

**Nottinghamshire School Harassment Procedure**

**GUIDANCE**

**FOR HEADTEACHERS AND GOVERNING BODIES**

**HR Advice, Support and Training Service**

**October 2021**

**SCHOOL Harassment Policy Guidance**

**Table of Contents**

|  |  |  |
| --- | --- | --- |
| **Section** | **Heading** | **Page** |
| 1 | Principles | 2 |
| 2 | Roles and Responsibilities | 3 |
| 3 | **Stage One** -Managing the Informal Procedures | 8 |
| 4 | Suspension | 10 |
| 5 | **Stage Two** - Managing the Formal Procedures –- Investigation under the Disciplinary Procedure for School Staff | 11 |
| 6 | Communicating the outcome | 14 |
| 7 | Governors’ Disciplinary Hearing | 15 |
| 8 | Rights of Appeal (Disciplinary Hearing) | 16 |
| 9 | **Stage 3** - Appeal | 16 |
| 10 | Managing the aftermath | 17 |
| 11 | Employment Tribunals | 17 |

**SCHOOL HARASSMENT POLICY – GUIDANCE ON MANAGING THE HARASSMENT PROCEDURE**

**1.0 Principles**

1.1 School staff have a right to expect that management will act on their complaint quickly, efficiently and effectively. The procedure establishes timescales which facilitate prompt resolution of the harassment complaint. Whilst these should be adhered to wherever possible, they may, exceptionally, be varied by mutual agreement. Where a member of staff feels that their complaint has not been managed properly and in accordance with these procedures, they should raise it as part of the complaint or have the right to raise this through the school's Grievance Procedure.

1.2 Where a complaint is made against an alleged offender which results in a counter claim against that complainant, care must be taken to treat both claims fairly. In these circumstances, it will be appropriate for both cases to considered and heard as part of the same investigation. Findings should then be presented on both claims.

1.3 Any dispute, including complaints of harassment, should be dealt with as quickly as circumstances allow. Guideline timescales are specified in the Harassment Procedure, which should be adhered to whenever practicable. If difficulties occur which mean that the agreed timescales cannot be met, the aggrieved employee should be informed, and a new timescale should be agreed as appropriate with all parties. The Harassment Procedure should normally be followed sequentially although there may be occasions when the complaint is sufficiently serious to warrant consideration under the formal stages of the procedure immediately.

1.4 The opportunity to resolve disputes and raise a grievance with the employer is an important feature of an employee’s contract of employment. Its provision should be respected and not taken lightly and should not be abused, misused or initiated vexatiously. Vexatious or malicious complaints may lead to disciplinary action being taken.

1.5 In some circumstances, mediation i.e. the involvement of an impartial third party may assist in dealing with the complaint. If this is deemed appropriate, the mediator should be agreed by all parties including the Trade Unions. There may be occasions where it will be necessary to enlist specialist support to assist with issues in a school and the HR Service can advise on where appropriate support may be made available. Where the school initiates mediation, and is agreed by all parties, this will not prejudice the right of the employee to continue the harassment procedure if a resolution is not achieved by this means and there are grounds to proceed.

1.6 Employees have a right to be accompanied by a trade union representative or work colleagueat any stage of the Harassment Procedure.

1.7 A record should be kept by the school of all complaints of harassment raised, the employer’s responses, any actions taken and the reasons for such actions. Such records must be kept confidential and retained in accordance with the provisions of the Data Protection Act 2018. Notes and action points should be taken at all meetings, whether formal or informal, and shared with all parties involved.

**Roles and Responsibilities**

2.0 When dealing with a potential complaint of harassment, it is important to establish at the outset who will undertake the necessary roles and responsibilities under this procedure. This must then be communicated to all parties to avoid any misunderstandings or possible conflicts of interest.

The complainant

2.1 The essence of the complaint of harassment is that an employee perceives the `actions of another employee as harassment and wants that behaviour to cease. For an employee to make such a complaint against a colleague is a serious matter. The provisions of the Harassment Procedure must, therefore, be respected and not instigated or taken lightly or abused. Vexatious allegations could result in disciplinary action being taken against the complaint. An important element of this procedure is the expectation that the complainant allows an opportunity for the alleged offender to become aware of the effects of their behaviour so that they can modify their conduct as appropriate to the situation. It is anticipated, therefore, that in the majority of cases the employee will wish to resolve their complaint as quickly as possible without resorting to the formal procedures.

