Dignity at Work Policy

Based on the Birmingham Model Policy

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Birmingham City Council

HR Services for Schools

Dignity at Work Policy & Procedure

Staff covered by this document:	Teaching and support staff in schools and academies (including centrally managed teachers)
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1.0 Introduction

1.1 The governing body of school has adopted this Policy and Procedure ("Policy") to:

- maintain a working environment where no form of bullying, harassment or discriminatory treatment is tolerated, whatever the motivation and to help create a working environment where everyone is treated with dignity and respect;
- help identify conduct which may amount to bullying or harassment;
- set out the procedure to be followed if complaints of bullying or harassment are raised in the workplace;
- provide advice and guidance for managers, employees and governors on how to raise or respond to such complaints fairly, effectively and promptly.

1.2 The governing body will not tolerate bullying or harassment of any kind and will ensure that:

- all allegations are investigated promptly, sensitively and confidentially and that, if appropriate, disciplinary action is taken; and
- all employees are protected from victimisation for making or being involved in a complaint in good faith under this Policy.

1.3 References in this Policy to 'school' include academies and references to 'head teacher' include a principal of an academy.

1.4 Throughout this document the word 'complainant' will be used to describe the individual who has raised a bullying and/or harassment complaint.

2.0 Scope

2.1 This Policy covers bullying, harassment and/or discriminatory treatment in the workplace and in any work-related setting outside of the workplace, e.g. school trips, visits and/or social events (see further below for definitions).

2.2 It applies to:

- employees, agency staff, contractors and anybody else engaged to work at the school. However, if the complainant or person allegedly causing the unacceptable treatment or behaviour is not an employee of the school, it will apply with any necessary modifications. For example, complaints received about an agency worker, would need to be referred to the relevant agency, who may decide to remove the worker following an appropriate investigation (the school would not have the power to dismiss somebody who is not directly employed); and

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- individual or collective complaints of bullying, harassment or discriminatory treatment.

2.3 It does not apply to:

- Complaints not relating to bullying, harassment or discriminatory treatment, which should be dealt with under the Grievance Procedure adopted by the governing body [insert link].
- Complaints under the Public Interest Disclosure Act, which should be dealt with under the appropriate whistle-blowing procedure.
- Complaints about pay or grading, which should be dealt with under the Pay Policy adopted by the governing body [insert link].
- Complaints about actual or contemplated disciplinary action or dismissal, which should be dealt with under the Disciplinary Procedure adopted by the governing body (unless the complaint is that disciplinary action taken was discriminatory e.g. on the grounds of a 'protected characteristic' under the Equality Act 2010) [insert link].
- Complaints about recruitment and selection of employees, which should be dealt with under the Recruitment and Selection Complaints Procedure.
- Complaints against Officers of the LA, which should be dealt with under the appropriate City Council Procedures.

3.0 Responsibilities under this Policy

3.1 Head Teachers should:

- Ensure that the Policy is adopted by the governing body of the school and that all staff and governors are made aware of it (together with their rights and responsibilities under it). The Policy should be widely available and easily accessible to staff and Governors. It should also include training for staff (perhaps as part of a training day or staff meeting).
- Ensure that all staff know how to access the policy if they feel they have been subject to bullying or harassment or wish to support a colleague with the process (inclusion in a staff handbook and/or via school intranet is good practice).
- Do all that they reasonably can to ensure that the school is free from discriminatory or intimidating behaviour, and ensure that they lead by example in promoting a culture where everybody is treated with dignity and respect.

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- Take appropriate action to eliminate bullying and harassment if this is witnessed in the work-place, regardless of whether or not a complaint has been made (including taking prompt advice from HR).
- To be aware of trends and patterns of behaviour in school that may indicate that unwanted behaviour is taking place, even if a formal complaint has not been made. This might include staff turnover or sickness absence rates.
- Take allegations of bullying, harassment or other unwanted behaviour seriously and deal with them promptly, sympathetically and confidentially.

