who is seen to be causing the problem, but with a Line Manager or HR Advisor in attendance to facilitate the discussion.

This may be appropriate when:

- there are times when the working relationship is acceptable;
- the problems are recent;
- both parties are assertive (i.e. not passive or aggressive).

This may not be appropriate when:

- the Line Manager is seen as causing the problem;
- there have been threats or threatening behaviour.

The complainant should first set out in writing, using the Employee Concern Form (Appendix 1):

- the behaviour/working practice/dispute that is the source of the grievance;
- specific times and dates and send this to their Line Manager or an HR Advisor with a request for them to facilitate a one to one discussion with the person who is seen as causing the problem.

The benefits of this approach are that:

- it allows preparation time;
- it enables the complainant to state what they want;

- it provides the complainant with a third party who can help to ensure an open and fair dialogue;
- it acts as a record.

Please note: HR advisors can only facilitate these discussions with the express permission of the Chair of Governors or Headteacher.

7.9 **Informal Option 3: Mediation (Individual & Team)**

Mediation is an option that can be available to the employee, in appropriate circumstances, as an alternative way of resolving a grievance. Mediation is when an impartial, professionally trained, third party helps to facilitate discussion and seeks to support resolution between parties in order that working relationships can be maintained. If the complainant wishes to seek mediation, they should identify this as a desired resolution when completing the Employee Concern Form (Appendix 1) and send this to their Line Manager, or a more Senior Manager if the Line Manager is seen as causing the problem, who may then explore options around mediation. **The HR Advisory Service has qualified mediators and can provide mediation as an additional chargeable service.**

This approach is appropriate when:
- there is a need for support in dealing with a workplace dispute;
- there is agreement on the existence of a problem;
- both parties are willing to work for a win–win solution.

It would not be appropriate when:
- one or more people are unwilling to take part in the process;
- there has been serious bullying or victimisation;
- the parties are not able or prepared to negotiate.

The mediator will:
- identify what has happened by speaking confidentially to all parties separately;
- assess the best way to bring the parties together;
- hold a joint meeting;
- explore the issues;
- build the agreement for future working relationships.

The mediator will not:
- be able to solve the dispute;
- look to apportion responsibility/blame.

The benefits of this approach are that:
- it increases the likelihood of a resolution;
- it can improve working relationships.

See Section 3d, Mediation Guidance, for more detail.

7.10 If agreement is reached that the grievance can be resolved informally then a letter should be sent confirming that the grievance will be dealt with informally (Appendix 2) and on completion of the informal stage, a letter should be sent confirming this stage has been completed (see Appendix 3).

8. Formal Stage

8.1 If an employee feels that their grievance has not been resolved to their satisfaction through the informal options above, they can raise the matter formally with their Line Manager by completing the Grievance Form – Formal Stage (Appendix 4). Grievances must be clear, setting out the details of the grievance and once submitted, will be shared with the subject/s of the grievance. If the Line Manager is the perceived source of the problem, the individual should submit the form to either the Line Manager's Manager or in the case of the Headteacher, the Chair of Governors.

8.2 On receipt of a Grievance Form – Formal Stage (Appendix 4), the recipient (usually the Manager/ Headteacher/ Chair of Governors) must meet with the complainant as soon as possible, and usually within 5 working days. The purpose of this meeting is for the complainant to explain the nature of their complaint and what action they feel should be taken to resolve the matter. If another employee is the subject of the complaint, they will need to be advised of the specific concerns raised against them in writing and invited to a meeting to discuss this and the proposed resolutions (See Appendix 7 for template letter). The recipient of the grievance must reiterate to the complainant that their grievance will be shared, in full, with the subject of the complaint. At these meetings, the option to resolve the matter informally (see Informal Resolutions above) can be discussed with all parties and, depending on the nature of the complaint, without the need to proceed to a formal grievance hearing. This is particularly important when the grievance appears to be concerned with a potentially minor issue which may not require pursuance through the formal grievance procedure.

If the matter is not successfully resolved informally, or if the grievance is in relation to a more serious matter, the grievance will proceed to a full grievance hearing to be held by the Headteacher or a Governor/ Governor Panel.

8.3 Before proceeding to a full grievance hearing, the Manager/Headteacher/ Chair of Governors dealing with the grievance may decide that an investigation needs to be undertaken and they should identify an appropriate person not involved in the case to investigate the concerns which the employee has raised, including the events surrounding or leading up to the submission of the grievance. This investigation may include interviewing witnesses.

Full guidance on conducting investigations is provided by the HR Advisory Service. Please refer to section 16a, Conducting Workplace Investigations.

8.4 If a decision is taken to proceed to a full grievance hearing (this may be following the completion of an investigation), the recipient of the grievance (Manager/ Headteacher/Chair of Governors) will invite the employee in writing to a grievance hearing (see Appendix 8 for template invite letter and Appendix 9 for further guidance on how the hearing is conducted). The hearing will be held as soon as is reasonably practicable and, subject to the need to carry out any prior investigations, normally within 10 working days of receipt of the formal grievance. Any evidence gathered in the course of an investigation into the concerns will be provided to all parties in advance of the hearing and will be used as a basis for the discussion at the hearing. The hearing will be conducted by the Headteacher or a Governor/panel of Governors and may be attended by a HR Advisor. If an investigation has been undertaken into the concerns raised, the Investigating Officer should attend the hearing to respond to any questions relating to the process or the report that any of the parties might have.

The purpose of the grievance hearing is to provide the complainant with the opportunity to respond to the findings and any recommendations within the investigation report and raise any key points they wish to be considered prior to a final decision being made regarding whether the grievance is upheld or not.