Head Teacher

2.2The precise role of the head teacher should be determined at the outset on a case by case basis and should be clarified to all parties at the outset. In many situations the head teacher will have a key role in facilitating an informal resolution to a harassment complaint received in the school. However, in other cases it may be appropriate for this role to be delegated to another appropriate senior manager or governor.

2.3 Where the **Head Teacher is the complainant** the matter should be raised with the Chair of Governors or complaints governor, as appropriate, who should then seek immediate advice from the HR Service.

2.4 Where the **Head Teacher is accused of harassment**, the matter should be raised with the Chair of Governors who should seek immediate advice from the HR Service. If the formal harassment procedures are invoked, then, by arrangement with the Chair of the Governing Body, any investigation and presentation of evidence to a Governors’ Discipline Panel **may** be undertaken by a HR Business Partner.

Delegated Governor

2.5 The role of the delegated governor at Stage 2/or at Stage 3 (appeal) of this process will be to consider all of the relevant information provided by the complainant and the senior leader/governor who considered the complaint at the informal stage/or stage 2 to provide an outcome to the complainant. Both stages (2 or 3) the delegated governor will be supported by a HR Business Partner from the HR Service.

Trade Union Official or Work Colleague

2.6 During the process the employee will have the right to be accompanied or represented (as appropriate) by one person which could be a trade union official or work colleague. The role of the representative is to support the individual and to provide advice, guidance and representation where appropriate. The right to be accompanied and the right to be represented are different.

1. The right to be **accompanied** means that the employee may bring a representative with them to support them at meetings. They must represent themselves and should answer and ask any questions themselves. They may wish to discuss their answers with their representative before providing them.
2. The right to be **represented** means that the employee may ask their representative to speak on their behalf. This could include answering and asking questions or presenting all or part of the case at any hearing.

2.7 Head teachers may wish to arrange for the school employee to determine appropriate person from within the whole school staff who would be prepared to take responsibility for supporting a complainant through the harassment complaint process. However, this would not preclude the complainant choosing an alternative work colleague to support them through the process if they so wished. The role of this person would largely be a supportive listening one and does not replace the more specialist support offered by trade unions and HR Business Partner. This "support colleague" should be allowed to accompany the complainant through each stage of the procedure as a moral support rather than as a representative of the complainant. Where a complaint is made against a head teacher, the complainant may request that an HR Business Partner fulfils this role.

Investigating Officer

2.8 The investigating officer will be responsible for conducting the investigation and presenting the findings to the head teacher and/or disciplinary panel. The arrangements for dealing with a disciplinary investigation will need to be considered within the framework of the current school staffing regulations as well as the principle of natural justice. It is not, therefore, possible for the head teacher to be the investigating officer as well as the person responsible for deciding whether or not to dismiss the employee or to issue a formal warning. The head teacher can only be the investigating officer, therefore, in circumstances where they will not be given delegated responsibility for making any decisions about a potential staff disciplinary action or potential dismissal.

2.9 Where the disciplinary decision is delegated to the head teacher, either on their own or as part of the Disciplinary Panel, another appropriate member of the leadership team should take on the role of Investigating Officer. In certain cases, for example where the head teacher is the subject of the investigation, the school is strongly advised to consider engaging the services of a HR Busines Partner to conduct the investigation on a consultancy basis. There is usually one lead Investigating Officer appointed, however in certain cases there may be more than one person appointed. Schools are advised to contact their HR Business Partner for further advice on the role of the Investigating Officer.

2.10 The role of the Head Teacher includes consideration of the sensitivity of the situation and the welfare of the employee(s) involved.

2.11 When a head teacher notifies an employee about formal procedures/dates of hearings they should aim to inform employees at an appropriate time to ensure the employee has the opportunity to contact their union representative or other relevant person for support.

2.12 Head teachers are advised to do this, wherever possible, towards the end of the day and that any confirmation letters are sent during the working week to avoid notifications arriving on a weekend or during the school holidays. Where this cannot be avoided due to procedural timescale head teachers are advised to offer to contact the trade union representative and their HR Business Partner support to advise them of the content of the letter to enable the trade union representative to contact the employee if necessary.