3.2 **All members of staff should:**

- Ensure that they are familiar with and act in accordance with the terms of the Policy.
- Treat one another with dignity, respect and courtesy when carrying out their day-to-day duties.
- Avoid participating in or condoning acts of bullying, harassment, victimisation or discriminatory behaviour in the work-place.
- Encourage individuals who are the subject of this behaviour to seek support and assistance through the informal and/or formal stages of this Policy (and if witnessed directly by them, consider offering assistance to the complainant by providing truthful evidence in support of such complaints).

3.3 **Employee Relations should:**

- Ensure that training is offered to head teachers, governors and other appropriate managers on the implementation of this Policy.
- Provide clear advice to head teachers, governors and other appropriate managers on the application of this Policy to specific cases.

3.4 **Governors should:**

- Ensure that allegations of bullying, harassment, victimisation and/or other discriminatory treatment against or from the head teacher are dealt with promptly, sympathetically and confidentially (seeking advice from HR as appropriate).
- Ensure that all reasonable steps are taken by the school to implement the Policy fairly, reasonably and consistently.
- Ensure that the Policy is reviewed and adopted on an annual basis.

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- Support the head teacher to promote a culture whereby staff treat each other with dignity and respect.

4.0 What is harassment?

4.1 Harassment is a recognised legal concept within discrimination law.

4.2 For the purposes of the Equality Act 2010, harassment is unwanted conduct related to a relevant protected characteristic, which are sex, gender reassignment, race (including colour, nationality, and ethnic or national origins), disability, sexual orientation, religion or belief or age, that:

a) has the purpose of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual; or

b) is reasonably considered by that individual to have the effect at a) above (even if this effect was not intended by the person(s) alleged to be responsible for the conduct).

4.3 Where similar behaviour is not motivated by one of the protected characteristics recognised in the Equality Act 2010 (see 4.2 above), the matter may be dealt with under the bullying section of this Policy (see below at 6).

4.4 Conduct becomes harassment if it persists once it has been made clear that it is regarded as unwelcome by the recipient. However, a single act can amount to harassment if it is sufficiently serious. Furthermore, some actions may be so obviously offensive, that the recipient will not necessarily need to make it clear that it is unwelcome.

4.5 Individuals can also be subjected to harassment on the following grounds:

- Membership (or non-membership) of a trade union including participating in union activities and being a union representative.
- Employment status (e.g. part-time, temporary/fixed-term)
- Criminal record
- Health (e.g. people suffering from, or believed to be suffering from aids/HIV)
- Physical characteristics (e.g. being overweight, having a specific hair colour etc)

4.6 Conduct may be bullying and/or harassment whether or not the individual behaving in that way intends to offend. Something intended as a "joke" may offend another individual as different individuals find different things acceptable.

4.7 Bullying and harassment can take a variety of forms, including physical (e.g. unnecessary touching or assault), verbal (e.g. jokes, offensive language, gossip,

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slander or offensive songs) and/or non-verbal (e.g. offensive or threatening letters, emails, text messages and/or social media postings). This list of examples is not exhaustive.

4.8 Harrassment may also occur via online communication platforms.

5.0 Examples of harassment

5.1 Behaviour constituting harassment can range from extreme forms, such as violence or physical intimidation, to less obvious actions, like practical jokes and ridiculing or undermining colleagues.

5.2 It is not possible to set out all types of behaviour which will constitute harassment but a non-exhaustive list may include:

- Physical conduct ranging from unwelcome touching to serious assault;
- Unwelcome sexual advances or contact;
- Spreading malicious rumours;
- Insulting an individual through words or conduct;
- Demeaning comments about an individual's appearance;
- Derogatory or demeaning jokes or comments of a sexual or racial nature or about an individual's age, disability, sexual orientation or religion;
- Offensive written remarks or comments;
- Verbal or physical threats and intimidation;
- Exclusion or victimisation;
- Ridiculing or demeaning someone in front of others e.g. picking on them or setting them up to fail;
- Unjustified, persistent criticism or negative comments;
- Overbearing supervision or other misuse of power or position;
- Preventing an individual from progressing by intentionally blocking promotion or training opportunities;
- Deliberately undermining an individual by overloading and/or constant criticism;
- Deliberately excluding people (e.g. from meetings) either because they have or are perceived to have a protected characteristic when they do not in fact have one (e.g. an employee is thought to be Jewish or is perceived to be a transsexual);

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- Deliberately ignoring an individual because they are associated or connected with somebody with a protected characteristic (e.g. their child is gay, spouse is black or parent is disabled).

