



Extend Learning
Academies Network

Grievance Policy and Procedure

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Grievance Policy and Procedure

1. Introduction

1.1 ELAN is committed to creating a positive working environment. It is recognised, however, that there may be occasions where an employee may wish to raise a concern, problem or complaint arising out of his or her employment. On many occasions the issue will be resolved quickly and informally but when this is not possible a formal procedure is available.

1.2 Issues that may cause grievances include, but are not limited to:

- pay, terms and conditions of employment
- health and safety
- work relations
- bullying and harassment
- new working practices
- working environment
- organisational change
- equal opportunities
- discrimination

1.3 For grievances relating to bullying and harassment the ELAN Dignity at Work procedure should also be referred to. If the grievance is in the public's interest and falls under one of these categories: -

- a criminal offence, for example fraud
- someone's health and safety is in danger
- risk or actual damage to the environment
- a miscarriage of justice
- the company is breaking the law, for example does not have the right insurance
- you believe someone is covering up wrongdoing

the ELAN Whistleblowing Policy should be followed.

2. Purpose

2.1 This policy aims to:

- enable employees to have a legitimate grievance heard
- resolve grievances quickly and equitably
- resolve grievances informally wherever possible
- encourage a harmonious working environment

3. Scope

- 3.1 This procedure applies to all employees of ELAN. It is not a substitute for good employment practices, and in the first instance, every effort should be made by all parties to resolve grievances in a fair and timely manner without invoking this procedure.

4. Equal Opportunities

- 4.1 The grievance procedure must always be applied fairly and in accordance with employment law and ELAN Equality and Equal Opportunities Policy.

5. Responsibilities

- 5.1 ELAN is responsible for maintaining fair, consistent and objective procedures for matters relating to staff discipline across the ELAN network.
- 5.2 The headteacher has overall responsibility for the internal organisation, control and management of the policy in their school.
- 5.3 Senior leaders have responsibility for the internal organisation, control and management of the policy in their area of responsibility.
- 5.4 Managers and employee representatives who may be involved in grievance matters should be competent for the task. They should be familiar with the provisions of the grievance procedure, and know how to conduct or represent at grievance hearings. As a general principle, confidentiality will be agreed and maintained wherever possible.

6. Timescales

- 6.1 Grievance matters should normally be conducted within the timescales laid down in the procedure (see appendix). However, if there is a valid reason to do so, timescales may be varied by either party. If this is initiated by management, the employee should be given an explanation and informed when a response or meeting can be expected.
- 6.2 Every effort should be made by employees to attend meetings that constitute part of this procedure. When there are valid reasons to reschedule meetings then these should be rearranged within five working days.

7. Informal Stage

- 7.1 Grievances should be raised as soon as possible after the event and without unreasonable delay. Employees should in the first instance, and where appropriate to do so, take all reasonable steps to resolve their concerns directly with other parties who may be involved. Where necessary this may follow a conversation with their line manager or another senior member of staff to check this course of action is the right one in the circumstances. Employees who feel unable to discuss their concerns in this way should, as a first step, discuss their concerns with their line manager. (see appendix 1 for flow chart of the informal stage). If the grievance relates to the employee's immediate manager, or a member of the senior leadership team (SLT) including the headteacher, or if it is otherwise not appropriate to use the informal procedure, the formal stage of the grievance procedure may be invoked immediately.
- 7.2 The manager will normally meet the employee to discuss the grievance within 5 working days of receipt of the complaint. A decision will be communicated to the

employee within a further five working days of this meeting, normally orally. The manager should keep a written record of the matter.

8. Mediation

8.1 Mediation is a way to mend relationships when there is a disagreement at work.

8.2 Mediation is voluntary and will only take place with the agreement of both parties.

8.3 Mediation is held by a neutral person (a 'mediator') this can either be someone in the HR department or an external mediator. The mediator is impartial. This means they do not take sides. They're there to help everyone involved find a solution they can all agree to. It is not about judging who was right or wrong in the past, but looks at how to agree on working together in the future.

Mediation is a quick way to resolve disagreement at work and is:

- less formal
- flexible
- voluntary
- confidential
- usually not legally binding

Mediation helps to mend workplace relationships by:

- finding solutions that everyone agrees to
- improving communication
- allowing everyone involved to have control of what's finally agreed
- reducing stress
- keeping valuable employees
- avoiding more formal processes, such as going to employment tribunal
- stopping more grievances being raised

Mediation outcomes are decided by everyone involved and can be flexible. Outcomes might include:

- an acknowledgement of each party's views
- a commitment to change behaviour
- a commitment to regularly review the agreement reached
- an agreement to review policies and procedures
- an agreement to share work more fairly and provide more responsibility

8.4 If an employee does not want to take part in mediation, they do not have to. Mediation is voluntary and confidential. The mediator will agree with everyone involved what information can be shared outside the mediation and how. If you do not reach an agreement, anything that's been said during the mediation must be kept confidential and cannot be used in future procedures.

