



Schools Grievance Policy and Procedure

**Authority Guidelines on
Staffing Procedures for Community, Voluntary Controlled, Community
Special Schools and Early Years Centres
(and those adopted by Governing Bodies of other maintained/non
maintained schools)**

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GRIEVANCE POLICY AND PROCEDURE

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GRIEVANCE POLICY AND PROCEDURE

1. Policy Statement

The provisions of the Employment Act 2008 are the result of a consultation process started by the Department of Trade and Industry. The statutory dispute resolution procedures were repealed from 6 April 2009 and a revised Code of Practice issued by ACAS giving “clear, simple and non-prescriptive guidelines on grievances and disciplinary procedures.” In addition changes to the Employment Tribunal rules give Tribunals discretion to take into account the reasonableness of the parties’ behaviour when assessing compensation.

This grievance policy applies to all school staff employed in a Community, Voluntary Controlled and Special School in Wirral, or any other school who adopts this policy. This policy and procedure have been consulted and ‘collectively agreed’ with all recognised professional associations representing teachers and trade unions representing schools support staff.

It is essential that a fair and systematic approach should exist in every school whereby employees may air a grievance related to their employment and ensure that it is resolved speedily. The grievance policy and procedure provides a framework and a structured mechanism for employee complaints to be dealt with. There are informal and formal procedures for dealing with Grievances.

Its aim is to resolve grievances as quickly as possible and in an equitable way, which minimises the impact on the school and maintains professional working relationships between colleagues. Failure to deal with grievances in a timely manner has a detrimental effect on working relationships, performance and absence.

1.1 Principles of the Grievance Policy

The grievance policy and procedure is based on the following principles;

- i) Where the circumstances are appropriate, and/or both parties agree, grievances should be dealt with through the informal process, including mediation, where appropriate.
- ii) Any employee raising a grievance will be given the opportunity to explain their issues, and an appropriate person will fact find/investigate their issues and respond. The outcome is confirmed in writing.
- iii) The employee does not suffer any detriment in the form of victimisation for asserting their statutory right to raise a grievance.
- iv) Any witnesses are protected against detriment and dismissal as a result of acting as a witness during a grievance hearing.
- v) All parties directly affected by the grievance should be kept informed of progress as appropriate.
- vi) Any representative or work colleague is protected against detriment and dismissal in respect of their action in accompanying the employee and for addressing or seeking to address the hearing.

- vii) Not to discriminate against any individual in the application of this policy and procedure under the Equality Act 2010.
- viii) Confidentiality will be observed at all times by those involved in the grievance process and information shared on a need to know basis only.
- ix) Any employee having a grievance related to his/her employment has the right to express that grievance and to be represented by a teacher professional association, a trade union representative or a colleague at all stages of the procedure and is advised to contact his/her representative at the earliest opportunity.

This procedure is for use by individual employees who have a grievance with another employee, the Headteacher, or the Governing Body. Grievances can arise from a variety of sources. They can be of a relatively simple nature or be of fundamental importance. A grievance can be defined as an issue or concern about a range of issues affecting an employee at work.

Examples of potential grievance issues include;

- Terms and conditions of employment (except pay and grading)
- Health and Safety
- Work relations
- New working practices
- Working environment
- Organisational change
- Bullying and Harassment (Schools should follow ACAS advice <http://www.acas.org.uk/index.aspx?articleid=2178>)
- Discrimination (school may also have a separate policy for addressing this issue)

The Grievance procedure **does not** apply to:

- Grievances between staff and Wirral Local Authority or collective disputes; these grievances should be dealt with through the procedures described in the appropriate nationally and locally agreed documents relating to teaching (Burgundy Book) and support staff (Green Book) in schools.
- Pay Disputes – refer to Whole school Pay Policy – pay appeals process
- Whistleblowing Concerns – dealt with under the schools Whistleblowing Policy and Procedure
- Employees appealing against a dismissal/disciplinary decision. This is dealt with through the disciplinary appeal procedure

NB It should be noted that it would be inappropriate for a grievance procedure to be used to make a complaint against a more junior member of staff; in such an event, reference should be made to the Disciplinary or Work Performance Procedures

1.2 Commitment to Equality

This policy addresses the following equality duties:

- Eliminate unlawful discrimination, harassment and victimisation
- To advance equality of opportunity

- To foster good relations between different groups of people

One of the main purposes of the policy and procedure is to ensure that employees who wish to raise a grievance may do so in the knowledge that management decisions follow a standard process which affords a fair, rigorous, consistent, transparent assessment.

