

	Name of School	The Albany
	Approved	
	Next Review	
	Name of Reviewer	

Grievance Policy (Dignity at Work)

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DIGNITY AT WORK

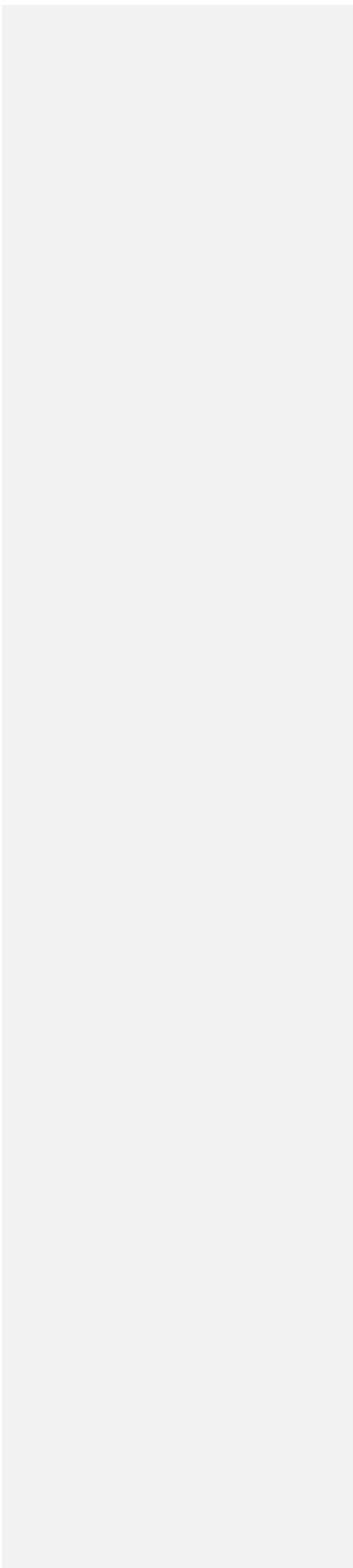
INTRODUCTION

All employees have the right to be treated with dignity at work. This right is accompanied by the corresponding responsibility on all employees to treat other employees with dignity and to help create a working environment that is free from conflict.

Conflict is inherent in the workplace and inevitably it will arise in the workplace. The procedures relating to Dignity at Work provide a framework for resolving disputes between staff, grievances and complaints of harassment or bullying, and for preventing behaviour that is causing unacceptable offence or distress.

The following procedures – Mediation, Grievance, and Harassment and Bullying – have been agreed with recognised trade unions and are set out in order that line managers, employees and trade union officials have equal access to the steps involved and can understand the rights and obligations on all parties in resolving conflicts at work.

The procedures reflect current legislation, and may be reviewed within the context of new legislative developments.



Section 1

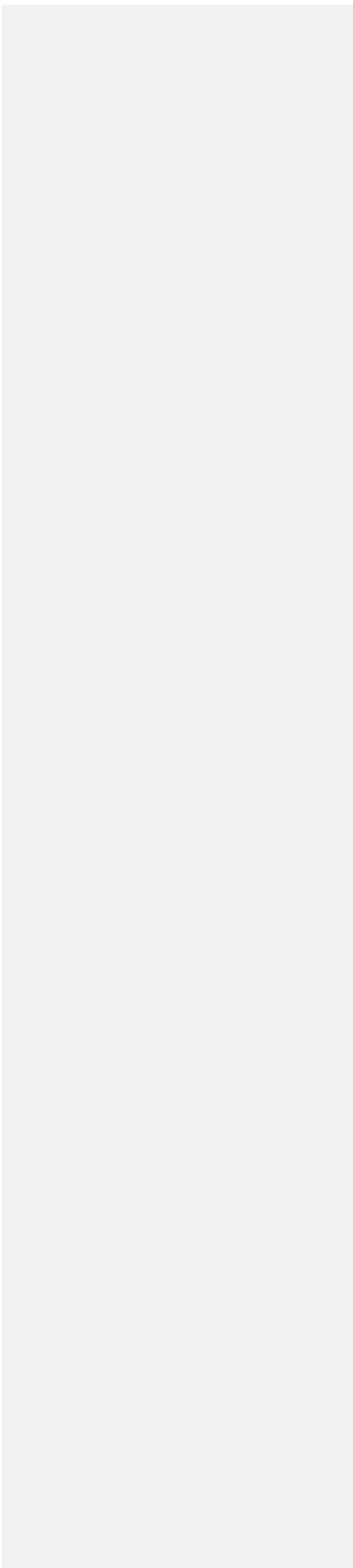
Counselling

London Borough of Havering offers an in-house counselling service, which is available to all members of its staff. It operates in a confidential and discreet way and no details of individual counselling will be disclosed.

Staff may wish to consider counselling to address any issue that is causing them professional or personal difficulty, including conflict, anxiety or stress or relationship problems.

Staff do not need to go through their manager to make an appointment. Further details can be obtained from Human Resources.

The unions may also provide additional support and details can be obtained directly from them in relation to the services they offer, including counselling. This is available to all union members.



Section 2

Mediation

1. INTRODUCTION

Harmonious working relationships between individuals have a positive impact on staff well-being and staff performance. However it is inevitable that conflict at work will arise and may take many forms.

Whilst there are specific policies and procedures to deal with conflict, such as Dealing with Harassment/Discrimination/Bullying Procedure and the Grievance Procedure, it is recognised that other types of conflict may be better resolved by using mediation, rather than resorting to a formal process.

Mediation has proven to be an effective tool for resolving interpersonal conflicts between colleagues, managers and their staff, or conflicts between teams, and for maintaining high levels of morale and performance when used as a conflict resolution method. It is most effective when used early in a dispute before other formal action has been invoked, although it may still be an effective problem solving technique when a dispute has gone on for some time.

2. DEFINITION

Mediation is a method of conflict resolution in which an impartial third party helps disputing parties to work towards an agreement.

3. MEDIATION IN PRACTICE

Workplace mediation is only effective when individuals enter the process voluntarily, and have equal autonomy to reach agreements. During the process individuals are encouraged to identify their own solutions and agreements. Mediation is not appropriate where one party to the conflict is unwilling to take part in the process. In such situations, the conflict will be resolved by using other existing policies and procedures. E.g. grievance procedure, disciplinary procedure.