8.5 Mediation is used to resolve disagreements around workplace relationships rather than other disputes, such as pay or issues related to dismissal or conduct. You can use mediation to resolve issues like; bullying allegations, communication problems, personality clashes, relationship breakdowns etc.

- 8.6 It is a good idea to try and resolve the problem informally first, before thinking about using mediation. If the problem cannot be resolved informally, an employee can use mediation. Mediation can be used at any stage in a disagreement, but it's best to start it as soon as possible. The earlier the disagreement is dealt with, the less chance there is of things getting worse.

If an employee is interested in mediation, please contact HR at HR@extendlearning.org.

9. Formal stage

9.1 Step One – Notification of grievance

- 9.1.1 If the employee remains aggrieved after seeking an informal resolution, or the informal grievance procedure is inappropriate, or the manager has failed to respond to the employee's concerns, the employee should write without unreasonable delay, to an appropriate senior leader providing full details of the complaint and outlining the resolution sought (see appendix 2 for a flow chart of the formal stage). Where the complaint relates to a headteacher, the grievance should be sent to the Chief Executive Officer (CEO). Where the complaint relates to the CEO, the grievance should be sent to the Chair of the Board of Trustees.
- 9.1.2 The senior leader will acknowledge the grievance and is responsible for appointing an investigating officer to cases which are considered to be particularly complex or sensitive. The investigating officer should be impartial and should have had no previous substantial involvement with the grievance. The senior leader will contact HR and between them they will decide how to carry out the investigation.
- 9.1.3 Care should be taken to ensure that the investigating officer will not be a disciplinary procedure decision-maker, in case the complaint is serious and becomes subject to the disciplinary procedure.
- 9.1.4 The investigating officer must investigate the complaint as soon as possible. If they cannot investigate it personally within a reasonable timescale, it should be assigned to another senior member of staff who is competent and able to do so. During their investigation the investigating officer should ensure that strict confidentiality is maintained in order to protect the rights of all the parties involved. The investigating officer needs to be independent and operate in line with ACAS investigation guidelines.
- 9.1.5 The investigation process must be completed as quickly as possible, and should usually take no more than 10 working days although may be up to 30 working days for a more complex grievance. A robust investigation will ensure that all sides have the opportunity to present their view. Please see appendix for framework and report template.

9.2 Step Two – Grievance hearing

- 9.2.1 The senior leader will write to the employee giving details of the hearing, which will normally take place within 30 working days of receipt of the grievance letter or within 10 working days of completion of the investigation whichever is sooner.
- 9.2.2 The letter should inform the employee of their right to be accompanied by a trade union representative or work colleague.

- 9.2.3 The senior leader should consider if any necessary reasonable adjustments are required for the meeting i.e., for employees with disabilities or if an interpreter is required for non-English speaking employees.
- 9.2.4 The senior leader will hear the grievance and may invite advisers, for example an HR representative, as appropriate. For all meetings, a note taker will attend to take a record of proceedings. It is their role to minute the significant points of the hearing but not to produce a verbatim record.
- 9.2.5 Where a grievance is against the headteacher, the Chief Executive Officer will appoint a suitable person to conduct the grievance hearing. In such instances the employee's right of appeal will be to the Chief Executive and a representative from ELAN. Where a grievance is against the CEO, the Chair of the Board of Trustees will appoint a suitable person to conduct the grievance hearing and any appeal with support/guidance from HR.
- 9.2.6 The employee should be allowed to explain their complaint and say how they think it should be settled/resolved.
- 9.2.7 The decisions normally open to the person hearing the grievance, are as follows:-
- (i) the grievance is upheld, in which case, either:
 - the Disciplinary Procedure may be invoked or
 - the respondent may be advised that any recurrence of the unacceptable behaviour may result in disciplinary action being taken or
 - a mutually agreeable resolution may be identified for all parties
 - (ii) the grievance is partially upheld
 - (iii) the grievance is not upheld/unsubstantiated
 - (iv) the Chair may recommend further mediation by an appropriate third party in order to facilitate working relationships
- 9.2.8 The decision, and where appropriate, the action intended to resolve the grievance, will be communicated to the employee, in writing, within five working days of the hearing. The employee will also notified, in writing, of their right of appeal.
- 9.2.9 If, following this stage, the employee remains dissatisfied with the decision, they may register an appeal. This must be sent in writing, outlining the reasons for the appeal to HR within 10 working days of receipt of the decision.

