Chelmsford County High School for Girls

Staff Grievance Procedure

Approved by the Governing Body: ~~November 2020~~

Chelmsford County High School for Girls

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1. INTRODUCTION

This Procedure explains what staff should do if they have a grievance, including if they feel they are being bullied, harassed or victimised, or discriminated against and how issues should be dealt with.

1.1 Policy Statement

The Governing Body:

- Is committed to being a fair and equitable employer, as set out in the Equality Policy, which asserts its commitment to an employment culture in which people can feel confident of being treated with fairness, dignity and tolerance, irrespective of their individual differences;
- Will not tolerate harassment or bullying within the workplace;
- Expects the workplace to be an open environment and one in which everyone is able and willing to challenge unreasonable behaviour;
- Expects grievances to be dealt with sensitively, professionally, speedily and fairly.

This procedure accords with employment and education legislation and takes due account of the ACAS Code of Practice.

1.2 Definitions

- A grievance may be defined as concerns, problems or complaints raised by a staff member about their work, working conditions or relationships with colleagues.
- Harassment may be described as unwanted behaviour, practice or conduct which cause an individual to feel uncomfortable, distressed, stressed, alarmed, humiliated or frightened or affects their dignity or confidence.
- Bullying is an extreme form of harassment and will often involve persistent, maybe deliberate, harm, intimidation or humiliation. Bullying is often, although not always, related to the misuse or abuse of power or position.
- Victimisation may occur when a person is treated less favourably than another person because they have made, or supported, a complaint of harassment, bullying or discrimination.
- Discrimination occurs when an employee is being less favourably treated either directly or indirectly due to a protected characteristic (as defined by the 2010 Equality Act).

Harassment and bullying take on many forms are therefore difficult to define, and the definitions above are broad. Some specific examples are given at Appendix A.

2. SCOPE OF THE PROCEDURE

2.1 To whom it applies

The procedure applies to all employees in the workplace and may be used by individual employees. The procedure is to be used for matters affecting people personally. Where concerns relate to a Governor or Trustee, this will be dealt with as a complaint under the Governors' Code of Conduct. Concerns regarding the conduct of other staff should be reported to the line manager to deal with appropriately. Line Managers should not normally raise a grievance against one of their direct reports – this should be dealt with as a management issue. Exceptionally conduct of a subordinate which may constitute bullying, harassment or victimisation may be dealt with as a grievance.

Where harassment, bullying or victimisation is experienced, witnessed or reported by a volunteer or third party, the employer will discuss the matter with the alleged victim and follow the grievance procedure as appropriate.

Where the formal Grievance Procedure cannot be completed prior to an employee leaving, a foreshortened process (usually a paper review) may be followed to conclude the procedure.

Where a group of employees have a grievance this will be dealt with under a relevant collective disputes procedure.

2.2 Where the procedure does not apply

- In relation to issues which are outside the responsibility or control of the Governing Body in its role as an employer e.g. income tax, application of the pension scheme, national security.
- To appeals against selection for redundancy – these should be dealt with through the Redundancy Procedure – although re-deployed employees may raise a grievance.
- To appeals against salary/pay/grading - these should be dealt with through the Pay Policy.
- To grievances concerning Health, Safety or Welfare – these should be dealt with by the Safety Co-ordinator in the first instance. Where there is a failure to resolve the matter, however, then such grievances can be considered under this procedure.
- To Governing Body policy.
- To protected disclosures within the Public Interest Disclosure Act 1998 (see the Code of Conduct).
- To complaints of discrimination from applicants for positions or ex-employee. Such matters will be dealt with through the Complaints Procedure.

2.3 Disciplinary and capability matters

An employee may raise a grievance in the course a disciplinary or capability procedure, related to the case. This may be because s/he feels that the action being taken for some other reason than his or her ability to do the job or his/her conduct.

In such cases, where the written grievance is submitted prior to the appeal hearing, the grievance will normally be dealt with as part of the formal disciplinary/capability process. The onus is on the manager to ensure that the matters raised in the grievance are appropriately dealt with through the disciplinary/capability procedure and that any decision is fair and free of discrimination.

Conversely, it is possible for a grievance to lead to disciplinary proceedings if matters arise during the course of the hearing which warrant such action. Examples of these would be false allegations, vexatious conduct, and serious misconduct.

2.4 Bullying and harassment by pupils

The employer has in place policies and procedures for dealing with pupil behaviour and misconduct and these will be used to their full effect where pupils harass or bully staff, in the same way as when they act inappropriately against other pupils.

