



**North Tyneside Council**

# **DISCIPLINARY POLICY & PROCEDURE (COMMUNITY SCHOOLS)**

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## **Section One - Disciplinary Policy**

### **1. Introduction**

101 This Policy sets out the approach of the Governing Body to disciplinary matters for employees of the school who, in accordance with the Employment Rights Act 1996 and the Employment Act 2002, work under a contract of employment with North Tyneside Council. This Policy & Procedure has been compiled in accordance with the requirements of appropriate statutory legislation as well as the ACAS Code of Practice on Disciplinary and Grievance Procedures and the accompanying handbook on Discipline in the Workplace.

### **2. Principles of the Disciplinary Process**

201 The Governing Body strongly support the view that implementation of this policy and accompanying procedure is not just a means of imposing sanctions, but is a tool to ensure a fair and transparent method of correcting behaviour through encouraging improvements in employees whose standard of conduct/behaviour may be unsatisfactory. In recognising this, the Governing Body wish to encourage a working environment where minor concerns can be resolved informally, together with implementing more formal procedures when they become necessary in an objective manner, without undue delay.

202 To assist in this respect, a set of principles has been incorporated into this policy that will be followed when concerns relating to conduct/behaviour arise.

- Minor cases of misconduct will be dealt with on an informal basis, without reference to the formal Disciplinary Procedure. Where consideration is being given to invoking the formal procedure, no decision should be taken until advice has been obtained from the school Link HR Advisor.
- The level of formal sanction will be proportionate to the seriousness of the offence, having regard to the need for fairness, transparency and consistency of approach.
- Except for gross misconduct, dismissal will not be an option for consideration when dealing with a first breach of the formal Disciplinary Procedure.
- Where allegations are made that conduct/behaviour appears unsatisfactory, no formal sanctions will be imposed under this policy until the case has been carefully investigated.
- It is not appropriate for any individual who has previously been involved with the current stage of the Disciplinary case to sit on either a Hearing or Appeal Panel.

- Where the formal procedure has been invoked the Hearing/Appeal Panels, together with the appointed Investigating Officer will seek appropriate support from an HR Advisor.
- Where a change in conduct/behaviour has been identified as necessary at any stage in the process, the employee will be informed of the improvements required and support available to them, the timescales for improvement together with the consequences of failing to improve.
- Any employee will have the right at every stage of the process to be accompanied by a work colleague or trade union/professional association representative. In addition, they will have the right to be represented by a work colleague or trade union/professional association representative at any subsequent Hearing or Appeal.
- Any documentation obtained by the Investigating Officer/Chair of the Hearing Panel, deemed relevant will be provided to the employee prior to any proposed Disciplinary Hearing and/or Appeal, as appropriate.
- There will be a right of Appeal against any sanctions under the formal Disciplinary Procedure to a Panel of Governors.
- An appeal should not be used as an opportunity to punish the employee for appealing the original decision. To ensure this, the options for any Appeals Panel will not include an increase in the penalty as this may deter individuals from appealing.
- Where it becomes apparent that the matter is not one of discipline, but one of capability, then the Disciplinary process will stop at this point and the matter referred to the School Capability Policy & Procedure.
- This Policy & Procedure will be applied fairly and consistently regardless of a person's gender or gender identity, marital status, employment status, sexual orientation, race, language, ethnic or national origins, faith or religion, disability age, trade union/professional association membership or activity together with any political view or affiliation.

### **3. Application of this Policy**

#### **3.1 Employees**

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This Policy applies to all employees (excluding support staff on a probationary period) of the Council working at a school under the delegation arrangements contained within the Local Management of Schools Scheme, under a contract of service or apprenticeship, whether full/part time, permanent or temporary. This Policy does not apply to individuals based at the school under a contract of service/third party arrangements, or individuals employed by the Council whose employment relationship is not directly

managed by the School.

Where an individual is on a secondment/temporary assignment to another school, Local Authority or organisation, that organisation's Policies & Procedures will govern the employee's employment relationship.

### 3.2 Headteacher

302 Where the Headteacher is the subject of allegations of a disciplinary nature, the implementation of this Policy & Procedure becomes the responsibility of the Chair of the Governing Body (or their designate); taking the role that otherwise would have been performed by the Headteacher. The Manager of the Directorate's Human Resources Unit (or their designate) will provide advice as appropriate.

### 3.3 Investigating Officer

303 The Governing Body has delegated the responsibility for the appointment of an Investigating Officer to the Headteacher (Chair of Governors where the allegations relate to the Headteacher). The Investigating Officer appointed may have prior knowledge of the allegation(s) to be investigated, for example those relating to performance, but will not be permitted to sit as a member of any Hearing Panel appointed to consider the outcomes of the investigation.

## **4. Suspension**

401 While the Governing Body and Headteacher both have power to suspend, this will only be after consideration of alternatives to suspension such as working from a different workplace or undertaking alternative duties. Suspension is not disciplinary action and is usually only necessary in cases of alleged gross misconduct or where the continued presence of the employee may prejudice an ongoing investigation. Any proposal to suspend an employee will be discussed with the school Link HR Advisor, outlining reasons why alternatives to suspension are not feasible, prior to any implementation. Where there is a need to suspend the Headteacher, this will be undertaken by the Chair of Governors following discussion with the Manager of the Directorate's Human Resources Unit (or the school Link HR Advisor).

402 When exercising this power the Governing Body or Headteacher will, where feasible, meet with the employee concerned. The employee will also be reminded not to make contact with any other colleague or work related individuals to discuss the matter to be investigated and not to visit school unless it is at the specific request of the Headteacher. This action will be followed up in writing within a maximum of two (2) standard working days of the suspension confirming the reasons for the decision.

403 Any suspension of an employee of the School can only be lifted with agreement of the Chair of Governors (acting on behalf of the Governing

Body) following discussion with the school Link HR Advisor. Where the Chair of Governors is unavailable this responsibility will fall upon the Vice Chair of Governors for action.

## **5. Confidentiality**

501 Any employee who is subject to this Disciplinary Policy & Procedure or those taking part in the proceedings will, in accordance with this Policy & Procedure, maintain confidentiality at all times during the process. Details of subsequent procedures and records of any disciplinary matter will be kept as confidential as possible, following advice from the school Link HR Advisor.

## **6. Support for Employees**

601 Any employee will have the right at every stage of the process to be accompanied by a work colleague or trade union/professional association representative. In addition, they will have the right to be represented by a work colleague or trade union/professional association representative at any subsequent Hearing or Appeal.

602 In cases of conduct/behaviour it is important that consideration be given to appropriate additional support. Should the School feel that they do not have such resources available or require further information on how this role should operate they should contact their school Link HR Advisor who will be able to provide advice and guidance on how this support may be provided.

603 It is the responsibility of the Investigating Officer to ensure that regular updates are provided to the employee on progress of the investigation where appropriate.

## **7. Meetings, Hearings & Appeals**

701 Such persons or panel members as designated by the Governing Body's Standing Orders will carry out their official duties at all Hearings and Appeals under this Policy & Procedure and in accordance with 'A Guide to the Law for School Governors', statutory requirements and other appropriate DCSF Guidance.

702 It is acknowledged that a Disciplinary process is a difficult time for all parties. Hearings and Appeals must be conducted in a manner that enables all parties to explain their views.

703 All parties being involved in a Disciplinary Process at any stage are entrusted to act in good faith and in accordance with the principles outlined within this document. Individuals sitting on any Hearing or Appeal Panel will not have been involved in an earlier stage or have detailed knowledge of the case.

704 The investigating officer will have the right to be supported, for example, by a link school HR Advisor or another management colleague.

## Section Two - Disciplinary Procedure

### 8. Purpose & Scope

801 The purpose of this Disciplinary Procedure is to ensure a change in an employee's conduct/behaviour to a level acceptable to the Governing Body. In this respect employees are reminded of the need, as outlined in the code of conduct issued to all employees at appointment to:

- ❑ treat each other with respect
- ❑ work with colleagues to achieve goals
- ❑ maintain high standards of work and behaviour
- ❑ promote the values and the aims of the school and implement relevant school policies
- ❑ seek help if for any reason they are unable to make their proper contribution to their role within school.