Mediators are impartial to the conflict and seek to help all parties equally. Mediators do not express opinions or make judgements about who is right or wrong. Mediators may be externally appointed, where appropriate.

The aim of the mediation process is that the parties (with the assistance of the mediator) come to a mutually acceptable solution, without the need to invoke formal action.

Mediation may not be appropriate in certain cases, For example, where other existing procedures apply or where statutory obligations, the law, duty of care, or safety and well being is likely to be compromised.

The entire mediation process is legally privileged and will be treated in strictest confidence. All discussions during mediation are confidential and no information can be passed on by the mediator or by either party, about any of the proceedings.

No other individual will be informed of the outcome unless there is agreement between the parties to do so. The parties are expected to maintain confidentiality about issues raised in mediation sessions. The only exceptions to this rule of strict confidentiality would be if there is evidence of a serious breach of statutory obligations, or where there is evidence of serious misconduct or risk to health and safety. In these circumstances, the process will be suspended.

Any notes taken during the mediation meetings will be destroyed at the end of the process, with the exception of notes relating to any compromise agreed by both parties.

As the mediation process is entirely voluntary, the parties may not be accompanied or represented by a trade union or work colleague at mediation sessions.

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4. HOW TO INITIATE MEDIATION

Mediation can be offered as a solution at any stage of a dispute. This could be initiated through the School, the Unions or Human Resources, subject to the parties concerned agreeing to the mediation and at their specific request.

Mediation: Appendix 1

Mediation Fact Sheet

Mediation seeks to:

- Resolve conflict
- Change disrupting behaviour
- Make realistic, workable agreements
- Maintain parity between the parties
- Treat people fairly

Mediation provides opportunities for people to:

- Communicate (speak and listen)
- Exchange feelings, ideas and perceptions
- Negotiate
- Participate fully in the making of decisions affecting them

Mediation is:

- Constructive
- Informal
- Step by step process
- Facilitated by an impartial person
- Confidential
- Able to deal with a variety of issues
- Future-focused
- A voluntary process

Mediation can be helpful in resolving the following issues:

- Specific complaints about behaviours, or objects – for example – positioning of office furniture, opening or closing of windows
- Issues which the parties have the power to settle – for example – complaints about the use of communal equipment or areas of work they have responsibility for
- Issues on which both parties are prepared to work

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- Issues on which both parties have equal power to negotiate and resolve
- Issues which do not require expert knowledge

Mediation ground rules – Parties should:

- Listen to what each person has to say and speak one at a time
- Speak and behave in a non-threatening way
- Be open about concerns and needs
- Be specific throughout the process
- Keep the detail of what is discussed private; mediation is confidential; notes will be destroyed, no part of the mediation process can be used in court or in later internal procedures.

Mediation: Appendix 2

Mediation Agreement: CONFIDENTIAL

If a mutual agreement is reached, the mediator may at the request of the parties, clarify the details in writing and all the participants may sign an agreement. If others need to be made aware of the outcome, the mediator will agree this with the parties. If an agreement is not reached, individuals may still use the formal Grievance Procedure, but the mediator cannot be called to participate in any resulting formal action.

Mediation session held on **at**

On

Mediators

Parties

.....

.....

We agree to the following:

This agreement is signed by both parties:

.....

Date:

.....

Date:

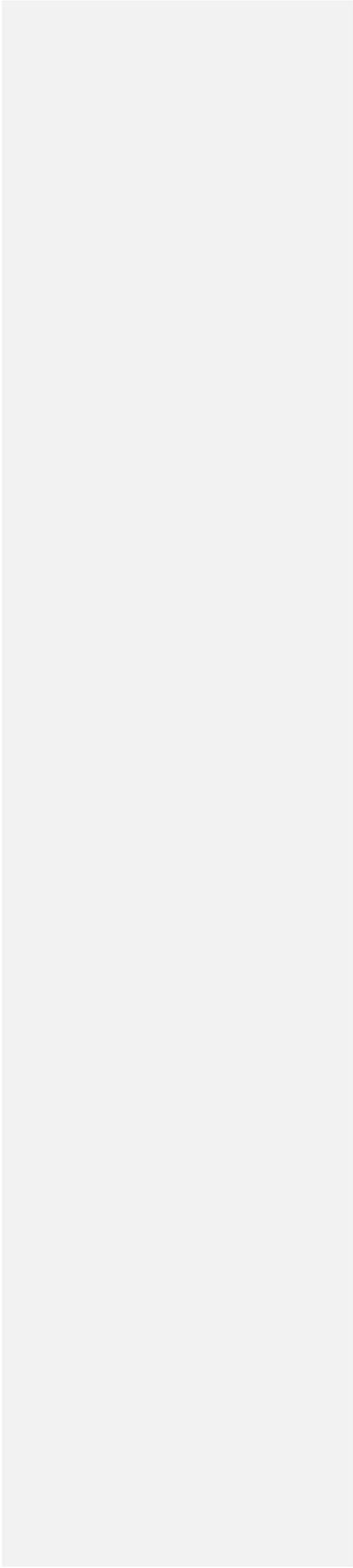
Notes:

This agreement is for you and your co-workers.

It is a reminder of the agreements you reached as a result of the work you all put in during the mediation.

Its aim is to allow you to work together without friction in the future.

This agreement is not legally binding, but reached voluntarily through mediation in good faith and without prejudice, between the above parties. The success of the agreement is solely dependant on the signed participants and not the local authority, its employees or its agents. If you think that part or all of it is not working, we hope your first choice will be to speak with your co-worker(s) direct. If not, you can come back to the mediators.



Section 3

Model Schools Procedure for Settling Grievances

1. INTRODUCTION

This procedure has been designed to ensure that grievances are dealt with quickly, fairly and consistently. The emphasis should be on resolving individual grievances informally where possible.

2. APPLICATION OF THE PROCEDURE

a. The procedure will apply to:

- i) All employees, including the Headteacher.
Refer to **Section 14** onwards.

- ii) Employees whose employment has ended.
Refer to **Section 28**.

b. The procedure does not apply to:

- i) Agency staff;
- ii) Consultants, either freelance or employees of consultancy companies;
- iii) Secondees from other organisations who are subject to their own organisation's terms and conditions;

- iv) Other employees centrally employed by the London Borough of Havering, who will be subject to the corporate grievance procedure.