2.5 Bullying and harassment by adults other than employees

While employers do not have the same 'control' over other adults, as they do over employees, managers will take all appropriate steps to protect staff from inappropriate and unacceptable conduct and behaviour by them.

3. ROLES & RESPONSIBILITIES

3.1 Collective responsibility

The responsibility for preventing and dealing with harassment and bullying lies with the whole community. All members of the education community have a responsibility to challenge inappropriate behaviour (see Appendix C for guidance).

All issues of bullying, harassment and victimisation, whoever the perpetrator, must be reported. This does not prevent the matter being dealt with informally yet enables the employer to fulfil its responsibilities to eliminate inappropriate conduct.

Individuals, employers, and individual managers can all be liable for disciplinary action, and in some cases prosecution, where employees are harassed, victimised or bullied. Individual managers may be liable where they knew, or should have known, about any incident in areas under their control and took no action.

3.2 Responsibilities of the Governing Body

- establish, maintain and monitor relevant policies and procedures;
- ensure that cases are dealt with effectively and fairly;
- record information;
- set standards of behaviour and conduct which do not allow harassment, bullying or victimisation to occur;
- ensure appropriate action is taken where these standards are not met;
- ensure governors and staff have appropriate training;
- deal with appeals and to nominate a governor to deal with cases where it would be inappropriate to involve a manager.

3.3 Responsibilities of Line Managers

- promote an open environment, free from harassment, in which everyone is treated fairly and reasonably;
- provide appropriate induction and training and support;
- manage staff in a fair and professional way;
- ensure all concerns are taken seriously;
- provide mediation where appropriate and implement the formal grievance procedure in a timely and effective manner;
- prevent victimisation;
- monitoring and reporting.

3.4 Responsibilities of Staff

- treat all members of the community with fairness and respect and in accordance with policies and procedures;
- challenge and report instances of bullying or harassment or other unfair or unreasonable treatment, involving themselves and others.
- fully engage with the grievance process in a timely manner
- make themselves available for appropriate meetings and interviews in a timely manner

- respond to written submissions in a timely manner
- engage with any appropriate Occupational Health referrals

3.5 Support for employees

Your employer will fulfil its obligations to protect their staff from inappropriate conduct and where it does occur, will offer and provide where needed, support to employees. Support may take the form of:

- Counselling
- A period of leave of absence
- Additional management support for a period
- Assignment of a mentor
- Training

Assistance will be offered to any employee who has difficulty raising their grievance in writing due to disability or language barriers.

4. RECORD KEEPING

It is important in the interests of both the employer and employee to keep written records throughout the grievance process.

4.1 Grievance records should include:

- the nature of the grievances;
- notes of any meeting or action;
- a copy of the written grievance;
- the employer's response;
- action taken;
- reasons for actions taken;
- whether there was an appeal and if so its outcome.

4.2 Records of incidents of harassment, bullying or victimisation should include

- date of complaint;
- name of complainant (and if different, victim) and perpetrator;
- details including times of incident(s);
- nature of complaint;
- names of any witnesses;
- details of action taken;
- feedback and follow up to all appropriate parties..

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

4.4 The aggrieved employee and the person against whom the grievance is raised will received copies of any records, including any formal minutes, of meetings where they were in attendance. In certain circumstances (i.e. to protect a witness) it may be appropriate for the manager to seek advice about the release of information where a third party is referred to.

5. THE PROCEDURE

The procedure is summarised at Appendix A.

5.1 Personal resolution

5.1.1 Grievances are best resolved informally and it is expected that employees will seek to discuss his/her concerns with the other employee/s directly with a view to amicably settling the matter. If an employee feels anxious about this process, s/he might seek support from their union, a friend or colleague.

Some additional guidance to help employees manage this process is at Appendix C.

5.1.2 If you feel you are being bullied, harassed or victimised you must report this to your line manager (or another manager where the concerns relate to your line manager). This does not prevent you from seeking to resolve the matter through direct dialogue with the person concerned.

5.1.3. It is advisable for employees to keep details of all incidents and issues, including any informal discussions (see 4.). It is recognised that it may be the cumulative effect of another's conduct or behaviour which constitutes a grievance rather than a single incident.

5.1.4 Where an individual feels unable to make a personal approach, or this approach is unsuccessful in resolving the matter, individuals should seek support from their line manager or another manager to facilitate discussions with a view to resolving the grievance informally.

5.2 Raising a grievance

5.2.1 An employee may raise a grievance verbally or in writing, although in law, a formal grievance must be in writing and must explicitly state that it is a grievance.