2. Grievance Procedure

2.1 Roles and Responsibilities

2.1.1 Context – Pecuniary Interests

Any person involved in investigating or hearing a grievance, must declare any pecuniary interest and take no further part in the grievance process

2.1.2 Employee

The employee should co-operate fully in the grievance process, raise concerns in good faith, and work with the Headteacher/Governing Body to genuinely seek a resolution. In the first instance, all employees must try to resolve the grievance informally by a direct approach to the person(s) with whom they have a grievance, which may include mediation.

Employees must co-operate in any investigation and hearings in relation to the grievance, specify the details of the grievance and the preferred outcome. The employee is responsible for contacting and liaising with trade union/professional association representatives, or work colleague.

NB Any grievance should be addressed as soon as possible, but should be raised/submitted within 3 months of the last alleged incident/issues arising.

2.1.3 Headteacher

The Headteacher may assist in trying to deal with issues before a formal grievance is lodged by an employee.

- a) The Headteacher should have a meeting with the employee to try to clarify and seek a resolution (Stage1).
- b) Where necessary a Headteacher may appoint an investigating officer to undertake an investigation into more complex grievance issues.

Headteachers should ensure that grievances are treated seriously, in a timely manner, ensure that procedures are followed correctly and consider options to resolve the issues such as mediation.

2.1.4 Governing Body

The Governing Body is responsible for implementing appropriate grievance procedures, including constituting relevant committees to hear formal staff grievance and staff grievance appeal hearings. The Governing Body should ensure that grievances are treated seriously, in a timely manner, ensure that procedures are followed correctly and consider options to resolve the issues such as mediation.

Where a grievance is not resolved informally or formally, a panel of normally 3 Governors should hear the grievance.

Should the employee be unsatisfied with the outcome of the grievance hearing they have the right to appeal to a committee of 3 further governors, who have not had any previous involvement in the case

2.1.5 Chair of Governors

Where the grievance lodged is in relation to actions of the Headteacher the Chair of Governors, may appoint a nominated governor/external investigator to investigate the grievance.

Wherever possible, the Chair of Governors is responsible for trying to deal with issues informally before a formal grievance is lodged by an employee against a Headteacher, having first tried to resolve the issue with the Headteacher. The Chair of Governors should advise the respondent of the grievance to first try to resolve the issue with the Headteacher.

The Chair of Governors should have a meeting with the employee to try to clarify and seek a resolution, and when necessary may appoint an investigating officer to undertake an investigation into more complex grievance issues.

2.1.6 Investigating Officers

Where required, the role of the investigating officer is to gather information and/or take statements to establish the facts surrounding grievance, produce a fair, balanced and objective report detailing the evidence collected. They will present or support the presentation of the report to an appropriate person/committee. Please seek HR advice from your HR provider.

NB The investigating officer should undertake the investigation without any unreasonable delays.

2.1.7 Professional Association/Trade Union/work colleague

Where appropriate, the Professional Association/ Trade Union representative/work colleague is responsible for supporting employees through the grievance process, including representing employees at relevant meetings, including formal meetings arranged under the grievance procedure.

NB Any grievance should be addressed as soon as possible, but should be raised/submitted within 3 months of the last alleged incident/issues arising.