3. ROLES AND RESPONSIBILITIES a. Governing Body

The Governing Body is responsible for the adoption of the grievance procedure and the settling of grievances under the procedure. The Governing Body should establish a grievance committee and an appeals committee. Where no committees have been set up, it is the Chair of Governors' responsibility to select suitably appointed governors to represent the Governing Body in each case. The selected governors will be authorised to take a decision on behalf of the whole Governing Body, provided that the matter falls within the responsibility of the Governing Body. The quorum for a committee is at least three governors.

b. Headteacher

The Headteacher is responsible for the day-to-day running of the School and for maintaining and developing the ethos and culture, which supports teaching and learning. The maintenance and development of good working relationships and of happy, motivated staff is an important part of that culture and ethos.

The Headteacher is responsible for:

- i) Making sure that all new employees are made aware and have access to a copy of the grievance procedure when they commence work in the school.
- ii) Holding a copy of the procedure on file in the school (either electronically or paper based), which is available to all employees on request.
- iii) Ensuring that the procedure is followed as appropriate.

c. Employees

All employees are responsible for their behaviour at work.

Employees should raise grievances as soon as possible after the event to which the grievance relates. Grievances which are registered more than three months after the event will not be heard, other than in exceptional circumstances.

All employees must:

- i) Co-operate with the terms of this procedure.
- ii) Attend any grievance hearing they are called to, unless there is good reason for not doing so.

- iii) Arrange for any witnesses to attend on their behalf. iv)
Respond to management efforts to resolve complaints.

d. Human Resources

- i) To support and advise Headteachers in seeking to resolve the grievance as quickly and informally as possible.
- ii) To provide general help and advice on all possible solutions, including mediation, where appropriate. iii) To advise governing bodies / Headteachers in the formal hearings on procedural matters.

e. Unions

- i) On contact from their members, to support and advise through the process at both the informal and formal stages. ii) To seek to resolve the grievance as quickly and informally as possible. iii) To provide general help and advice on all possible solutions, including mediation.
- iv) To accompany and/or represent their members at hearings.

4. WHAT IS A GRIEVANCE?

A grievance is an issue relating to an employee's conditions of employment or working conditions, about which the employee(s) feels dissatisfied.

A grievance cannot be raised about non-employment matters.

A grievance can arise from a variety of sources. It can arise between members of staff, or as a result of action by the Headteacher.

They can take a variety of forms and each case should be considered individually.

A grievance can be raised by an individual or a group of employees can also take out a collective grievance.

5. GROUNDS FOR RAISING A GRIEVANCE

An employee may raise a grievance on any of the following issues, subject to any exceptions outlined in **Section 6**.

(The following list is not intended to be exhaustive.)

- i) Terms and conditions of employment
- ii) Health and safety
- iii) Work relations
- iv) New working practices
- v) Working

environment vi) Organisational change

vii) Equal opportunities

6. WHERE THE PROCEDURE WILL NOT APPLY

There may be instances when it is not appropriate to follow the grievance procedure and the issue needs to be dealt by alternative means.

a. Matters being dealt with in accordance with other procedures

A grievance may not be raised where separate procedures apply. These issues should be raised in accordance with the correct procedure.

E.g. Any matter being dealt with through the Disciplinary, Managing Poor Work Performance, Capability, Competency, Sickness or Salary and Grading Procedure.

Where an issue has been raised in compliance with the Public Interest

Disclosure Act, there is no need for a separate grievance to be raised.

b. Matters outside the relevant body's jurisdiction

The grievances raised must be matters within the jurisdiction of the governing body. The grievance procedure cannot be used for raising issues outside the control or responsibility of the School.

E.g.

National superannuation or pension scheme regulations
Income tax and National Insurance matters

c. Recurrent Grievances

Aggrieved employees who are dissatisfied with the outcome of their grievance, having exhausted the procedure, may attempt to restart the grievance procedure. If an issue has already been fully and properly addressed through the grievance procedure, it is not open to the employee to restart the procedure in respect of the same issue simply because the outcome was not found in his/her favour. However, care must be taken to ensure that new issues are addressed under the grievance procedure. If the dissatisfaction of an aggrieved employee manifests itself in unacceptable conduct this should be dealt with under the appropriate disciplinary procedure. The governing body are entitled, in appropriate circumstances, to

reach a decision that they will not hear a grievance that has already been properly addressed.

d. Potential disciplinary action pending

In some instances, an employee may raise a grievance connected to potential disciplinary action pending against them. Depending on the circumstances and the facts of each individual case, a decision may be taken in relation to resolve the grievance and disciplinary in any of the following ways:

- a) Run the disciplinary and grievance procedures concurrently;
- b) Wait for the outcome of the disciplinary process before commencing the grievance;
- c) Halt the disciplinary process and consider the grievance initially;
- d) Consider the grievance within the context of the disciplinary process.

e. External factors

There will be instances when it will not be possible for the grievance procedure to be followed.

Example:

Where one party is violent or abusive, it would not be reasonable to expect the other party to sit down with them and go through the procedure;

OR

When factors beyond the control of either party mean that it is effectively impossible for the procedure to be followed.
(E.g. if one of the parties concerned leaves the country.)

f. Frivolous, vexatious or malicious accusations

If during the investigation into the grievance, it is found that the employee has been making accusations that are frivolous, vexatious and/or malicious, disciplinary action may be taken against the employee making the accusations.

g. Other

Shortlisting and selection for appointment to posts;
Job evaluation.

h. Out of time grievances

A grievance cannot be raised for an incident that happened more than three months ago and/or that is not continuing. This is to ensure that grievances are raised in a timely way.

7. ADAPTATIONS TO THE PROCEDURE

This procedure will be subject to variation where:

- i) A grievance matter concerns an accredited representative of a recognised trade union. In such cases the Group Director of Children's Services (or their representative) should be advised and any potential action, under the terms of this procedure, will be first discussed with a higher level official of the relevant trade union.
- ii) An employee is disabled, when procedures may be varied to accommodate the nature of any disability to ensure fair process.
- iii) For employees whose first language is not English or who have difficulty expressing themselves on paper, they should be advised to seek the assistance of a work colleague, a trade union or other employee representative, or a friend or family member.

