

PROMOTING A DIGNIFIED WORKPLACE

A POLICY STATEMENT AND CODE OF PRACTICE ON MEASURES TO COMBAT BULLYING AND HARASSMENT OF TEACHING STAFF IN SCHOOL

STATEMENT OF POLICY FOR TEACHERS

[1] GENERAL PRINCIPLES

- 1.1** The Board of Governors recognises that its staff are its most valuable asset and have a right to be treated with dignity and respect. The Board of Governors is committed to the promotion of a harmonious and supportive working environment through pro-active and sensitive management and is committed to treating and investigating all allegations of bullying and harassment with equal seriousness according to the negotiated procedures and protocols. Bullying and harassment is unacceptable behaviour.
- 1.2** Teachers, regardless of their status, are required to undertake their duties in a professional manner, and to comply with all reasonable instructions. They have an active role to play in the promotion of harmonious working relationships and are expected to be aware of what constitutes reasonable and acceptable behaviour.
- 1.3** The Board of Governors:
- condemns bullying and harassment as inappropriate to the maintenance of good employee relations and the promotion of the dignity of teachers' working lives
 - will work to promote dignity at work and protect teachers
 - will uphold the principles of equality and equity
 - will ensure that teachers can carry out their roles effectively within a secure working environment.
- 1.4** Bullying and harassment may infringe several pieces of domestic and European legislation. These include:
- Health and Safety at Work (NI) Order 1978 (as amended)
 - Equality legislation including:
 - Equal Pay Act (NI) 1970 (as amended)
 - Sex Discrimination (Northern Ireland) Orders 1976 (as amended)
 - Disability Discrimination Act 1995 (as amended)

- Race Relations (Northern Ireland) Order 1997 (as amended)
- Fair Employment and Treatment (Northern Ireland) Order 1998 (as amended)
- Employment Equality (Sexual Orientation) Regulations (Northern Ireland) 2003 (as amended)
- Employment Equality (Age) Regulations (Northern Ireland) 2006
- The Human Rights Act 1998
- The Protection from Harassment (NI) Order 1997
- Common Law

In addition bullying and harassment may constitute a threat to the teacher's health, safety and wellbeing. Should bullying and/or harassment occur, the teacher(s) affected has a right to complain using the attached Code of Practice and procedure. The Code and procedures are designed to be transparent and accessible. No teacher should be made to feel guilty or embarrassed in exercising their rights under the Code.

1.5 The Board of Governors is committed to:

- the protection of the health, safety and wellbeing of all staff
- ensuring that all staff are made fully aware of their rights and responsibilities
- dealing with allegations of bullying and harassment seriously, sensitively and in confidence
- undertaking the necessary training in managing the procedure
- ensuring that a copy of this Policy, Code and Procedure is made available for every teacher and that every teacher is briefed on the promotion of a harmonious workplace.

1.6 A teacher who brings a complaint of bullying and/or harassment or who is a witness to bullying and/or harassment and who as a result of this is subject to bullying and/or harassment themselves will be protected against victimisation or retaliation. A teacher who is found guilty of bullying and/or harassment or victimisation may be subject to appropriate action in accordance with the agreed disciplinary procedures.

1.7 In order to effectively implement its policy on Bullying and Harassment, the Board of Governors has adopted a Code of Practice and Procedures to combat bullying and harassment of teachers within the school. The Code of Practice and Procedures, which have been agreed with the recognised teacher unions, set out the procedures for a teacher(s) to pursue a legitimate claim of bullying and/or harassment by another teacher(s) within the context of their employment in the school.

