

Model Disciplinary Policy & Procedure for Teachers and Support Staff in Schools & Academies

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Contents

1. Introduction	3
2. Model policy for disciplinary	3
3. Purpose	3
4. Application of the policy	4
5. Disciplinary procedure	6
5.1 Establishing the facts and preliminary enquiries	6
5.2 Suspension	6
5.3 Safeguarding & child protection	7
5.4 Criminal offences/cases	8
5.5 Right to be accompanied/represented	8
5.6 Investigatory meeting	8
5.7 Informal action	9
5.8 Formal action – the disciplinary hearing	9
6. Decision to dismiss	11
7. Dismissal	12
8. Appeal	12
9. Other provisions	13
9.1 External referral	13
9.2 Raising a grievance	13
9.3 Sickness absence	14
Appendix 1 Examples of misconduct/gross misconduct	15
Appendix 2 Format for disciplinary hearing	17
Appendix 3 General principles underlying this policy	18

1. Introduction

1.1 A disciplinary policy and procedure promotes good employment relations and maintains fairness and consistency in the treatment of employees in the workplace.

All parties have identified that a school's disciplinary code should be fair, reasonable and equitable in application.

1.2 It is recognised that discipline in the workplace is essential for the conduct of the school's affairs, the efficient running of the school and for the safety and wellbeing of all its employees.

1.3 This model policy has been designed for use with all employees in the school including teachers, head teachers, non-teaching and support staff. Schools may choose to adopt this or another policy, according to governing body decision.

1.4 This policy does not form part of any employee's contract of employment and it may be amended by the governing body at any time following consultation with recognised trade unions.

1.5 The generic terms 'school' and 'head teacher' are used throughout for ease, but equally signify school/trust/academy and head teacher/principal respectively.

2. Model policy for disciplinary

The governing body of Central Street Infant & Nursery School adopted this policy July 2017.

The policy has been the subject of consultation with recognised trade unions

It will review it July 2020.

3. Purpose

The purpose of the disciplinary procedure is to maintain appropriate standards of staff conduct in employment through the application of fair and effective management of disciplinary matter.

The procedure aims to support and encourage acceptable standards of work, be a corrective rather than punitive process aimed at improving conduct through management direction rather than disciplinary measures, provide a fair and consistent method of dealing with alleged breaches in standards of conduct and provide an appropriate disciplinary sanction where the alleged breach of discipline is proven.

4. Application of the policy

4.1 This policy has been designed for use with all employees in the school including teachers, head teachers, non-teaching and support staff. The policy does not apply to employees where the probationary period has not been completed, and dismissal arises from unsuitability for confirmation of employment.

4.2 This policy should not normally apply for managing performance issues or capability concerns resulting from ill-health. The appraisal; capability and attendance management policies and procedures should be applied in these cases. However in cases of willfully deficient performance, refusal to follow instructions, negligence, timekeeping and non-health related short term absences, the disciplinary policy should apply.

4.3 The School Staffing Regulations allow the governing body to delegate many of its staffing functions, including the disciplinary process, to the head teacher, one or more governors, or a combination of the two. The exception to this is: appeal hearings should be heard by one or more governors and any dismissal appeal hearings by a panel of at least three governors. Where the decision making body is the governing body, this will usually consist of a panel of three governors. Panel members must not be staff governors or have had any involvement in the case.

4.4 All disciplinary matters should be dealt with by school management as quickly as possible whilst recognising the need for a full and thorough investigation to be undertaken.

4.5 The school recognises that it is the right and duty of all managers authorised by them to control and maintain acceptable standards of behaviour, conduct and performance in the workplace.

4.6 Minor cases of misconduct should be dealt with either through informal supervision and/or by issuing a Letter of Concern, without resorting to the schools formal disciplinary policies and procedures. The disciplinary procedure is not intended to replace or restrict the normal day to day management of employees in connection with their conduct or performance.

4.7 No disciplinary action shall be taken against an employee who is a union representative, until the circumstances of the case have been discussed with a full time official. Advice from the school's HR Advisor is also recommended.