802 To achieve these aims it is expected that allegations relating to conduct/behaviour can be resolved as quickly as possible in a fair and transparent manner and at an appropriate level within School. In applying this principle, the formal procedure should only be invoked in cases where previous informal advice, support, or warnings have been ineffective or there has been a more serious breach of discipline requiring formal action as identified in Appendix A.

### 9. Informal Advice & Support

901 The Governing Body expect that in most cases, where a disciplinary matter involves minor infringements of conduct/behaviour, it will be resolved informally through additional advice and support. This may be in the form of additional training, coaching, the support of a mentor, together with advice from colleagues or their Line Manager<sup>1</sup>, with the aim of changing the employee's conduct/behaviour. Such informal action will enable concerns over conduct/behaviour to be dealt with early, before any potential escalation, resulting in an improvement in behaviour and thus avoiding a need to invoke the formal Procedure. The appropriate Line Manager will constructively point out the concerns, the improvements required - including the support available to them, the relevant timescales, together with the consequences of failing to improve.

902 This process may be recorded through the completion of a supportive interview action plan (a suggested outline is attached at Appendix B) for which the employee will be given a copy, together with advice on conduct/behaviour levels expected, the relevant timescales and the consequences, if this expectation is

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<sup>1</sup> Line Manager – the person who undertakes this role may vary from school to school and is dependent upon the structure in place within school. It is important that each School are clear on whom within their school they require to undertake this role.

not met. Where necessary an informal warning may be issued to reinforce this additional support, the aim being to ensure that there is a positive/appropriate change in conduct/behaviour. However, such a warning does not constitute part of the formal disciplinary procedure nor will it prevent the formal procedure from being invoked.

- 903 Where the support indicated above does not result in the necessary changes in conduct/behaviour within the timescales required, it will be necessary to enter into the next stage of the Disciplinary process, as detailed below – Formal Disciplinary Procedure.

## **10. Formal Disciplinary Procedure**

### 10.1 Introduction

- 1001 Where it is determined that concerns over conduct/behaviour may constitute the need for more formal Disciplinary action, the Headteacher may invoke the formal Procedure after seeking advice from the school Link HR Advisor. Such a decision may arise due to the nature of the concern (see Appendix A) or due to the failure of the employee to make effective changes to their conduct/behaviour following informal advice and support.
- 1002 Depending on the nature of the allegation(s) made, normal working arrangements may continue, but where this is not the case alternatives should be explored before the option of suspension is considered.
- 1003 Where concerns relate to possible child protection matters these should be reported to the Headteacher (or the school Child Protection Officer where this is not the Headteacher), who in turn will make contact with the Local Authority Designated Officer for Child Protection. This action will be prior to any discussion of concerns with the employee to whom the allegations refer (for more details refer to the Special Circumstances section of this Procedure and the School Policy on “Allegations Against Staff”).
- 1004 The formal procedure has three steps:
- Step 1 – Investigation of Allegations;
  - Step 2 - Hearing;
  - Step 3 – Appeal.
- 1005 Timelines are indicted within this Procedure to allow concerns to be resolved in a timely manner however, the parties referred to may on occasion and by mutual agreement modify the time limits referred to in the Disciplinary Procedure – the responsibility for determining if the timescales as indicated within this Policy & Procedure are modified will be the responsibility of the Investigating Officer (Step 1); Chair of the Hearing Panel (Step 2) or Chair of Appeal Panel (Step 3) following advice from the appropriate supporting HR Advisor. A flowchart outlining the various stages of the procedure can be found in Appendix D.

## 10.2 Step 1 – Investigation of Allegations

- 1006 Once all of the above points have been considered it is the responsibility of the Headteacher (or their designate) to meet with the employee and implement the actions noted below.
- 1007 At this stage in the process the Headteacher will discuss the matter with their school Link HR Advisor before proceeding.

## 10.3 Roles & Responsibilities

### 10.3.1 The Headteacher (or their designate)

- 1008 The role of the Headteacher (or their designate<sup>2</sup>) is to notify the employee(s) of the concerns/allegations raised and to appoint an Investigating Officer (please note that the Headteacher may be appointed as the Investigating Officer). The Headteacher is also required to discuss the matter with their school Link HR Advisor before proceeding.
- 1009 The Headteacher (or their designate) will meet with the employee concerned as soon as practicable. The purpose of this meeting is to confirm the nature of the concerns and to outline the process of any investigation required. This meeting will be deemed as the 'notification meeting'. However, where this occurs it may exclude them being part of any Hearing or Appeal Panel should this be deemed appropriate at a later stage - advice should be sought from the schools link HR Advisor in these circumstances.
- 1010 Where a decision is made to suspend, the employee will be reminded not to make contact with any other colleague or work related employees to discuss the matter to be investigated and not to visit school unless it is at the specific request of the Headteacher.
- 1011 The Headteacher will advise the employee who the Investigating Officer is and will also advise of the date/time that the employee will be required to attend an initial meeting with the Investigating Officer to discuss the concerns, which have been raised.
- 1012 The meeting with the Investigating Officer will be held within 2 standard working days of the 'notification meeting' being held with the Headteacher.
- 1013 The Headteacher will confirm this discussion in writing. The letter will be given to the employee at the end of the 'notification meeting' and will include

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<sup>2</sup>In some instances the Headteacher may appoint the investigating officer and ask that they notify the employee of the need to look into the matter. Where this occurs the Investigating Officer will meet with the employee initially advising them of the matter that is to be investigated, their appointment as Investigating Officer and the date/time of when they will need to meet to discuss the matter further.

confirmation of:

- ❑ the concern (s),
- ❑ the employees right to be accompanied at the meeting with the Investigating Officer by a work colleague or trade union/professional association representative,
- ❑ who the Investigating Officer is;
- ❑ the date/time/location of the meeting with the Investigating Officer.

- 1014 The employee will also be given a copy of the Disciplinary Policy & Procedure at this stage.
- 1015 The Headteacher will be required in appointing the Investigating Officer to ensure that they have time/resources made available to them to undertake the investigation as per the timescales outlined within this Policy & Procedure.
- 1016 The Governing Body has delegated the authority to select an appropriate Investigating Officer to the Headteacher. In doing so the Headteacher will also take into account that the Investigating Officer cannot sit as a member of any Hearing/Appeal Panel.
- 1017 Once the Headteacher (or their designate) has undertaken the actions detailed above it will be the responsibility of the Investigating Officer to manage the next stage in the process.

### 10.3.2 The Investigating Officer

- 1018 The role of the Investigating Officer is to carry out a fair and thorough investigation, to determine the next steps and to attend and present to a Hearing Panel (if required).
- 1019 The Investigating Officer will, prior to the commencement of the investigation process, seek advice and support from the school Link HR Advisor with regard to the proposed investigation and the appropriate support that can be provided.
- The Investigating Officer will make verbal contact with the employee and reconfirm arrangements for their meeting, including whether or not the employee needs time/facilities to meet/talk to their work colleague or trade union/professional association representative.
- 1020 The Investigating Officer and the supporting HR Advisor will meet with the employee and discuss the concern(s), which has (have) been raised in order to gather more information from the employee.
- 1021 Where it becomes apparent during the investigation of the concerns that the matter is not one of discipline, but one of capability, then the disciplinary process will stop at this point and the matter will be referred to the school Capability Policy & Procedure for determination.