- 1.8** A teacher who invokes this procedure and the person(s) against whom allegations are made, should be given a copy of the Policy, Code and Procedures and advised of the right to be accompanied at all stages of the investigation and any subsequent procedural action by a Trade Union Representative or a teaching colleague. It is important that the same individual does not accompany both parties. Legal representation is not permitted in the operation of the procedure.
- 1.9** This procedure will also apply to Principals who consider they may be the subject of bullying or harassment.
- 1.10** Documentation relevant to the matters will remain confidential. Such documentation will form part of discoverable documents, should there be subsequent legal proceedings.
- 1.11** In order to effectively implement this Policy, appropriate training will be provided by the appropriate body in relation to the management and investigation of complaints of bullying and harassment, including future refresher training at the required time. In addition, the Board of Governors will make arrangements for the provision of awareness raising for **all** staff in relation to the promotion of a dignified workplace and the issues of adult bullying and harassment.
- 1.12** The Board of Governors will make an annual report to the relevant Employing Authority in respect of claims raised under the Policy and any remedial action taken as a result of such claims. The Employing Authority will monitor the application and operation of this Policy and provide an annual statistical report to the Teachers' Negotiating Committee.
- 1.13** The implementation and operation of this Policy, Code of Practice and Procedures are the responsibility of the Board of Governors and Employing Authorities.
- 1.14** This Policy, Code of Practice and Procedures is an evolving document. Any amendments or updates to comply with good practice or changes in employment or equality legislation will be the subject of joint consultation with the recognised Teacher Unions.
- 1.15** "Policy", in this document means Policy, Code of Practice and Procedures.

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| <p>CODE OF PRACTICE TO COMBAT BULLYING AND HARASSMENT</p> |
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[2] **BACKGROUND INFORMATION**

2.1 PURPOSE OF THE CODE OF PRACTICE:

- [i]
 - to inform, raise awareness and advise teachers in relation to their roles and responsibilities for ensuring that their behaviour is conducive to a harmonious workplace;
 - to raise awareness of behaviours or practices that may constitute bullying and harassment in the workplace and to highlight the consequences of such behaviours;
 - to advise teachers of measures they may take to address their concerns where they feel that they are the victims of or witnesses to workplace bullying and harassment by other workers.
- [ii] To define the duties and responsibilities of Boards of Governors and teachers in implementing the Bullying and Harassment Policy.
- [iii] The Board of Governors is committed to:
- the prevention of bullying and harassment and the development of a culture of positive behaviour where a teacher's dignity at work is respected and valued. Behaviours contrary to the promotion of this policy will not be tolerated and will be dealt with promptly and fairly;
 - ensuring that a copy of the policy is made available for every teacher and that every teacher is briefed on the promotion of a harmonious workplace;
 - implementing the Procedures attached to this Code of Practice and the accompanying flowcharts (Appendix 2 & 3) for investigating claims of bullying and harassment.

2.2 WHAT CONSTITUTES BULLYING AND HARASSMENT

- 2.2.1** The Board of Governors accepts the following as a broad definition of **bullying and harassment**:
- “Where one person or persons engage in unwanted conduct in relation to another person which has the purpose or effect of violating that person's dignity or creating an intimidating, hostile, degrading,*

humiliating or offensive environment for that person”

“The conduct shall be regarded as having this effect only if, having regard to all the circumstances and in particular the alleged victim’s perception, it should be reasonably considered as having that effect”.

- 2.2.2** The Board of Governors also accept that harassment may be identified with specific attributes including the individual’s religious or political opinion, gender, marital status, sexual orientation, race, disability or age.
- 2.2.3** The offending behaviour will largely dictate into which category (i.e. bullying/harassment) it falls. If the conduct is related to social identity it will be harassment and if not it will be considered bullying.
- 2.2.4** It is recognised that bullying and harassment may occur through unwitting prejudice or ignorance, stereotyping or thoughtlessness. However unintentional and unwanted conduct may still constitute bullying and harassment.
- 2.2.5** It is recognised that bullying affects an individual’s perception of his/her workplace and beyond. For the victim of bullying and/or harassment this perception of their world becomes a reality and may significantly affect their physical and/or mental health and prevent them from discharging their roles and responsibilities as a teacher.
- 2.2.6** While they are demonstrable by acts against the person, bullying and harassment may also be perpetrated by omission or failure to act.
- 2.2.7** Work related acts of bullying and harassment may occur inside and outside of the workplace e.g. there may be external social events that will constitute an extension of the workplace.