Grievance should be raised with an appropriate manager as follows:

- Where a grievance is against a colleague who is not the employee's line manager – the line manager
- Where the grievance is against the employee's manager – a more senior manager
- Where the grievance is against a Headteacher – the Chair of Governors or a Governor nominated specifically for this purpose.

This appropriate manager will manage the informal stage (5.3) or where the matter proceeds directly to the formal stage, they will be the grievance investigator. Where the manager has been involved in the informal stage, it may be appropriate to appoint an alternative Grievance Investigator at the formal stage.

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Grievances are not usually raised against a subordinate by their line manager. See 2.1¶

5.3 Informal Stage

5.3.1 However they are raised, all complaints or concerns will be taken seriously, and the manager will discuss the concerns with the employee in the first instance with a view to resolving the matter informally, not least to avoid any escalation of the problem and to resolve matters at the earliest possible stage.

5.3.2 The informal stage will normally involve the manager talking to the complainant, the person/s identified in the grievance with a view to resolving the matter informally. Where appropriate a three-way meeting may be arranged to facilitate an appropriate discussion and positive solution.

5.3.4 The manager will confirm the outcome of these informal discussions in writing.

5.4 Formal Stage

5.4.1 The employee may at any time request that the matter will be dealt with formally. This will usually be where:

- the conduct which gave rise to the complaint continues after informal resolution,
- the matter could not be resolved through informal action,
- the issue is sufficiently serious to warrant investigation straight at the formal stage.

Employees should raise the matter promptly under the grievance procedure.

At this stage the employee must put their concerns in writing to an appropriate manager. Form GR1 (See appendix D) may be used for this purpose. In the letter, the employee should

- be clear that they are raising a grievance
- provide **concise** and **factual** information about the nature of their grievance
- where possible evidence can be presented
- avoid language which may be considered insulting, abusive, emotional or provocative
- indicate the redress s/he seeks. Any redress should be realistic and appropriate.

If an employee needs help writing their grievance s/he should seek advice from a friend, colleague or representative. In some circumstances a neutral person may be allocated to support – see section 3.5.

The person against whom the grievance has been raised will be provided with an outline of the complaint as soon as possible.

5.4.2 The formal meeting

An appropriate manager will be appointed as Grievance Investigator and invite the aggrieved employee to a formal meeting at a reasonable time and place at which the grievance can be discussed. This meeting will be arranged as soon as practicable.

At least 5 working days' notice will be given of the meeting. The employee has the right to be accompanied at this meeting by a trade union representative, an official employed by a trade union or work colleague and must make his/her own arrangements for this.

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Such representatives should make themselves available to accompany the employee concerned within a reasonable period of time. If however, the employee's chosen companion is not available, for a reason that was not reasonably unforeseeable, at the time proposed for any meeting or hearing, one alternative date will be set, normally no later than five working days from the original date.

The purpose of the meeting is for the employee to set out the basis of his/her grievance and the remedy they are seeking. During the meeting, the Grievance Investigator may make any necessary enquiries with the complainant.

At the conclusion of the meeting the manager will decide what action to take and whether further investigation is appropriate before a decision can be reached. The aggrieved employee will be notified of this outcome in writing. If further investigation is required this may necessitate interviewing witnesses, including the person whom the complaint is against and any witnesses. On that basis the employee will be notified that the formal meeting is adjourned pending further investigation.

Any further investigation will commence without delay.

5.4.3 Further Investigation

If following the formal meeting, the Grievance Investigator decides that the matter warrants further investigation they will make such enquiries as are necessary to gather relevant information to reasonably consider the grievance. This may involve discussion with witnesses, and normally a grievance investigation meeting with the person/s identified in the grievance. A record of any such discussions will be made and signed by the person interviewed. Although there is no statutory entitlement, consideration will be given to accepting any request for these employees to be accompanied by a trade union representative, an official employed by a trade union or work colleague at any such meeting. During this process, the complainant may be required to attend a grievance investigation meeting, if the further enquiries necessitate this.

Where appropriate and where both parties agree, a three-way discussion with all parties may take place with a view to resolving the grievance at this stage.

This investigation stage will be completed as quickly as possible. Following completion of the investigation, the Grievance Investigator will compile a report incorporating all of the evidence gathered during this stage of the process.
The report will form the basis of an outcome letter to the complainant.

5.4.4 Grievance Investigation outcome

Following the conclusion of the investigation the Grievance Investigator will write to the complaint with the outcome. Where appropriate, the Grievance Investigator may convey the outcome in person before issuing the outcome letter.