If the subject of the grievance is another person or persons, the Headteacher/ Governor/s hearing the grievance should also invite them to a separate meeting to provide them with the same opportunity to respond to the findings and any recommendations within the investigation report. This should take place before the Headteacher/Governor/panel of governors decides upon the outcome to the grievance and any action to be agreed.

Employees have the right to be accompanied to a grievance hearing by a trade union official or a work colleague. All parties must take all reasonable steps to attend the hearing at the specified time. If the complainant or their representative is not able to attend the hearing at the specific time, the hearing should be rearranged for a date normally not more than 5 working days after the date originally proposed. If the complainant fails to attend the hearing without explanation, or if it appears that they have not made sufficient attempts to attend, the hearing may take place in their absence.

8.5 All parties may, by mutual agreement, modify the time limits referred to above.

8.6 Adjournments may be sought by any party at any time during hearings.

8.7 The Headteacher/Governor/Chair of Governor Panel must inform the complainant, and any person who is the subject of the complaint, in writing of the outcome and any action they propose to take as a result of the complaint, normally within 5 working days of the hearing. The complainant and the subject of the complaint may discuss this outcome informally with their Manager.

9. Right of Appeal

9.1 The complainant has the right of appeal against the outcome of the first formal stage. To raise an appeal, they are asked to complete the Grievance Form – Appeal (see Appendix 12) within 10 working days of receipt of the written notification of the outcome of their formal grievance.

The complainant must clearly state the grounds of their appeal in the Grievance Form, i.e. the basis on which they believe that the outcome of the grievance was wrong or that the action taken as a result was inappropriate.

An appeal hearing should be arranged to take place normally within 5-15 working days of receipt of the appeal wherever possible.

9.2 A panel of at least 2 Governors (no less Governors may hear the appeal than made the original decision around resolution) will hear the appeal. The purpose of the appeal will be to consider the grounds of appeal that the complainant has put forward and to assess whether or not the conclusion reached in the original grievance hearing was appropriate.

The Appeal hearing will be conducted in accordance with the Appeal Procedure, see Section 2a, Governor Appeal Guidance and Procedure.

The Appeal Panel must inform the complainant, and any person who is the subject of the complaint, in writing of the outcome of the appeal and any action they propose to take as a result of this, normally within 5 working days of the meeting (see Appendix 14 for template letter). The complainant and the subject of the complaint may discuss the outcome informally with their Manager.

9.3 The matter will end at this stage unless it is agreed between the academy/ Local Authority (where the LA is the employer) and the trade unions concerned that an important matter of principle has arisen which should be considered in accordance with the appropriate negotiating machinery.

10. Monitoring the Resolution

10.1 Managers must ensure that the dispute has been resolved and that no retaliation occurs against any of the parties.

10.2 Managers should undertake a meeting with all parties after 3 to 6 months to review the progress of the resolution.

11. Collective Grievances

11.1 If a collective grievance arises, involving one or more employees within the same school/academy, relating to the same issue, this may be dealt with through this policy and the group of employees may nominate a spokesperson to represent their case. The complainants raising the collective grievance will be entitled to only one grievance hearing and (if applicable) one appeal hearing. The collective complainants will be notified individually of the outcome of their collective grievance. If the complainants do not entirely voluntarily agree to this arrangement or if their grievances are not identical, arrangements should be put in place to hear their grievances individually.

12. Recording

12.1 The Health and Safety Executive "Violence at Work Guidelines" recognise that "violence includes any incident in which a person is abused, threatened or assaulted in circumstances that relate to their work".

12.2 Any violent incident involving an employee and a service user, or a member of the public should be dealt with in accordance with guidelines for completing the relevant EEC Form.

12.3 All schools/academies have specific guidelines around Health and Safety and further advice can also be sought from the school/academy's Health and Safety Advisor.

12.4 The school will maintain appropriate records of bullying, harassment and discrimination complaints raised under this procedure. Anonymised trend data may be reviewed periodically by senior leaders and governing bodies to identify patterns, workforce risks and areas requiring preventative action.

13. Complaints Having Left Employment

13.1 Wherever possible, an employee should raise a concern before leaving employment.

13.2 There is no legal requirement to deal with grievances raised by ex-employees. However, Headteachers may want to consider dealing with such grievances in order to identify possible employment tribunal complaints and, where possible and appropriate, prevent those grievances from becoming tribunal complaints.

13.3 If an employee wishes to raise a complaint having left employment, the employee should write to the Headteacher/Chair of Governors setting out their complaint within 3 months of leaving.

13.4 Where a complaint is received from an employee who has left employment, and it is decided to deal with this, this should be confirmed in writing to the ex-employee (see Appendix 15 for template letter). The concerns raised should be investigated prior to the Headteacher/Chair of Governor/another appropriate Governor sending a written response to the complainant. There is no requirement for the ex-employee to be invited to an investigation meeting or for a formal grievance hearing to be held. There will be no right of appeal in these situations.

14. **The Disputes Procedure**

14.1 Where a recognised professional association/trade union is in dispute with the Governing Body, on behalf of its members, regarding a decision taken by the Governing Body, which cannot be resolved in discussions between the Chair of Governors, the Headteacher and the association/union representatives, the matter should be referred to the Governors Personnel Committee and then, if appealed, onto the full Governing Body. From the outset the Headteacher, or Chair of Governors, should seek advice from the HR Advisory Service. Professional associations/trade unions should set out, in writing, the dispute that their members have with the Governing Body. They should also state what resolution they are seeking on behalf of their members.