2.3 FORMS OF BULLYING AND HARASSMENT

- 2.3.1** Bullying and harassment can take many forms. Some examples of the manner in which bullying and harassment may be manifested are listed below. The list is not exhaustive and will be subject to any review of this Policy:
- overt abuse of power, including setting unrealistic targets or excessive monitoring of a teacher;
 - unfair work allocation or allocation of inappropriate work;
 - inequitable allocation of resources;
 - trivial fault finding;

- singling out and/or treating differently from other teachers;
- constant negative criticism which cannot be justified and is contrary to the assessment of the teacher's peers etc;
- repeated behaviour which has the effect of belittling, demeaning, ridiculing, patronising, degrading etc. another teacher;
- undermining a teacher either in private or in front of others;
- denying knowledge or information necessary to allow the teacher to undertake their work;
- lack of adequate management support;
- offensive language or inappropriate bad language;
- inappropriate use of formal procedures such as disciplinary or grievance procedures;
- unwelcome personal comments about dress or appearance, unrelated to the promotion of dress codes or standards within the school; isolation or non co-operation at work, exclusion from social activities;
- intrusion by pestering, spying, stalking;
- work overload/reduction;
- suppression of career development;
- use of third parties (e.g. pupils) to carry intimidating messages or carry out unwelcome actions on behalf of others;
- plagiarism, taking undeserved credit but never accepting responsibility when things go wrong.

2.3.2 Harassment may also be perpetrated in the workplace by a variety of acts including:

- verbal or written harassment including electronic communications, e.g. insensitive or embarrassing remarks, offensive language, gossip and slander, jokes, signals or gestures, racist comments, threats;
- coercion, requests for sexual favours;
- offensive visual material e.g. pin-ups, pornographic pictures or literature, graffiti, etc.;
- inappropriate physical contact ranging from unnecessary touching to physical assault or the threat of physical assault;
- Disability Related Harassment:
 - Non-verbal (gestures, staring and offensive notes/letters),
 - verbal (language, jokes, comments, ridicule, nicknames, etc) or
 - physical (jostling, mistreating or assaulting);
- Racial Related Harassment:
 - physical conduct ranging from touching to serious assault,

- verbal and written harassment through jokes, racist remarks and the like,
- displays of racist graffiti or other offensive material based on race,
- isolation or non-co-operation or exclusion from activities,
- taunting regarding the colour of his/her skin,
- taunting regarding type of dress associated with his/her culture.

In addition to claims of harassment, acts referred to above may lead to claims of discrimination.

2.4 THE EFFECTS OF BULLYING AND HARASSMENT

2.4.1 Bullying and harassment can exact a high price from teachers both in respect of their physical and mental health. Teachers may be subject to stress and anxiety, which can put great strains on professional, personal and family life.

These can lead to illness, increased absenteeism, an apparent lack of commitment, poor performance and even resignation. Collectively, retention and attendance problems may arise and ultimately affect teaching and learning within the school.

2.4.2 A distinguishing characteristic of bullying and harassment is that teachers subjected to it may be reluctant to complain. The individual may be too embarrassed or unsure as to how to make a complaint or concerned that it will be trivialised. He or she may fear reprisal. Teachers suffering from bullying and harassment may not want attention focused on the situation and therefore allow unacceptable behaviours to continue.

2.4.3 Individuals who witness bullying and harassment of a colleague may also be reluctant to “whistleblow” or act as a witness for fear of reprisals. In these circumstances individuals may wish to refer to the Code of Practice on Reporting Malpractice (Whistleblowing Policy).

Making a complaint is likely to be a distressing experience both for the complainant and for the person against whom the allegation is made. It is vital that such cases are handled seriously, sensitively, with the highest degree of confidentiality and that a full and fair investigation is carried out. Confidentiality is subject to matters becoming the subject of appeal, further proceedings or statutory discovery.

2.5 BULLYING AND HARASSMENT AND THE LAW

- 2.5.1** Boards of Governors have a collective duty of care under the Health and Safety at Work (NI) Order 1978 to provide a safe place of work. A failure to deal with allegations or incidents of bullying and harassment at work may expose employers to a number of legal challenges. These are outlined briefly below.
- 2.5.2** While there is no specific legislation to prevent bullying in the workplace, victims of bullying may bring legal claims for breach of contract, negligence, assault, false imprisonment, public order offences, constructive dismissal and breaches of health and safety legislation or common law. Individuals who witness bullying may consider referring the matter under the Public Interests Disclosure Act.
- 2.5.3** Harassment is a stand alone statutory offence but can also be held to constitute discrimination under the Sex Discrimination Order (NI) 1976 (as amended), The Disability Discrimination Act 1995 (as amended), The Race Relations (NI) Order 1997 (as amended), The Fair Employment and Treatment Order 1998 (as amended), The Employment Equality (Sexual Orientation) Regulations (NI) 2003 (as amended) and the Employment Equality (Age) Regulations (NI) 2006 (as amended).
- 2.5.4** The Protection from Harassment (NI) Order 1997 makes harassment on two or more occasions potentially both a civil and a criminal offence.
- 2.5.5** Bullying and Harassment may also lead to prosecution under the Health and Safety at Work (NI) Order 1978 if the employer is found to be negligent in his/her duty of care to employees.
- 2.5.6** There are also specific statutory provisions which allow teachers to claim if they are harassed because of their trade union membership activities, or because of their non-membership of a trade union.