9.3 Step Three - Appeal

- 9.3.1 Appeals against grievance decisions will usually be considered in relation to one or more of the following grounds:
- (i) The **Procedure** – the grounds of appeal should detail how procedural irregularities prejudiced the grievance decision.
 - (ii) The **Facts** – the grounds of appeal should detail how the facts do not support the decision or were misinterpreted or disregarded. They should also detail any new evidence to be considered.
 - (iii) The **Proposed Action** – the grounds of the appeal should detail how the proposed action is inappropriate given the circumstances of the case

- 9.3.2 The employee, will receive written notification giving details of the appeal hearing, which will normally take place within 10 working days of receipt of the employee's appeal. The letter must inform the employee of their right to be accompanied at the appeal hearing by a trade union representative or work colleague.
- 9.3.3 The headteacher or a senior leader and a representative from ELAN who has not previously been involved in the case will hear the appeal, which will focus on specific reasons for not accepting the previous decision and **will not be a re-hearing**. Advisers, for example an HR representative, may also be present. For all meetings a note taker will attend to take minutes of proceedings.
- 9.3.4 The headteacher or senior leader will communicate the decision in writing to the employee within 5 working days of the appeal hearing. This decision will be final.

10. Record keeping

- 10.1 Written records of meetings and discussions relating to the grievance must be maintained. These must be written during or as soon after the event as possible to ensure the accuracy of the record. Where possible, written records must be signed and dated by all parties. Copies of all final meeting records must be given to employees. Written confirmation of the outcome of any meetings will be sent to the employee for their information and a copy kept on the employee's personnel file in accordance with the Data Protection Act 1998 and GDPR.

Records should include:

- the nature of the grievance
- what was decided and actions taken
- the reason for the actions
- whether an appeal was lodged
- the outcome of the appeal
- any subsequent developments

- 10.2 Employees may also wish to keep records of events to support their case.

11. Special Situations

11.1 Collective Grievances

- 11.1.1 In circumstances where a grievance is raised by or on behalf of more than one person, the details of the grievance must be set out in writing and signed by all who are party to the grievance. The employees may nominate one person to represent the group, in most cases this will be the trade union representative or trade union representatives where the employees involved are members of more than one trade union. ELAN will not make any changes until the Collective Grievance has been heard.

11.2 External sources of help

- 11.2.1 In certain circumstances it may, with mutual agreement, be helpful to seek external advice and assistance during the grievance procedure. This intervention should be initiated in consultation with HR.

11.3 Grievances raised during the course of the disciplinary procedure

- 11.3.1 Sometimes an employee may raise a grievance (per this policy) related to the case during the course of a disciplinary case. Where this happens and depending on the circumstances, it may be appropriate, to suspend the disciplinary procedure for a short period until the grievance can be considered.

- 11.3.2 Depending on the nature of the grievance, the school may need to consider bringing in another manager to continue to hear the disciplinary case.

11.4 When the Grievance Procedure should not be used

- 11.4.1 Where the school has taken (or has indicated that it is considering taking) disciplinary/capability action against the complainant. If the complainant is unhappy about any disciplinary/capability action, the disciplinary/capability appeal process should be used. However, if the complainant has an unrelated grievance, the disciplinary/capability procedure and grievance procedure can run concurrently.