When informing the complainant of the outcome, the manager will confirm whether their complaint is upheld or not, and any recommendations. The complainant will not be informed of any recommendations applicable to the person whom the complaint is against, nor any other third parties.

The grievance investigator will also notify the person the grievance is against of the outcome, and any associated recommendations and actions which apply to them personally.

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The employee who raised the grievance will be informed of their right of appeal.

5.4.5 Resolution

Clearly, the desired outcome of the implementation of the procedure is that the behaviour or conduct complained of, ceases. However, whatever stage the procedure reaches, and without presupposing the outcome of any formal proceedings, there may be a range of possible remedies where a complaint is upheld, including:

- Formal apology
- Training
- Mediation
- Occupation Health Support
- Counselling
- Changes to work methods/styles
- Redeployment within the school
- Formal disciplinary action against the perpetrator

Employees raising a grievance should be aware that where their grievance is upheld, the need for confidentiality may mean that they are not given details about any action taken, especially where this involves action involving another person.

6 Appeal Stage

6.1 If the employee wishes to appeal they must confirm this intention in writing to the Chair of Governors within five working days of receipt of the written notification of the outcome of the Formal Stage, clearly stating the grounds upon which the appeal is made. The Chair of Governors will convene an Appeals Panel as soon as practicable.

6.2 The appellant will be given at least five working days' notice of the Appeal Meeting in writing. Along with the written invitation the appellant will be sent a copy of the papers to be considered by the Appeal Panel. The investigation report may be redacted in so far as it relates to actions taken in respect of other employees. The employee should take all reasonable steps to attend this meeting and again has the right to be accompanied. If however, the employee's chosen companion is not available, for a reason that was not reasonably unforeseeable, at the time proposed for any meeting or hearing, one alternative date will be set, normally no later than five working days from the original date.

6.3 The appellant may make verbal and written submissions to the Appeal Panel in support of their Appeal.

6.4 The Appeal Panel will be provided with minutes of the formal meeting and the grievance investigation report and outcome letter.

6.5 Where the Appeal Panel deem that additional information is needed to enable them to make a decision, they may make further enquiries as necessary before making a decision. This may include talking to the grievance investigator.

6.6 The Chair of the Appeals Panel will advise the employee in writing of the outcome of the Appeal as soon as possible and in any event within 5 working days of the Appeal Hearing.

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6.7 There is no further internal appeal after the Appeal Panel has reached and notified a decision.

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7 Withdrawal of a grievance

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If any employee withdraws their grievance at any stage of the procedure, the reasons will be clarified and fully recorded.

8. Grievances received following a resignation

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8.1 Grievances received following a resignation and within the notice period should be processed in accordance with the informal and where necessary, formal grievance procedure outlined in this document.

8.2 Grievances received once the notice period has expired, and the complainant is no longer an employee should generally be addressed through the school's complaints procedure,

Appendix A – Harassment and Bullying

I Harassment and bullying are often based on prejudice and may equally arise from ignorance or intolerance. They can take many forms, from overt physical or verbal abuse to more subtle psychological ill-treatment such as ostracism. The effects of bullying and harassment on an individual's mental and physical wellbeing, and ultimately on their performance are often profound. Bullying and harassment have emerged as significant factors in workplace stress and organisational efficiency.

II Harassment and bullying by their very nature are 'experiential', which means that the same behaviour may be interpreted in different ways by different people. It may also be that the same behaviour, practised by different people, will be interpreted quite differently. For example what is acceptable from a close friend or colleague may not be acceptable from another person.

III It is also important to remember that at times we all feel harassed in its colloquial sense i.e. *hassled*, for example by pressures at work or outside or perhaps because we are unwell or unable to cope for other reasons. It is therefore appropriate to examine our feelings and perceptions carefully to distinguish between genuine and intentional harassment by others and those issues which relate to personal or professional management of time, workload, etc. In the latter case there are other procedures and processes in place to support staff and employees should discuss these concerns with their line manager.

IV Harassment and bullying take on many forms and are thereby relatively difficult to define. However, harassment is defined in terms of how it makes the recipient feel and common sense should be used by all to avoid situations which could lead to accusations of harassment.

Broad definitions and some examples are given below. These are not intended to be exhaustive.

- Sexual and Racial harassment are perhaps the most common, widely acknowledged and legislated against forms, but harassment and bullying occur for innumerable reasons, for example:

- Gender, sex, sexual orientation, marital or parental status;
- Race, ethnic origin, nationality, skin colour;
- Religion, political convictions etc.;
- Disability, sensory impairment, learning difficulties, intellect, education;
- Physical appearance, e.g. size/weight;
- Health, hygiene, HIV/AIDS;
- Trade union or other organisation activity/membership;
- Criminal record;
- Age (or youth);
- Addiction (drugs, smoking, alcohol);

- Political affiliation;
- Social or work position/status.