[3] ROLES AND RESPONSIBILITIES

3.1 BOARDS OF GOVERNORS

The Board of Governors has the overall responsibility for overseeing the introduction, implementation and operation of this Policy.

3.2 PRINCIPAL

- [a] The Principal is responsible for the operation of the Policy. This shall include ensuring that teaching staff are aware of the Policy and its provisions.

- [b] The Principal is also responsible for communicating the Policy to teachers, taking appropriate steps to promote the Policy and being proactive in raising awareness of the issues relating to the Policy.
- [c] The Principal has a responsibility to promote positive behaviours in professional and employment related matters.
- [d] The Principal must also ensure that any complaint of bullying and harassment is dealt with quickly and treated seriously, sensitively, fairly and in confidence. Advice on the management of complaints and further guidance is available from officers of the Employing Authority.

3.3 TEACHERS

All staff are responsible for promoting and maintaining effective and harmonious working relationships within the school.

Teachers are urged to resolve issues, as far as practicable, in a professional and courteous manner and as quickly as possible.

3.4 THE EMPLOYING AUTHORITY

Where appropriate, it is the responsibility of the Employing Authority to advise, assist and support Boards of Governors and Principals in dealing with the management of complaints of bullying and harassment and to advise on the provision of relevant training and awareness on the application of the Policy.

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| PROCEDURES |
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[4] PROCEDURE FOR DEALING WITH COMPLAINTS OF BULLYING AND HARASSMENT

The procedures outlined below indicate the action to be taken if a teacher feels s/he is being bullied and/or harassed. The primary objective of these procedures is to resolve the issue/s and to restore effective working relations between the parties concerned as quickly as possible. It must be stressed that in most cases this is best achieved by use of informal methods. Those involved are strongly advised to make genuine efforts at informal resolution before having recourse to formal procedures. This could include suitable intervention and facilitation by appropriate officers of the Employing Authority.

Matters involving pupils should be dealt with under the appropriate procedures.

The policy applied will be determined on the basis of the person who raised the complaint.

4.1 INFORMAL PROCEDURE

4.1.1 A teacher who feels that s/he has been subjected to bullying and harassment may attempt to resolve the problem informally in the first instance. This stage is appropriate where the teacher simply wants the behaviour to stop, where the bullying and/or harassment is not serious and where it has not been repeated. In such circumstances an informal discussion between those involved can lead to greater understanding and an agreement that the behaviour will change. Such meetings should be conducted in a private forum and have the sole purpose of informing a colleague that the behaviour in question is offensive, regardless of the intention and must stop. In some cases it may be possible and sufficient for the teacher to notify the person concerned that the behaviour has caused offence and that such behaviour is not acceptable to the individual.

4.1.2 The Principal/Board of Governors should encourage teachers to avail of informal resolution of complaints wherever possible, using the resources of the school, Employing Authority and Trade Unions to do so. This could include suitable intervention and facilitation by appropriate officers of the Employing Authority.

- 4.1.3** In seeking to resolve issues in this way, a teacher may wish to obtain the confidential advice, assistance or support of a work colleague, a Trade Union Representative or an appropriate officer from the Employing Authority.
- 4.1.4** Where teachers prefer advice and support from a person of their own gender, religion, sexual orientation, age or race, this should be accommodated where practicable.
- 4.1.5** It is expected that most cases will be resolved satisfactorily through the informal process. However, if the bullying or harassment continues, if it is of a serious nature, or if the behaviours are repeated, the complainant has the right to seek mediation or to proceed to formal complaint.