2.13 Head teachers should avoid sending letters on the last day of a term or half-term. Where this is unavoidable because of procedural timescales heads are advised to offer to alert the trade union representative that a letter is being sent and confirm the content of that letter, to enable the trade union representative to contact the employee if necessary.

Governors’ Disciplinary Panel

2.14 In relation to the 2003 Staffing Regulations, schools are strongly advised that dismissal decisions are best made by a panel rather than by one person acting on their own. It is recommended, therefore, that the Disciplinary Panel should normally consist of the head teacher supported by two governors or three governors.

2.15 The head teacher can be a member of a disciplinary panel but only if they are not directly involved in the harassment complaint or subsequent disciplinary investigation. However, it is recommended that that they should not normally take on this role.

Appeal Disciplinary Panel

2.16 All appeals against dismissal or other disciplinary outcomes must be heard by an Appeal Panel. This should consist of three governors who have had no previous involvement in the case. In some circumstances it may be appropriate for the school to co-opt governors to their governing body as additional members to support school. Consideration for co-opted governors by the school may be done in preparation for a possible disciplinary panel to avoid unnecessary delay for all parties.

Note Takers

2.17 Notes should be taken at all meetings. The school will need to arrange a note taker, this can be done through Governor Services if the school does not have an appropriate person to undertake this role. The Note Taker must understand the confidential nature of the meetings. Notes are not verbatim but are a record of the content of the meeting. It is the school’s responsibility to ensure that notes from meetings are provided to those who were present. his does not prevent the individual or their representative from making their own notes, although the employee is not able to bring an additional note taker to meetings. Meetings may not be recorded unless this is agreed by all parties from the outset. Covert recordings must not be taken.

The Local Authority (LA)

2.18 The HR Service can support schools in applying the provisions of the school’s Harassment Procedure where the school has purchased an annual HR package. LA officers will act as advisers to the governors’ panels. In exceptional cases, a Business Partner from the HR Service may be requested to investigate the alleged harassment complaints on behalf of the Governing Body.

2.19 The LA is responsible for considering complaints originating from Head Teachers or other staff in schools which relate to other LA employees. This complaint will be dealt with using the appropriate County Council procedure.

**Stage One - Managing the Informal Procedures**

3.0 In the first instance the complainant should inform the head teacher of their concerns. Following receipt of a harassment complaint it will then be important to decide who should manage the informal stages of the procedure. Depending on the circumstances, it could be the head teacher or other member of the leadership team, head of department or governor. An initial meeting should then be arranged as soon as possible but no later than 5 working days from the initial notification of the complaint.

Initial Meeting with the complainant

3.1The aim of these procedures is to resolve and then to prevent any further incidents of behaviour which may be interpreted as harassment by an employee. This means that, unless the allegations are serious and/or of a potentially criminal nature, the first stage of the procedure should aim to facilitate an appropriate means of raising the issues either directly or indirectly with the alleged offender. Sometimes people are not aware that their behaviour is unwelcome or upsetting and an informal discussion with them will resolve the matter. Such an informal approach may lead to a better understanding of the complainant’s position so that an agreement can be reached that the behaviour will cease.

3.2The initial discussions should, therefore enable the head teacher / line manager to understand the nature of the incidents and their effect on the complainant and to ascertain whether or not the matter has already been brought to the attention of the alleged offender. The complainant should be made aware that, should the complainant agree, the next stage will be for a meeting to be held with the alleged offender to give them a summary of the complaint, in order to ensure the person has a fair opportunity to respond at the informal stage.

3.3However, in more serious cases, it may be necessary to consider whether the matter should be immediately investigated under Stage Two of the harassment procedures.

3.4 The initial meeting with the complainant should be arranged in a confidential and comfortable environment that is acceptable to the complainant. The complainant may be accompanied by a trade union representative or work colleague. Please see example letter as detailed in Appendix 3.