5.3 Some of the examples set out in the section below on bullying (which are not listed above) could also amount to harassment, provided that the behaviour is motivated by one of the types of discrimination/protected characteristics listed at 4.2 above.

5.4 The examples listed above must be viewed in terms of the distress that they cause to the individual. It is the impact on the recipient that will determine whether or not there is a case to answer for harassment.

5.5 Victimisation is when an individual is treated detrimentally because they have made a complaint or intend to make a complaint about bullying, harassment or other discriminatory behaviour. This could include an employee who has or who intends to give evidence relating to a complaint made by another employee.

5.6 Post-employment harassment arises when harassment, victimisation or discrimination occurs following the end of the working relationship. This could cover issues such as references, either written or verbal (see further at x).

5.7 Harassment can be both a civil and criminal offence under the Equality Act 2010. Furthermore, employees can be held vicariously or jointly liable for incidents of harassment by an Employee to another.

6.0 What is bullying?

6.1 Bullying is a type of harassment but where the behaviour is not motivated by one of the protected characteristics at 4.2 above.

6.2 There are various definitions of bullying. According to Acas bullying is “offensive, intimidating, malicious or insulting behaviour, and/or an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient.”

7.0 Examples of bullying

7.1 The examples below illustrate conduct which may be regarded as bullying (some of these are similar to the examples of harassment above and, again, the list is not exhaustive):

- verbal or physical threats and intimidation;
- humiliation in front of others;
- unjustified, persistent criticism or negative comments;
- offensive or abusive personal remarks;

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- setting unobtainable targets or constantly changing work targets in order to cause a person to fail;
- claiming credit for another person's work;
- belittling a person's opinion;
- making false allegations;
- monitoring work unnecessarily and intrusively;
- removing areas of work without justification;
- imposing unfair sanctions.

7.2 Managers often have to make decisions which may not be universally popular, particularly in a climate where budgets and performance are under close scrutiny. As part of their roles and responsibilities managers have to highlight poor performance and/or conduct and make clear what the consequences could be if satisfactory improvement is not made. Whilst this may make an individual or group of staff feel uncomfortable, constructive and fair criticism of performance or behaviour at work will **not** in itself constitute bullying or harassment. In addition, an occasional raised voice or disagreement amongst employees, or a one-off instance of some of the above examples (e.g. not giving credit where it is due), is unlikely to constitute bullying or harassment.

8.0 Fair management or bullying and harassment

8.1 Whilst it may be perfectly legitimate for head teachers and appropriate managers to raise concerns with employees about their performance, it is completely unacceptable for employees to be put in a position where they are humiliated or intimidated to the extent that they cannot reasonably be expected to carry out the work that they are employed to do.

8.2 The Department for Work and Pensions' Equality Team has developed a framework to make clear distinctions between the two management styles (see table below):

Firm / Fair Manager	Bullying or Harassment
Consistent and fair	Aggressive, inconsistent and unfair

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Determined to achieve the best results, but reasonable and flexible	Unreasonable and inflexible
Knows their own mind and is clear about their own ideas, but willing to consult with colleagues and staff before drawing up proposals	Believes that they are always right, has fixed opinions, believes they know best and not prepared to value other people's opinions
Insists upon high standards of performance and behaviour	Insists upon high standards of performance and behaviour but blames others if things go wrong
Will discuss in private any perceived deterioration in an employee's conduct or behaviour before forming views or taking action and does not look to blame others when things go wrong	Loses temper, regularly degrades people in front of others, threatens formal sanctions without listening to any explanation from employee
Asks for people's views, listens and assimilates feedback	Tells people what is happening, does not listen to others