14.2 Where a dispute has arisen out of an attempt to change practices, other than in accordance with normal notice provisions, no change in the arrangements shall take place before the matter has been resolved to the satisfaction of both parties or until the procedures have been exhausted.

14.3 If the disputes procedure fails to resolve the issue, it may, by mutual agreement, be referred to the Advisory, Conciliation and Arbitration Service with a view to conciliation. If the dispute has not been resolved by conciliation, the matter may, by mutual agreement between employer and professional association/trade unions, be referred to arbitration. The decision shall be final and binding on both parties.

APPENDIX 1

Employee Concern Form

- Please read the Grievance Resolution Procedure prior to completing this form.
- We encourage you to sort things out by talking it through with the people concerned informally.
- If you have a concern relating to your employment at our school, please use this form to write down your concern. A written record helps those involved to understand your concerns and the outcome that you are seeking. Your grievance will be shared with the subject/s of your complaint.
- Other than those concerned, your manager/supervisor and union representative/nominated workplace colleague, please do not discuss your concerns with anyone else.

Personal and Confidential
RAISING A CONCERN WITH YOUR MANAGER OR SUPERVISOR
Name: Support / Teaching: Year / Faculty:
In your own words, please clearly explain the specific issue that is concerning you. Use another sheet of paper if you need to.
Please state briefly who you have already spoken to about this issue in order to seek to resolve the concerns and what came out of those discussions.
Please explain the actions you wish to be taken to resolve your concerns. and the outcome you are seeking.
Signed: Dated:
Once you have completed this form, please pass it to your Line Manager.

APPENDIX 2

[Sender's name]
[Sender's address]

[Date]

[Recipient's name]
[Recipient's address]

Dear

CONFIRMATION GRIEVANCE WILL BE DEALT WITH INFORMALLY

I confirm that on [date] [x] I received your [form/letter/email] dated [date] raising a grievance about [state issues].

Having reviewed the grounds of your grievance and following the discussion on [date] with [your line manager/] [and HR Advisor], I have concluded that your grievance would be best dealt with [through informal conversations with your [manager/colleagues] / by taking immediate steps to [state how issues will be resolved informally].

The Grievance Resolution Procedure focuses on trying to resolve workplace issues informally where possible and while you are justified in raising the matter, I would suggest that at this stage informal resolution of your grievance would be the appropriate avenue to pursue.

If you remain unhappy with the situation once the informal approach has been concluded, you can still raise a formal grievance in accordance with the school's/ academy's grievance policy. If you take this option, we will investigate the matter and arrange a formal grievance meeting with you after the investigation has been carried out.

You should be aware that this matter should be treated in the strictest of confidence and should not be discussed with anyone other than those involved and your union representative or nominated workplace colleague. Failure to uphold this could lead to formal disciplinary action.

Should you wish to discuss this matter in more detail, please let me know and I will be happy to discuss it with you.

Yours sincerely

Manager/ Headteacher/ Chair of Governors

APPENDIX 3

OUTCOME OF INFORMAL GRIEVANCE (LETTER TO EMPLOYEE WHO HAS RAISED THE GRIEVANCE)

Further to your grievance dated [insert date] and our meeting/discussion on [insert date] at which we agreed your concerns would be best dealt with informally.

I am writing to confirm the steps taken to resolve your concerns informally were:

- [insert what steps were taken]

I trust you are satisfied with the outcome and that you feel your concerns have been fully addressed under the informal stage of the Grievance Resolution Procedure.

Should you, however, feel that your grievance has not been resolved to your satisfaction, as previously advised in my letter dated [insert date], you can raise the matter formally in accordance with the school's/ academy's grievance resolution procedure.

You should be aware that this matter should be treated in the strictest of confidence and should not be discussed with anyone other than those involved and your union representative or nominated workplace colleague. Failure to uphold this could lead to formal disciplinary action.

Thank you for your cooperation with this matter.

Yours sincerely

Manager/ Headteacher/ Chair of Governors

APPENDIX 4

Grievance Form - Formal Stage
PERSONAL AND CONFIDENTIAL

- Please read the Grievance Resolution Procedure prior to completing this form.
- If you have a grievance relating to your employment at our school, we want to deal with it quickly and fairly and we encourage you to sort things out by talking it through with the people concerned before taking formal action (see informal procedure where applicable).
- Please use this form to write down your grievance. Having a written record helps those concerned to understand your grievance and what you would like to happen as a result of raising this concern. Your grievance will be shared with the subject/s of your complaint.
- If you have difficulty or are uncomfortable in completing this form, you can ask to see your Line Manager, who will be able to help you complete the form. You may also want to seek help from a colleague or your trade union representative.
- Your Line Manager/appropriate Manager/Governor will ask to meet you to decide on the best way to handle your grievance.
- The response to your grievance will be written on this form, discussed and returned to you.
- If you wish to provide any relevant documents/statements alongside your form, you may do so.
- Other than those concerned, your manager/supervisor and union representative/nominated workplace colleague, please do not discuss your grievance with anyone else.

To: ……
Manager/Governor

From: …… (please print) …… (Job Title)

My Manager is: …… Date: ……

My grievance is that: In your own words, please clearly explain the specific issue(s) that is/are concerning you. Please use another sheet of paper if you need to. *Please include details such as dates and times, who is involved and what their relationship is to you, e.g. Manager.*

Please state who you have already spoken to about this issue in order to try to resolve the concerns and the outcome of these discussions.