2.1.8 Human Resources

The role of HR Consultancy Team is to provide HR advice and guidance to:

- **Headteacher** on potential courses of action to address concerns about the conduct of an employee, and providing HR advice at grievance hearings convened by the Headteacher, and liaise with TU/Professional Association representatives, on behalf of the Headteacher to try and facilitate an early resolution, where possible.
- **Investigating Officer** on conducting and/or supporting them to undertake an investigation and produce a report (with appendices) and support in the presentation of the case.
- **Governors** on the possible courses of action to take in respect Grievance Hearings and Appeals convened by the School

2.1.9 Legal Services (where appropriate)

The role of legal services is to provide;

- Advice and guidance on legal matters pertaining to the case
- Specific advice on complex employment law matters
- Advice to Governors, where necessary at grievance hearings/appeals

3. Informal Grievance Procedure Stage 1

- (i) Where an employee has a grievance which involves other member(s) of staff, he/she should first of all endeavour to resolve the matter by a direct approach to the member(s) of staff involved or in discussion with in the school.
- (ii) Where a direct approach has not happened or the employee is not satisfied with the outcome, then the Headteacher should arrange a meeting with the employee usually within 5 working days.

NB(Nominated individual)/Headteacher may seek advice from their HR Consultancy provider to assist in providing potential resolution(s) to the grievance.

- (iii) In circumstances where the grievance is against the **Headteacher**, the employee should first of all endeavour to resolve the matter by a direct approach to the Headteacher.

Where a direct approach has not happened or the employee is not satisfied with the outcome, then the Chair of Governors should arrange a meeting with the employee usually within 5 working days.

Only where the employee continues to be dissatisfied with the outcome of the informal stage, can they refer the grievance to **the formal stage**.

3.1 **Option for resolving a grievance informally** **Mediation**

It may be appropriate for the matter to be dealt with by way of mediation, depending on the nature of the grievance. This involves the appointment of a third party mediator, who will discuss the issues raised in the grievance with all those involved and seek to facilitate a resolution. Mediation can be used only where all parties involved in the grievance agree.

4. Formal Grievance Procedure Stage 2

- (i) If the employee is dissatisfied with the outcome of an informal grievance, he/she must submit a formal written notice of the grievance to the *Headteacher or Chair of Governors (where the grievance is in relation to the Headteacher)* with a copy sent to the member(s) of staff with whom they have the grievance.

The employee should provide:

- Specific issues that they wish to raise including relevant dates and times (where appropriate)
- Details of witnesses

- Any supporting documentation
- Confirmation of the preferred outcome

All **formal** grievances should be submitted on the attached form (Appendix C)

- (ii) Following receipt of a formal grievance the Headteacher (or Chair of Governors where the grievance is in relation to the Headteacher) shall arrange a formal grievance hearing with the employee and the TU/Professional Association Representative or work colleague. This should normally be within 10 working days and will be heard by a panel of governors. Where this timeframe is not possible, all parties should be informed in writing of a proposed date.

The Headteacher (or Chair of Governors) will arrange a meeting with the employee, normally within **five working days** of receipt of the grievance, **where the Headteacher/Chair of Governors have not been involved in the informal stage.**

The Headteacher/Chair of Governors may have an HR representative in attendance at the meeting to provide advice and guidance

NB The Headteacher (or Chair of Governors) may seek advice from the Director of Children's Services (or her/his representative).

- (iii) In some circumstances the Headteacher/Chair of Governors may need to carry out an investigation into the issue/concern raised, and/or where necessary may appoint an investigating officer to undertake an investigation into more complex grievance issues.

4.1 Grievance Hearing

- The Grievance Committee shall normally consist of three governors.
- Each party shall have the opportunity to make written representations to the panel and the right to appear in person to make oral representations.
- Where an investigation has been undertaken the investigating officer may present findings to the panel for consideration. They must be available to answer questions presented by both parties and the panel, relating to the nature and content of the investigation.
- The respondent of the grievance needs to receive all information and have had sufficient time and opportunity to respond.
- Copies of documents which are submitted to the panel by one party should be sent to the other party, to the panel members and to the Director of Children's Services (or their nominated representative) not less than five working days before the hearing.
- Each party should be entitled to be accompanied by a teacher professional association/trade union representative or workplace colleague if they so wish.
- The format of the hearing should follow the same format as that set out in Appendix A

NB In the case of community schools the Director of Children's Services (or his/her representative) should be invited in order to give advice.