Examples of harassment and bullying

- Physical contact ranging from touching to physical assault.
- Visual displays e.g. sexually explicit posters, graffiti, emblems or obscene gestures.
- Verbal e.g. offensive language or jokes, gossip, slander, sectarian songs, ridiculing, name-calling/insults, lewd remarks, sexual innuendo, unjust or public criticism, destructive sarcasm, shouting.
- Written e.g. letters, emails, social networking sites, texting, graffiti etc.
- Isolation or non-co-operation at work, ostracism, removing responsibilities, withholding information.
- Intrusions e.g. spying, pestering, following, constant observation, staring/leering.
- Coercion e.g. pressure to participate, keep quiet, support.
- Pressure e.g. impossible deadlines, constantly changing work demands/expectations, pressure to return from sick leave, blackmail.

Sexual Harassment is a specified category of harassment and includes:

- Unwelcome sexual advances
- Requests for sexual favours
- Other verbal or physical conduct of a sexual nature that tends to create a hostile or offensive work environment.

Employers have a legal duty to take reasonable steps to prevent sexual harassment of employees in the course of their employment.

Appendix B – resolving grievances personally

Whether you are the victim or a witness, it is recognised that you may be uncertain or apprehensive about how to deal with an incident and may tell yourself that you have imagined it or that the harasser did not mean it. You may feel that it would be disproportionate to pursue the matter and not want to get the other person into trouble or you may feel scared about the consequences of raising the matter. Alternatively, you may feel harassed but be unsure about the cause of those feelings.

Seeking support

As a first step, you might find it helpful to talk to someone you trust about your situation. An objective perspective may:

- help to clarify your perceptions and/or the root of your feelings;
- help you to identify any personal issues which need to be addressed;
- enable you to articulate your concerns, feelings etc.;
- give you confidence to deal with the matter;
- provide the support you need to move forward.

However you should avoid discussing widely as this may make the situation worse.
You must report incidents of bullying and harassment to your manager or their manager if they are the perpetrator.

- Irrespective of whether the matter can be resolved informally or moves to the formal stage you can ask you manager for support which may include:
- Counselling
- A period of leave of absence without detriment
- Additional management support for a period
- Assignment of a mentor
- Assertiveness training.

<u>As an individual</u>

If you feel able to do so, approach the party/ies directly. Speak to the person calmly and make it clear that the conduct complained of is unwelcome and unacceptable. Tell them precisely what was offensive / upsetting and that you want it to stop. Alternatively put it in writing and keep a copy.
Some timescales are included in the procedure; all incidents should be dealt with without undue delay.

<u>As a witness</u>

You will need to make a judgement about what approach would be appropriate. If in doubt, you should discuss what you saw with your line manager.
If appropriate and where you feel confident to do so, approach the party/ies directly. Tell them what you witnesses and explain your concerns.
Where you have an appropriate relationship with the individual, you could discuss the matter with them. Where appropriate you could direct the person to this procedure and encourage them to follow it.

Keeping records

It is important to keep notes of incidents and action you take. You should record:

- the nature of the concern, including how it affected you;
- dates and times of incidents; a log or diary
- any witnesses;
- any discussions you have with any parties to try to address the issue;
- any discussions you have with managers;
- any written communications you send.

Appendix C – Grievance Procedure at a glance

Appendix D – Grievance Form (GR1)

(To be completed by aggrieved employee)

If your grievance has not been resolved, through informal means, you may move to the Formal stage by setting out your grievance in writing to your line manager or another manager/nominated Governor/Trustee.

N.B. If the grievance is against the Headteacher, this form should be sent to the Chair of Governors.

All personal data will be collected, processed, held and retained in accordance with the data protection policy and retention schedule.

A. THE GRIEVANCE

Your name	
Your position	
Date	

B. PLEASE STATE NATURE OF THE GRIEVANCE

- be clear about what you are raising as a grievance
- provide **concise** and **factual** information about the nature of your grievance
- where possible evidence should be presented
- avoid language which may be considered insulting, abusive, emotional or provocative

C. What attempts have you made to resolve this informally and why have they been unsuccessful?

D. What resolution are you seeking?

Any resolution should be realistic and appropriate.

E. I agree that the above accurately reflects my grievance.

Signed	

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