Please explain the actions you wish to be taken to resolve your concerns and what outcome(s) you are seeking:

At any meeting you may be accompanied. If you wish to be so, please tick the appropriate box:

A school employee of my choice □ OR my Trade Union representative □

(Name: ……)

OUTCOME OF FORMAL GRIEVANCE HEARING

(To be completed by the Manager hearing the grievance)

The outcome of the meeting held on ……/……/…… (date) was that

□ I have upheld the grievance

□ I have not upheld the grievance

□ Some other conclusion

Because:

The following actions have been agreed in order to resolve the concerns were:

Signed: …… (Manager/Governor)

Date:……

(Please return this form to the Employee with a copy placed on file)

APPENDIX 5

[Sender's name]
[Sender's address]

[Date]

[Recipient's name]
[Recipient's address]

Dear

CONFIRMATION OF FORMAL GRIEVANCE

I confirm that on [date] I received your [form/letter/email] dated [date] raising a formal grievance about [state issues].

In accordance with the school's/academy's Grievance Resolution Procedure, I will arrange for your grievance to be investigated.

[Insert name of investigating officer] has been appointed to investigate your grievance and should you have any queries then please contact them by [telephone/email].

As part of this investigation [name of investigating officer] may be required to interview potential witnesses and review documents. Please be assured that this matter will be kept confidential as far as possible, and every witness will be instructed not to discuss this matter. However, as part of the investigation process, it will be necessary to inform witnesses that a grievance has been raised.

You should be aware that this matter should be treated in the strictest of confidence and should not be discussed with anyone other than those involved and your union representative or nominated workplace colleague. Failure to uphold this could lead to formal disciplinary action.

Finally, please be advised no decision will be taken regarding your grievance until the investigation has been completed and you have had an opportunity to discuss your complaints formally at a grievance meeting.

Yours sincerely

Manager/ Headteacher/ Chair of Governors

APPENDIX 6

Sender's name]
[Sender's address]

[Date]

[Recipient's name]
[Recipient's address]

Dear

INVITE TO FORMAL GRIEVANCE INVESTIGATION MEETING

Further to the letter dated [date] confirming receipt of your formal grievance dated [date] **or** Further to the letter informing you that a formal grievance has been raised in relation to you by another employee [amend as appropriate], I now invite you to attend an investigation meeting to discuss the issues you have raised, **or** I now invite you to attend an investigation meeting to allow you the opportunity to respond to the grievance. I can also confirm you have been provided with a copy of the grievance. [amend as appropriate].

The investigation meeting has been arranged for [date] and will begin at [time] and be held at [location].

Present at the investigation meeting will be [insert name of investigation officer] and [list other attendees].

You are entitled to be accompanied at the investigation meeting by a work colleague or trade union representative if you wish. Please can you inform me by x date [insert date] if you are being accompanied and if so by whom, so that I can make the necessary arrangements to allow them to attend.

The purpose of the investigation meeting is to allow you to explain your grievance and discuss with us how it can be resolved. If you wish to rely on any written material or documents, please bring them to the meeting. However, it would be helpful if you could send copies of these to me in advance **or** The purpose of the investigation meeting is to allow you to respond to the grievance If you wish to rely on any written material or documents, please bring them to the meeting [amend as appropriate].

If you are unable to attend the investigation meeting, then under the terms of the procedure you must inform us of this fact as soon as possible. If your chosen companion is not available, you may specify another date for the meeting up to five working days later.

You should be aware that this matter should be treated in the strictest of confidence and should not be discussed with anyone other than those involved and your union representative or nominated workplace colleague. Failure to uphold this could lead to formal disciplinary action.

Should you have any queries about this process or questions about what the grievance meeting/hearing will involve, please let me know and I will be happy to discuss the arrangements in detail with you.

Yours sincerely

Clerk to Governors/ Investigating Officer

APPENDIX 7

[Sender's name]
[Sender's address]

[Date]

[Recipient's name]
[Recipient's address]

Dear

LETTER INFORMING AN EMPLOYEE THAT A FELLOW EMPLOYEE HAS RAISED A FORMAL GRIEVANCE AGAINST THEM

I am writing to you following our meeting on [date] at which I informed you that a formal grievance has been raised in relation to you by another employee.

(I enclose a copy of the letter / grievance form from the employee who has submitted the grievance outlining the details of their grievance.) ***[Before this is released it is advised that the school remind the employee who raised the grievance, that this will be released.]***

I have appointed insert [name] to undertake a full investigation. The investigator will hold an investigation meeting with the employee who has raised the grievance. The investigator will also arrange to meet with you to provide you with the opportunity to respond.

I would like to reassure you that the grievance will be fully and impartially investigated before any decision is made as to what, if any, action needs to be taken.
I recognise this may be an anxious time for you, however, I hope you understand the school has a duty to take all complaints that are raised seriously and to fully investigate them.

You should be aware that this matter should be treated in the strictest of confidence and should not be discussed with anyone other than those involved and your union representative or nominated workplace colleague. Failure to uphold this could lead to formal disciplinary action. Meanwhile, if you do have any questions, or you would like to speak to me about this matter, then I can be contacted on [number].

In the meantime, I enclose a copy of the school's grievance resolution procedure for your information.

Yours sincerely
Headteacher / Chair of Governors

APPENDIX 8

Sender's name]
[Sender's address]

[Date]

[Recipient's name]
[Recipient's address]

Dear

INVITE TO FORMAL GRIEVANCE HEARING

I have now received the completed investigation report and in accordance with the Grievance Resolution Procedure invite you to attend a hearing. The hearing has been arranged for [date] and will begin at [time] and held at [location].