8. VICTIMISATION

No employee will be victimised as a result of taking out a grievance. All forms of discrimination, including harassment and victimisation, are unacceptable and contravene the School's Equal Opportunities Policy. An allegation of victimisation will be dealt with under the relevant procedures.

9. POSSIBLE SUSPENSION OR REDEPLOYMENT DURING THE INVESTIGATION

In some cases it may be necessary to consider possible suspension or redeployment during the investigation. This may be to relieve the stress and pressure on one or both parties or to prevent the risk of further incidents/bullying/harassment and to avoid victimisation.

In those circumstances, it may be necessary to:

- a) Suspend one or both parties while the case is being investigated.

This should only be used in cases of serious allegations which may constitute gross misconduct;

OR

- b) Temporary redeployment of one or both parties (where appropriate) may also be considered;

OR

- c) Consider the granting of Special Leave in appropriate circumstances.

10. TIME LIMITS

The time limits referred to may be altered by mutual agreement for operational or availability reasons.

11. STATUS QUO

Unless there are exceptional circumstances, where an issue is in dispute that involves significant changes to current working arrangements, the status quo should apply (i.e. the procedures, policies and practices that applied immediately prior to the formal use of the grievance procedure) until the Grievance Procedure has been exhausted.

12. RIGHT TO BE ACCOMPANIED

At the formal stages of the procedure, the employee will have the right to be accompanied by a trade union official or work colleague.

A second representative may attend in the capacity of note-taker or as an observer.

In more serious or complex cases, the second representative may assist the main representative during the proceedings.

Employees cannot be accompanied by a legal representative, i.e. solicitor or barrister.

Employees cannot be accompanied by a colleague whose presence would prejudice the hearing or who might have a conflict of interest.

13. WITNESSES

Parties to the grievance may call witnesses in support of their submission. It is up to each party to ensure that they make appropriate arrangements with their witnesses.

Any employee who is called as a witness will need to advise their manager, if it is during their working time, and appropriate work arrangements should be made, if possible. If a witness is unable to attend, they may submit a written statement. T

THE GRIEVANCE PROCEDURE – THE PROCESS

This procedure is to be used for all current employees. For all ex-employees, please use the modified procedure as outlined in **Section 28**.

INFORMAL PROCESS

14. INFORMAL SUPPORT

Grievances should, whenever possible, be resolved as quickly and informally as possible.

Sometimes people are not aware that their behaviour is unwelcome and an informal discussion can lead to better understanding and agreement that the behaviour will cease.

15. RAISING AN INFORMAL GRIEVANCE

It is the responsibility of the employee or group of employees aggrieved to raise with their immediate line manager the nature of their grievance.

This can be done in writing, or alternatively, verbally at an informal meeting that the employee(s) have requested.

Where the nature of the grievance may already involve the immediate line manager, the employee or group of employees must raise the matter with their manager's immediate line manager.

The appropriate manager dealing with the grievance will hold individual meetings with the person(s) who raised the grievance and the person(s)

against whom the allegation(s) has been made. If it is appropriate, the manager may choose to have a meeting with both parties present. This is an informal meeting and will take place as soon as possible and in any event, within 10 working days of the grievance having been raised.

The initial emphasis is on informal resolution in a sympathetic and constructive manner.

If the manager feels that the matter is not within his/her scope, he/she must refer it to the correct person immediately and inform the aggrieved employee(s) to whom it has been referred.

16. POSSIBLE OUTCOMES

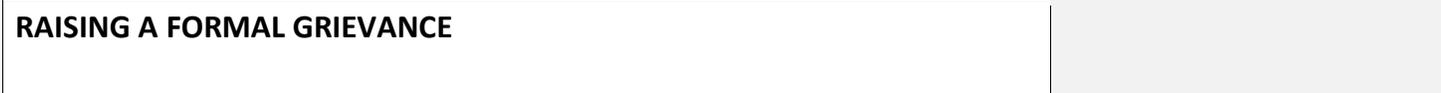
(This list is not exhaustive)

- i) No further action at this stage, but to record any future incidents and to keep the situation under review, enabling the employee to seek further advice in the future if necessary.
- ii) If the other party has not already been approached, then discuss the grievance with them, giving them an opportunity to explain and if appropriate, ask them to stop the behaviour. Keep the situation under review.

iii) An investigation may need to be carried out, for example, if the offending party is denying the behaviour they are being accused of. iv) The individual proceeds to make a formal grievance under the appropriate stage of the procedure.

FORMAL PROCESS

RAISING A FORMAL GRIEVANCE



If the grievance has already been raised informally with the employee's line manager and has remained unresolved, it may be appropriate to refer the grievance directly to the Headteacher.

In the event of a complaint against the Headteacher that has not been resolved informally, the matter should be referred directly to the Chair of Governors, on behalf of the Governing Body.

17. THE AGGRIEVED PARTY'S CASE

It is the responsibility of the employee or group of employees aggrieved to raise their grievance formally and in writing.

According to the principles of natural justice, they need to provide detailed grounds of their complaint(s), with supporting evidence and documentation that they intend to rely on.

It is not sufficient to provide loose grounds or a general statement. This is in order to ensure that whoever is bringing a grievance has considered

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properly and fully the grounds for their grievance, in order that the party against whom the grievance is raised is able to respond appropriately.

A template form is provided in Appendix 1 for this purpose.

18. MANAGEMENT ACTION

The Headteacher/Chair of Governors will write to the employee(s) concerned within 5 working days of receipt of the grievance, either to confirm that an investigation will be taking place or a formal grievance hearing has been arranged.

Initially, the Headteacher/Chair of Governors will consider the grievances and carry out a brief enquiry. This should be carried out quickly.

A brief enquiry may be carried out in a variety of circumstances, and particularly where a potentially very serious complaint has been received.

The purpose of the brief enquiry is to gather sufficient information to determine whether on the basis of the facts a full disciplinary investigation is required.

The Headteacher/Chair of Governors may undertake this level of enquiry and still be involved in the case, provided that the investigation (if undertaken) is carried out by another appropriate person.

19. CARRYING OUT AN INVESTIGATION

If an investigation is to be carried out, the Headteacher/Chair of Governors may delegate the investigation to a senior member of staff.

The purpose of this investigation is to determine the facts and establish the appropriate course of action.