4.2 MEDIATION

- 4.2.1** Mediation is an agreed process entered into voluntarily, in which an experienced intermediary assists participants who are in dispute. The process is to enable those involved to reach resolution and is also designed to assist them to work towards a better understanding of their specific substantive issues. Mediation can include:
- Improving communication and mutual understanding
 - Improving relationships
 - Working towards finding solutions
 - Exploring positive outcomes and agreements.
- 4.2.2** Before invoking the formal procedure, it may be possible to deal with the complaint through the use of mediation. The aim of mediation is to move away from adversarial procedures and to resolve issues as early as possible. This will benefit teachers in re-establishing effective and harmonious working relationships and preserve the dignity of all those involved.
- 4.2.3** The aim of the process shall be to seek an early resolution of the issues using the resources of an independent mediator, provided by the Labour Relations Agency, who will assist the parties in:
- identifying common aims and objectives;
 - re-establishing lines of communication; and
 - developing proposals for settlement

There are three fundamentals for successful mediation:

- It is consensual
- It is private and confidential between the parties
- The focus is on needs and interests rather than rights and liabilities.

In addition it requires the parties involved to enter into the process with an open mind and a willingness to listen to all points of view.

4.2.4 The teacher shall indicate in writing to:

- [a] The Principal or in the absence of the Principal the nominated deputy; or
- [b] The Chairperson of the Board of Governors where the Principal is making a complaint or is the subject of a complaint,

that s/he wishes to initiate the mediation process. This request shall be forwarded to the other party for agreement.

4.2.5 Upon receipt of agreement from the parties the Principal shall notify to the Chairperson of the Board of Governors who shall contact the Employing Authority to initiate the mediation process. The mediation facility will be facilitated by the Labour Relations Agency and they shall be notified of the request, normally within five working days of this being received.

4.2.6 Where a party refuses to enter into the mediation process, the complainant shall be advised of the right to request a formal investigation of the complaint.

4.2.7 Teachers involved in the mediation process are entitled to be accompanied by a representative of their union, or a teaching colleague. Legal representation is not permissible.

4.2.8 The mediator shall be responsible for the arrangements and management of the specific mediation process and will forward a copy of Appendix 1(a) to both parties.

4.2.9 Meetings with the mediator will be held in a neutral venue. Teachers involved in the process will be allowed reasonable time, at work, to prepare and participate in the process.

4.2.10 The parties will be advised in writing, of the date / time / venue of the initial meetings with the mediator. This will normally be within 20 working days of the formal notification to the Labour Relations Agency.

- 4.2.11 The mediator will be provided with a copy of any notes or records relevant to the issues under consideration. In addition parties may wish to make written submissions summarising the issues to the mediator.
- 4.2.12 The mediator will meet with each party separately to outline the process and ascertain the details of the issue/s to be resolved.
- 4.2.13 The mediator will endeavour to bring the parties to a mutual agreement as quickly as possible and will outline the process including agreement on written statements / outcomes etc.
- 4.2.14 An outline of the mediation process is attached as Appendix 1.

4.3 FORMAL PROCEDURE

- 4.3.1 It is recognised that there may be situations where it may be impractical or inappropriate to implement the informal stage and/or that the nature of the alleged bullying or harassment requires a more formal approach. In such circumstances it is appropriate for the complainant to request investigation on a formal basis directly.
- 4.3.2 A complaint should be made as soon as possible following behaviour deemed inappropriate so that the matter can be dealt with swiftly and decisively. Ideally, this should be within 10 working days of an incident or of the last or most recent incidence of unacceptable behaviour.
- 4.3.3 A formal complaint should be made in writing and outline the nature and basis of the behaviour deemed unacceptable. The person/s against whom the allegation is made should be identified to:

- [a] The Principal or in the absence of the Principal their nominated deputy; or
- [b] The Chairperson of the Board of Governors where the Principal is making a complaint or is the subject of a complaint.

Alternatively the complaint may be made to the management of the school through:

- [c] A Trade Union representative or a teaching colleague from the school. In such circumstances the representative or teaching colleague will notify the Principal or Board of Governors in writing of their nomination to formally accompany the teacher. In such circumstances the representative or teaching colleague will be provided with correspondence relevant to the matters under investigation.