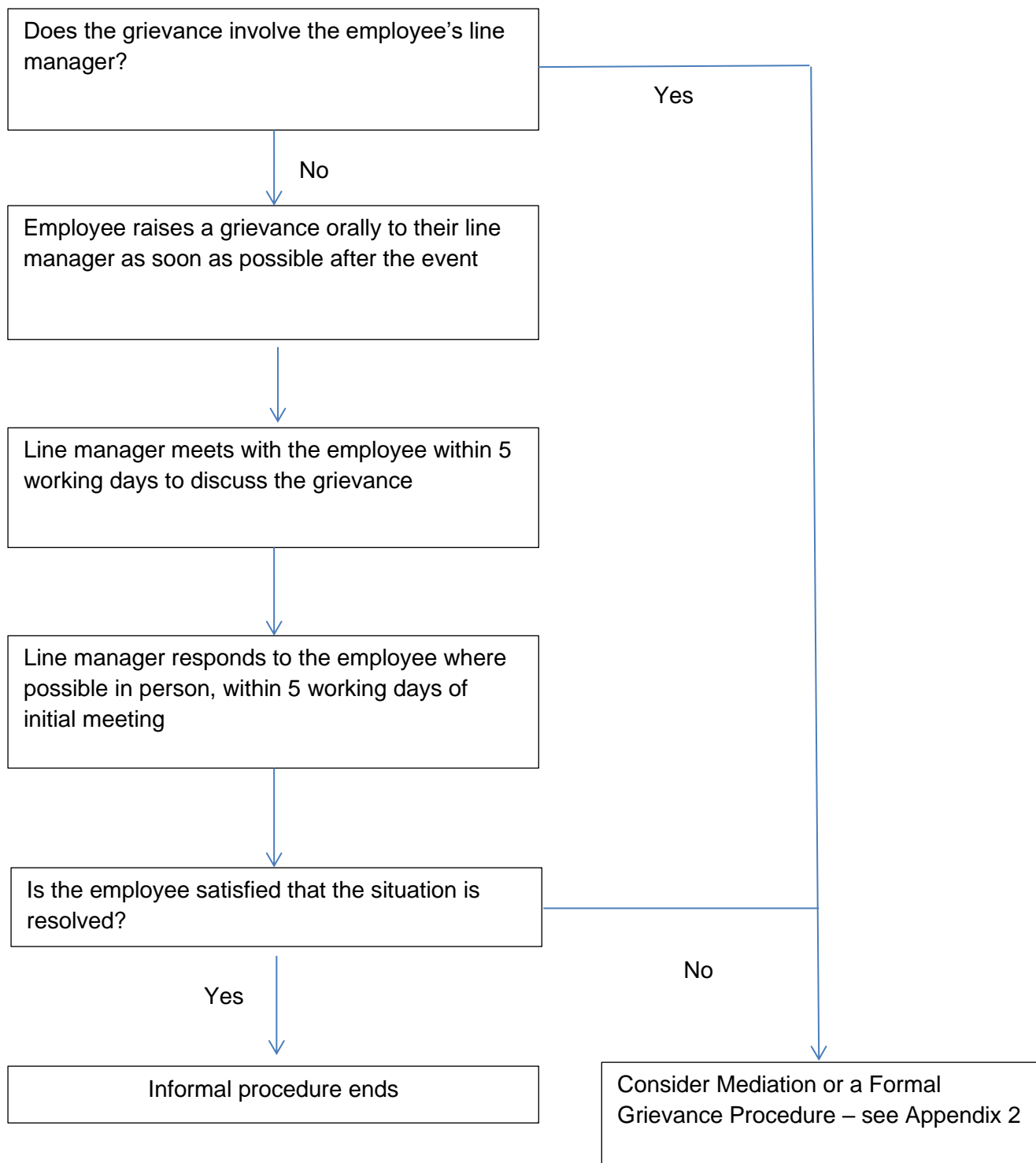
11.5 Complaints from Ex-Employees

- 11.5.1 There is no legal requirement to deal with grievances raised by ex-employees, however for good employee relations, a headteacher may decide to hear such grievances.
- 11.5.2 If an ex-employee wishes to raise a complaint, they should write to the headteacher/chair of governors within three months of leaving. The concerns raised should be investigated and a written response/outcome sent to the complainant. There is no requirement for an investigation meeting or right of appeal.