4.8 Following the disciplinary hearing, where an employee's actions, behaviour and conduct is such as to warrant disciplinary action, the schools management may impose one of the following course of action;

- Issue a First Written Warning which shall remain on the employee's disciplinary record for a period of six months from the date of the disciplinary hearing (excluding the summer break)

- Issue a Final Written Warning which shall remain on the employee's disciplinary record for a period of 15 months from the date of the disciplinary hearing
- Issue a First and Final Written Warning which shall remain on the employee's disciplinary record for a period of 15 months from the date of the disciplinary hearing
- Dismissal (see 4.11, 4.12 and 4.13)
- Demotion, or other action short of dismissal e.g. transfer (this sanction can only be applied with the employee's agreement)

There is no requirement to follow a stepped process when considering allegations of misconduct. If an employee's first misconduct is sufficiently serious, it may be appropriate to issue a 'First and Final' Written Warning without a First Written Warning being in place.

4.9 After the expiry of these periods the warnings shall be considered spent from the employee's disciplinary record, however they will remain on the employee's personal HR file for non-disciplinary purposes only – the details of which must be kept confidential and secure in accordance with data protection requirements.

4.10 All formal warnings will be confirmed by letter under the signature of the chair of the disciplinary hearing. The letter will state the grounds for the action taken and confirm the employee's right of appeal. A copy of the letter confirming the warning will be forwarded to the employee and to his/her trade union representative where requested.

4.11 All employees who have had disciplinary action short of dismissal taken against them should be advised that as long as the warning is current, any further act of misconduct may result in further action being taken which could ultimately lead to dismissal. The employee will also be advised of the necessary conduct that will be required.

4.12 A disciplinary chair may dismiss an employee with the appropriate statutory/contractual notice for committing a further offence(s) after following the recognised disciplinary procedure if that employee has a current warning(s) on their record.

4.13 A disciplinary chair may dismiss an employee on the grounds of gross misconduct as appropriate after following the recognised procedure. Gross misconduct is conduct of such a nature that the school cannot reasonably continue to allow the employee's presence at the place of work. Dismissal for gross misconduct does not have to be preceded by a formal written warning. Gross misconduct matters amount to summary dismissal meaning that the employee is not entitled to statutory/contractual notice.

4.14 All meetings and documentation throughout this process must remain confidential at all times.

5. Disciplinary procedure

5.1 Establishing the facts & preliminary enquiries

5.1.1 In the event of a potential breach of conduct arising, an appropriate investigation should be undertaken to establish the facts of the matter. In order that the head teacher is able to chair any potential formal hearing s/he should nominate another person to investigate the matter. Wherever possible this should be undertaken by a senior member of school staff. The investigating officer appointed must be impartial and not have had any prior involvement in the issue.

5.1.2 Preliminary enquiries should be conducted swiftly after a potential breach of conduct has been brought to the attention of the head teacher (or governor) with a view to assessing and understanding the nature and gravity of the alleged breach and making an initial determination of appropriate lines of further investigation.

5.1.3 Any resulting investigations should not be unduly delayed to protect the interests of the school and to avoid imposition of undue pressure on the employee. Where statements are required, it is important to take these as soon as practicable so that events are recollected accurately and accounts of those involved can be obtained.

5.1.4 The investigating officer appointed to conduct the investigation should not subsequently chair, or otherwise advise the chair, in any formal disciplinary/appeal hearing.

5.1.5 The investigating officer may wish to consult with the school's HR advisor to ascertain advice on good practice, precedents and procedures to be followed as a result of the case circumstances in question.

5.2 Suspension

5.2.1 In exceptional circumstances consideration may be given to suspending the member of staff from their place of work at the outset of the investigation or at any stage during the course of the investigation. Suspension should only happen in serious cases and advice should be sought from your HR advisor in these circumstances. Suspension from work may be considered appropriate in the following circumstances:

- Where the allegations are so serious that dismissal for gross misconduct is possible;
- Where children are at risk;
- *Where the allegation is that a criminal offence may have been committed;
- Where employees need protection themselves;
- Where the school's reputation might suffer unduly;

- Where the presence of the member of staff may impede an investigation;

*Where police are involved, management are advised to liaise with the police prior to suspension being considered.