9.0 Possible effects of bullying and harassment

9.1 The charts below illustrate some of the possible consequences for schools and individuals of not dealing with bullying, harassment and/or discriminatory behaviour fairly, promptly and effectively:

For the **school:**	For the **individual:**
• rising levels of absenteeism	• sleeplessness • lethargy or de-motivation

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• premature ill-health and/or retirement • high levels of staff turnover • reduced productivity for victims and colleagues • cost of potential litigation • damage to reputation	• loss of appetite • migraines/severe headaches • mood swings or reduced confidence • skin problems • stress, anxiety and/or other mental health issues • withdrawal from colleagues and/or pupils • deterioration in attendance levels, performance and/or conduct

10.0 Informal Resolution

10.1 Staff who consider that the behaviour of someone else in the workplace is unacceptable to them are encouraged to try and resolve complaints in an informal manner before attempting the formal stages below. This is because early informal attempts to diffuse the situation may bring more lasting and beneficial results than using the formal steps at 11 below. This is particularly true where the recipient may be unaware that s/he has caused offence in the first place.

10.2 Informal approaches may include:

- face-to-face discussion with the person allegedly causing the unacceptable treatment or behaviour(see 10.3);
- mediation (see 10.6 and 10.7); and/or
- counselling (see 10.8).

10.3 If they feel able to do so, the complainant should meet with the person allegedly causing the unacceptable treatment or behaviour (with or without support from an appropriate line manager, trade union representative or work place colleague) to bring the unwanted behaviour to their attention and to ask for it to stop. This gives the person allegedly causing the unacceptable treatment or behaviour an opportunity to change their behaviour. The conversation should be polite but direct and unambiguous. It is recommended that a note of the conversation is kept (including date, time, concerns and who was present). Whilst employees do not have a statutory right to be accompanied by a workplace colleague or trade union representative at informal meetings, this support may be beneficial to the parties in contentious or difficult cases.

10.4 Staff who feel that they have been subject to bullying or harassment should make a written record of the incident(s), date(s), times and witnesses for future reference and may wish to contact their trade union representative, work place colleague and/or line manager for advice and/or support.

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10.5 At this stage, it is preferable for governors not to be involved in order to avoid prejudicing any formal stages.

10.6 Mediation may also be appropriate at this stage provided that the complainant and the person allegedly causing the unacceptable treatment or behaviour express a mutual desire to attempt it and the mediator believes that the situation lends itself to this process. Staff wishing to attempt this may refer to the LA's impartial mediation service [insert link to leaflet] or may wish to approach an alternative mediator such as Acas. Mediators should be trained, accredited and impartial with experience of resolving disputes.

10.7 Mediation may be attempted at any stage of this process subject to agreement between the parties. However, if it is attempted, the formal process will be suspended pending the outcome of the mediation process. If the mediation process is unsuccessful, this Policy will continue at the appropriate point.

10.8 Counselling, via *Staffcare* or *Help Employee Assistance* (HEA) can play a vital role in complaints about bullying and harassment by providing the complainant with a confidential and impartial sounding board. Staffcare can be reached on 0121 464 0999 and HEA on 0121 303 3358. Details of these services can also be found at [insert link].

10.9 If an informal solution is found, then the manager should do all that s/he reasonably can to manage the situation to ensure that the working relationships are back on track and do not deteriorate.

10.10 It is recognised that the informal suggestions above may not be appropriate for more serious complaints of bullying or harassment; that some staff may not be comfortable having a direct conversation with the person(s) concerned or that the concerns continue despite an informal approach and/or mediation being attempted. In these circumstances, staff should use the formal steps at 11 below.

11.0 Formal Resolution

11.1 Staff who wish to raise complaints of bullying and/or harassment formally should set them out in writing and should ensure that they are as detailed as possible. This should include:

- the name of the person(s) whose behaviour s/he believes amounts to harassment and/or bullying;
- the type of behaviour that is causing offence, with specific examples (including dates, times and location(s) as appropriate) and details of how this made them feel;
- the names of any staff who witnessed the incidents;
- any action that the complainant has already taken to deal with or stop bullying or harassment (e.g. informal steps at 10 above);

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- any supporting evidence (e.g. statements from witnesses, photos, extracts from social media pages etc);
- if the complaint is the first action taken by the member of staff, they should also explain briefly why they did not attempt to resolve it informally.