Present at the hearing will be [insert name of Investigation Officer] and [list other attendees]. The purpose of the hearing is to provide you with the opportunity to respond to the findings of the report prepared by [name] (a copy of which is enclosed with this letter along with all other supporting documents).

You are entitled to be accompanied at the hearing by a work colleague or trade union representative, if you wish. Please can you let me know if you are being accompanied and who this is by [insert date] to ensure I am able to make the necessary arrangements to allow them to attend.

If you are unable to attend the hearing, then under the terms of the procedure you must inform us of this fact as soon as possible. If your chosen companion is not available, you may specify another date for the meeting up to five working days later.

You should be aware that this matter should be treated in the strictest of confidence and should not be discussed with anyone other than those involved and your union representative or nominated workplace colleague. Failure to uphold this could lead to formal disciplinary action.

Should you have any queries about this process or questions about what the grievance meeting/hearing will involve, please let me know and I will be happy to discuss the arrangements in detail with you.

Yours sincerely

Headteacher/ Chair of Governors

APPENDIX 9

CONDUCTING A FORMAL GRIEVANCE HEARING

INTRODUCTION

The chair – will state that the Grievance Hearing is being conducted under the Grievance Resolution Procedure as a formal grievance.

They will explain the purpose of the hearing is to provide the employee with the opportunity to respond to the findings of the investigation report and confirm a written record of the hearing is being made. The chair will remind all parties present they are not permitted to record the hearing electronically and any breach of this provision may lead to disciplinary action against the employee.

They will then ask the parties present at the hearing to introduce themselves and confirm their respective roles in the hearing.

Hearing

The chair will invite the employee to respond to the investigation report. The employee may do this personally, or the employee's representative (if they have elected to be represented) may do this on their behalf.

The chair, during the hearing, will be able to refer to the investigation report and any written evidence that has been gathered during the investigation, including the consideration of any witness statements (where appropriate). The chair may ask the investigating officer and the employee (and any witnesses) questions for points of clarification but should be careful not to be seen to be re-investigating through questioning as the investigation should have gathered all of the key evidence on which the findings and recommendations have been reached. The chair has the right to ask the employee to personally answer any questions, although the employee may on request, confer with their representative at any time during the grievance hearing.

Concluding the Hearing

Once all the evidence has been heard, the chair will then inform the employee a decision will be made on whether to uphold or dismiss the grievance and they will be advised of this in writing, within 5 working days. The chair will inform the employee they have the right to appeal against the outcome of the grievance hearing, if they are not satisfied with it.

The chair will thank the parties for attending and close the hearing.

APPENDIX 10

[Sender's name]
[Sender's address]

[Date]

[Recipient's name]
[Recipient's address]

Dear

OUTCOME OF FORMAL GRIEVANCE HEARING (LETTER TO EMPLOYEE WHO HAS RAISED THE GRIEVANCE)

I am writing to you to confirm the outcome, of the grievance hearing, which was held on [insert date]. The purpose of the hearing was to provide you with the opportunity to respond to the findings outlined in the investigation report, which had been undertaken in response to your formal grievance.

Present at the hearing was myself, [insert name of chair] and others present e.g., HR Advisor to the panel. Also, in attendance was [insert name of Investigating Officer] and [insert name of note taker]. You were accompanied by [insert name of companion].

We started the hearing by providing you with the opportunity to comment on the report, you were also provided with the opportunity to ask the investigation officer questions.

I/the Panel considered all the information presented including your Employee Concern Form and the investigation report. After full consideration of all information available to me/the panel, I/the panel have concluded that I we agree/don't agree with the findings and your grievance is upheld/not upheld.

My reason for this conclusion is as follows: [Insert reasoning for decision.]

Right of Appeal

You have the right of appeal against the outcome of the first formal stage of your grievance. To raise an appeal, please complete the Grievance Form – Appeal (which can be found in Appendix 11 of the Grievance Resolution Procedure within 10 working days of receipt of this letter.

In your appeal you must clearly state the grounds for your appeal in the Grievance Form, i.e. the basis on which you believe the outcome of the grievance was wrong or that the action taken as a result was inappropriate. The appeal will be managed in accordance with the school's/academy's Appeals Procedure.

The Appeals Committee of the Governing Body has the following powers:

(a) To uphold the appeal

(b) To dismiss the appeal.

This remains a confidential matter and you are advised not to discuss this with anyone other than your support person, union representative or nominated workplace colleague. Failure to uphold this could lead to formal disciplinary action.

Yours sincerely

Chair of Grievance Hearing Panel

APPENDIX 11

[Sender's name]
[Sender's address]

[Date]

[Recipient's name]
[Recipient's address]

Dear

OUTCOME OF FORMAL GRIEVANCE RESOLUTION HEARING (LETTER TO EMPLOYEE WHO HAS HAD THE GRIEVANCE RAISED ABOUT THEM)

I am writing to inform you of the outcome of the grievance resolution hearing. As you are aware a grievance was raised by [insert name] which was about you.

The grievance they raised was in relation to [provide details of the concerns raised in the grievance]. An investigation was carried out and you attended an investigation meeting on [insert date].

Following the completion of the investigation, a report was written, and you were provided with a copy of the report. You were then invited to a meeting to provide you with the opportunity to respond to the report.

Following the meeting with you and the grievance hearing held with the employee who raised the grievance, the panel concluded they [explain findings in relation to any allegations that are relevant to the employee against whom the grievance has been raised.]

As a result of these findings I / the panel concluded I/ we did /didn't uphold the grievance made by the employee in relation to you.

This remains a confidential matter and you are advised not to discuss this with anyone other than your support person, union representative or nominated workplace colleague. Failure to uphold this could lead to formal disciplinary action.