5.2.2 Decisions on suspensions should only be taken by the head teacher. In cases where the head teacher is to be suspended a representative of the governing body (usually the chair) and the *Director of Children and Young People Services (local authority) will authorise the decision. (* Community, Community Special and Voluntary Controlled Schools only)

5.2.3 The chair of governors and *head of HR (local authority) should be notified of any suspensions (* Community, Community Special and Voluntary Controlled Schools only)

5.2.4 If suspension is considered an appropriate course of action, it should be instigated immediately the management concern has been identified. Any delay in this matter may severely jeopardise management's case at any future disciplinary hearing/employment tribunal.

5.2.5 Alternatives to suspension may include temporary and/or partial alteration/relief of duties, transfer or redeployment in order to mitigate further risk and/or a repeat of the alleged misconduct.

5.2.6 Where suspension is being considered, an interview with the member of staff should take place, where possible. All suspensions should immediately be confirmed in writing to the employee(s) concerned and should clearly detail any conditions relating to the suspension.

5.2.7 All suspended employees should be provided with a link officer. The link officer should not be the investigating officer and should not be involved in the issue. The link officer is the nominated contact for keeping in touch with the employee and through whom the employee can raise any general concerns.

5.2.8 Suspension is a neutral act, not a disciplinary sanction. All employees who are suspended shall receive full contractual pay for the duration of the suspension.

5.2.9 The period of suspension will vary dependant on the circumstances of the case, but should be kept as short as possible and sufficient to enable a detailed investigation into the case to be undertaken. A disciplinary hearing, if considered necessary, should be held as soon as the investigation has been completed.

5.2.10 The link officer should keep employees updated of the progress and any relevant known timescales anticipated in connection with the investigation.

5.3 Safeguarding & child protection

In cases of alleged child abuse, where risks are identified with a potential for safeguarding implications, before an investigation is started, advice must be sought

as soon as possible from the schools HR advisor and the Local Authority Designated Officer.

5.4 Criminal offences/cases

5.4.1 If an employee is charged with, or convicted of a criminal offence this is not normally in itself reason for disciplinary action. Consideration needs to be given to what effect the charge or conviction has on the employee's suitability to do the job and their relationship with their employer. If disciplinary action is necessary the normal disciplinary process should be applied.

5.4.2 If the police are involved in a disciplinary matter the school must consult with the police to initiate and agree the investigation process. Judgement will need to be exercised to take account of the circumstances at hand. The fact that the police are involved does not automatically mean that the school investigation process comes to a standstill. However in certain cases the school may be required to wait until the police have concluded their investigations.

5.4.3 Where an employee is taken into custody or otherwise unable to return to work management need to decide whether in light of the school's needs the employee's job can be kept open during the likely period of absence.

5.4.4 (Community schools, Voluntary Controlled and Community Special Schools only.) Where there is suspicion/allegations of misconduct relating to fraud and/or corruption the local authority audit officers must be informed. No action should be taken to investigate these allegations until and unless an audit officer agrees this is appropriate

5.5 Right to be accompanied/represented

Employees have the right to be accompanied at investigatory meetings and represented at formal disciplinary and appeal hearings by a trade union representative/official or work colleague as referred to throughout this document.

Employees may not be represented by a person who may have a conflict of interest.

5.6 Investigatory meeting

5.6.1 In all cases the investigating officer will need to meet with the employee in order to clarify/seek explanations to the facts and allow the employee the opportunity to state their case in response to the allegations before considering what, if any, further action should be taken.

5.6.2 The employee should be sent a written invitation to attend an investigatory meeting informing them of the alleged misconduct, the date, time and venue of the proposed meeting, and who will be present.

5.6.3 Employees should be given sufficient notice of an investigatory meeting, and reminded of their right to be accompanied by a trade union representative/official or work colleague.

5.6.4 The role of the investigator is to establish the facts of the alleged misconduct, and make a recommendation based on the findings of the investigation as to whether there is a formal case to be answered.

5.6.5 Accurate and factual notes of the investigatory meeting must be recorded, as these will be relied upon as evidence at any formal disciplinary hearing.

