

SOMERVILLE FEDERATION



GRIEVANCE PROCEDURE

**Section 7 of Authority Guidelines on Staffing Procedures for
Community, Voluntary Controlled and Special
Schools**

Somerville Federation

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SECTION 7

GRIEVANCE PROCEDURES

7.1 Introduction

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 The statutory dispute resolution procedures were repealed from 6 April 2009 and a revised Code of Practice issued by ACAS giving “clear, simple and non-prescriptive guidelines on grievances and disciplinary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.

It is essential that a fair and established procedure should exist in every school whereby employees may air a grievance related to their employment and ensure that it is resolved speedily.

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. 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 Procedures (Section 6).

This procedure **does not** apply to grievances between staff and Wirral LA 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.

Grievances can arise from a variety of sources. They can be of a relatively simple nature or be of fundamental importance.

There are informal and formal procedures for dealing with Grievances.

7.1.1. Definition of a grievance

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)

7.2 Roles and Responsibilities

7.2.1 Headteacher Responsibilities

Wherever possible, the Headteacher is responsible for trying to deal with issues informally 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.
- 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.

7.2.2 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.

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. In such circumstances, 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.

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.

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

7.2.3 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.

7.2.4 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. Wherever possible try to resolve the grievance informally. This may include mediation.

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

7.2.5 Professional Association/ Trade Union

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

7.3 Informal Grievance Procedure

Stage 1

- (i) Where an employee has a grievance which involves other members of staff, he/she should first of all endeavour to resolve the matter by a direct approach to the members of staff involved or in discussion with the Headteacher. If appropriate he/she should involve a more senior member of staff.
- (ii) In circumstances where the Headteacher/Governor has not been involved and where the employee is dissatisfied with the outcome of his/her direct approach to the member of staff, the employee should discuss the matter with the Headteacher.

Where a member of staff requests a personal interview with the Headteacher /Chair of Governors it should be granted within **five working days** of receipt of the request.

- (iii) The Headteacher may also, by mutual agreement, seek consultation with the Chair of Governors, the Director of Children's Services (or her/his representative), or with representatives of teacher professional associations/trade unions.

If the member of staff is dissatisfied with the outcome, he/she can refer the grievance to **the formal stage**.

- (iv) In circumstances where the **Headteacher has been involved at an earlier stage, or where the grievance is against the Headteacher**, and the **employee is still dissatisfied with the outcome**, the matter should be referred to the **formal stage**.

7.3.1 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.

7.4 Formal Grievance Procedure

Stage 2

(i) Initial Action

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 **Chair of Governors** with a copy to the member(s) of staff with whom they have the grievance.

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.

The employee should provide all written documentation supporting the grievance and witness statements that the employee wishes to rely upon.

The Chair of Governors shall normally within **ten working days** of receipt of notification of the grievance, arrange for a meeting of a panel of governors to consider the matter.

(ii) During the Hearing

The grievance panel and grievance appeal panel shall 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 investigation officer may present findings to the panel for consideration and/or answer questions presented by both parties and the panel, relating to the nature and content of the investigation.

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 not less than three 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.

7.5 Appeal

Stage 3

- Appeals should be notified in writing to the Chair of Governors **within ten days** of notification of the decision.
- An appeal will be to a different panel of governors and should not involve any governors who have previously considered the case.
- The format of the Appeal should follow the same format as that set out in Appendix B

7.6 Headteacher's Grievance

- (i) Where a Headteacher has a grievance with a Governor or the Governing Body, he/she should first endeavour to resolve the matter by informal discussion with the person concerned **as per para 7.3**.
- (ii) Where the matter remains unresolved, the Headteacher should follow the procedures as set out in para 7.7.

7.7 Grievances against the Governing Body

(i) Initial Action

- Where any member of staff has a grievance against the Governing Body or any of its members, he/she should first discuss the matter with the Chair of Governors with a view to resolving the matter informally.
- By mutual agreement either party may seek the involvement of other staff or 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 Chair of Governors.
- 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 no fewer than three and no more than five members and shall exclude any member of the Governing Body who may have a personal interest in the case.
- All parties should have the right to submit written statements in connection with the case to the panel and to appear in person to make oral representations.
- 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.
- All relevant documents should be submitted to the Panel.

(ii) Cost of a Grievance Hearing

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

Provision should be made for reasonable expenses to be paid to members of the Independent Panel.

7.8 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 Borough Solicitor/ Legal Services, 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.