Yours sincerely

Chair of Grievance Resolution Hearing Panel

APPENDIX 12

Grievance Resolution Form – APPEAL
PERSONAL AND CONFIDENTIAL

- Please use this form to write down the grounds for your appeal. Having a written record helps those concerned to understand your appeal and what you would like to happen as a result of raising this appeal.
- If you have difficulty or are uncomfortable in completing this form, you can ask to see your Line Manager, who will be able to help you complete the form. You may also want to seek help from a colleague or your trade union representative.
- Your Line Manager/appropriate Manager/Governor will ask to meet you to decide on the best way to handle your appeal.
- If you wish to provide any relevant documents/statements alongside your form, you may do so.
- Other than those concerned, your manager/supervisor and union representative/nominated workplace colleague, please do not discuss your grievance with anyone else.

To: …… Manager/Clerk to Governors

From: …… (please print) …… (Job Title)

My Manager is: …… Date: ……

In your own words, please set out the grounds for your appeal against the outcome of your formal grievance. Please explain the basis on which you believe that the outcome of the grievance was wrong or that the action taken as a result was inappropriate.

OUTCOME OF FORMAL GRIEVANCE RESOLUTION APPEAL HEARING
(To be completed by the Manager hearing the appeal) The outcome of the meeting held on ……/……/…… (date) was that: ☐ I have upheld the appeal

☐ I have not upheld the appeal

☐ Some other conclusion

The reasons for reaching this conclusion are as follows:

The agreed actions to be taken were:

There are no more stages to the grievance process. This decision is final.

Signed: ……
(Manager/Governor)

Name: …… (please print)

Date: ……

(Please return this form to the Employee with a copy retained on file)

APPENDIX 13

[Sender's name]
[Sender's address]

[Date]

[Recipient's name]
[Recipient's address]

Dear

INVITE TO APPEAL HEARING

I am writing to acknowledge receipt of your Formal Grievance Appeal form dated [insert date]. The reason for you appealing is because your grievance wasn't upheld.
Therefore, in accordance with the next stage of the grievance resolution procedure, I invite you to attend an Appeal Hearing to discuss the reasons for your appeal. The appeal hearing has been arranged for [date] and will begin at [time] and will be held at [location].

Present at the appeal hearing will be *[list attendees]. [These should include a panel of 3 Governors who are impartial, a note taker, a HR Advisor to advise the panel of Governors (who is impartial), the chair of the grievance hearing and the HR Advisor if one was used for the grievance.]*

You are entitled to be accompanied at the hearing by a work colleague or trade union representative, if you wish. Please can you let me know if you are being accompanied and who this is by [insert date] to ensure I am able to make the necessary arrangements to allow them to attend.

The purpose of the appeal hearing is to allow you to explain the grounds on which you believe the findings of the original grievance hearing were wrong and should be changed. If you are unable to attend the appeal hearing, then under the terms of the procedure, you must inform us of this as soon as possible.

If your chosen companion is not available, you may specify another date for the appeal hearing up to five working days later. Should you have any queries about this process or questions about what the grievance appeal hearing will involve, please let me know and I will be happy to discuss the arrangements with you in detail. This remains a confidential matter and you are advised not to discuss this with anyone other than your support person, union representative or nominated workplace colleague. Failure to uphold this could lead to formal disciplinary action.

Yours sincerely

Clerk to Governors

APPENDIX 14

[Sender's name]
[Sender's address]

[Date]

[Recipient's name]
[Recipient's address]

Dear

OUTCOME OF APPEAL HEARING

I am writing to you to confirm the outcome of the Appeal Hearing, which was held on [insert date].

You appealed because you were dissatisfied with the outcome of your grievance and the decision to not uphold your grievance.

Present at the appeal hearing was myself, [insert name of chair] and others present e.g., names of other panel members and HR Advisor to the panel. Also, in attendance was [insert name of] chair of grievance hearing panel and HR Advisor [if their service was used] and [insert name of note taker].

You were accompanied by [insert name of companion].

The purpose of the appeal hearing was for the panel to consider the reasons for your appeal which you had provided in a Grievance Appeal Form and provide the opportunity for the appeal panel to ask questions of you and the chair of the appeal hearing panel. You were also provided with the opportunity to ask questions. After listening carefully to everything that was said, we, (the Panel) considered the reasons for your appeal and have concluded we agree/don't agree with the reasons for you appeal and the original decision is upheld/not upheld.

My reason for this conclusion is as follows: [Insert reasoning for decision.] You have no further right to appeal and there are no further stages to the grievance resolution procedure. The decision of the appeal hearing panel is final. This remains a confidential matter and you are advised not to discuss this with
anyone other than your support person, union representative or nominated workplace colleague. Failure to uphold this could lead to formal disciplinary action.

Yours sincerely

Chair of Grievance Appeal Hearing Panel

APPENDIX 15

[Sender's name]
[Sender's address]

[Date]

[Recipient's name]
[Recipient's address]

Dear

CONFIRMATION OF POST EMPLOYMENT GRIEVANCE AFTER LEAVING EMPLOYMENT

I confirm that I have received your [letter/email] [insert date] setting out your concerns regarding [insert details of concerns raised].

Please be advised that as you have raised your concerns after your employment at the school has ended, it will be treated as a post-employment grievance in accordance with the school's/academy's Grievance Resolution Procedure.

Please be assured the school/academy does take any concerns raised seriously. The next steps are for me to arrange for the concerns you have raised to be investigated. I may need to contact you again, should the school/academy require your assistance with the investigation. If they do, then they may ask you to do this by answering questions about what happened or preparing a written statement setting out your version of events/what you saw or heard and any relevant information that you consider may be of assistance.