4.3.5 A decision to initiate a formal investigation will not militate against the complainant unless the claim/s is deemed to be an abuse of the procedure and was instigated in this context, (see paragraph 5).

4.3.6 A formal complaint will be dealt with as soon as is reasonably practicable. The parties and/or their representatives will be advised on progress during the course of the investigation.

4.4 ACTION TO BE TAKEN ON RECEIPT OF FORMAL COMPLAINT

4.4.1 The Principal or Chair of the Board of Governors will acknowledge receipt of a formal complaint, in writing, and the Chair will establish a sub-committee of the Board of Governors, normally within 10 working days of receipt, to investigate and deal with the complaint. The remaining Governors will take no further part in the investigation and determination of the case, but will remain available to participate in any subsequent disciplinary action which may be required. It is important in this respect that provision is made for Appeal Panel members, to hear any subsequent appeal.

4.4.2 The complainant will be advised in writing that:

- s/he will be asked to attend a meeting of the investigatory sub committee;
- the person against whom the allegation is made will be informed that a complaint has been made;
- the allegation(s) and any statement(s) or evidence will be made known to the subject of the complaint in the course of the investigations.

4.4.3 The subject of the complaint will be advised in writing, as soon as possible, that a complaint has been made and that s/he will be informed in writing of the details of the allegations, following the investigatory panel's meeting with the complainant. A copy of this Policy and Procedure will be provided.

4.4.4 Upon receipt of a formal complaint of bullying and/or harassment the Chair of the Board of Governors will inform, in writing, the Employing Authority that a complaint has been made.

4.4.5 In exceptional circumstances, at any stage in the process, consideration may need to be given to the need for precautionary paid suspension as a means of protecting the health, safety and welfare of the complainant and / or the subject of the complaint, or where there is a likelihood that the subject of the complaint may seek to obstruct or unduly influence the outcome of the investigation. Such a suspension shall only be imposed after careful consideration has been given to the necessity for

it. Other alternative actions such as re-deployment will also be considered so long as they serve the same purpose as the paid suspension.

The Employing Authority must be consulted before a suspension is imposed, or where this is not practicable, as soon as possible thereafter. Where the person against whom the allegation is made is a representative of a recognised teacher union this suspension will not normally take place until the full time official has been informed.

The teacher shall be given written confirmation of the suspension, indicating that it is a precautionary measure pending the investigation and must not be seen as prejudicial to the outcome.

4.5 MEMBERSHIP & ROLE OF THE INVESTIGATORY SUB-COMMITTEE OF THE BOARD OF GOVERNORS

4.5.1 The Chair of the Board of Governors will establish a sub-committee of the Board of Governors, hereafter referred to as the investigatory panel, comprising not more than three voting members, with delegated authority to investigate and decide on the case. Where possible and appropriate the panel should be balanced in respect of age, gender, race or ethnic origin. In normal circumstances the Principal may be in attendance and may be interviewed by the investigatory panel, but there may be reasons why it would be inappropriate for the Principal to be present. The investigatory panel may invite an officer from the Employing Authority to be in attendance and/or assist in or undertake part of the investigation on behalf of the Panel. Governors may co-opt others, where a small number of governors exist.

A written record of all proceedings will be taken.

4.5.2 The members of the investigatory panel carrying out the investigation should be unconnected with the allegation, nor should they be members of any disciplinary committee which may be established to deal with any issues arising from the investigation.

4.5.3 The remit of the investigatory panel will be to:

- investigate the complaint in a thorough manner;
- elicit the facts;
- determine if there is substance to the complaint;
- attempt, with the prior approval of the parties, to resolve the issues between them in an agreed way;
- decide on appropriate action.

4.5.4 The overall conduct and the management of the investigation shall be for the investigatory panel to determine. It will ensure that the process is confidential, prompt and discreet. An initial meeting of the investigatory panel will normally take place within 15 working days of the receipt of a written complaint.

4.6 FORMAL INVESTIGATION

Initial meeting with the Complainant

4.6.1 The investigatory panel shall advise the complainant in writing:

- that a meeting has been arranged to enable him/her to discuss the complaint with the panel;
- of his/her right to be accompanied by a Trade Union representative or a teaching colleague at all stages of the procedure;
- a copy of this Policy and Procedure should be provided.