It is recognised that the timescales for a grievance investigation will vary depending on its nature, the availability of witnesses and supporting evidence.

Whilst it is important the investigation is carried out swiftly, nonetheless it must be thorough and fully conducted before the next step is taken.

Enquiries should be conducted with thought and care. Everyone who is involved should be asked to provide a statement, which they will sign as a true record.

Refer to Appendix 3 for guidelines on investigating the complaint.

20. THE RESPONSE TO THE GRIEVANCE

The individual(s) against whom the grievance has been raised will have an opportunity to respond to the allegations.

On receipt of the grievance, the Headteacher/Chair of Governors will make a decision as to whether the allegation(s) warrant a full investigation. If this is not deemed necessary, the Headteacher/Chair of Governors will write to the individual(s) against whom the grievance has been raised within 5 days of receipt of the grievance. The Headteacher/Chair of Governors will enclose a copy of the grievance and any supporting evidence/documentation provided. The individual(s) will be advised that they will need to submit a response in writing to the grievance and provide any evidence/documentation in support of their response. They will need to submit this within 5 working days of the hearing arranged.

The Headteacher/Chair of Governors will also write to the individual(s) raising the grievance within 5 working days of receipt of the grievance and confirm the grievance hearing date and the date on which they will be sent a copy of the grievance response.

21. THE GRIEVANCE HEARING

Once the investigation has been completed, the Headteacher/Chair of Governors will write to the employee(s) within 5 working days to arrange a formal grievance hearing. This will be carried out in accordance with the principles laid out in the Conduct of Hearing Process.

Refer to Appendix 4.

22. POSSIBLE OUTCOMES

(This list is not exhaustive)

- i) The grievance is resolved and the outcome subsequently accepted by both parties.
- ~~ii) There is no case to answer – the grievance is unfounded as a result of misunderstandings.~~
- iii) The grievance is upheld, resulting in referral back to the Headteacher/Manager for possible further sanctions under the appropriate procedure(s).
- iv) Having explored all the opportunities and allowed as much time as reasonably possible in the circumstances for a resolution; no such outcome is forthcoming and it is determined that the matter should be put to a Governing Body Appeal Committee.

Formatted: Bullets and Numbering

APPEALING AGAINST THE OUTCOMES OF THE FORMAL STAGE

If the complaint is not resolved to the satisfaction of the employee, the employee may, within 10 working days of receipt of the outcome of the formal stage, submit an appeal, to the Chair of Governors.

The Governing Body Appeals Committee will hear the case and will write to the employee(s) within 10 working days, to arrange a hearing.

The appeal hearing is not intended to be a full rehearing. The basis of the hearing is to consider the specific grounds of appeal raised.

23. THE AGGRIEVED PARTY'S CASE

It is not sufficient for the employee to say that he/she is unhappy with the outcome.

In order to appeal, the employee must specifically state in writing the reasons for the appeal, providing clear grounds of the basis of the appeal, and all documentation which they intend to rely on in the hearing. It is essential that the documentation is provided at this stage in order for the appeal to proceed.

24. THE RESPONSE TO THE APPEAL

On receipt of the employee's appeal, copies of the documentation will be provided to the Chair (either the Headteacher or Governor) of the original

hearing. This is in order that the Chair can provide an appropriate and suitable response.

25. ACTION TO BE TAKEN BY BOTH PARTIES PRIOR TO THE HEARING

5 working days before the hearing, the employee should advise the Governing Body Appeals Committee of the following:

- Confirmation of their attendance; If they intend to be accompanied;
- The name of the person who will accompany them; The names of any witnesses they intend to call.

The Chair of the original hearing should advise the Governing Body Appeals Committee 5 working days before the hearing of the following:

- Confirmation of their attendance; If they intend to be accompanied;
- The name of the person who will accompany them;
- The names of any witnesses they intend to call;
- Documentation and supporting statement in response to the employee's appeal.

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On receipt of the Chair's response, copies of the documentation will be provided to the aggrieved party at least 3 working days before the hearing.

The employee(s) has the right to be accompanied by a trade union official or work colleague, if they so wish.

An HR Adviser will act as Adviser to the Governing Body Appeals Committee to ensure compliance with procedural requirements.

Refer to Appendix 4 for the recommended hearing format.

26. POSSIBLE OUTCOMES

(This list is not exhaustive)

- i) Appeal is upheld. Recommendations for follow up.
- ii) The grievance is not upheld. iii) Issue back to Headteacher to determine whether disciplinary action needs to be considered, or action in accordance with any other procedure.
- iv) Resolution by mutual agreement.

MODIFIED PROCEDURE

27. WHO DOES THIS PROCESS APPLY TO?

This process is to be used for ex-employees who wish to raise a grievance after they have left. The grievance needs to be raised within 3 months of the employee leaving the organisation.

This process may also be adopted where modifications to the procedure need to be made.

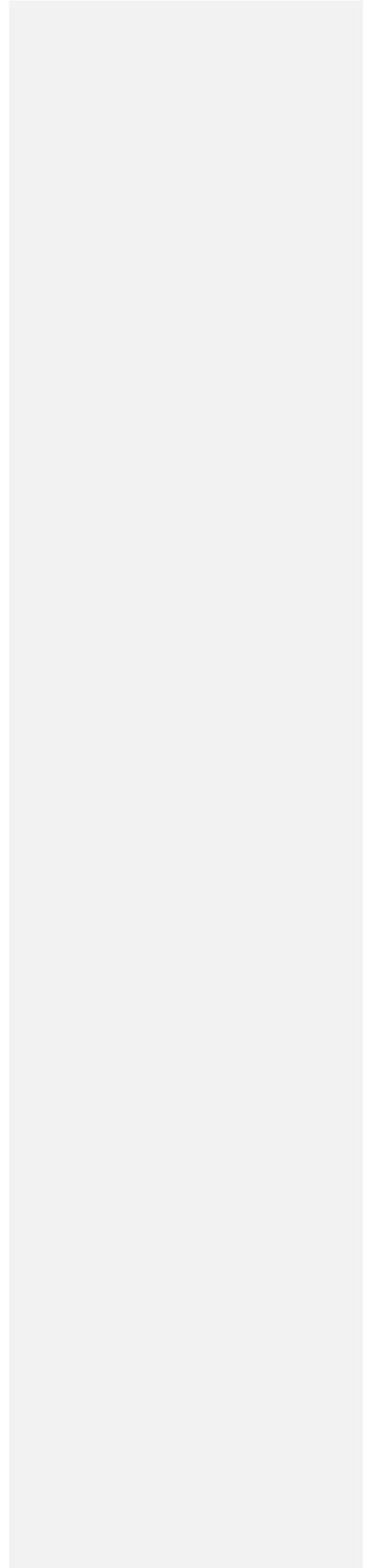
28. RAISING A GRIEVANCE

- The employee must set out in writing the grievance and the basis for it, including any supporting documentation and evidence.
- The employee must send this to the Chair of Governors.
- The Chair will acknowledge receipt of the grievance.
- If it is appropriate, the Chair may delegate the response to the Headteacher or a suitable other person.
- The School will set out their response in writing and send this to the employee. The School will endeavour to ensure this is done within