3.5 The meeting with the complainant should be conducted as follows:

1. Allow the complainant to give a full account of the situation
2. Reassure the complainant that they remain in control of the situation during the informal stages of the procedure. However, they must also be advised that the school may have to take action regardless of the complainant’s wishes in certain circumstances e.g. where there is evidence of a criminal offence, breaches of school policy and procedures, or is sufficiently serious to warrant formal disciplinary action.
3. Ensure the complainant has access to and understands the implications of the school’s Harassment Procedure.
4. Strongly advise the complainant to seek support from their trade union if they have not already done so.
5. Advise the complainant that, if they wish to pursue their complaint through the formal procedures, it will be necessary to involve others, for example, as part of any investigation or as members of a disciplinary panel. They must also be prepared for the fact that they will be expected to discuss the issues openly in front of the alleged offender if the matter is addressed at a governors’ disciplinary hearing.
6. The complainant must then be kept informed about the progress of any agreed action taken. If there are fears of retaliation or victimisation, these should be acknowledged and appropriately addressed.
7. The head teacher / line manager should ascertain whether or not the matter has already been brought to the attention of the alleged offender, and if it has ~~-~~ invite the alleged offender to a similar informal meeting. Invite letter **Appendix 2**
8. The alleged offender is entitled to hear an account of the complaint from the head teacher / line manager dealing with the issue but is not entitled to see the letter from the complainant at this stage.

Outcomes

3.6 The outcomes of the informal stage could be:

1. an apology
2. greater awareness by the offender that the behaviour is unwelcome or upsetting
3. a better understanding by management and the offender of the complainant’s position
4. an agreement is reached that the behaviour will cease
5. an understanding that, if any further incidents occur, disciplinary action may be taken
6. a conclusion that the complaint or allegation is unfounded
7. advice, guidance, training or counselling for either party
8. no further action
9. a decision to proceed with Stage Two formal procedures

3.7 Any decision to move to the formal stages of the procedures should take account of the following factors:

1. Have all the initial / informal options for resolving the complaint been exhausted?
2. Is the complaint sufficiently serious or complex to warrant an investigation?
3. Is there already evidence that the matter may warrant formal disciplinary procedures/
4. Are the complainant’s expectations realistic and appropriate in the circumstances?

Both parties should be written to following completion of the informal stage. Please refer to **Appendix 3** for an example letter to the complainant and **Appendix 4** for a letter to the alleged offender.

**Suspension**

4.0 In some serious cases it may be necessary for the head teacher/ chair of governors to consider suspending the alleged offender. Before taking such action, advice should be sought from the HR Service. Whilst suspension is a neutral act, it is normally only appropriate where there is a potential risk in allowing the alleged offender to remain in the workplace. This could be because there is:

1. a possibility of intimidation of the complainant or any potential witnesses
2. a need to reduce tensions in the working environment
3. a need to facilitate a full investigation

Alternatives to suspension may include temporary redeployment to a different environment or department but it is recognised that this is not always feasible in a school environment.

Important - Further guidance on managing the suspension of an employee is given in the Disciplinary Procedures for School Staff. A standard letter for suspension of an employee is attached as **Appendix 7**

(See detailed advice in the disciplinary procedure regarding suspension)

**Stage Two - Managing the Formal Procedure**

Implementation (Stage Two)

5.0 Important: if the allegations suggest a criminal offence may have been committed the matter will need to be referred to the police. Depending on the circumstances, the school may seek advice from the HR Service before doing so and the individual may wish to seek advice from their trade union.

5.1 The formal procedures will normally be implemented if one or more of the following circumstances apply:

1. The informal procedures have been implemented but the issues of concern continue
2. There may have been a serious breach of school policy and procedures.
3. The allegations are sufficiently serious to warrant formal disciplinary action.

5.2 The first formal step is for the complainant to notify their head teacher (or in cases where the complaint is against the Headteacher then the Chair of Governors) in writing. The information given should include:

1. Clear, specific, allegations against named people.
2. Dates, times and witnesses provided where these are known.
3. Factual descriptions of events rather than opinions or assumptions.
4. Direct quotes if these can be remembered.
5. A brief description of the context of each incident.
6. An indication of how each incident made the complainant feel and the effect it had.
7. Any documentary evidence.
8. Details of any action that has already been taken.