11.2 Staff should do all that they reasonably can to lodge a formal complaint within 20-working days of the incident taking place. However, it is recognised that complaints of this nature may relate to cumulative actions taking place over a period of time. If this is the case, whilst these may be detailed in the complaint, the formal process may only be entered into if staff do all they reasonably can to lodge a formal complaint within 20-working days of the latest incident or informal meeting from which the employee remained dissatisfied.

11.3 The formal complaint should be sent to the head teacher (unless the complaint is about the head teacher, in which case it should be passed to the chair of governors). If the complaint is also against the chair, it should be passed to the vice-chair or another independent governor. Complaints made by a head teacher (for example against governor(s) should be passed to School and Governor Support in the first instance. If for any reason, the member of staff feels uncomfortable raising a formal complaint about a head teacher with the chair or vice chair, they should take advice from their trade union representative. In very serious cases, a criminal offence may be alleged and the member of staff may also wish to report matters directly to the police.

11.4 If a member of staff raises multiple complaints of bullying and/or harassment but it is unclear whether they should be dealt with under this Policy or another (for example grievance), they will be asked to clarify under which Policy they wish the complaints to be dealt with. However, the same complaint cannot be heard under this Policy and the grievance procedure.

11.5 In extreme cases, the school may need to seek advice from Employee Relations on the use of the disciplinary procedure with regard to the person allegedly causing the unacceptable treatment or behaviour. In these circumstances the two processes will run in parallel but the Disciplinary Procedure https://schoolshr.birmingham.gov.uk/irj/portal/hrservices/DGCH-AS-DISC-PRO001 will be applied to the person allegedly causing the unacceptable treatment or behaviour.

11.6 The person in receipt of the complaint at 11.1 above (and who will usually also be known as Commissioning Officer) should:

- acknowledge the complaint in writing within five working days (and refer to the date of receipt), unless there are exceptional circumstances in which case the response will be made as soon as reasonably practicable.
- arrange for the complaint to be investigated promptly under the Disciplinary Procedure by contacting Employee Relations and commissioning an independent investigator. The investigator should be suitably trained or experienced.

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- send a letter to the employees concerned (including witnesses) to confirm that they will be contacted by an independent investigator and invited to an investigation meeting where they can be accompanied by a Trade Union representative or workplace colleague who is not already involved in the case.

- Send a copy of the Terms of Reference for the investigation to the complainant in order that they may comment.

12.0 Possible Outcomes

12.1 Whatever the outcome, the Commissioning Officer should meet with the person allegedly causing the unacceptable treatment or behaviour and the Complainant individually to discuss the findings. The Complainant shall be entitled to see a full copy of the investigation report and supporting evidence. In addition, if the matter leads to a disciplinary hearing against the person allegedly causing the unacceptable treatment or behaviour, they will be entitled to receive a full copy of the investigation report and appendices.

12.2 The outcome and the next steps are entirely the decision of the Commissioning Officer. This decision will be based on the facts presented in the report and advice from Employee Relations. The Commissioning Officer can discuss the findings with the investigator in order to obtain a greater understanding of the evidence before a final decision is made.

12.3 If the Commissioning Officer considers, having regard to the investigator's report, that there is no case to answer for disciplinary action, this may be discussed with the investigating officer. It is then good practice for the Commissioning Officer to meet with the complainant and the person allegedly causing the unacceptable treatment or behaviour individually to air and discuss a summary of the findings and recommendations, and agree any next steps (such as counselling, training, mediation as appropriate).

12.4 If the Commissioning Officer considers, having regard to the investigator's report, that there is a case to answer for disciplinary action against the person allegedly causing the unacceptable treatment or behaviour, these findings should be discussed with Employee Relations and next steps agreed. It is good practice for the Commissioning Officer to keep the complainant and the person allegedly causing the unacceptable treatment or behaviour updated so as to avoid any surprises.