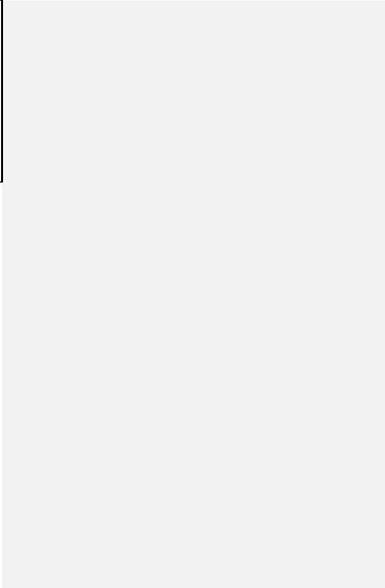
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weeks of receipt of the grievance, where this is practicable (taking into account school closures, etc.)

**PLEASE NOTE: THERE IS NO INTERNAL RIGHT OF APPEAL ONCE THIS
PROCESS HAS BEEN COMPLETED.**



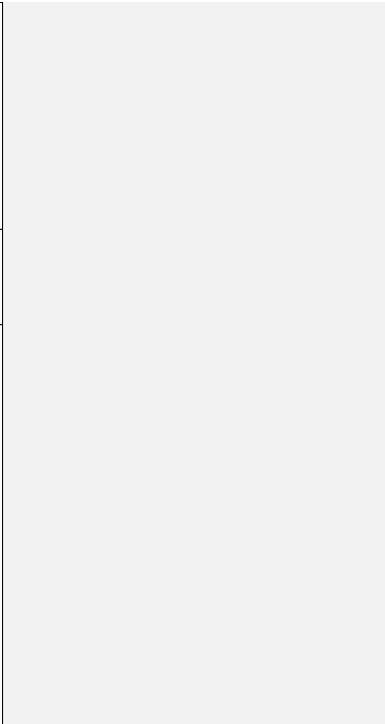
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Please state the reasons why you were not satisfied with the outcome of the informal stage

--



Grievance Procedure for School Based Employees Grievance Appeal	
Name	
School	
Job Title	
Grievance Form Submitted To	

Date of Submission of Form	
-----------------------------------	--

If you are appealing against the outcome of the formal stage, you will need to complete this section.

Formal Stage

(What actions have been taken under formal stage?)

Please state the reasons why you were not satisfied with the outcome of the formal stage

--

Supporting documentation and evidence

Please state what documentation and evidence you are including to support your complaint

--

Grievance Procedure: Appendix 2

Informal Stage: Management Guidance for Discussion

-
- i) Discuss the grievance with the employee(s) – giving them an opportunity to explain.
 - ii) Where the employee(s) indicates they would prefer to discuss the matter with a person of the same sex/race, this should be arranged, whenever possible.
 - iii) Avoid making judgements and allow employees to express and explain their views/perceptions, etc.
 - iv) Take a non-threatening/critical approach..
 - v) Provide appropriate support/counselling if necessary. vi) Any discussions are confidential and no further action should be taken without the employee’s consent.
 - vii) In some cases, the allegation may be so serious as to require immediate action, e.g. if it involves a criminal offence or serious misconduct or Health and Safety. In such circumstances, the Headteacher may be compelled to take action irrespective of the employee’s wishes.
 - viii) In the informal stage, outline the options.

Investigating the complaint: guidance

In carrying out the investigation interview, the aggrieved employee must first be interviewed to enable them to fully outline and document the nature of their grievance.

At the meeting the investigating officer will enquire if the aggrieved employee can identify any witnesses to support their grievance.

The investigating officer may appoint a trained note taker to compile notes during the investigation. This practice will enable the investigating officer to fully focus on the discussions with the aggrieved employee and any witnesses (if applicable).

The notes of the meeting will be forwarded to the aggrieved employee to check for accuracy, sign and return to the investigating officer to be included in the investigation report.

If witnesses to the grievance are identified, the investigating officer will meet them to take a statement in relation to the grievance raised. The investigating officer will interview anybody who they feel will provide information relevant to the grievance raised.

The witness statement/notes will be returned to them to check for accuracy, sign and return to the investigating officer to be included in the investigation report.

The investigating officer will collate any other relevant documents in relation to the grievance raised.

Following completion of the investigation the investigating officer will produce an investigation report detailing their findings.

1. Explain that this is an investigation meeting and that the purpose is to ascertain the facts.
2. Outline that due to the nature and seriousness of the allegations, it is important to ensure that all evidence, relevant facts and witness statements are collected.
3. This meeting is an opportunity for the employee to put their side across.
4. Explain that you will be taking notes during the meeting and that following the meeting you will request that they sign the notes as a true and accurate record of the discussion. This may involve you typing up the notes after the meeting and sending them to the employee to be signed. It is expected that all notes that are sent should be returned signed within 5 working days of receipt.
5. At the meeting, the employee has the right to be accompanied by a Trade Union Representative or work colleague. If they are accompanied by a representative, the representative's role is to support the employee and assist the process if required. They cannot speak on the employee's behalf.
6. Ask questions that are relevant and will help ascertain the facts. Some of the questions to consider are:
 - i) Who is involved?
 - ii) What happened?
 - iii) Where exactly did it happen?
 - iv) When did it happen – what day, what time of day?
 - v) Why might it be a grievance – is there a breach of contract?
7. Listen carefully to the individual, without prejudice and judgement.
8. Ask questions for clarification or additional information.