4.6.2 The investigatory panel shall meet with the complainant to:

- clarify and record the nature of the formal complaint;
- establish the facts and issues relevant to the complaint;
- note any evidence brought by the complainant;
- take note of any witnesses being relied upon;
- ensure that the complainant is aware of all stages of the procedure;
- determine what the complainant would regard as a satisfactory resolution;
- make the complainant aware of the Employer's Welfare Service provision.

The investigatory panel will summarise the issues and particularly the precise terms of complaint which is to be investigated, and will provide such to the complainant or representative at the earliest opportunity.

4.7 INFORMING THE PERSON AGAINST WHOM THE ALLEGATION IS MADE

4.7.1 The investigatory panel shall advise in writing the person against whom the allegation is made, normally within 10 working days of their initial meeting with the complainant:

- of the detailed nature of the allegations that have been made;
- that s/he will be called to a meeting to investigate the allegations, under the formal procedure;
- that s/he has the right to be accompanied by a Trade Union representative or a teaching colleague at all stages of the procedure.

- 4.7.2** The investigatory panel shall meet separately with the person against whom the allegation is made to:
- obtain his/her view of the alleged incident/s and any other related matter;
 - establish all the facts and issues relevant to the complaint in an unbiased and impartial manner;
 - take note of any witnesses to be relied upon;
 - examine or take note of any evidence provided;
 - ensure that the individual is aware of the next stage of the procedure;
 - advise of the Employer's Welfare Service provision.

4.8 INFORMATION FROM OTHERS WHO MAY ASSIST THE INVESTIGATION

4.8.1 The investigatory panel, as part of its investigation, may wish to meet with and/or consider relevant information from other persons, e.g. witnesses to the alleged incident/s. The panel will ensure that any information is objective, verifiable and relevant to the issues under investigation.

4.8.2 All those giving information to the investigatory panel should do so privately and not in the presence of any other person involved in or present during the alleged incident/s.

Witnesses will be advised at the outset of the meeting of the extent of the information that is being sought. They will also be advised that their anonymity cannot be guaranteed should the matter become the subject of appeal, further proceedings, or statutory discovery.

A written record of all meetings will be retained. Evidence provided to assist with the investigation will be treated as confidential by all parties to the investigation.

4.9 INVESTIGATORY PANEL DECISION

4.9.1 Following its investigation the panel will consider all of the evidence presented, determine if there is substance to the complaint and decide on appropriate action.

The outcomes may include the following:

- **The Allegation is Substantiated or Unsubstantiated**

These decisions are de-facto grievance decisions and will therefore be subject to an appeal process as set out at paragraph 6.

- **Matter Mutually Resolved and/or Other Mutually Agreed Management Action Required**

The investigation may have resolved the issues or may indicate other appropriate management action to meet the desired outcomes e.g.

- the provision of counselling;
- implementation of agreed mediation;
- training in areas of conflict and anger management;
- attendance at external training on harassment or bullying;
- the drawing up of agreed action plans or personal codes of conduct.

4.9.2 If the investigation establishes that there is a disciplinary case to answer, the Disciplinary Procedure should be invoked at paragraph 4.1. Where an investigation has been conducted under this policy, this can be substituted for a Disciplinary Investigation as provided at paragraph 3.2 of the Disciplinary Procedure.

4.9.3 The investigatory panel should prepare a factual and detailed record of its findings. These will be made available to the Chairperson of any sub-committee convened under the Disciplinary Procedure.

4.9.4 The investigatory panel shall advise both parties in writing of its decision and the reasons why it has reached this determination. This should normally be actioned within 10 working days of completion of the investigation.

4.9.5 Copies of the decision and letters issued should be forwarded to the Employing Authority.

4.10 RECORDS

4.10.1 A record of all meetings, investigations, findings and decisions shall be made and retained by the Board of Governors for not less than 3 years. This may be subject to access requests under Part 2 of the Code of Practice on Data Protection by the subject of data held, specifically about the subject.

[5] ABUSE OF THIS PROCEDURE

- 5.1** It should be noted that, the use of this procedure to
- make cynical, frivolous, baseless or vexatious allegations,
 - to distract from other issues
 - to divert attention from or action in the application of other procedures,
 - to defame or perpetrate malicious false-hoods,
- are likely to constitute misconduct and render the complainant subject to investigation and disciplinary penalty.