- 1022 At the conclusion of this meeting the Investigating Officer will advise the employee how long they believe the investigation may take and agree to provide the employee with an update on progress within 5 standard working days, and every subsequent 5 standard working days thereafter. In addition, the Investigating Officer will also advise the employee that they may be interviewed periodically throughout the process to answer questions pertaining to the investigation, as well as giving them the opportunity to provide further comment.
- 1023 Where the employee is required to attend for a further interview(s) this request will be made verbally by the Investigating Officer and confirmed in writing, including the right to be accompanied by a work colleague or trade union/professional association representative. Where a further interview(s) with the Investigating Officer is (are) required they will be held within 2 standard working days of the verbal request that a further meeting is necessary.
- 1024 Should the Investigating Officer and supporting HR Advisor believe that they will be unable to conclude their investigation within the timescale specified they will need to advise the employee of a further timescale, and provide regular updates as indicated above.
- 1025 This investigation, other than in exceptional circumstances, will be completed within 2 standard working weeks of the 'notification meeting' with the Headteacher.
- 1026 At the conclusion of the investigation the Investigating Officer will provide an update to the employee to inform them that the investigation is complete and that they will receive confirmation of their conclusions in writing within 2 standard working days. The letter, which the Investigating Officer sends to the employee will provide a brief synopsis of the concern(s), together with confirmation of one of the following options as the outcome of the investigation:
- ❑ Option 1 - the concern(s) is (are) unfounded and that no further action against the employee is required.
  - ❑ Option 2 - formal additional support has been identified as the means of changing the employee's conduct/behaviour in respect of the concerns investigated.
  - ❑ Option 3 - there is substance to the concern(s) and the Investigating Officer has referred the matter to a formal Disciplinary Hearing Panel to make a determination regarding outcomes.
- 1027 Where the Investigating Officer finds for option:
- ❑ 1 (as outlined above) - the Investigating Officer and supporting HR Advisor will liaise with the Headteacher (or their designate) to ensure that, where they have been identified, actions are put into place to amend school practices/procedures.
  - ❑ 2 (as outlined above) - the Investigating Officer and supporting HR Advisor will liaise with the Headteacher (or their designate) to ensure that

the support identified and actions required of the employee and the School are put in place within a reasonable timescale agreeable to all parties concerned.

- 3 (as outlined above) - the Investigating Officer and supporting HR advisor will notify the employee who will be advised of the requirements for their attendance at a Disciplinary Hearing.

- 1028 Where the outcome is Option 3, the Investigating Officer, at the same time as they advise the employee, will verbally notify the Clerk to Governors<sup>3</sup> of the need for a Hearing Panel. They will also submit a copy of the letter sent to the employee (as indicated above) to the Clerk to Governors, this being deemed the formal request for them to convene a Disciplinary Hearing. At the same time the Investigating Officer will provide the Clerk to Governors their investigative report (including details of witnesses they propose to call) for circulation to parties concerned.
- 1029 The Clerk to Governors will be required to commence the convening of a Hearing Panel including the attendance of an HR Advisor to support the Hearing Panel – please see below for details regarding the roles and responsibilities of the Clerk to Governors.
- 1030 For Options 1 and 2 as outlined above the role of the Investigating Officer will cease however, this does not preclude them as a colleague within school from being involved in any support/action as required. Where the Investigating Officer finds for Option 3 they, and their supporting HR advisor, will be required to attend the formal Disciplinary Hearing with the Hearing Panel to present their findings and answer questions relating to their report.

## **11. Step 2 – Hearing**

- 1101 Once in receipt of the documentation from the Investigating Officer confirming the need to progress to a formal Disciplinary Hearing, the Clerk to Governors will undertake the actions noted below:

### 11.1 Role & Responsibilities

#### 11.1.1 Clerk to Governors

- 1102 The role of the Clerk to the Governors is to organise, coordinate and minute the Disciplinary Hearing.
- 1103 The letter copied from the Investigating Officer confirming the need to progress to a formal Disciplinary Hearing will be deemed as the formal request to the

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<sup>3</sup> This is reference to the Clerk to the Governing Body or Clerk appointed to a sub committee of that body (for example this may be a member of the school admin team). It is the responsibility of the Governing Body to arrange for appropriate clerking for its committees.

Clerk to Governors for the Hearing to be convened.

- 1104 Once this formal request has been received the Clerk to Governors will consult the Schools Standing Orders and arrange a Hearing Panel as appropriate. Advice may be sought from the Manager – Governor Services in relation to Standing Orders if required.
- 1105 The Clerk to Governors, after seeking advice from the school Link HR Advisor will write to the employee (including a copy for their work colleague or trade union/professional association representative), in addition a copy of this letter will also be sent to the:
- Investigating Officer and supporting school Link HR Advisor,
  - Hearing Panel and supporting HR Advisor,
  - Note taker – if this is not the Clerk to Governors.

This letter is deemed as formal notice of the Disciplinary Hearing.

- 1106 This letter to confirm the Hearing will be sent to the employee (and copied to the various parties as noted above) within 2 standard working days following written receipt of the formal request to hold a Disciplinary Hearing being received by the Clerk to Governors from the investigating officer. The Disciplinary Hearing will be expected to take place within 10 standard working days following this notice being issued to the employee.<sup>4</sup>

This formal notice will include:

- date, time and place of the meeting with the Hearing Panel,
  - the nature of the concerns/allegation(s) made,
  - the report from the Investigating Officer, including a copy of the full management case relating to the concerns/allegations<sup>5</sup>
  - any names, job titles, locations of witnesses to be called by the Investigating Officer<sup>6</sup>,
  - the right of the employee to be represented by a work colleague or a trade union/professional association representative,
  - copy of the school policy & procedure relating to staff discipline (inclusive of format for conducting the Hearing).
- 1107 In addition the formal notice letter will include a request for the employee, supported by their work colleague or trade union/professional association representative (where applicable) to:

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<sup>4</sup> There may be circumstances where this timeframe is not achievable for the parties concerned. Where this is the case the school link HR Advisor will liaise with the parties to arrange a suitable alternative date.

<sup>5</sup> Please note: any additional documentation held by the investigating officer and not contained within the above papers will only be considered with the consent of the Chair of the Hearing Panel after discussion with the supporting HR Advisor.

<sup>6</sup> Where witnesses are to be in attendance at a Disciplinary Hearing it is the responsibility of the parties calling them to ensure that they are able and willing to attend the Hearing.

- ❑ confirm whether or not they will attend the Hearing and if they are to be accompanied and by whom,
- ❑ submit in writing to the Clerk to Governors their response to the investigating officer's report into the allegations/concerns raised, at least 5 standard working days prior to the Hearing<sup>7</sup>.
- ❑ Confirm any names, job titles, locations of witnesses to be called<sup>8</sup>.

1108 Once in receipt of the documentation from the employee the Clerk to Governors will copy and forward this documentation, together with a covering letter identifying the names of any witnesses to be called by the employee, to the parties noted below no later than 4 standard working days prior to the commencement of the Hearing:

- ❑ the Investigating Officer and supporting school Link HR Advisor,
- ❑ the members of the Hearing Panel and supporting HR Advisor,
- ❑ Note taker – if this is not the Clerk to Governors.

1109 The Clerk to Governing Body is responsible for organising separate rooms/facilities/refreshments for the:

- ❑ Hearing Panel/HR Advisor,
- ❑ the Investigating Officer/schools Link HR Advisor,
- ❑ the employee/their work colleague or trade,
- ❑ union/professional association representative (where applicable)
- ❑ any witnesses – it may be where both parties intend to call witness that two separate waiting areas may be required.

1110 Once the Clerk to Governing Body has undertaken the actions detailed above it is the responsibility of the Chair of the Hearing Panel to manage the next stage in the process.

### 11.1.2 Hearing Panel

1111 The role of the Hearing Panel is to evaluate the information presented to them and to determine the appropriate outcome – including the drawing up of an action plan, where appropriate.

1112 The Hearing Panel will have had no prior involvement or detailed knowledge of the case, excluding the information provided to him or her in preparation for the Hearing.

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<sup>7</sup> Please note: any additional documentation held by the employee and/or their TU representative and not contained within the above papers will only be considered with the consent of the Chair of the Hearing Panel after discussion with the supporting HR Advisor.

<sup>8</sup> Where witnesses are to be in attendance at a Disciplinary Hearing it is the responsibility of the parties calling them to ensure that they are able and willing to attend the Hearing.