5.6.6 The investigating officer may conclude that further enquiries are necessary after completion of the investigatory meeting, before being able to make an informed decision and recommend what, if any, further action is required. Where this is the case, the employee will be verbally informed and written confirmation of the outcome of investigation will be provided as soon as the investigation is complete. Where it is necessary to conduct a further investigatory meeting with the employee i.e. in light of new/additional evidence arising, a follow up meeting will be arranged in line with 5.6.2 and 5.6.3.

5.6.7 Where no substance is found to the allegations, or insufficient evidence to support a formal case exists, then it may be determined that no further action will be taken. The employee should be notified in writing and if the employee has been suspended, the suspension should be lifted.

5.7 Informal action

5.7.1 Where it is found that there is some substance to the case, but there is insufficient evidence to take disciplinary action, or there are mitigating circumstances the manager may choose informal action aimed at remedying shortcomings and improving conduct, instead of formal action. Where this is the case a Letter of Concern should be issued.

5.7.2 The Letter of Concern should be given to the employee and placed on the employees HR file for future reference. The letter should outline the management concerns, give brief details of the investigation and advise the employee of the standards expected. Where appropriate, details of support, additional training or supervision should also be documented and the employee made aware that any further breaches of misconduct may result in formal action being considered.

5.7.3 Issuing Letters of Concern in relation to different types of acts of misconduct are not required or encouraged in respect of minor breaches of discipline to avoid a “build up” of concerns arising. In most circumstances a single use of such remedial action should be sufficient to effect an improvement in an employee’s behaviour/conduct. Consideration of formal action may occur as a result of any type of further breach of discipline/misconduct

5.8 Formal action – the disciplinary hearing

5.8.1 Where the investigating officer identifies concerns of misconduct in relation to an employee and concludes that there is a formal case to be answered, the employee will be invited to a formal disciplinary hearing.

5.8.2 The disciplinary hearing panel should consist of either the head teacher or a panel of three governors. (Refer to 4.3 Delegation arrangements) Panel members must not be staff governors or have had any involvement in the case.

5.8.3 The head teacher or appropriate panel of governors will be notified of the requirement to convene a formal disciplinary hearing to consider the case, and will write to the employee concerned requesting their attendance at a hearing. The school should seek advice from their HR advisor and request their presence if appropriate.

5.8.4 **At least** five working days' written notice will be given of a disciplinary hearing. The notification will;

- contain sufficient information detailing the concerns about the alleged misconduct to enable the employee to prepare to answer the concerns at the meeting.
- include copies of any relevant evidence/statements
- confirm the details of the time and place of the meeting, and who will be in attendance
- advise the employee of their right to be accompanied by a trade union representative/official or a work colleague.

5.8.5 This meeting is intended to: present the evidence; allow the employee to refute the allegations and make any case in mitigation and to determine the appropriate course of action in response to the alleged actions/conduct/behaviour. The format of the hearing will be as set out in Appendix 2 unless varied with the consent of all parties.

5.8.6 Advance notice must be given by either party of any witnesses being called at the hearing. A witness statement must also be submitted as part of the documentary evidence for all witnesses attending the hearing.

5.8.7 Thorough & accurate notes of the disciplinary hearing should be recorded.

5.8.8 Having considered the facts, evidence, representations and mitigation presented, the possible outcomes are:

- No formal action necessary
- Issue a First Written Warning (live for six months – excludes the summer break)
- Issue a Final Written Warning (live for 15 months)
- Issue a First and Final Written Warning (live for 15 months)
- Demotion, or other action short of dismissal e.g. transfer (this sanction can only be applied with the employee's agreement)
- Dismissal (with contractual notice)
- Summary dismissal (without contractual notice) – gross misconduct only

The level of sanction applied will depend on the seriousness of the offence, and will (where appropriate) take account of any live warnings on the employee's HR file. There is no requirement to follow a stepped process when considering allegations of

misconduct. If an employee's first misconduct is sufficiently serious, it may be appropriate to issue a 'First and Final' Written Warning without a First Written warning being in place.