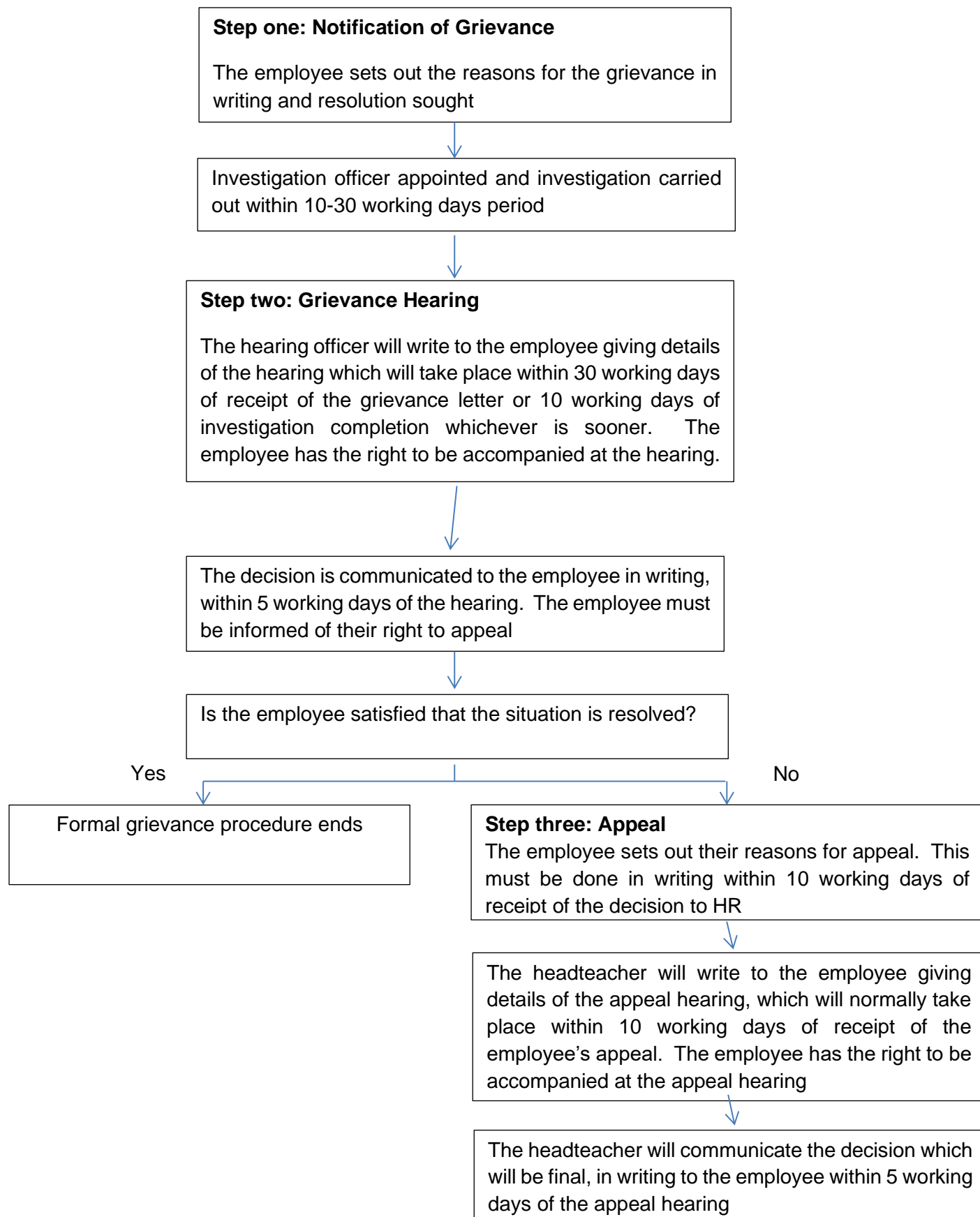
12. Review

- 12.1 This policy will be reviewed every year in consultation with the recognised trade unions.

Appendix 1 – Informal Grievance Procedure



Appendix 2 – Formal Grievance Procedure



Appendix 3 – ELAN Work Place Investigation Framework

ELAN expects all investigations to be conducted to the highest standards and this framework sets out the best practice that all investigators must follow in the process of gathering facts, within the agreed terms of reference, for the case in hand.

1. What is an Investigation?

The purpose of an investigation is to determine all the facts associated with the allegation(s) and establish whether there is a case to answer.

As an investigator, you should adopt a holistic approach, examining the case from all angles, collecting evidence from management, employee and organisational perspectives. You will need to interview all relevant people and analyse any related documentation or forms of evidence.

The role of an investigator is to keep an open mind, to consider all of the possible circumstances and to remain completely neutral.

2. When should workplace investigations be used?

Internal investigations must always be carried out in accordance with the relevant policy / procedure as determined by the issue in question. Some of the main reasons for a workplace investigation are:

- Allegation(s) of misconduct
- Allegation(s) of bullying or harassment
- Allegations relating to safeguarding
- An employee raising a grievance
- Concerns around an employee's capability
- A complaint against a member of staff

Any investigation must ensure that decisions and actions taken are:

- **Proportionate**
- **Relevant**
- **Accountable**
- **Legally and procedurally compliant**

The nature and extent of an investigation will depend on the seriousness of the matter and your judgement, as the investigator, as to when you have gathered the facts and exhausted all reasonable lines of enquiry.

3. Knowledge and Skills

Before commencing an investigation, you must:

- Have read fully, and be familiar with, this Workplace Investigation Framework
- Have read fully, and be familiar with, the policy within which your investigation sits
- Be ready to work in full confidentiality and not discuss any details of your investigation with anyone, including senior leaders and anyone who may form a panel hearing, other than:
 - people who you are interviewing as part of the investigation
 - Co-investigator
 - HR

4. Terms of Reference

At the outset of an investigation, the terms of reference must be set by the senior leader who is commissioning the investigation (in line with the relevant policy), with the help and advice of HR, if appropriate.

Terms of reference set out the guidelines for an investigation and give specific direction on the allegation(s) to be investigated and the proposed timescale for the investigation.

Terms of reference are essential in that they will provide you, as the investigating officer, with a clear understanding of what issues are to be investigated.

You will need to keep the investigation within the agreed terms of reference and not be side-tracked into looking at other issues. The term 'fishing trip' refers to an investigation which may have strayed beyond the set terms of reference, where the Investigator has not maintained their focus on the original purpose of the investigation.

Terms of reference should be clear, unambiguous, and tightly drawn to provide focus and direction. In any employment investigation, the possibility of lessons to be learned should also be included.