- 1113 It shall be the responsibility of the Chair of the Hearing Panel to ensure that the Hearing is conducted appropriately – guidance is noted at Appendix E. All members of the Hearing Panel are required to:
- ❑ familiarise themselves with the documentation provided prior to the Hearing.
  - ❑ meet prior to the Hearing with the HR Advisor to ensure that they fully understand the process/their roles and to undertake any preparation required – including the drafting of questions/points of clarity required.
  - ❑ ensure that they conduct themselves within the Hearing in accordance with the principles of the Disciplinary Policy.
- 1114 Once the Panel have received the information presented to them by all parties, asked any appropriate questions and are satisfied that they have sufficient information to reach a decision as to the outcome they will adjourn the Hearing to reach a decision.
- 1115 The Hearing can adjourn at any time at the request of either of the parties and the Chair of the Hearing Panel will need to consider such requests.
- 1116 The Hearing Panel is required to consider all of the information made available to them and/or presented at the Hearing prior to them reaching their outcome.
- 1117 Options for the Hearing Panel to consider as an outcome arising from this Disciplinary Hearing are:
- ❑ take no further action - concerns are unfounded and no further action is required.
  - ❑ formal additional support - additional support/actions identified as the means to change the employees' conduct/behaviour in respect of the concerns identified,
  - ❑ impose a sanction, up to and including dismissal with or without notice as appropriate (see Appendix C for options relating to possible sanctions).
- 1118 Once the Hearing Panel has reached a decision, they will be required to notify all parties of the decision. Where possible it is recommended that this be undertaken on the same day as the Hearing and in person. It is acknowledged that after an adjournment to reach a decision it may not be appropriate to ask the parties to wait. Where this occurs alternative arrangements will need to be agreed, with advice from the supporting HR Advisor regarding the most appropriate way forward.
- 1119 Following the outcome of the Hearing, the Chair of the Hearing Panel will be required to draft (in conjunction with the supporting HR Advisor) a letter to convey to the employee the decision made by the Panel.
- 1120 This letter will be sent by the Clerk to Governors, on behalf of the Chair of the Hearing Panel, within 5 standard working days following the Hearing Panel's

decision being verbally advised to the employee and will note the:

- ❑ concerns/allegations considered,
- ❑ decision reached including any sanctions, if appropriate,
- ❑ reasons for reaching this decision, and the
- ❑ right of appeal.

- 1121 This letter, as well as being sent to the employee (including a copy for their work colleague or trade union/professional association representative), will be copied at the same time to the:
- ❑ Investigating Officer and supporting HR Advisor,
  - ❑ Hearing Panel members and their supporting HR Advisor.
- 1122 The Chair of the Hearing Panel and the supporting HR Advisor will be required to update/advise the Headteacher of the agreed outcome/way forward immediately after informing the employee.
- 1123 Where an action plan is required as one of the outcome options, the Chair of the Hearing Panel and supporting HR Advisor will liaise with the Headteacher (or their designate) regarding the action plan. The responsibility for the delivery of the support/action plan will lie with the Headteacher (or their designate) as appropriate.
- 1124 The Clerk to Governors and the Chair of the Hearing Panel are responsible where dismissal is an outcome to work with the supporting HR Advisor to ensure that the Schools statutory obligations are fulfilled.
- 1125 The Chair of the Hearing Panel together with the supporting HR Advisor will be required to:
- ❑ present/prepare information for any Appeal Panel consideration,
  - ❑ attend any Appeal to present relevant information including the reasons for reaching the decision.

## **12. Step 3 – Appeal**

- 1201 Following the letter confirming the Hearing Panel decision being sent to the employee, the employee has 5 standard working days to lodge a request for an Appeal Hearing. The request for an Appeal Hearing must be sent to the Clerk to Governors in writing, outlining the reasons for requesting an Appeal.
- 1202 The employee should take care to outline in detail the grounds for their Appeal to ensure there is no undue delay in organising an Appeal Hearing. Where insufficient information is provided regarding the nature of the Appeal, the Chair of the Appeal Panel reserves the right to seek further clarification, prior to arranging the Appeal Hearing. It is the responsibility of the Chair of the Appeal Panel working with their supporting HR Advisor to communicate (via the Clerk to

Governors) in writing with the employee, where further information is required.

1203 Where dismissal is the outcome of the Disciplinary Hearing, lodging an Appeal against the decision will not stop a dismissal from proceeding. The effective date of dismissal will be the date of the Hearing Panel's decision being verbally advised to the employee.

1204 Once the Chair of the Appeal Panel has undertaken the actions detailed above it will be their responsibility to ensure that any Appeal Hearing can progress in a timely manner.

1205 Following the agreement to progress to an Appeal Hearing it is the responsibility of the Clerk to Governors to undertake the actions noted below:

### 12.1 Roles & Responsibilities

#### 12.1.1 Clerk to Governors

1206 The role of the Clerk to the Governors is to organise and coordinate the Appeal, once the Chair of the Appeal Panel has confirmed that there is sufficient information to proceed.

1207 The Clerk to Governors, after seeking advice from the supporting HR Advisor will write to the employee (including a copy for their work colleague or trade union/professional association representative), in addition a copy of this letter will also be sent at the same time to the:

- Chair of the Hearing Panel and supporting Advisor,
- Appeal Panel and supporting HR Advisor.
- Note taker – if this is not the Clerk to Governors

1208 This letter is deemed as formal notice of the Disciplinary Appeal Hearing and will be issued within 2 standard working days on the basis that the employee has provided sufficient information for the Appeal Hearing to be progressed. The Appeal hearing will take place within 10 standard working days following this formal notice being issued to the employee.<sup>9</sup>

1209 This formal notice will include:

- date, time and place of the meeting with the Appeal Panel,
- the reasons for the Appeal against the outcome reached by the Hearing Panel,

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<sup>9</sup> There may be circumstances where this timeframe is not achievable for the parties concerned. Where this is the case the school link HR Advisor will liaise with the parties to arrange a suitable alternative date.

- ❑ all documentation to be presented by the Chair of the Hearing Panel (or their designate) including that presented at the Hearing stage together with minutes taken<sup>10</sup>,
- ❑ any names, job titles, locations of witnesses to be called by the Chair of the Hearing Panel<sup>11</sup>,
- ❑ the right to be represented by a work colleague or a trade union/professional association representative,
- ❑ copy of the school policy & procedure relating to staff discipline (inclusive of format for conducting the Appeal).

1210 In addition the formal notice letter will include a request for the employee, supported by their work colleague or trade union/professional association representative (where applicable) to:

- ❑ confirm whether or not they will attend the Appeal and if they are to be accompanied and by whom,
- ❑ submit in writing to the Clerk to Governors all documentation to be presented at the Appeal at least 5 standard working days prior to the Appeal<sup>12</sup>
- ❑ Confirm any names, job titles, locations of witnesses to be called

1211 Once in receipt of the documentation from the employee the Clerk to Governors will copy and forward this documentation, together with a covering letter identifying the names of any witnesses to be called by the employee, to the parties noted below no later than 4 standard working days prior to the commencement of the Appeal:

- ❑ the Chair of the Hearing Panel and supporting school Link HR Advisor,
- ❑ the members of the Appeal Panel and supporting HR Advisor,
- ❑ Note taker – if this is not the Clerk to Governors

1212 The Clerk to Governors is responsible for organising separate rooms/facilities/refreshments for the Appeal Panel/HR Advisor, the Chair of the Hearing Panel/HR Advisor, the employee/their work colleague or trade union/professional association representative (where applicable) and any witnesses.

1213 It is the responsibility of the Chair of the Appeal Panel in conjunction with the supporting HR Advisor to manage the next stage in the process.

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<sup>10</sup> Please note: this may include additional documentation at this stage however after this point in the process such information can only be presented with the consent of the Chair of the Appeal Panel after discussion with the supporting HR Advisor.

<sup>11</sup> Where witnesses are to be in attendance at a Disciplinary Hearing it is the responsibility of the parties calling them to ensure that they are able and willing to attend the Hearing.