5.8.9 A letter detailing the decision will be sent to the employee as soon as possible following the hearing, including their right of appeal, where appropriate.

5.8.10 All employees who have had action short of dismissal taken against them should be advised in writing that as long as the warning remains current/live any further act of misconduct may result in further action being taken which could ultimately lead to their dismissal. The employee will also be advised of the necessary improvements that will be required.

5.8.11 Following receipt of a warning the employee should be given a reasonable amount of time and opportunity to improve his/her conduct before further disciplinary action is considered. The conduct and performance of the employee should be monitored accordingly, the aim of which is to encourage the member of staff to take responsibility for ensuring the required improvement is achieved.

5.8.12 After the expiry of the warning, the employee's disciplinary record will be considered spent.

5.8.13 Where a hearing has reached its conclusion that further investigation is deemed necessary, the hearing should be adjourned and re-convened after the appropriate investigations. The hearing should be re-convened in line with 5.8.4 and 5.8.5 and confirmed in writing in line with 5.8.9 above.

6. Decision to dismiss

6.1 An employee may be dismissed with the appropriate statutory/contractual notice for committing a further offence(s) by a head teacher/governors panel after following the recognised disciplinary procedure if that employee has a current warning(s) on their record.

6.2 An employee may be dismissed for reasons of gross misconduct without statutory/contractual notice by a head teacher/governors panel after following the recognised disciplinary procedure. Gross misconduct is conduct of such a nature that the school cannot reasonably continue to allow the employee's presence at the place of work. Dismissal for gross misconduct does not have to be preceded by a formal or final warning.

6.3 For community, voluntary controlled, community special schools

The power to decide that employees should no longer work at this school rests with the governing body.

In community, voluntary controlled and community special schools, the power to determine that the member of staff should no longer work at the school can be delegated in the same way as above but it is the local authority (as the employer) that actually dismisses staff (or – for those who work in more than one school – requires them to cease to work at the school). Schools also have a duty to inform the local authority of their intention to dismiss and to request notices to be issued.

7. Dismissal

For community, voluntary controlled, community special schools

Once the governing body has decided that the employee should no longer work at the school, the local authority must be informed of the decision and the reasons for it. Where an employee works solely at this school, the local authority must terminate the employee's contract within fourteen days of the date the notification was issued by the governing body.

8. Appeal

8.1 If an employee wishes to exercise their right of appeal against any form of formal disciplinary action taken against him/her, he/she must do so in writing within five working days of receipt of the written disciplinary outcome letter, clearly setting out the grounds for appeal.

8.2 Appeals will be heard without unreasonable delay. The same arrangements for notification and right to be accompanied will apply as per the disciplinary hearing (see 5.8.4 above).

8.3 All appeals will be heard by three members of the governing body. This will not include governors involved in the dismissal hearing, staff governors or governors that have had any involvement in the case. The school should seek advice from their HR advisor and request their presence if appropriate.

8.4 Dependent on the circumstances, there may be a comprehensive re-hearing and re-examination of the case, if required.

8.5 Documents other than those previously circulated should not be tabled on the day of the hearing unless new information has come to light since the hearing in which case the chair of the panel will exercise his/her discretion in deciding whether to accept them for consideration.

8.6 The Appeals Panel may;

- uphold the original outcome of the disciplinary hearing,

- overturn the decision, and, withdraw the sanction, or, impose a lesser sanction

8.7 The employee will be informed in writing of the outcome of the appeal hearing as soon as possible following the hearing. This decision will be the final stage of the disciplinary process.

9. Other provisions

9.1 External referral

9.1.1 The school will report to the appropriate statutory or professional body any serious act of misconduct or gross misconduct where appropriate.

9.1.2 A teacher's employer has a legal duty to consider whether to refer a case to the National College for Teaching & Leadership when they have dismissed a teacher for misconduct, or would have dismissed them had they not resigned first. This includes head teachers and their assistants and deputies.

9.1.3 If an allegation against any member of school staff is in any way connected to the risk of harm, or actual harm, to a child (safeguarding) then a referral should be made to the Disclosure and Barring Service.