5. **Appeal**
Stage 3

- Appeals should be notified in writing to the Clerk to Governors normally **within ten working days** of receipt of the decision on the appeal form attached Appendix C
- An appeal will be to a different panel of governors and should not involve any governors who have previously considered the case.
- The grievance panel and grievance appeal panel shall normally consist of three governors
- The format of the Appeal should follow the same format as that set out in Appendix B

6. **Grievance against Governor(s)**

Where an employee (including the Headteacher) has a grievance with a Governor(s), he/she should first endeavour to resolve the matter by informal discussion with the person(s) concerned **as per para 7.3.**

- Where any member of staff has a grievance against Governor(s), he/she should first discuss the matter with the Chair of Governors (*unless the grievance is against the Chair of Governors) with a view to resolving the matter informally. If the Grievance is against the Chair of Governors the member of staff may seek advice from any of the following;
 - ❖ Dioceses/Education Rep for VA Schools
 - ❖ Trade Union Rep
 - ❖ HR Provider
 - ❖ Academy Sponsor
 - ❖ Local Authority Education Representative
- Either party may seek the involvement of the Director of Children's Services (or his representative) to help resolve the matter.
- If it is not possible to resolve the matter informally, the member of staff concerned should submit a **formal written notice** of the grievance to the Clerk to Governors, on the attached form (Appendix C).
- The Chair of Governors should, normally within ten days of receiving the written notification, convene a panel of governors to consider the matter.
- The panel shall comprise of normally 3 governors, and shall exclude any member of the Governing Body who may have a pecuniary interest in the case. If 3 eligible Governors are not available, then consideration should be given to approaching Wirral Governors' Forum to provide replacement Governors.
- All parties should have the right to submit written statements in connection with the case and to appear in person to make oral representations. Copies of documents which are submitted to the panel by one party should be sent to the other party, to

the panel members and to the Director of Children's Services (or their nominated representative) not less than five working days before the hearing.

- All parties should be entitled to be accompanied by a teacher professional association/trade union representative or a work colleague if they so wish.
- The Director of Children's Services (or his representative) should be invited in order to give advice. Where the grievance is against the Chair of Governors in a Maintained School the Director of Children Services may seek to support the resolution of the grievance such as providing an investigating officer or arranging mediation between the parties (where there is mutual agreement).

Cost of a Grievance Hearing

All costs arising out of this procedure should be met from the school's delegated budget.

7. Grievances during a Disciplinary Process

The ACAS Code provides that where an employee raises a grievance during the disciplinary process, the disciplinary process may be temporarily suspended, on the advice of the Legal Services Team, to deal with the grievance when;

- The grievance relates to a conflict of interest that the manager holding the disciplinary meeting is alleged to have.
- Bias is alleged in the conduct of the disciplinary meeting.
- Management have been selective in the evidence they have supplied to the manager holding the meeting.
- There is possible discrimination.

However, where the grievance and disciplinary cases are related, it may be appropriate to deal with both issues concurrently.

8. Employment Tribunals

Before an employee applies to the employment tribunal they should try to resolve the problem by using this grievance procedure.

If an employee is considering making an Employment Tribunal claim against their employer, they should notify ACAS that they intend to submit a claim.

ACAS will offer to assist in settling differences between employee and employer. Employers intending to make a counter-claim against an employee must follow a similar procedure.

9. ACAS Early Conciliation

The process for agreeing settlement is called Early Conciliation. Early Conciliation focuses on resolving matters on terms that employee and employer agree.

Early Conciliation may not resolve matters in every claim. When this is the case ACAS will issue a certificate that is now required for a claim to be submitted to an Employment Tribunal.