As this is an investigation [name of investigator] may need to interview potential witnesses and review documents. However, please be reassured this matter will be remain confidential and all witnesses will be instructed they should not discuss it.

Finally, the school/academy wishes to point out that no decision will be taken regarding your grievance until the investigation has been completed.

You will be informed of the outcome of your post-employment grievance in writing.

This remains a confidential matter and you are advised not to discuss this with anyone other than your support person, union representative or nominated workplace colleague. Failure to uphold this could lead to formal disciplinary action.

Yours sincerely

Headteacher/ Chair of Governors

Equality Definitions

1. Definition of Bullying

Bullying implies a relationship where:

- the bully has some influence or advantage that is used improperly over an individual; and
- the recipient is at a disadvantage; and
- the behaviour is unwarranted and unwelcome to the recipient.

This influence or advantage normally arises from:

- status (from someone in a position of authority or power to make decisions, such as a Manager or Supervisor) or
- social power (from peer pressure).

It may therefore be:

- by one individual against another individual or group of individuals, through one behavioural act or a series of acts over a period of time;
- by one group of individuals against one individual or another group of individuals.

Individual acts may not separately amount to bullying but a series of individual acts perpetrated by different people may together amount to collective bullying.

Bullying may be face-to-face, in written communications, by email, social networking sites or telephone.

It will normally be characterised as:

- offensive, intimidating, malicious, insulting or humiliating behaviour.

and it will normally be accompanied by:

- an intention to undermine, humiliate, denigrate or injure the recipient.

and this will normally have a detrimental effect on:

- their competence and capability and may have an adverse effect on their health.

Differences between firm management and bullying behaviour when tackling poorly performing teams (Source: CIPD)

Addressing poor performance in teams	Examples of firm management	Examples of bullying
Identifying the performance issue	Involves looking at all the potential reasons for poor performance e.g. people, systems, training and equipment	No attempt to identify the nature or source of the poor performance
Seeking the views of the team or individual to identify the cause of the unacceptable level of performance	The team takes part in looking for the source of the problems in performance and helps the Manager to identify solutions for the whole team	No discussion of the cause of the performance deficit, or opportunities for the team members to discuss their difficulties
Agreeing new standards of performance with all team members	Involves setting and agreeing standards of performance and behaviours for each team member and the Manager	Imposing new standards without team discussion on appropriate standards of performance or behaviour
Agreeing the method and timing of monitoring/auditing team performance	Wherever possible the team or team member takes part in the monitoring process. The outcome of the monitoring is openly discussed	Without agreeing standards, the monitoring can occur at any time and can involve areas that are unexpected by team members

Failure to achieve the standards of performance is dealt with as a performance-improvement issue	Opportunities are taken to identify individuals who are struggling, and support is provided. Where individuals are unwilling to comply with the agreed performance, improvement process, disciplinary actions may be taken	Individuals who fail to achieve the standards of performance are put under pressure to conform. This may include ridicule, criticism, shouting, withholding of benefits, demotion, teasing or sarcasm
Recognising positive contributions	Recognises and rewards improvements in performance, attitudes and behaviours	With no monitoring, it is impossible to recognise where there have been positive contributions. Rewards and recognition are therefore arbitrary and open to acts of favouritism

2. Legal Definitions of Prohibited Conduct

2.1 Harassment

Harassment is defined as unwanted conduct related to one or more of the relevant protected characteristics which has the purpose **or** effect of violating the dignity of another person or creating for that person an intimidating, hostile, degrading, humiliating or offensive environment.

Unwanted conduct means conduct that is unwelcome or uninvited.

Unwanted conduct can include any kind of behaviour, including spoken or written words in emails or on social networking sites, abuse, imagery, graffiti, physical gestures, facial expressions, mimicry, jokes, pranks, acts affecting a person's surroundings or other physical behaviour.

Conduct will be related to a protected characteristic if the person experiencing harassment has the protected characteristic or if there is any connection with the characteristic.

Harassment occurs even if the person harassed does not have the characteristic: a person might be perceived wrongly to have the characteristic or be harassed because of their association with someone who has the characteristic.

The unwanted conduct does **not** have to be **directed** at a person: it is enough that the conduct creates an intimidating, hostile, degrading, humiliating or offensive environment for that person.

Irrespective of the effect on a person, unwanted conduct amounts to harassment if the person is committing the unwanted conduct with the purpose of violating the dignity of the other person or creating for them an intimidating, hostile, degrading humiliating or offensive environment.

Alternatively, conduct which has the purpose of being friendly could amount to harassment if the effect on the person experiencing the conduct is one of violating the dignity of that person or creating for that person an intimidating, hostile, degrading humiliating or offensive environment.

In deciding whether conduct had that effect, each of the following must be taken into account:

- The perception of the complainant;
- The other circumstances of the case;
  (e.g. circumstances of the person experiencing the conduct, their health including mental health, mental capacity, cultural norms, previous experience of harassment, differences in age, status, impact of the conduct, whether the perpetrator of the alleged harassment was exercising their rights under the Human Rights Act 1998.)
- Whether it is reasonable for the conduct to have that effect

Less favourable treatment for rejecting or submitting to unwanted conduct

Harassment also occurs when a person is treated less favourably because they have submitted to (or rejected):

(a) unwanted conduct related to sex or gender re-assignment; or
(b) conduct of a sexual nature.

The less favourable treatment under this type of harassment may be perpetrated by the same person who committed the original unwanted conduct, or by another person.