Terms of Reference should include:

- Any relevant background information up to this point
- The specific allegation(s) to be investigated
- The relevant policy in accordance with which the investigation is being carried out
- Confirmation of the names of the people involved – senior leader, investigating officer, notetaker, etc.
- The brief of the investigating officer – i.e. to undertake a detailed and thorough investigation through interview and review of data and to produce a written report on the case to include recommendations or opinion, as per the requirements of the relevant policy
- That all interviewees will be given the right of representation in accordance with the Trust's procedures

- That documentation is not withheld from the investigating officer
- The proposed timescale for the investigation

5. Investigation Plan

An 'investigation plan' ensures that you do not miss important matters or focus on the wrong issues. Investigation planning brings balance and focus to the process; a clear starting point will help you to know what questions to ask and will provide a reasonable idea of the main issues.

An 'investigation plan' is not an attempt to second guess what the evidence is, or how best to build a case, but it is a considered approach to determining what initial evidence is necessary, and how best to go about obtaining evidence.

While you will have been given a steer by the terms of reference set by the senior leader who appointed you, you must keep in mind that it is your responsibility to conduct a neutral and thorough investigation and you will need to use your own judgement as to how to best achieve this. To do this you will need to identify the following:

Information and identifying gaps	<p>Who is involved?</p> <ul style="list-style-type: none"> • List the potential interviewees and witnesses (remembering that other names may appear during the investigation who may also be useful witnesses) <p>Where did the situation or issue happen?</p> <p>When did it happen? Are there any key times or dates?</p> <p>What happened or is happening?</p> <p>What are the facts (if any) that have been established already?</p> <ul style="list-style-type: none"> • Review of any relevant documents or material gathered at the outset of the investigation, i.e. emails, letters of complaint, allegations, etc. • This is where you can already say 'it is...' or 'I know this because...' <p>What are the gaps?</p> <ul style="list-style-type: none"> • This is where you might say, 'I think it is...' • Risk assess the issues which may jeopardise the investigation or hamper progress e.g. uncooperative staff, malicious or vexatious concerns, absence of potential witnesses, contamination of evidence, etc.
Order of Work	<p>You will need to think through how to approach the investigation in terms of the order in which you interview people. Mostly, but not always, you will need time to gather and consider evidence and to interview all witnesses before you arrange a meeting with the person who is the subject of the allegation(s).</p>

	<p>This can be a stressful time for the person against whom allegations have been made as they will likely want to know more details as quickly as possible after they have been informed of the allegation(s).</p> <p>You need to be clear that you are conducting a neutral and thorough investigation and, that for the person's benefit, you need to gather all of the facts before interviewing them.</p> <p>You should not feel pressured by any party to hurry your investigation and, if you do, please speak to HR who will be able to support you with this.</p> <p>For disciplinary issues, it is possible that the person who is subject to the allegation(s) has been suspended from work. HR can provide guidance on this in terms of your contact with them.</p>
Timeframe	<p>You will need to balance the need for the investigation to be carried out in as concentrated a time scale as possible (to ensure the best recollection of the facts and to minimise uncertainty for all involved) with the need to conduct a thorough and fair investigation. This may require other work to be rescheduled or reallocated.</p> <p>The investigation should be carried out as thoroughly and swiftly as possible. As a guideline, investigations should be completed within two weeks, although this may be extended for complex issues or with the agreement of the senior leader who appointed you to the case.</p>
Resources	<p>You will need a notetaker to be present at all of the investigation meetings that you hold. As a general rule this is an administrator who will be supplied by the academy from where the matter has arisen.</p> <p>You will need to arrange a private room in which to hold the interviews which will be free from interruptions. In certain circumstances it is more appropriate to hold the investigation meeting off site or at another ELAN location.</p>
Communication	<p>You will need to contact employee(s) in writing to inform them that an investigation interview is to take place in relation to the allegation(s) or concerns. The HR can assist with this correspondence which should include:</p> <ul style="list-style-type: none"> • Date and location of the meeting • Advise the employee of their right to bring a union representative or work colleague to the meeting. • Check whether the employee has any particular needs that need to be met to enable them to take part in the meeting e.g. translator, wheelchair access, etc. <p>The other types of people who you may need to invite to an investigation meeting are:</p> <ul style="list-style-type: none"> • Witnesses • Anyone with relevant background or contextual information

	Witnesses who are employees are obliged to attend witness interviews. Every effort should also be made to interview witnesses who are not employees.
Further Advice	<p>At this early stage, and indeed at any point in the process, we recommend that you contact HR for a confidential discussion about any aspect of the investigation including:</p> <ul style="list-style-type: none"> • the nature of the enquiry • the standards of investigation required • your role and responsibilities • compliance with policies and employment law

6. Evidence Gathering

The word evidence does not imply guilt of a particular individual. The evidence could prove innocence rather than guilt. This goes to the core of your role: maintaining neutrality and objectivity throughout the process and seeking to gather the facts of the case.