Early conciliation extends the time an employee has to make a claim. This is because while the employee is taking part in early conciliation, the “time limitation stops”. If negotiations fail, the clock starts running again from the date the employee is deemed to have received the early conciliation certificate (refer to as Day B). Time is added to the original time limit for making a claim to make up for the pause during the early conciliation period.

However, the employee will not know the exact new time limit until conciliation has ended and the employee has received his/her early conciliation certificate.

Grievance Hearing Procedure

The following procedure should be followed at the hearing:

- i) Introductions should be made and the Chair should explain the purpose and format of the meeting.
- ii) The complainant (or his/her representative) puts the case in the presence of the other party and may call witnesses. They should state how they would like to see the matter resolved. Witnesses will withdraw once they have given evidence.
- iii) The other party (or his/her representative) and members of the panel may question the complainant and any witnesses, including the investigating officer when relevant. Witnesses will withdraw once they have given evidence.
- iv) The other party (or his/her representative) puts his/her case in the presence of the complainant and may call witnesses, including the investigating officer when relevant. Witnesses will withdraw once they have given evidence.
- v) The complainant (or his/her representative) and members of the panel may question the other party and any witnesses. Witnesses will withdraw once they have given evidence.
- vi) The complainant and the other party (or their representatives) have the opportunity to sum up their cases if they so wish.
- vii) The parties to the case withdraw.
- viii) The panel deliberate upon the case in private with only appropriate advisers including the Director of Children's Services (or his representative) in attendance
- ix) If there is a need to recall either party to clarify points of uncertainty, then both parties should return notwithstanding only one is concerned with the points giving rise to doubt.
- x) If necessary, the meeting might be adjourned, e.g. to examine new facts or if emotions rise.
- xi) The Chair of the Panel should inform the employee when they can reasonably expect a response. Any response will be confirmed in writing.
- xii) The Chair of the Panel will inform the employee that he/she will have the right to appeal against the outcome of the Grievance Hearing.

Grievance Appeal Procedure

The Chair of the Grievance panel should be available for the appeal hearing.

The following procedure should be followed at the grievance appeal hearing:

- i) There is a right of appeal on the part of any person or body involved in the case.
- ii) Grievance Appeals should be notified in writing to the Clerk to Governors within ten days of notification of the outcome of the Grievance Hearing.
- iii) Grievance Appeals should be considered by a different panel of governors and should not involve any governors who have previously considered the case.
- iv) The Grievance Appeal Panel should meet normally within ten working days of being notified of the appeal or as soon as possible thereafter.
- v) All relevant documents should be submitted to the Grievance Appeal Panel.
- vi) Each party has the right to appear in person and to make oral representations.
- vii) Each party should be entitled to be accompanied by a teacher professional association/trade union representative or workplace colleague if they so wish.
- viii) The Director of Children's Services (or his representative) should be invited in order to give advice.
- ix) The Appeal hearing should follow the same format as that for the Hearing
- x) If the Panel is unable to resolve the matter through agreement between the parties concerned, it should reach a decision on the matter and should confirm its decision in writing to the parties concerned.
- xi) The decision of the Appeal Panel is final.

Formal Grievance Form

<u>Name</u>			
<u>Job Title</u>			
<u>School</u>			
<u>Will you be represented</u>	<u>Y/N</u>	<u>By Whom</u>	
		<u>Union</u>	
<u>State the reason(s) for your grievance</u> <i>It is important that you set out the details of the specific issues that you wish to raise including date, times, details of witnesses and any supporting documentation</i>			

Informal Action

Please provide information regarding the informal steps that you have taken to try to resolve the grievance, including:

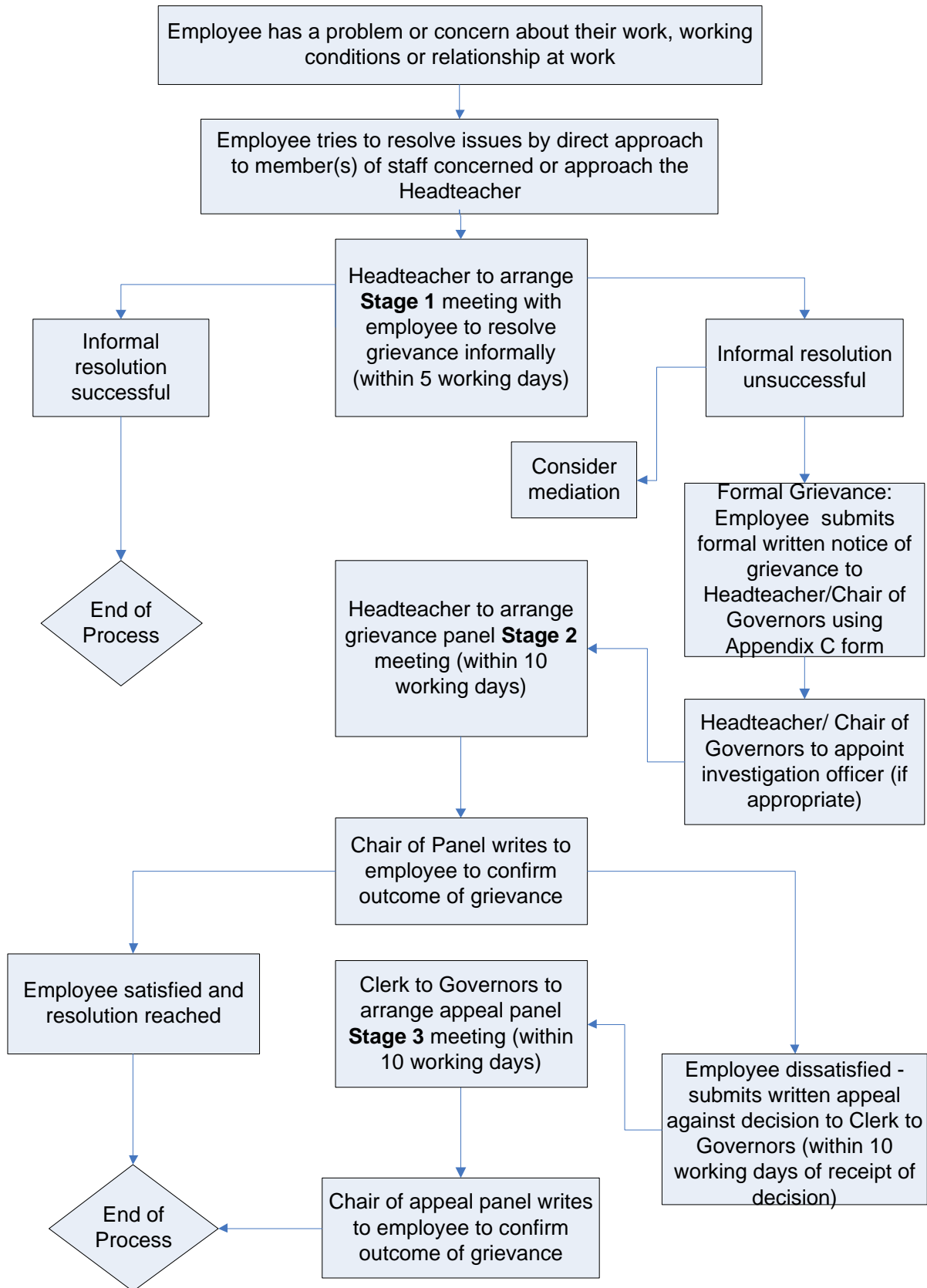
- Who the grievance has been raised with.
- Date grievance was raised.
- Details of resolution options discussed.
- Why you are unhappy with the outcome.