13.0 Appeals

13.1 If the complainant is dissatisfied with the outcome of the investigation into their formal complaint of bullying or harassment, they have the right of appeal against that decision. However, this will usually only be exercised if the complainant has been informed that there is no case to answer, that the complaint was only

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partially upheld or that the investigation process under the Disciplinary Procedure has been mismanaged.

13.2 The appeal should be made in writing to the clerk to the governing body within 10 working days of receiving formal written notification of the outcome

13.3 The appeal must be heard by an impartial committee of governors who have had no involvement in the matter to date (known as the appeal committee).

13.4 The appeal letter must clearly set out the appellant's specific concerns and the basis for those concerns. The letter should be accompanied by any additional evidence to be presented in support of the appeal. If the appellant does not wish to provide any supporting evidence, they must confirm this in their letter of appeal and they may not be able to use at any appeal hearing, any evidence not previously provided. *The appellant should also name any witnesses whom he or she wishes to call and indicate whether he or she will be accompanied by a union representative or fellow-employee and the name of that person.*

13.5 The clerk will arrange the appeal as quickly as possible. The clerk should make every effort to agree a date with the employee's representative if they are already involved in the case, before sending out the formal invite letter and supporting paperwork to the relevant parties.

13.6 The member of staff may suggest an alternative time and date as long as it is reasonable and is not more than 5 working days after the original date. The appeals committee may reject the suggestion if it is unreasonable and may proceed to hear the case in the absence of the employee or the employee's representative. The appeals committee may also defer the date of the hearing to reach mutual agreement on a particular date.

13.7 The clerk shall give a minimum of 15-working days' notice of the hearing to all participants and the Complainant will be entitled to receive a full copy of the investigation report and appendices at this stage.

13.8 Present at the appeal hearing, will be the appeal committee, the Appellant (i.e. the Complainant), the Commissioning Officer, the Investigating Officer and the Appellant's representative. The Appellant will start by presenting the grounds of appeal and the Investigating Officer and/or the Commissioning Officer will respond on behalf of management.

13.9 Following an adjournment to consider the evidence, the appeal committee may:

a) dismiss/reject the employee's appeal (so that the original outcome stands); or

b) uphold/accept the employee's appeal and determine what further action should be taken. This may include requesting the Commissioning Officer to re-open the investigation on the basis that it has been mismanaged. In these circumstances, it will usually be appropriate for a new and impartial Investigating Officer to be commissioned.

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13.10 The appeal committee may announce the decision orally to the parties or may notify the employee of the decision within 5 working days of the hearing.

13.11 There is no further stage of internal appeal.

14.0 Malicious allegations

14.1 The fact that an allegation has not been substantiated following a formal investigation does not mean that it should be considered as malicious. No action will be taken against any member of staff who makes an allegation in good faith, reasonably believing it to be true, even if the outcome is that there is no case to answer.

14.2 However, there may be exceptional cases which lead the Commissioning Officer to believe that an allegation of bullying and harassment is malicious. In these circumstances, the school should ensure that a new investigation is conducted under the Disciplinary Procedure against the original complainant, with new terms of reference. Following this process, the investigator may conclude that there is no case to answer or that the matter should continue to be dealt with as a disciplinary matter in accordance with the school's disciplinary procedure.