<sup>12</sup> Please note: this may include additional documentation at this stage however after this point in the process such information can only be presented with the consent of the Chair of the Appeal Panel after discussion with the supporting HR Advisor.

### 12.1.2 Appeal Panel

- 1214 The role of the Appeal Panel is to evaluate the information presented to them and to determine the appropriate outcome – including the drawing up of an action plan, where appropriate.
- 1215 The Appeal Panel will have had no prior involvement or detailed knowledge of the case, excluding the information provided to him or her in preparation for the Appeal.
- 1216 It shall be the responsibility of the Chair of the Appeal Panel to ensure that the Appeal is conducted appropriately – guidance is noted at Appendix E. All members of the Appeal Panel are required to:
- ❑ familiarise themselves with the documentation provided prior to the Appeal Hearing.
  - ❑ meet prior to the Appeal Hearing with the HR Advisor to ensure that they fully understand the process/their roles and to undertake any preparation required – including the drafting of questions/points of clarity required.
  - ❑ ensure that they conduct themselves within the Appeal Hearing in accordance with the principles of the Disciplinary Policy.
- 1217 Once the Panel have received the information presented to them by all parties within the Appeal, asked any appropriate questions and are satisfied that they have sufficient information to reach a decision as to the outcome of the Appeal Hearing they will adjourn the Appeal to reach a decision.
- 1218 The Appeal Hearing can adjourn at any time at the request of either of the parties and the Chair of the Appeal Panel will need to consider such requests.
- 1219 The Appeal Panel is required to consider all of the information made available to them and/or presented at the Appeal Hearing prior to reaching their outcome.
- 1220 Options for the Appeal Panel to consider as an outcome arising from this Appeal are:
- ❑ take no further action – original outcome from Hearing stands.
  - ❑ after thoroughly exploring the issues raised at the Appeal Hearing the Panel believe it is appropriate to change the previous decision issued by the Hearing Panel<sup>13</sup>, perhaps on grounds of evidence not available at the original/earlier Hearing, the level of sanction given, or inconsistency.
- 1221 Once the Appeal Panel has reached a decision, they will be required to notify all parties of the decision. Where possible it is recommended that this be undertaken on the same day as the Appeal Hearing and in person. It is acknowledged that after an adjournment to reach a decision it may not be

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<sup>13</sup> In accordance with the principles of this policy the Appeal Panel do not have the authority to increase the sanction set at the original hearing.

appropriate to ask the parties to wait. Where this occurs alternative arrangements will need to be agreed, with advice from the supporting HR Advisor regarding the most appropriate way forward.

- 1222 Following the outcome of the Appeal Hearing, the Chair of the Appeal Panel will be required to draft (in conjunction with the supporting HR Advisor) a letter to convey to the employee the decision made by the Appeal Panel.
- 1223 This letter will be sent by the Clerk to Governors, on behalf of the Chair of the Appeal Panel, within 5 standard working days following the Appeal Panel's decision being verbally advised to the employee and will note the:
- concerns/allegations considered,
  - decision reached including any sanctions, if appropriate,
  - reasons for reaching this decision,
  - that there is no further right of appeal.
- 1224 This letter, as well as being sent to the employee (including a copy for their work colleague or trade union/professional association representative), will at the same time be copied to Chair of the Hearing Panel, supporting HR Advisor, Appeal Panel and supporting HR Advisor.
- 1225 The Chair of the Appeal Panel and the supporting HR Advisor will be required to update/advise the Headteacher of the agreed outcome/way forward immediately after informing the employee.
- 1226 Where an action plan is required as one of the outcome options, the Chair of the Appeal Panel and supporting HR Advisor will liaise with the Headteacher (or their designate) regarding the action plan. The responsibility for the delivery of the support/action plan will lie with the Headteacher (or their designate) as appropriate.
- 1227 The Clerk to Governors and the Chair of the Appeal Panel are responsible where dismissal is an outcome to work with the supporting HR Advisor to ensure that the Schools statutory obligations are fulfilled.
- 1228 The decision of the Appeal Panel is final.

### **13. Additional Information**

#### **13.1 Timing and/or Rescheduling**

- 1301 The timing and location of any 'notification meeting' with the Headteacher (or their designate), any meeting(s) with the Investigating Officer, or subsequent Hearing and Appeal under this Policy & Procedure will be reasonable and each step in the Policy & Procedure will be taken without undue delay.
- 1302 The employee must take all reasonable steps to attend any meeting(s), or

subsequent Hearing and Appeal arranged under this Policy & Procedure. Where an employee is persistently unable or unwilling to attend a disciplinary meeting without good cause the employer should make a decision on the evidence available.

1303 Should the employee have chosen a work colleague or trade union/ professional association representative to support them within this Policy & Procedure and their chosen work colleague or trade union/professional association representative is not available on the date suggested, the following will be considered:

- ❑ for a meeting with the Investigating Officer – consideration may be given by the Investigating Officer and supporting HR Advisor to the postponement of the planned meeting where this can be held within five standard working days of the proposed date
- ❑ the scheduled Hearing or Appeal - the employee must offer an alternative date<sup>14</sup>, which is reasonable and which falls on or before the end of the fifth standard working day, after the original Hearing or Appeal date proposed.

### 13.2 Adjournment/Reconvening

1304 Every effort will be made to conclude the Hearing and Appeal as quickly as possible however the Panel reserves the right to adjourn and reconvene before communicating the outcome to the employee. Where this is applied appropriate advice of the supporting HR Advisor will be considered.

### 13.3 Disciplinary Action against Trade Union/Professional Association Officials

1305 Although the same disciplinary standards will apply to trade union/professional association representatives as are applied to all other employees, no disciplinary action<sup>15</sup> should be taken until a senior trade union/professional association representative (or permanent official) has been informed of the circumstances of the case.

1306 Where action is proposed the school Link HR Advisor will be contacted by the Headteacher and informed of the allegations. The school Link HR Advisor will contact the relevant senior trade union/professional association representative (or permanent official) to outline the nature of the concern and the next stages as outlined within this Policy & Procedure.

### 13.3 Witnesses/Other Parties

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<sup>14</sup> In accordance with Section 10 of the Employment Rights Act 2002 - the employee must propose a date which is reasonable and which falls on or before the end of the fifth standard working day, after the original Hearing or Appeal date proposed.

<sup>15</sup> This relates to a formal Hearing and Appeal being arranged and does not relate to any informal action or a fact find.

- 1307 Where witnesses/other parties are involved at any stage of the Disciplinary Policy & Procedure they are reminded that they are required to maintain confidentiality throughout the process and thereafter.
- 1308 Witnesses who have agreed to be in attendance at a Disciplinary Hearing/Appeal should be aware that:
- it is the responsibility of the parties calling them to ensure that they are able and willing to attend the Hearing/Appeal.
  - it is their responsibility to ensure that they gain time out of/away from their place of work from their line/senior manager/head teacher to attend the Hearing/Appeal.
  - it is at the discretion of their line manager to consider this request for time and to agree if this time is paid or not<sup>16</sup>.
- 1309 It is the responsibility of the parties calling the witness to attend the Hearing or Appeal to ensure that their witness is fully aware of their role and that they are familiar with their witness statements (where they have provided one).
- 1310 Witnesses need to also be aware that they may be called to attend the Hearing or Appeal by the Panel members themselves and it is the responsibility of the parties citing the witnesses, where they choose not to call them to ensure that each witness is placed on standby in the event that the Panel wish to call the witness forward themselves.
- 1311 Witnesses will be called into the Hearing and Appeal on an individual basis and will not be required to attend the Hearing or Appeal before or after their requirement to meet the Panel members. However witnesses will need to be aware that they may be required to wait before and after their meeting with the Panel.

#### 13.4 Financial Irregularities

- 1312 The Council's Financial Regulations should be taken into consideration as part of any disciplinary investigation. Internal Audit and Financial Services should be advised in all cases involving any potential financial malpractice. An officer within Internal Audit/Financial Services may be in a position to offer technical advice to the Investigating Officer/HR Advisor or Hearing/Appeal Panel, as well as advice on any appropriate action(s) to be taken outside of this procedure such as referral to the Police.