[6] APPEAL PROCESS

- 6.1** The appeal process shall only be invoked following completion of the Formal Procedure (paragraphs 4.3 – 4.9 refer).

Stage I: Sub-Committee

If the complainant is dissatisfied with the outcome of the investigation s/he may refer the matter to the Chairperson of the Board of Governors.

- 6.2** The teacher should write to the Chairperson within ten days of receipt of the investigatory panel's decision, specifying the grounds of dissatisfaction.
- 6.3** On receipt of the written request the Chairperson shall arrange for a sub-committee of the Board of Governors to meet the teacher, reminding him/her of the right of accompaniment. Such a meeting will normally take place within 10 working days of receipt of the written request. No teacher governor is eligible to sit on this sub-committee
- 6.4** The sub-committee, having considered the appeal shall issue their decision normally within 15 working days of the date of the meeting held under 6.3 above.

Stage II Appeal Committee

If the complainant is dissatisfied with the decision at Stage 1 the matter may be referred to an independent appeal committee facilitated by the Labour Relations Agency.

- 6.5** The teacher, or the union representative or teaching colleague, must within 10 working days of the decision at Stage I lodge a formal notice of appeal to the Secretary of Arbitration, Labour Relations Agency, and shall simultaneously copy it to the Chairperson of the Board of Governors. The notice will require transfer of all papers from the Labour Relations Agency Arbitration Secretary to the Chair of the Independent Appeal Panel.

- 6.6 Within 10 working days of the notice of appeal, both parties shall be contacted to make arrangements for a hearing before an Appeal Committee.
- 6.7 The Appeal Committee shall consist of an independent Chairperson appointed by the Labour Relations Agency and 2 panel members, one nominated by the Management Side, the other nominated by the Teachers' Side of the Teachers' Salaries and Conditions of Service Committee (Schools). Neither panel member should be an employee, representative or official of the Employing Authority or the Teachers' Union involved in the case.
- 6.8 The appeal shall normally be heard within 15 working days of receipt of the formal notice of appeal by the Secretary of Arbitration who shall be responsible for the setting up and administration of the Appeal Committee. The teacher may be accompanied by the full-time union official or a teaching colleague.
- 6.9 Neither party in the independent appeal is entitled to have legal representation.
- 6.10 The proceedings of the Appeal Committee shall not be invalidated by the absence of one or other of the parties.
- 6.11 The decision of the Appeal Committee shall be communicated in writing to both parties within 10 working days of the hearing. It shall be final and binding on both parties.

[7] **ACTS OF VICTIMISATION OR RETALIATION**

- 7.1 The Board of Governors considers that a teacher who demonstrably makes a complaint in good faith should be protected from acts of victimisation or retaliation.
- 7.2 Victimisation or retaliation may be defined as the use of or the threat of abuse to any individual because they have made a bonafide complaint of bullying or harassment or have assisted an individual in pursuing such a claim, or have acted as a witness in any investigation relating to an allegation of bullying or harassment.
- 7.3 Any complaint of victimisation or retaliation will be dealt with and may result in investigation within the provisions of Disciplinary Procedure.

[8] **LEGAL RIGHTS**

- 8.1 Nothing in this Policy and procedure should be construed as seeking to remove any person's legal rights. Furthermore, a teacher has the right to seek advice from any appropriate statutory body. An Industrial Tribunal may, however, draw negative inferences from the fact that internal investigation or dispute

resolution mechanisms were by-passed before making a complaint to the tribunal.

[9] **FURTHER ACTION**

9.1 The Chairperson of the Board of Governors or his/her nominee will meet the teachers concerned and/or their trade union representative, within 3 months to monitor and evaluate the situation and assess the effectiveness of any action taken. As a result of this meeting further actions or support may be agreed. In addition, a further review date will be agreed, if necessary. The Human Resources Branch/Section or the Teacher Welfare/Staff Care Service or other counselling services may be contacted for advice or assistance.

[10] **REVIEW**

This policy will be reviewed in 3 years following agreement at the Teachers' Negotiating Committee.

*Further information and advice is available from the
Employing Authority.*