2.2 **Direct Discrimination**

The law protects against discrimination on the following grounds:

- Age*
- Disability***
- Gender reassignment
- Marriage and civil partnership**
- Pregnancy and maternity
- Race
- Religion or belief

- Sex
- Sexual orientation.

These are described as '**protected characteristics**'.

Direct discrimination occurs when one person treats, or would treat, another less favourably than others and the treatment is 'because of' a protected characteristic.

A person is treated less favourably when they are put at a disadvantage compared to others. It is enough that the person can reasonably say they would have preferred not to be treated differently from the way another person was, or would have been, treated. This could involve being denied a choice or excluded from an opportunity.

It does not matter that the less favourable treatment is unintentional.

*Less favourable treatment of a person because of their **age** is not direct discrimination provided that it can be shown that the less favourable treatment is a proportionate means of achieving a legitimate aim.

Where the protected characteristic in question is **marriage or civil partnership in employment, direct discrimination is limited to less favourable treatment because a person is married or a civil partner. Single people and people in relationships outside of marriage or civil partnership (whether or not they are cohabiting) are not protected.

***Discrimination arising from **disability** is different. Treatment of a disabled person amounts to discrimination arising from disability if:

- an employer treats the disabled person unfavourably;
- this treatment is because of something arising in consequence of the disabled person's disability; and
- The employer cannot show that this treatment is a proportionate means of achieving a legitimate aim.

The consequences of a disability include anything which is the result, effect or outcome of a person's disability. Such consequences may include: inability to walk unaided; need for regular rest breaks; restricted diet; slow typing speeds; difficulties in using public transport; regular hospital appointments; need for specialist equipment; need for quiet working environment.

Discrimination by association

It is direct discrimination if an employer treats a worker less favourably because of the worker's association with another person who has a protected characteristic; however, this does not apply to marriage and civil partnership or pregnancy and maternity. In the case of pregnancy and maternity, a worker treated less favourably because of association with a pregnant woman, or a woman who has recently given birth, may have a claim for sex discrimination.

Discrimination by association can occur in various ways, where the worker has a relationship with a parent, child, partner, friend or carer of a person with a protected characteristic. The association with the other person need not be a permanent one.

Discrimination arising from disability only requires the disabled person to show they have experienced unfavourable treatment because of something connected with their disability. If the employer can show that they did not know and could not reasonably have been expected to know that the disabled person had the disability, it will not be discrimination arising from disability.

Discrimination by perception
It is also direct discrimination if an employer treats a worker less favourably because the employer mistakenly thinks that the worker has a protected characteristic. However, this does not apply to pregnancy and maternity or marriage and civil partnership.

Breastfeeding
Discrimination against a woman because she is breastfeeding is deemed to be a case of sex discrimination.

2.3 **Indirect Discrimination**

Indirect discrimination occurs when a provision, criterion or practice that applies in the same way for everybody has an effect which particularly disadvantages people who share a protected characteristic. This kind of discrimination is unlawful unless the employer can show that it is justified i.e. a proportionate means of achieving a legitimate aim.

Indirect discrimination is unlawful whether it is intentional or not and whatever the motivation. This applies to all protected characteristics apart from pregnancy and maternity. In these cases, indirect sex discrimination may apply.

In terms of employment, provisions, criteria and practices will include policies, rules, arrangements qualifications, proposals and one-off or discretionary decisions.

A disadvantage has to be something a reasonable person would complain about so an unjustified sense of grievance would not qualify. It must include some damage or loss, although this does not have to be quantifiable. A disadvantage could include, for example, denial of an opportunity, denial of choice, rejection or exclusion.

The disadvantage may be linked to a protected characteristic but there is no need to demonstrate a causal link between the two. However, it is not enough that the provision, criterion or practice puts or would put a group of people with a protected characteristic at a particular disadvantage. It must also have, or be capable of having, that effect on the individual concerned.

When the protected characteristic is **disability**, indirect discrimination occurs when a disabled person is disadvantaged by a provision, criterion or practice which:

- is (or would be) also applied to everyone; and
- puts (or would put) people who have the disabled person's disability at a disadvantage when compared to non-disabled people.

The only question is whether the unfavourable treatment the particular disabled person experiences is because of something arising in consequence of their disability.

The consequences of a disability include anything which is the result, effect or outcome of a person's disability. Such consequences may include; inability to walk unaided; need for regular rest breaks; restricted diet; slow typing speeds; difficulties in using public transport; regular hospital appointments; need for specialist equipment; need for quiet working environment.

2.4 **Victimisation**

Occurs when an individual employee (A) subjects another employee (B) to detrimental treatment because B has committed a protected act or may commit a protected act in the future.

A protected act is any of the following:

- Bringing proceedings under the Equality Act.
- Giving evidence or information in connection with proceedings under the Act.
- Doing anything related to the provisions of the Act.
- Making an allegation that another person has breached the Act.
- Making or seeking a 'relevant pay disclosure' to or from a colleague including a former colleague).

A worker does not need to have a particular protected characteristic in order to be protected against victimization under the Equality Act. Generally, detrimental treatment is anything which the individual concerned might reasonably consider changed their position for the worse or put them at a disadvantage. This could include being rejected for promotion, denied an opportunity to represent the organisation at external events, excluded from opportunities to train, or overlooked in the allocation of discretionary bonuses or performance-related awards. There is no need to demonstrate physical or economic consequences. However, an unjustified sense of grievance alone would not be enough to establish detriment.

Detrimental treatment amounts to victimisation if a 'protected act' is one of the reasons for the treatment, but it need not be the only reason.