9. Distinguish between fact and opinion.
10. Determine which facts are relevant to the matter under discussion.
11. Explain the next stage.
12. Thank those present for attending.

Grievance Procedure: Appendix 4

The Hearing

(This process is to be followed whether it is a formal grievance hearing or an appeal hearing.)

Conduct of hearing

i) Introduction

The Chair of the Panel will start the meeting. Introductions are made.

(ii) Procedural matters

Confirm that the hearing will be conducted in accordance with the principles of the Grievance Procedure – outline the process.

(If it is appropriate, discuss any modifications to the process.)

If any of the parties to the grievance are unaccompanied, confirm that they have understood that they are entitled to representation and whether they were given appropriate notice.

Confirm that everyone has received the appropriate documentation.

Confirm that any evidence or documents that have not been submitted may not be considered (this will be subject to the discretion of the Panel).

Confirm if any witnesses are being called by either party (which should have been confirmed at least 5 working days before the hearing).

(iii) Purpose of the hearing

Confirm that the aim of the hearing is to seek a resolution to the issues that have been raised.

During the hearing, discussion and dialogue may assist the process to reach that resolution.

However, there are certain ground rules that need to be established:

- Everyone should have an opportunity to present their submissions, without interruption.
- Everyone should treat each other with respect.
- Things may be said that either party may consider inaccurate or untrue, and it is important that any responses are made by either party when it is their opportunity to address the hearing. All comments should be made in a constructive and positive manner.
- It is important to remember that the purpose of the hearing is to find a resolution to the issues raised and achieve closure for the sake of all parties.
- If anyone needs an adjournment, then it is better to stop the hearing and allow this.

(iv) Presentation of the grievance

The employee who raised the grievance ordinarily presents their submissions first.

Invite the employee to restate their grievance and perhaps how they would like to see it resolved. Ask him/her with his/her representative to make their submissions.

They may be questioned by the other party and the Panel and their adviser.

They may call witnesses. If witnesses are called, they may be questioned by the individual against whom the grievance is raised and their representative, and by the Panel and their adviser.

IF AN INVESTIGATION HAS TAKEN PLACE:

(v) ***Investigating officer's report***

The investigating officer's report will have been provided to all parties before the hearing.

The investigating officer should be required to attend to present the investigation report and provide points of clarification.

They may be questioned by both parties and the Panel.

(vi) Presentation of the response to the grievance

Invite the individual(s) against whom the grievance is raised to state their position and perhaps how they would like to see it resolved. Ask him/her with his/her representative to make their submissions.

They may be questioned by the other party and the Panel and their adviser.

They may call witnesses. If witnesses are called, they may be questioned by the individual against whom the grievance is raised and their representative, and by the Panel and their adviser.

(vii) Adjournment

Once both parties have had an opportunity to present their case, the Chair may allow a short adjournment to enable both parties to consider their final summing up statement.

~~(vii)~~(viii) Summing up

This is not an opportunity to raise new evidence or ask questions of the other party. This is an opportunity for both sides to summarise their main points.

| The aggrieved party will present their case in summary first.

The party against whom the grievance has raised will then be given an opportunity to sum up.

(ix) Making a decision

After any summing up, the Chair will adjourn the meeting.

Care and thought should go into resolving grievances. They are not normally issues calling for snap decisions, and it may not be appropriate to provide a decision straight away.

- 6 -

A decision will be notified in writing to the parties concerned within 5 working days of the date of the hearing.

- 7 -

Section 4

Harassment/Discrimination/Bullying

Governing bodies recognise and value diversity. Governing bodies are committed to creating an environment in which employees can work together in harmony, without being harassed, bullied, victimised or intimidated.

Harassment/discrimination/bullying are unacceptable forms of behaviour and if they are allowed to go unchecked or are badly handled, create serious problems. This may be in the form of poor work performance, low staff morale and poor employee relations, loss of respect for management, increase in absence, higher staff turnover and damage to the school's reputation.

Such behaviour is always unacceptable and schools should make it clear that they will not tolerate such action and will take appropriate measures.

This policy reinforces the School's commitment to make every effort to provide a working environment free of harassment, bullying, victimisation or intimidation.

30. RIGHTS AND RESPONSIBILITIES

All staff have the right to work in an environment which is free from bullying and harassment. The School is committed to providing a workplace in which

all employees are given the dignity and respect to which they are entitled. The School has a legal responsibility to ensure the health and safety of staff and a working environment which is free from unlawful discrimination.

Everyone has a responsibility to respect the feelings and sensibilities of others in the workplace, and to behave in a way which does not cause offence.

31. UNACCEPTABLE BEHAVIOUR

Some behaviour may cause offence, even where there is no malicious intent. It is the perception of the recipient of the behaviour that determines if the behaviour is unacceptable or not to them.

32. WHY DOES IT HAPPEN?

Harassment/discrimination/bullying may occur in the workplace because of underlying problems:

- Poor job design and work relationships;
- Lack of accountability;
- The existence of a particular culture at work, e.g. where racist or sexist jokes are tolerated;
- An over-competitive environment;
- Fear of redundancy;
- A rigid style of management;
- Lack of procedure for resolving problems.

Grievances involving allegations of harassment, discrimination or bullying require sensitivity and particular consideration in the way they are handled. It is essential that all allegations of this nature are treated seriously and thoroughly investigated.

33. WHAT ARE SOME ACTUAL EXAMPLES OF BEHAVIOUR THAT IS BULLYING OR HARASSMENT?

Discriminatory harassment can take many forms. The following list is not comprehensive and serves as an example only:

- Offensive material that is displayed publicly;
- Verbal abuse or comments that belittle people;
- Unwelcome and hurtful jokes;
- Direct or subtle threats;
- Offensive gestures;
- Ignoring, isolating or segregating a person;
- Staring or leering in a sexual way;
- Unwanted physical contact of a sexual nature;
- Aggressive physical behaviour;
- Repeated behaviour which a person has previously objected to.