5.3 At this stage the headteacher/ or designated governor will consider all of the information provided by all parties (management’s decision at the informal stage) and communicates the outcome to both the complainant and their trade union representative, management, to advise them of their findings/outcomes and any actions or recommendations. Once the decision has been given, it will be confirmed clearly in writing within 3 working days giving the right of appeal to the complainant if they are not satisfied with the outcome **(please see paragraph 9 – Stage 3 - Appeal).**

Investigating the complaint under the school’s Disciplinary Procedure

5.4 Head teachers / chairs of governors should always refer to the School Disciplinary procedure and seek advice from their named HR Business Partner before commencing an investigation at this stage. It should be clearly understood by the alleged offender and interviewees that the investigation is in accordance with the Disciplinary Procedure for School Staff.

5.5 It should be acknowledged that formally interviewing the complainant, alleged offender and any other relevant witnesses may be a stressful process for all parties. Letters inviting complainant, alleged offender and any witnesses to a formal investigatory interview are attached as **Appendix 8 a, b** - 5days’ notice must be given.

5.6 Included in the invite letter there should be a copy of the Investigation Interview Handout – **Appendix 9**

5.7 At the beginning of an investigatory meeting, the investigating officer(s) should explain the purpose of the meeting, and confirm that, as far as possible, confidentiality will be maintained. It needs to be made clear to the alleged offender and interviewees that is it an investigation under the Disciplinary Procedure for School Staff. The purpose and process of the interview should also be explained. When interviewing the complainant and alleged offender the investigating officer(s) should state precisely what the complaint is and outline the case briefly.

5.8 For further information as to how to conduct an Investigation please see separate guidelines on the [Schools Portal](http://www.nottinghamshire.gov.uk/schoolsportal/hr-advice-support-and-training/policies-and-procedures/grievance-and-harrassment-procedures).

5.9 The main purpose of the interview is to hear the views of all parties and to listen carefully to what is being said. Facts should be checked and clarified. When interviewing witnesses it is not necessary to state all the facts of the case, only those on which the witness has something relevant to say. For all such interviews, the tone adopted by the investigating officer(s) should not be accusatory. A list of open questions should have been prepared prior to the interview, which should be followed up with prompts as necessary, e.g. *‘And what happened after that?’, ‘I’m not quite sure what you meant when you said ....’.* The questions should be used to clarify all the issues and to check that what has been said is understood by all.

5.10 The investigating officer(s) should ensure fairness to both parties in their questioning, which may need, at times, to be direct and probing to establish the facts. It is important for the investigating officer(s) to avoid confrontation, defuse potential arguments and avoid the use of remarks which could be construed as personal or demeaning in any way. Listening attentively and being sensitive to silence can be a constructive way of encouraging the interviewee to be more forthcoming. If the interviewee becomes emotionally distressed during the interview a short break should be suggested to allow them to compose themselves before continuing. However, if the interviewee continues to be so distressed that the interview cannot continue, or if threatening language or threats of any kind are made occurs during the interview, it should be adjourned for a short time, or, if necessary reconvened at another time.

5.11 At the conclusion of each interview the investigating officer(s) should acknowledge that the process may have been difficult for all parties and thank them for their time and contribution. All parties, including any witnesses, should be told what will happen next and the likely timescales. They should also be told to maintain confidentiality and, therefore, not to discuss the complaint with other parties or work colleagues, other than those providing support as agreed. After the interviews a witness statement should be prepared and sent to each party under confidential cover to check, sign and date, verifying that it is an acceptable and accurate version of the interview.

5.12 After the signed statements have been returned, the Investigation Officer should then compile a report. A Template for an Investigation report is attached as **Appendix 10**

Outcome of the investigation

5.13 Unlike a Court of Law, the harassment investigation and any subsequent disciplinary hearing does not need to establish guilt on the basis of “beyond reasonable doubt” but on the lower test of “the balance of probabilities” ie. *“Is there a reasonable suspicion amounting to a belief in the guilt of the employee of the alleged complaint and are there reasonable grounds for that belief?”*

5.14 The following points should be considered by the investigating officer(s) if they are making recommendations about action:

1. Is the misconduct sufficiently serious to justify disciplinary action?
2. Has due regard been paid to any mitigating circumstances put forward by or on behalf of the alleged offender?
3. Are the recommendations being considered reasonable in the light of all the known circumstances?
4. Has the investigation been reasonable and sufficient?