You should be clear about the documents and evidence you require to effectively conduct the investigation and not just rely on witness statements, as this may result in other crucial evidence being overlooked. If any evidence is likely to perish or be removed (i.e. CCTV footage), it should be treated as a priority.

Evidence may include:

- Correspondence such as emails
- Notes of meetings and telephone calls
- Diary entries
- Background documents such as procedures, policies, contracts, job descriptions, etc.
- Electronic records, printouts, etc.
- Photographs, CCTV footage
- Witness statements, interview notes, etc.

7. Investigation Meeting

Opening the meeting

You may find it helpful to have a script for opening the meeting. The following provides a suggested structure for this:

- Open the meeting with introductions (including the note taker)
- Clarify the status and purpose of the meeting and what will be covered
- Remind all people present that the meeting is completely confidential and any details should not be discussed with any other colleagues

- Explain that:
 - The meeting can be paused at any time by either the interviewee or the investigator (sometimes this happens if someone gets upset and needs a moment or if they wish to speak to their companion in private before responding to a question).
 - You, as the investigator, will ask questions around the allegation(s) and that the purpose is for you to gather all of the facts, making no judgements. This may mean that you ask a lot of questions to ensure you gain a full understanding.
 - The note taker will be taking full notes (although not necessarily verbatim) of the meeting and does not have a participatory role in the meeting; the meeting notes will be sent to the interviewee afterwards and they will be asked to sign to confirm that they are a true and correct record
- Any employee attending an investigation interview will be allowed to be accompanied by a colleague or a trade union representative who may:
 - confer with the employee, requesting an adjournment if necessary
 - address the interviewer
 - ask any questions for clarification
 - not answer questions on the employee's behalf
- If the employee is not accompanied, check that they are still OK to proceed. If, at any stage during the investigation interview, the employee wishes to adjourn to seek representation, this should be granted.
- Check whether the interviewee has any questions at this point

Witness Interviews

- All witnesses must be informed that the information they provide will form part of the final investigation report and could be used at a formal stage hearing, depending on the policy/procedure you are investigating under. For a disciplinary matter, for example, all the investigation documentation will be shared with all parties ahead of a formal hearing and a witness may be asked to attend the hearing to put forward their evidence (this is rare but it could happen).
- If a witness states a wish to remain anonymous, please seek advice from HR

Interviewing Minors

- If you plan to interview children or juveniles, you must ensure that the correct child protection regulations are followed – speak to the headteacher of the school in the first instance who will advise and who will facilitate contact with parents/carers where necessary.
- Written statements may be obtained from juveniles but in such instances the investigator must consider informing parents/guardians and giving them the opportunity to be present. Juvenile witnesses should be kept separate from each other before the interview and be interviewed independently.

Questions

You should prepare for the meeting by going through the relevant evidence and drafting questions which will help you to ascertain the facts of the situation.

- Give the employee the opportunity to answer the allegation and give an explanation as to why they acted in a particular way.
- Use open questions throughout and probe/follow up any responses.
- Gather facts, for example, time, place, who was present, what happened.

- Reflect back to the employee what they have said to you by way of your notes, in order to check understanding.
- Ask the employee if there are any mitigating circumstances or any health problems, personal issues, etc. that should be considered.
- At the end of the interview, whether they wish to say anything more and whether there are any witnesses they wish to be interviewed by the investigator.

You may need to ask further questions if you think that the person has not answered or fully answered your question(s). You may need to rephrase your question so that it is clear.

Closing the meeting

- Inform the employee that they will be asked to sign and date the meeting notes as a formal record of the meeting (if you can, give a timeframe in which the notes will be sent to the employee for this purpose). Any points of disagreement or corrections which the employee wishes to raise should be provided in a separate document and held with the original notes of the meeting. The employee may also produce a written statement which is signed and dated.
- Interviews may take place over more than a single session but must be carried out within a reasonable timescale.
- Remind the employee that they can contact SAS at any time, in complete confidence, if they feel this would be useful in supporting them.

8. End of the Investigation

At the end of the investigation you will need to record your conclusions of the case and decide and specify if each of the allegations / concerns are;

- Upheld – substantiated
- Partially Upheld
- Not substantiated
- Malicious
- Unfounded

An overview opinion based on the balance of probability on whether there is evidence to support the allegations / concerns.

If you establish that no case exists you must inform immediately the senior manager who appointed you. The employee will need to be provided with a concise and accurate explanation of why the case is not being taken further. This explanation should be neither defensive nor apologetic. An effectively handled withdrawal from the investigation process can be positive by showing that a fair process exists.

9. Investigation Report

You will need to write an Investigation Report; some investigators compile this as they work through the investigation, adding in information as they find it and some wait until the end and write the whole report in one go. You will need to use the ELAN template to ensure that you provide the necessary information.