34. WHAT ARE THE POSSIBLE EFFECTS OF BULLYING OR LONG TERM HARASSMENT?

Everyone will have a very individual reaction which will vary according to their own personality and state of health plus the intensity or nature of the bullying and harassment. The following are examples of common reactions:

- Stress and/or sleep disturbance; • Fatigue;
- Panic attacks or general anxiety;
- Depression;
- Impaired ability to work/concentrate;
- Loss of self confidence and/or self esteem;
- Over time, bullying and harassment result in trauma, the collective symptoms which often constitute Post Traumatic Stress Disorder.

35. HARASSMENT

Harassment is any unwanted, offensive and/or humiliating conduct which affects the dignity of any individual or group of individuals at work.

Harassment may be repetitive or an isolated occurrence against one or more individuals.

It may be related to:

- Race, colour, ethnic group or national origin;
- Gender or marital status;
- Disability;
- Sexuality or sexual orientation;
- Age;
- Employment status;
- Actual suspected HIV/AIDS;

- Religion and faith;
- Trade union activities;
- Ex-offenders;
- Responsibilities for children or dependants.

Forms of harassment include:

- Physical contact ranging from touching to serious assault;
- Verbal and written harassment through jokes, offensive language, gossip and slander, songs, letters;
- Visual displays of posters, graffiti, obscene gestures, flags, bunting and emblems;
- Isolation or non co-operation at work, exclusion from social activities;
- Coercion ranging from pressure for sexual favours to pressure to participate in political/religious groups;
- Intrusion by pestering, spying or stalking.

A person or group of people may harass someone deliberately or unknowingly. It is the harassed individual's perception of the behaviour which is important.

Extreme forms of harassment, such as sexual or racial assault, which constitute offences under the criminal law are clearly recognisable.

Counselling should be offered to any employee who has been subjected to harassment.

36. BULLYING

Bullying is a form of harassment. It may include a single incident or persistent criticism, personal abuse and/or ridicule, ignoring, excluding or other behaviour, either in public or private, which humiliates and demeans the individual involved, gradually eroding their self-confidence and the performance of their duties. It may involve the abuse of authority and the exercise of unfair disciplinary measures, unreasonable changes in an employee's responsibilities or exclusion of the individual from normal social, consultative and/or decision-making processes.

37. DISCRIMINATION

Direct discrimination occurs where someone is treated less favourably due to their sex, race, disability, marital status, trade union membership, religion/belief, sexual orientation, age, part time workers, fixed term workers, etc...

Indirect discrimination occurs where the effect of certain requirements, conditions or practices imposed by an employer has a disproportional adverse impact on one group or another.

38. VICTIMISATION

Victimisation is treating an individual less favourably than others, because the individual has asserted their rights, or is believed to have done so, made

a complaint of discrimination, given evidence about such a complaint or raised a concern in accordance with the Public Interest Disclosure Act 1998.

39. THE IMPACT OF HARASSMENT/DISCRIMINATION/BULLYING

Schools should be aware of the potential legal implications of Harassment / Discrimination / Bullying in the workplace. As an employer, schools could be liable for the actions of their employees, unless they have taken reasonable steps to prevent bullying or harassment. Action could still be taken against the School, even after an employee has left the School's employment. Schools may also be liable for the actions of third parties.

Schools may be potentially liable on any of the following grounds:

(This is not an exhaustive list.)

- Breach of the employer's duty of care to provide a safe and healthy working environment;
- Discrimination on grounds of race, sex, disability, sexuality orientation, religion or other belief, age, part time workers, fixed term workers, if employees believe you have not dealt with their concerns;
- Unfair dismissal.

There are also criminal penalties for the offence of intentional harassment.

**40. RESPONDING TO A COMPLAINT OF HARASSMENT / DISCRIMINATION /
BULLYING**

Complaints of bullying/harassment are to be dealt with using the agreed grievance procedure and/or the disciplinary procedure.

41. LEGISLATION (This overview may change subject to legislative developments and may require future additions/amendments.)

Health & Safety at Work Act 1974

The Council has a duty under this Act and relevant regulations as far as reasonably practicable to ensure the safety and welfare of its employees at work.

The Race Relations 1976 Act (as amended by the Race Relations Amendment Act 2000)

This act imposes a positive duty on the Council to eliminate racial discrimination and to promote good racial relations; and makes it unlawful to discriminate or harass an employee on the grounds of race, colour, nationality (including citizenship) or ethnic or national origin.

Sex Discrimination Act 1975 (as amended by the Sex Discrimination Act 1986)

This act makes it unlawful to discriminate against an employee on the grounds of gender or marital status. Harassment on grounds of sex or marital status may amount to discrimination under this Act.

Disability Discrimination Act 1995

This act makes it unlawful for employers with 15 or more employees to discriminate against current or prospective employees with disabilities and people who have had a disability. Harassment may amount to discrimination under this Act.

Employment Equality (Sexual Orientation) Regulations 2003

This makes it unlawful to discriminate against an employee on grounds of sexual orientation.

Employment Equality (Religion or Belief) Regulations 2003

This makes it unlawful to discriminate against an employee on grounds of an individual's religion or belief.

Employment Rights Act 1996

This act entitles an employee to pursue a case of unfair dismissal if they can show that harassment or bullying amounted to a fundamental breach of contract which caused them to leave their job.

The Public Order Act 1986 (as amended by The Criminal Justice & Public Order Act 1994)

Under this Act, it is a criminal offence, incurring penalties of imprisonment or a fine for causing intentional harassment, alarm or distress to a person. This Act applies to the workplace.

Protection from Harassment Act 1997

This act makes any form of harassment including harassment and stalking of an employee in the workplace, a criminal offence which could result in a fine and/or imprisonment.

Criminal Justice & Public Order Act 1994

This act makes it unlawful for any intentional harassment causing another person harassment, alarm or distress by using threatening, abusive or insulting words or behaviour.

Trade Union & Labour Relations (Conciliation) Act 1992

This act makes it unlawful to discriminate/harass an employee on the grounds of membership or non-membership of a trade union or taking part in trade union activities.

Fixed Term Workers (Prevention of Less Favourable Treatment) Regulations 2002

This makes it unlawful to treat fixed term workers less favourably than a permanent worker.

The Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000

This makes it unlawful to treat part time workers less favourably than full time workers.

Criminal law of assault

This is an intentional, unlawful threat or "offer", to cause bodily injury to another by force, under circumstances which create in the other person a well-founded fear of imminent peril, or where there exists the apparent present ability to carry out the act if not prevented.