9.2 Raising a grievance

In the event of an employee raising a grievance during the course of a disciplinary investigation/hearing that is related to the particular circumstances of the case, consideration may be given to temporarily suspending the disciplinary procedure for a short time to enable the grievance to be dealt with. Schools should seek advice from their HR advisor where such cases arise.

9.3 Sickness absence

9.3.1 Sickness absence in itself is not a sufficient reason for a disciplinary matter not to be investigated or brought to a conclusion through a formal process.

9.3.2 Where employees are facing potential disciplinary action and subsequently report absent from duties with sick leave, the school should give consideration as to whether a referral to the occupational health advisor is appropriate. This will be dependent on the nature of the employee's illness, and further advice should be sought from the schools HR advisor.

9.3.3 Having considered the above, a judgement will be made as to whether a disciplinary hearing will be set up in the normal way.

Appendix 1

Examples of misconduct/gross misconduct

The following list gives examples of behaviour which may be regarded as a disciplinary breach or unacceptable conduct. This list is for illustrative purposes only and is neither exclusive nor exhaustive in its application.

Misconduct

- Unacceptable attendance levels
- Unauthorised absence
- Persistent poor time-keeping
- Failure to report sickness absence in line with school/academy procedures
- Neglect of duties/carelessness
- Wastage of school/academy resources
- Failure to exercise proper control and/or supervision over pupils
- Aggressive and/or abusive behaviour/language

- Refusal to undertake duties which would be considered as a reasonable management direction/instruction
- Refusal to cooperate with a recognised formal school policy/procedure and/or investigation process
- Dishonesty, or an attempt to mislead
- Improper disclosure of information known to be confidential
- Exceeding the authority/power of your role
- Making unauthorised private telephone calls, or personal use of the internet/email
- Inappropriate use of the school's/academy's resources
- Treatment of pupils that is inconsistent with school/academy policies
- Suspected abuse of the attendance management policy
- Breaches or disregard of/conduct which contravenes school/academy policies & procedures
- Improperly destroying official documents or records
- Failure to disclose any involvement with the police or courts, including but not limited to existing or pending criminal conviction, caution or reprimand which may impact ability or suitability to remain in employment
- Use of school/academy buildings, facilities or property for personal reasons without prior agreement
- Engaging in outside/external activities which may be viewed as detrimental to the school/academy or its reputation (including use of social media sites such as Facebook, Twitter and LinkedIn etc.)

The above are given as examples of misconduct. However, in severe cases they may be considered as gross misconduct