7.9 Employment Tribunals

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

Previously, an employee could go straight to the tribunal service, but this will change. From 6 April 2014, 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, in most circumstances, 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.

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 you have to make your claim. This is because while you are taking part in early conciliation, the clock stops. If negotiations fail, the clock starts running again from the date you are deemed to have received your early conciliation certificate (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, you will not know the exact new time limit until conciliation has ended and you have received your early conciliation certificate

Appendix A

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.
- 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.
- 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.
- v) The complainant (or his/her representative) and members of the panel may question the other party and any witnesses.
- 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, if one cannot be given at the time. Any response should 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.

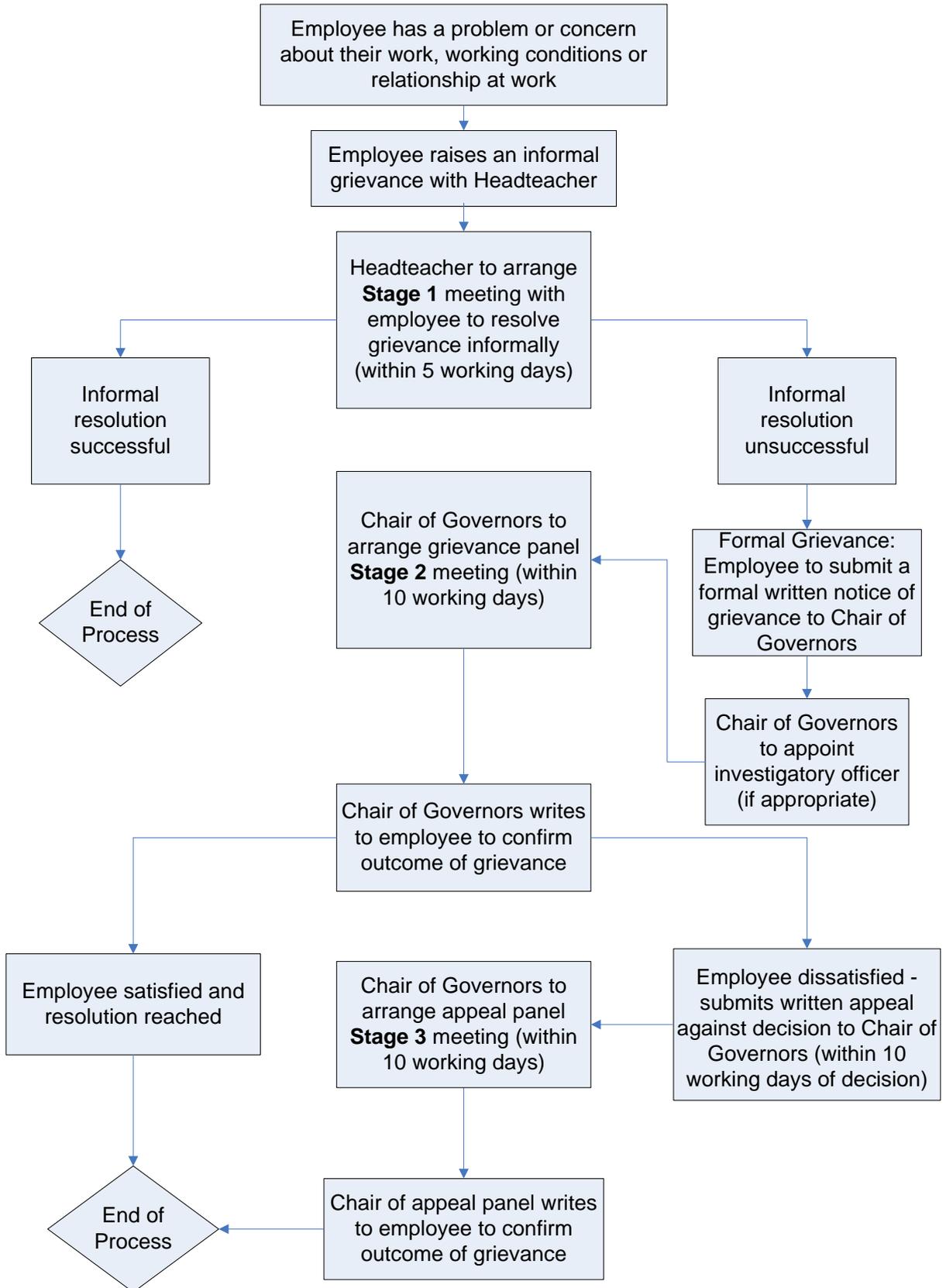
Appendix B

Grievance Appeal Procedure

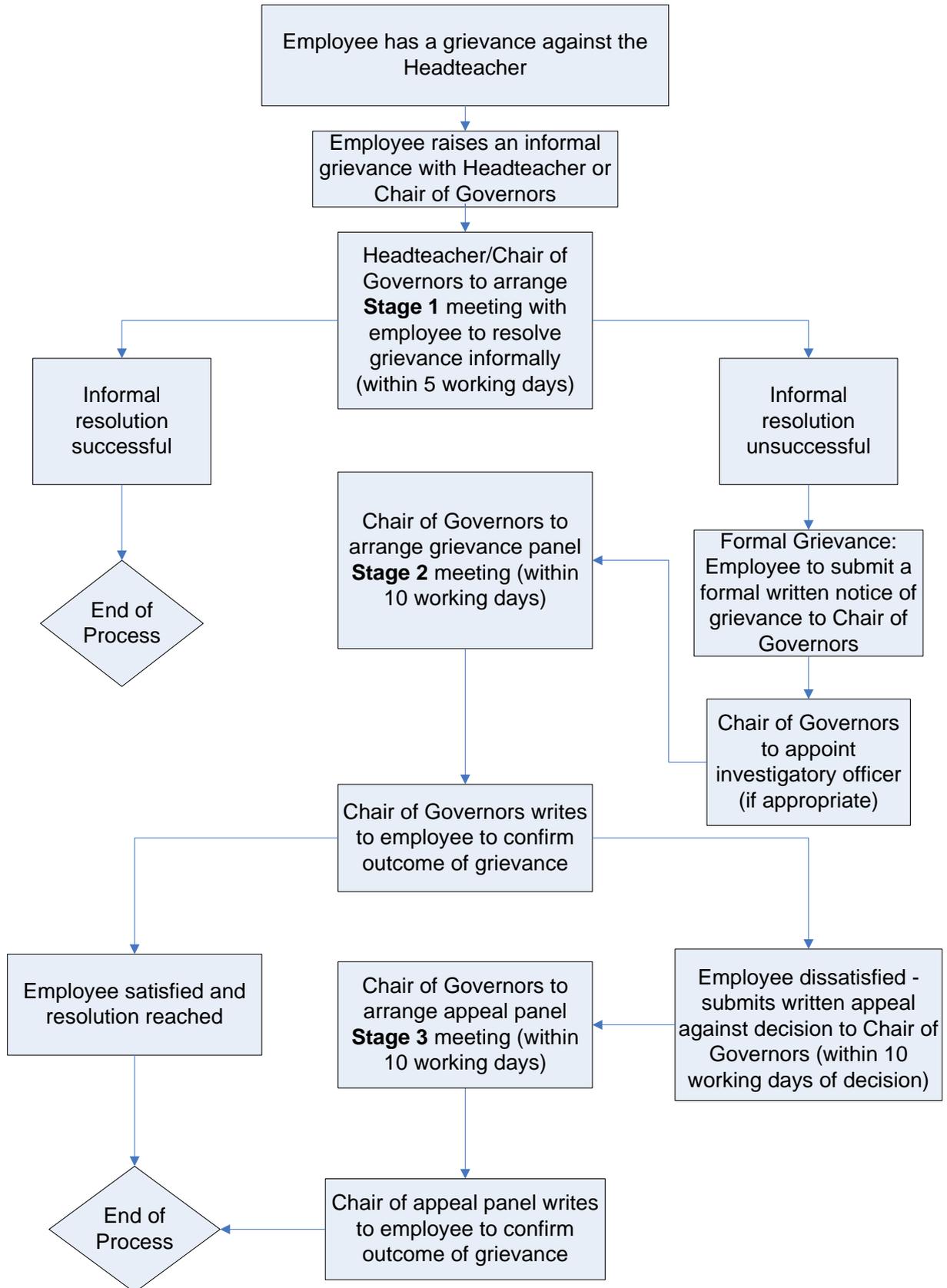
The following procedure should be followed at the grievance appeal hearing:

- i) There should be 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 Chair of 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 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 format should follow the same format as that for the Hearing
- x) The Appeal Panel should have full delegated authority to determine the case.
- xi) 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.
- xii) The decision of the Appeal Panel is final.

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



**Grievance against the Headteacher
Procedure Flowchart**



**Grievance against the Governing Body
Procedure Flowchart**