#### 13.5 Criminal Investigation within Employment

- 1313 In case of matters, which need to be referred to the Police, the investigation may be carried out simultaneously with the Police investigation. However, in most

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<sup>16</sup> Please refer to the Schools Leave of Absence Policy for further information. Where individuals work outside of the School/Local Authority they will need to discuss this matter with their line manager directly.

cases a Police investigation will precede any internal investigation, thus this should only be initiated following discussion with the school Link HR Advisor.

- 1314 Prior to commencing the investigation, the Investigating Officer/HR Advisor should consult with the Police regarding available evidence and confirm they have no objections to proceeding with an investigation under this Policy & Procedure.

### 13.6 Conduct outside Normal Duties

- 1315 Where allegations arise regarding actions outside normal duties, that involve conduct/behavior that could prejudice the employment relationship, including (but not limited to) mutual trust and confidence, fidelity, etc between the Governing Body and employee, an investigation may be undertaken within this Disciplinary Procedure.
- 1316 Such actions are likely, though not exclusively, to relate to an offence that if proven would make an employee unsuitable to continue in their work. Where this involves a criminal conviction a determination will need to be made, after considering the facts, whether the matter is sufficiently serious to warrant invoking the Disciplinary Procedure or any other relevant Policy & Procedure. However, an employer should not automatically dismiss an employee merely because of the charge or offence or for absence from work as a result of being remanded in custody. Where this occurs the Governing Body will obtain advice from the school Link HR Advisor, to determine whether the employees alleged conduct/behaviour is such that Disciplinary Action (up to and including Dismissal) or other action is appropriate.
- 1317 Where prevented from attending work due to imprisonment or other custodial sentence, the Governing Body shall, after obtaining advice from the school Link HR Advisor, determine whether the employees conduct/behaviour is such that they have repudiated their contract and employment is at an end.
- 1318 Advice should be sought from the school Link HR Advisor where there are any queries.

### 13.7 Referral of Misconduct Cases

- 1319 Where an employee is dismissed for misconduct or resigns in circumstances that may have led to them being considered for dismissal, the Headteacher will, in conjunction with the school Link HR Advisor, refer the case to the appropriate professional body<sup>17</sup>. The Headteacher in conjunction the school Link HR Advisor, following either a decision to dismiss or following receipt of a resignation

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<sup>17</sup> Examples being General Teaching Council (GTC), Independent Safeguarding Authority (ISA – from Autumn 2009), Local Safeguarding Children's Board (LSCB) – please note that this list is not exhaustive, but provides a flavour of the various professional bodies who monitor/advise on the professional conduct/behaviours of individuals employed to work within the Children's Workforce.

will advise the employee of this referral in writing. The appropriate professional body will make a determination as to whether the person is fit to continue working in their professional capacity within school.

### 13.8 Protection of Children, Young People & Vulnerable Adults

- 1320 Where allegations may involve child protection issues the Headteacher will refer to the school policy on “Allegations Against Staff”. This policy recommends that the Local Authority Designated Officer (LADO) should be immediately informed of all allegations. The role of the LADO is to make a decision regarding how the case will be handled and to discuss this with the Headteacher. The LADO will make the decision regarding referral to Local Safeguarding Children’s Board (LSCB). The Headteacher will not advise the Employee of the allegation until after the LSCB meeting has taken place and input/guidance as to how the matter will be progressed has been determined.
- 1321 Dependent upon the determination of the LSCB regarding how the case will be progressed this may be under the Schools Child Protection Procedures/LSCB, or under this Policy & Procedure as necessary. Any Child Protection investigations in the first instance will be kept separate from the Disciplinary Policy & Procedure.
- 1322 Any investigation by the Police or child protection agencies will take priority over any possible Disciplinary investigation. Any Disciplinary investigation would normally be held in abeyance until the external investigations have been carried out. This does not mean waiting until the outcome of criminal court proceedings, but advice should be sought from the school Link HR Advisor before progressing the Disciplinary investigation in such circumstances.

### 13.9 Criminal Records Bureau (CRB)/Independent Safeguarding Appeal (ISA) Checks

- 1323 Where, through periodic assessment, an employee’s CRB (from 2009 ISA) check identifies actions that may constitute an issue which would bring their ongoing employment with the School into question, the school Link HR Advisor will contact the Headteacher to discuss the information obtained and determine an appropriate way forward. In doing so, advice will be given by the supporting HR Advisor as to whether consideration be given to action under this Disciplinary Policy & Procedure.

### 13.10 Contacts

- 1324 The following information can be obtained from the school Link HR Advisor
- A current list of trade union/professional association representatives,
  - Current Local Authority Designated Officer (LADO) for child protection.

Alternatively, information relating to contact details can also be obtained by accessing the Intranet.

## Appendix A

### Examples of conduct/behaviour unacceptable to the organisation

<p style="text-align: center;"><u>Misconduct</u></p> <p>(Disciplinary Sanctions up to and including Dismissal with Notice)</p>	<p style="text-align: center;"><u>Gross Misconduct</u></p> <p>(Disciplinary Sanctions up to and including Dismissal without Notice)</p>
<p>May be described as conduct which initially requires disciplinary action other than dismissal, such as minor breach of company rules, policies and procedures, minor damage to company property, unsatisfactory attendance and/or poor timekeeping, unauthorised absence, and failure to meet appropriate and expected standard of work. If further misconduct takes place, dismissal may ultimately be an appropriate sanction.</p> <p>Acts, which constitute misconduct, are those resulting in a breach of contractual terms and are best described by organisation in light of their own particular circumstances. It is unlikely that misconduct is a one off incident and more often relates to an initial instance that is not serious enough to warrant gross misconduct, or a continuation of unacceptable conduct/behaviour that warrants action. In such instances the ongoing unacceptable conduct/behaviour may result in a warning or a number of warnings being issued. Areas for consideration may also include previous conduct/behaviour including frequency/patterns.</p> <p>Noted below are some examples of what misconduct might include, however it is important to note that this is a non-exhaustive list:</p>	<p>Is generally considered to be misconduct serious enough to destroy the contract between employer and employee, and irretrievably break down the working relationship and trust between them. Such conduct/behaviour may warrant summary dismissal, i.e. dismissal without notice. Examples may include theft, fraud or any act of dishonesty, any act or attempted act of violence or abusive behaviour towards people or property, any serious act or attempted act of violence or abusive behaviour towards people or property, any serious act of insubordination or refusal to carry out reasonable requests, a major breach of company rules, policies and procedures, deliberate and/or major damage to the organisations property, unauthorised or unreasonable absence or consistent poor timekeeping, poor work performance and/or lack of capability and/or incompetence, a serious breach of health and safety obligations, any form of discrimination, victimisation, harassment or bullying, and any other act likely to bring the organisation into disrepute.</p> <p>Acts, which constitute gross misconduct, are those resulting in a serious breach of contractual terms and are best described by organisation in light of their own particular circumstances. It is likely that a single act of serious misconduct, being a one-off/stand alone incident, which on its own brings the ongoing employment relationship into question. In such instances dismissal may occur.</p> <p>Noted below are some examples of what gross misconduct might include, however it is important to note that this is a non-exhaustive list:</p>
<p>Unsatisfactory attendance and/or timekeeping and/or unauthorised absence.                      Insubordination or refusal to carry out reasonable requests.                      Failure to take reasonable care of the employers property, goods etc.                      Unacceptable standard of behaviour towards others whilst carrying out duties.                      Bullying or harassment.                      Misuse of the employer's property or name.                      Minor breaches of Health &amp; Safety Regulations.                      Unauthorised use of employer facilities.                      Failure to adhere to the employee's code of conduct.                      Unsatisfactory work performance/capability.</p>	<p>Serious insubordination or refusal to carry out reasonable requests.                      Thefts, fraud, deliberate falsification of records or any act of dishonesty.                      Deliberate and/or major damage to property.                      Serious misuse of organisation's property or name.                      Any act or attempted act of physical violence or abusive behaviour towards people or property.                      Serious bullying or harassment.                      Unlawful discrimination.                      Serious child protection infringements.                      Sexual offences and sexual misconduct whilst at work.                      Non-compliance with the acceptable use of communication systems policy and the computer security policy including IT and Internet.                      Major breach of company rules, policies and procedures.                      Bringing the employer into series disrepute                      Serious incapability whilst on duty brought on by alcohol or drugs.                      Causing loss, damage or injury through serious negligence.                      Serious breach of confidence.                      Serious infringement of Health &amp; Safety Regulations.                      Failure to maintain membership/registration of the appropriate professional bodies required for the role (including GTC).</p>

The above lists are neither exclusive nor exhaustive. They are provided to give a flavour/examples of the kind of conduct/behaviour that may be deemed as inappropriate. This will not preclude the possibility of Disciplinary Action being undertaken for other similar/associated matters.