Please provide details of the outcome you are seeking:

<u>Sign</u>	
<u>Date</u>	

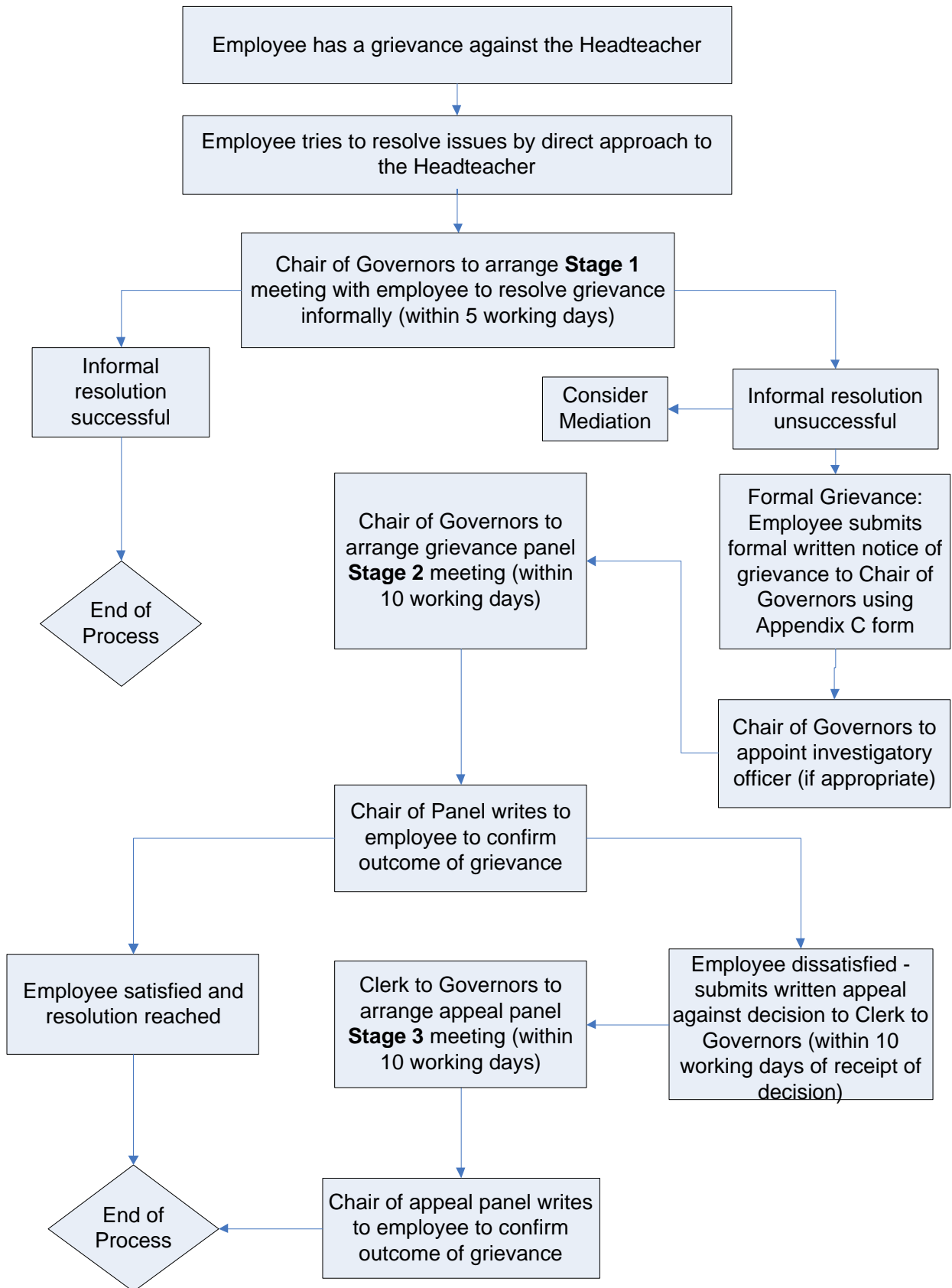
cc Trade Union or other representative

**Grievance against other members of staff
Procedure Flowchart**



Grievance against the Headteacher
Procedure Flowchart

Appendix E



**Grievance against the Governing Body
Procedure Flowchart**