5.15 There are several possible outcomes to such an investigation. For example:

1. If the alleged offender **admits the allegation**, there may be no need for the investigation to continue unless the investigating officer(s) feel that further confirmation of the facts is needed. Consideration will need to be given as to whether any disciplinary action should be implemented against the offender.
2. The investigating officer(s) may deem there is a case to answer and recommend a disciplinary panel be convened.
3. the investigating officer(s) may conclude on “the balance of probabilities” that **none of the alleged behaviour occurred**. Consideration may then need to be given as to whether there are any issues relating to the complainant’s behaviour or perception of the situation which need to be addressed.
4. the investigating officer(s) may conclude that **both parties had contributed to the situation** and appropriate action will need to be taken, including counselling support or mediation, to resolve the issues.

**Communicating the outcome**

6.0 The complainant, alleged offender and any recognised trade union representatives should be told separately of the recommendations and be given the opportunity to comment on the investigation (process and recommendations only) prior to the head teacher/ investigating officer confirming the decision and any recommendations in writing. The investigation officer will then meet with the commissioner of the investigation to discuss the recommendation concluded in the report.

6.1 If the outcome of the investigation is to convene a governors’ disciplinary hearing (Stage 2 of the Formal Harassment Procedures) this must be held in line with the School’sDisciplinary Procedure – Part 1 (Conduct). Any concerns raised by the alleged offender will be considered as part of that process. However, regardless of whether the complaint is upheld or not it will be necessary to consider what steps need to be taken to restore good working relationships between the respective parties and to manage the aftermath of the situation. (See section below - Managing the Aftermath.)

**Governors’ Disciplinary Hearing**

7.0 In cases where complaints are raised formally through the Harassment Procedure they may, subject to the findings of a full investigation, result in a governors’ disciplinary hearing. This hearing will be arranged and conducted in line with the School’s Disciplinary Procedure – Part A1 ( Conduct). Sample letter to alleged offender inviting to a disciplinary is attached as **Appendix 11** and to witnesses **Appendix 12.**

7.1 In view of the sensitivity of the situation, particular consideration will need to be given to the arrangements for the hearing. For example, the venue will need to comfortably accommodate all parties during the course of the meeting and provide a suitable room for any witnesses waiting to give evidence. Arrangements must also be made for an appropriate person to take notes throughout the hearing

7.2 The governors’ disciplinary panel should comprise three governors who will take responsibility for considering the harassment complaint under the formal Harassment Procedure - (Stage Two). The governors included in a panel hearing a harassment complaint should have had no previous direct involvement in the case in question. However, where this presents a problem, for example in very small schools or exceptionally complex cases, membership of the panel should be considered on a case by case basis. The head teacher can be a member of the Disciplinary Panel but only if they are not directly involved in the complaint or investigation. However, it is recommended that that they investigate the issues of concern and are therefore unable in most cases to take on this role.

7.3 The panel should be as representative as possible according to the circumstances of the complaint. Ideally, at least one member should have received training or be experienced in dealing with harassment complaints. Due to the sensitive nature of harassment, it is acknowledged that the panel may wish to make revisions to the normal formal conduct of the hearing. However, the rules of natural justice must be observed by the Disciplinary Panel in affording both sides the opportunity of a thorough exploration of the issues. The formal order of events for such a hearing is shown at **Appendix 13**

7.4 In coming to a judgement the panel will need to consider the following:

* Has there been as much investigation as is reasonable?
* Has the investigation paid sufficient regard to the explanation put forward by, or on behalf of, the alleged offender?
* Does the panel believe the alleged offender has committed the act or behaviour?
* Does the panel have reasonable grounds on which to sustain that belief on the balance of probabilities?

**Rights of Appeal (Disciplinary Panel)**

8.0 There is no further right of appeal by the person who has raised the harassment complaint when their complaint has been investigated formally under the schools Disciplinary Procedure. However,

1. the employee against whom the harassment complaint has been made has the right to appeal against a decision of the Governors’ Disciplinary Panel regarding their conduct. This must be notified to the Head Teacher in writing within 10 working days of the outcome letter. Arrangements for the appeal to be heard will then be made in line with the school’sDisciplinary Procedure – Part 1 ( Conduct).
2. there is no recourse to an appeal or grievance procedure if the complainant is dissatisfied with the outcome of a disciplinary hearing held to consider the conduct of the employee against whom their harassment claim was made.