## Appendix B

### Example Supportive Interview Action Plan

Name:		Date Implemented:	
Position:		Review Date:	
Outline of Concern (*):			
Actions required of the employee (*):			
Actions Agreed	Responsibility	Timescale	
Next Steps			
Line Manager/Person completing the Action Plan:			Date:

\*Please, continue on a separate sheet if necessary.

## Appendix C

### Disciplinary Outcomes inclusive of Sanctions available under this procedure

When deciding whether a disciplinary penalty is appropriate the Hearing Panel should take the following advice from ACAS into consideration when determining the reasonableness of their proposed sanction:

- Whether there are any rules or protocols within school that may indicate what the likely penalty may be as a result of the particular misconduct,
- the penalty imposed in similar cases in the past,
- whether the standards of other employees are acceptable and that this employee has not been singled out,
- the employees disciplinary record (including current warnings), general work record, work experience, position and length of service within school,
- any special circumstances that might make it appropriate to adjust the severity of the penalty.
- Whether the proposed penalty is reasonable in view of all the circumstances,
- Whether any training, additional support or adjustments to the workplace are necessary.

The following outcomes do not have to be followed in a strict order, but will be issued dependent on the matter in question, having taken the above advice into account.

- No formal action – it is felt that the concerns are unfounded and no further action is required.
- Formal additional support - additional support/action are identified as a means to change the employees' conduct/behaviour in respect of the concerns identified.
- Verbal warning – where there is a failure to improve or change conduct/behaviour in the timescale set or where the matter is sufficiently serious, the employee may be given a formal verbal warning. A formal verbal warning will be disregarded for disciplinary purposes after a period of 6 months.
- Written warning - where there is a failure to improve or change conduct/behaviour in the timescale set or where the matter is sufficiently serious, the employee may be given a formal written warning. A formal written warning will be disregarded for disciplinary purposes after a period of 12 months.
- Final written warning - where there is a failure to improve or change conduct/behaviour in the timescale set or where the matter is

sufficiently serious, the employee may be given a formal final written warning. A formal final written warning will be disregarded for disciplinary purposes after a period of 18 months.

- Dismissal - where there is a failure to improve or change conduct/behaviour in the timescale set or where the matter is sufficiently serious, the employee may be dismissed<sup>18</sup>.
- Gross Misconduct Dismissal – where a decision is reached to dismiss this will always be with immediate effect and without notice.

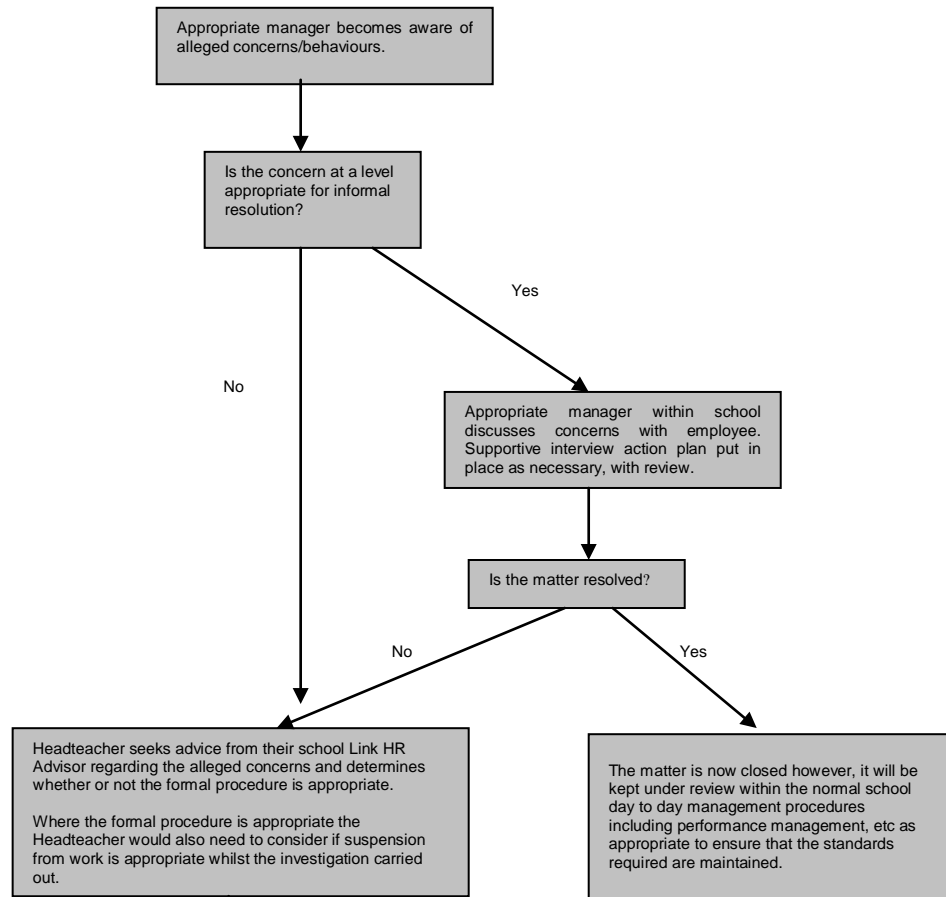
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<sup>18</sup> Panels are reminded that after advise from the supporting HR Advisor and in exceptional circumstances they may also wish to consider alternatives to dismissal, this could include disciplinary transfer, disciplinary suspension without pay, demotion, loss of seniority or loss of increment. In the event that this did occur the Panels decision will be confirmed in writing to the employee and will remain on their personal file.