As part of writing the Investigation Report, you should consider the following areas:

- Have any rules or policies been broken or breached?
- What is the impact?
- Do any gaps still exist? Why is this? ((insufficient or no evidence)
- Are there any mitigating factors or circumstances you need to include in your report?
- What action will you recommend to be taken? Why?
- Do you have any improvements or changes to recommend?

Remember that the standard of proof required to substantiate allegations is 'on the balance of probability', not 'beyond all reasonable doubt'.

You will be required to detail your recommendations as below:

- Formal action e.g. Disciplinary Action
- Informal action e.g. training or mediation
- No further action required

HR can advise you on organisation and logging of investigation materials, issues such as whether you need to redact any information and also on writing the report.

10. Honing your skills as an Investigator

Active Listening

Listening *actively* is hard work. Being fully prepared for each investigation meeting will help you to be able to listen effectively and to focus on establishing the facts. It will also allow you to ask supplementary questions and to probe.

It can be helpful to summarise what has just been said; this helps you to check your understanding and gives the other person the opportunity to correct any misunderstanding.

Communication Barriers

Be conscious of any of the following:

Preoccupation	Your mind is preoccupied with something else and you find it difficult to not be distracted by it, or the physical environment may create conditions which make communication difficult
Prejudice	You have already pre-judged the employee/witness. Your mind is closed or only open to arguments which support your prejudice.
Anxiety	You react negatively to the details you are told because of anxiety over what you might be required to do

Indifference	You are not interested in the subject
Emotional words	Some words may cause you to have an emotional reaction instead of listening to the rest of the response from the interviewee.
Premature decision	You evaluate the message(s) before the interviewee has finished, often modifying the message to fit in with what you expect them to say
Rehearsal	You are too busy thinking about what you will say next to listen properly
Delivery	You find it difficult to understand because of the poor delivery by the interviewee

11. Communication & Body Language

You should be aware of your body language while interviewing people. Some suggestions are:

Posture	You can make someone feel comfortable by your posture. You should avoid crossing your arms, showing emotion or reacting to what is being said, frowning, etc. as these are actions which can convey a closed or uninterested appearance
Eye Contact	There is a balance between too much eye contact and not enough. Holding contact for too long can sometimes be perceived as aggressive or too little as disinterest.
Pausing	When an employee has finished what they are saying, it is helpful to pause. This allows them time to realise that the investigator is considering what they have said. Patience is important. You should allow the interviewee to say all they want to say (within reason) without interruption, otherwise they may miss key points. On the flip side, you need to keep control of the conversation and check that the interviewee does not slide off topic.
Being Responsive	You should be aware of the interviewee's mood and react accordingly. It is not always what is asked or said that counts, but far more about how and when it is asked or said.
Be Concise	If you are clear and concise (helped by the questions you have pre-prepared), it helps the interviewee to more easily understand and assimilate what you are saying.

Appendix 4 - ELAN Investigation Report

This report should be treated as strictly confidential, conducted by an impartial and independent person and is covered by the General Data Protection Regulations/Data Protection Act.

Name of staff member under investigation	
Type of investigation i.e., allegation / grievance etc.	
Investigator(s)	
Date investigation commenced	
Overview of the incident/key allegation(s) being investigated. Information of specific allegations/concerns.	
Background How did the issue come to light? Have any other actions been taken prior to the investigation? When we are thinking about an allegation context is very important. There may be a history of complaints; a staff member you already have concerns about; individuals/groups where complaints may be more likely.	
Remit of the Investigation Bullet point each specific allegation / concern being investigated.	
Complaint / Witnesses / Respondent interviewed All above should be interviewed separately with the complaint typically first, followed by the witnesses and finally the respondent.	
Evidence collected I.e. Witness statements, CCTV, screenshots, emails, text/TEAM messages etc.	
Any evidence that could not be obtained and reasons why	
Any mitigating factors	
Findings A summary of findings and observations for each specific allegation / concern investigated, cross referencing any documentation where needed.	

<p>Conclusion</p> <p>An overview opinion based on the balance of probability on whether there is evidence to support the allegations / concerns.</p> <p>Specify if each of the allegations / concerns are;</p> <ul style="list-style-type: none"> • Upheld – substantiated • Partially Upheld • Not substantiated • Malicious • Unfounded 	
<p>Recommendations</p> <ul style="list-style-type: none"> • Formal action e.g. Disciplinary Action • Informal action e.g. training or mediation • No further action required 	
<p>Appendices</p> <p>These should be attached and may include witness statements, investigatory interview notes/statements, timeline/chronology of events, key policies and procedures reference etc.</p>	
<p>Investigator's signature</p>	
<p>Date</p>	