**Stage 3 - Appeal**

9.0 The Appeal meeting should be heard by a delegated governor who will take responsibility for considering the harassment complaint under the formal Harassment Procedure -The governors should have had no previous direct involvement in the case in question and they will be supported by an independent HR Business Partner who has had no involvement with the case. Sample letter to complainant inviting to the appeal meeting is attached as **Appendix 14**

9.1 In coming to a judgement the Governor will need to consider the following:

* Has there been as much investigation as is reasonable?
* Has the outcomes of stage 1 & 2 paid sufficient regard to the explanation put forward by, or on behalf of, the alleged offender?
* Does the Governor believe the alleged offender has committed the act or behaviour?
* Does the Governor have reasonable grounds on which to sustain that belief on the balance of probabilities?
* Does the Governor feel satisfied with the information provided by all parties (including the outcomes from stage 1 & 2)?

**Managing the aftermath**

10.0Full account will need to be made of the outcome and recommendations made as a result of any formal process.After the conclusion of a case brought under the school’s Harassment Complaints Procedure the school is still responsible for maintaining a harassment-free workplace, whatever the outcome. Successful management of the aftermath of a harassment complaint will largely depend on the quality of support to the complainant and alleged offender from the head teachers and other senior leaders where appropriate.

10.1 Victimisation is unlawful. This means that management must ensure that there is no victimisation - whether intentional or not – of any of the parties involved. It will be important, therefore, to reassure the complainant and consider how they may be affected. Victimisation can lead to the following typical comments from complainants:-

1. “I feel I have been made to seem as if I’m the trouble maker.”
2. “I am afraid to go to work.”
3. “I am too scared to speak now.”
4. “People think that I’m the problem.”

10.2 Whether the complaint is resolved through the initial stage or through the formal stage, the head teacher / chair of governor’s must ensure that any action decided upon is properly and fully followed through.

10.3 It is important to recognise the potential damage to relationships that may occur and that such feelings may be long term.

10.4 A complainant or alleged offender may be absent from work for a lengthy period through stress or depression arising from the situation. This will need to be sensitively handled with reference, as appropriate, to the school’s Attendance Management Policy.

10.5 The County Council’s counselling service can be used as necessary for individual/group counselling. This and other sources of support, may be accessed in consultation with the HR Serviceand the trade union representative as appropriate.

10.6 As a matter of principle, all the parties involved should be offered an opportunity to consider howthey are to continue to work together. The overriding concern is the complainant’s right to a safe and supportive, working environment. If the complaint is upheld, it should be the offender’s working relationships which are changed. However, the complainant’s normal working practices and relationships should not be altered unless it is their explicit wish.

10.7 Given the confidential nature of the complaint / issues, it will be important to consider what information should be issued to other staffi.e. to the immediate team as well as to the whole school workforce. It is likely that gossip, rumour and misinformation will be widespread so school managers will need to be briefed appropriately so they can give agreed information to their teams about a particular case.

**Employment Tribunals**

11.0In certain circumstances e.g. if dismissal occurred as a result of a harassment complaints case, an employee may be entitled to take their appeal against disciplinary action to an Employment Tribunal.

11.1A complainant may also take his/her case of discrimination or harassment to an Employment Tribunal. To do this they must present evidence of being treated to their detriment because of discrimination attributable to age, race, sex, sexual orientation, religion and belief, gender re-assignment, disability, pregnancy or maternity and marriage or civil partnership. These are known as ‘protected characteristics’ and are grounds recognised by the Equality Act 2010.

11.2The Employment Tribunal will comprise a panel of three people - one legally qualified Chair and two lay advisers. Their task will be to decide whether to uphold the appellant’s claim, and in doing so will consider the nature and fairness of the investigation, the conduct of the disciplinary hearing, and whether any disciplinary action was reasonable and appropriate in the circumstances. The investigating officer (s) or chair of the Disciplinary Panel may also be called as witness