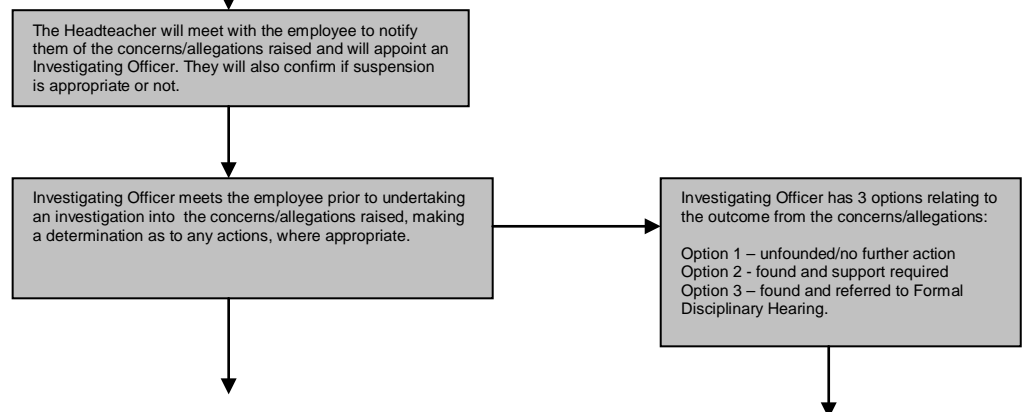
## Appendix D

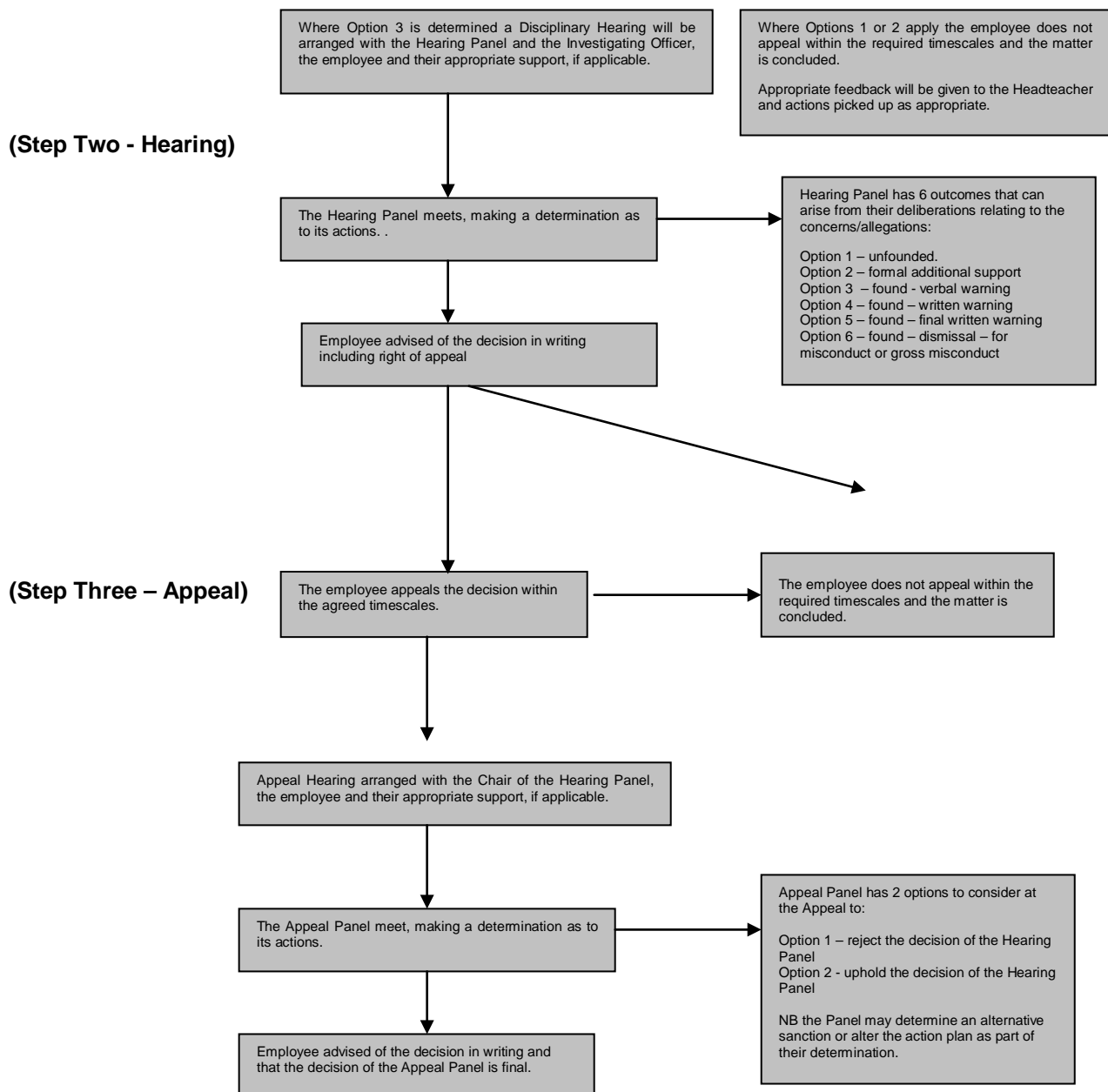
### Disciplinary Procedure – Flow Chart

#### Informal Stage



#### Formal Stage (Step One - Investigation)





## **Appendix E**

### **Disciplinary Hearing/Appeal Hearing – Suggested Format**

#### Introductions

The Chair of the Panel introduces all parties present and explains how the meeting will be conducted and what is being considered – including adjournments, refreshment breaks, expected behaviour, documentation, etc.

#### Presentation

By the Investigating Officer (or Chair of Hearing Panel where it is an Appeal). Witnesses\* called as/where necessary.

Please note: where more than one witness\* is to be called as part of the presentation it is important that all parties are given the opportunity to question each witness\*

#### Questions

The parties may ask questions relating to the presentation give by the Investigating Officer (or Chair of the Hearing Panel where it is an Appeal) in the following order:

Employee (or their work colleague or trade union/professional association representative)  
Panel Members

#### Presentation

By the Employee (or their work colleague or trade union/professional association representative). Witnesses\* called as/where necessary.

Please note: where more than one witness is to be called as part of the presentation it is important that all parties are given the opportunity to question each witness prior to their being excused.

#### Questions

The parties may ask questions relating to the presentation give by the Employee (or their work colleague or trade union/professional association representative) in the following order:

Investigating Officer (or Chair of the Hearing Panel where it is an Appeal)  
Panel Members

#### Final statements

Will be taken in the following order:

Investigating Officer (or Chair of the Hearing Panel where it is an Appeal)  
Employee (or their work colleague or trade union/professional association representative)

All parties then withdraw to allow the Panel to reach a decision. The supporting HR Advisor will remain during this stage as will the minute/note taker.

The parties may be asked to remain available for possible clarification of matters and be advised of the decision of the Panel.

\*Witnesses – each witness will be required to attend on an individual basis and will only be required to attend the Hearing/Appeal to discuss their particular information. They will be required to attend the Hearing/Appeal prior to and after their required attendance. It is the responsibility of the parties calling the witnesses to ensure that witnesses are aware of their role and their attendance requirements.

## **Appendix F**

### **Outline Timeline**

<b>Number of Working Days</b>	<b>Number of Work Weeks</b>	<b>Action</b>	
1	One	Headteacher advised employee of the need to undertake an investigation. <ul style="list-style-type: none"> <li><input type="checkbox"/> Letter issued to employee to confirm this discussion.</li> <li><input type="checkbox"/> Investigating Officer appointed by the Headteacher.</li> </ul>	
3	One	Step 1 – The investigating Officer meets with the individual within 2 working days of the employees meeting with the Headteacher (notification meeting – as noted above).	
10	Two	Investigating Officer concludes their investigation (providing updates every 5 working days as appropriate to the employee).  In exceptional circumstances the investigation stage may be extended beyond this period.  Assuming that the investigation has been concluded the Investigating Officer will advise the employee that the investigation has been concluded.	
		If no further formal action required – Options 1 and 2. The matter will be passed back to the Headteacher.	If further formal action is required – Option 3. The Investigating Officer will confirm to the employee that the matter is being referred to a formal hearing. The Clerk to Governors will be asked to arrange the hearing and produce all necessary papers.
12	Three	Step 2 – Hearing arranged and Clerk to Governors issues formal notice to the employee/parties inclusive of the date, time, venue, a copy of the investigating officers report and the date for submission of their response to the investigating officers report/findings.	
17	Four	Employees papers/witness names provided to the Clerk to Governors.	
18	Four	Employee papers/witness names forwarded to all relevant parties.	
22	Five	Hearing takes place.	
27	Six	Outcome of the Hearing confirmed to employee in writing. Assuming the Hearing is not adjourned for further information/investigation. Employee advised of the right of appeal.	
32	Seven	Employees' deadline for lodging an appeal.	
34	Seven	Assuming that the Appeal is not referred back for further information – letter confirming date, etc of appeal hearing sent to employee/parties with copy of relevant documentation and date for submission of their documentation.	
39	Eight	Employee Appeal papers provided to the Clerk to Governors.	
40	Nine	Employee Appeal papers forwarded to all of the various parties.	
44	Ten	Appeal takes place.	
49	Eleven	Outcome of the Appeal confirmed to employee in writing. Assuming the Appeal is not adjourned for further information/investigation. Employee advised that there is no further right of appeal and that the matter concludes at this stage.	