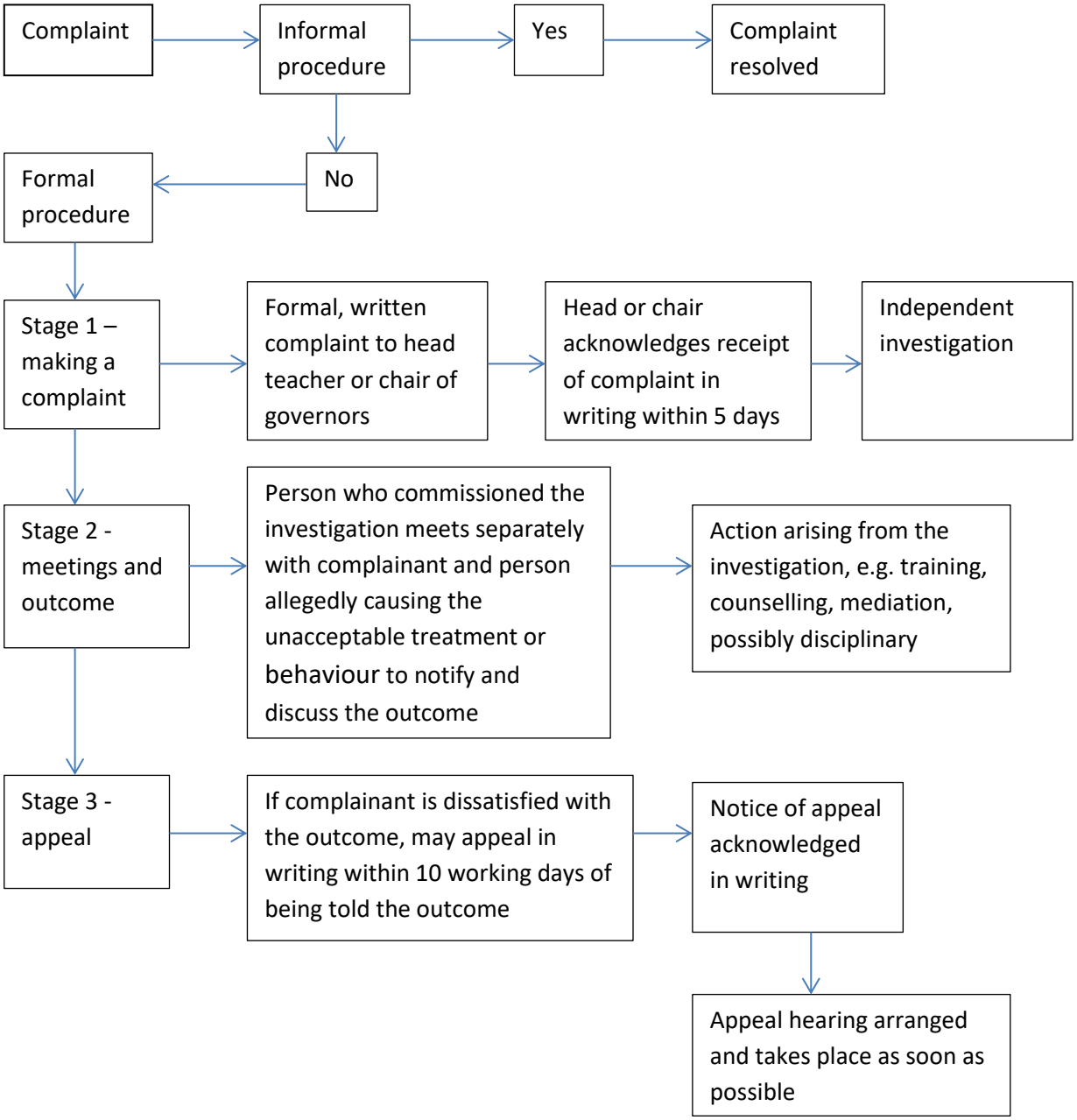
15.0 Third Party Harassment

15.1 Although the third party harassment provisions under s.40 of the Equality Act 2010 were repealed on 1 October 2013, employees who have been subjected to harassment from a third party (for example a parent, supplier or governor) during the course of their employment may still be able to bring claims against their employer, for example for unfair constructive dismissal, if the employee resigns and claims that the employer's failure to protect him or her was a breach of their contract. Employers could also be liable for negligence if the employee suffered mental and/or physical injury because of harassment by a third party that the employer could reasonably have foreseen and prevented or reduced.

15.2 Employers should therefore continue to maintain a zero-tolerance policy towards harassment from third parties. This could be achieved by ensuring that staff are trained on what and who to report to if they believe that they have been subject to harassment of this nature and that they understand and can access this Policy. Additional measures may include putting a sign up in the school entrance confirming that this behaviour will not be tolerated.

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Flow Chart – Dignity at Work



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