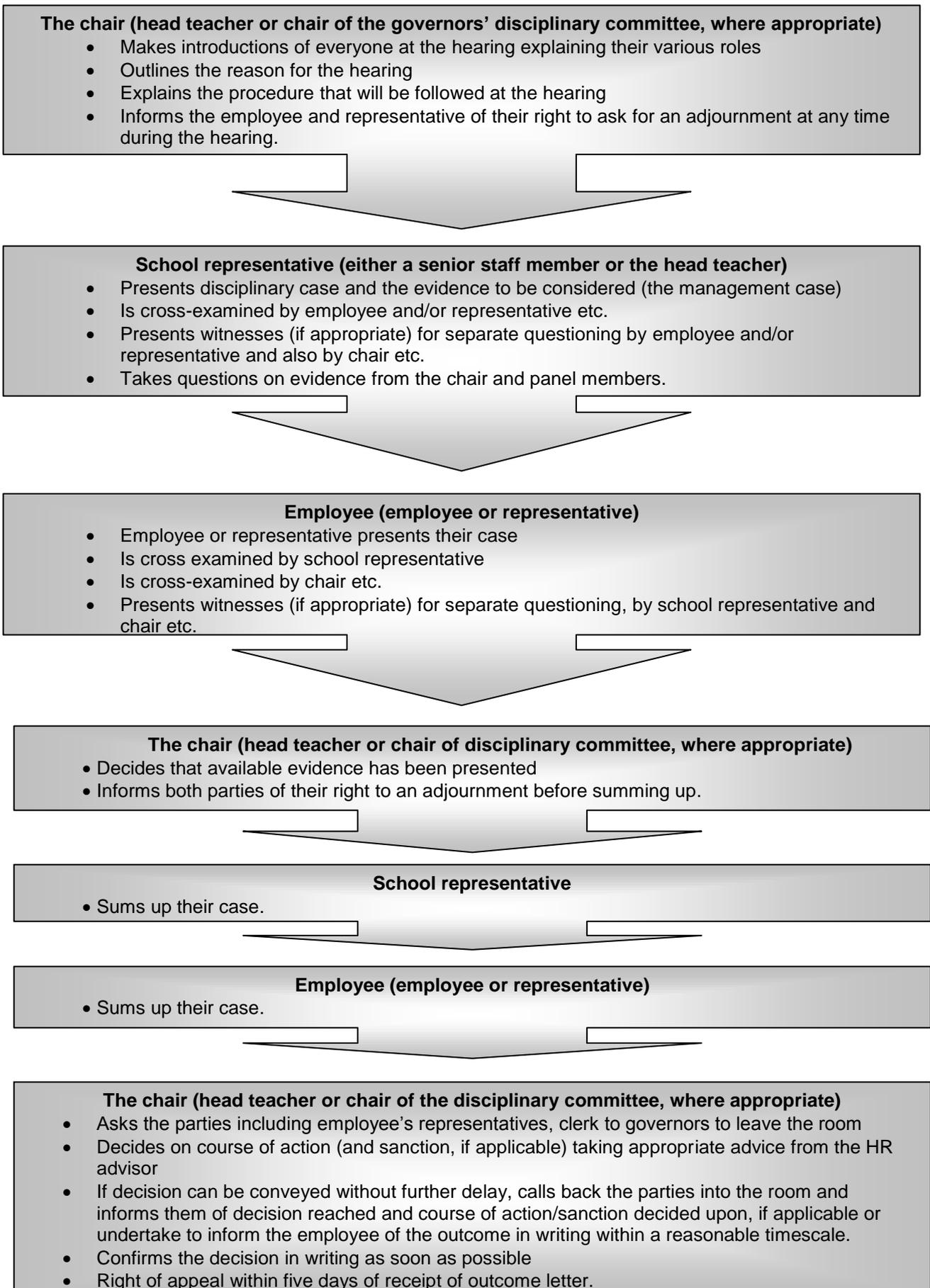
Gross misconduct

The following list gives examples of behaviour which may be regarded as an extremely serious disciplinary breach or completely unacceptable conduct. This list is for illustrative purposes only and is neither exclusive nor exhaustive in its application.

- Unauthorised removal of school/academy property
- Failure to comply with the schools/academy's recognised policies and procedures
- Theft, fraud and/or corruption
- Serious breaches of professional codes of practice, standards & statutory requirements (including the use of social media sites such as Facebook, Twitter, and LinkedIn etc.)
- Child abuse
- Sexual offences
- Sexual misconduct at work
- Fighting/physical assault

- Deliberate falsification of documentation/records including expenses claims etc...
- Falsification of qualifications which are a stated requirement of employment or which result in financial gain
- Malicious or deliberate damage to school/academy assets and property
- Serious breaches of health & safety regulations endangering other people, including deliberate damage to, neglect of, or misappropriation of safety equipment
- The persistent and wilful refusal to carry out a reasonable instruction despite warnings of consequences of continued refusal
- The commission of a serious breach of duty prejudicial to the schools/academy's relations with members of the public or other outside contacts or any wilful attempt to damage the standing or position of the school/academy
- Unlawful discrimination and/or harassment in the course of duty, or serious victimisation, intimidation or bullying
- Inappropriate use of email/internet or contravention of the school/academy ICT policy including unauthorised entry to computer systems and/or records
- Unauthorised absence
- Publication or distribution of offensive material
- Undertaking paid employment during working time whilst reporting sick
- Serious breach of trust and confidence which should exist between an employee and the school/academy
- Bringing the school/academy into disrepute
- Serious misconduct which results in personal gain/advantage
- Gross negligence that causes/or has the potential to cause unacceptable loss, damage or injury
- Being unfit to perform duties associated with the post as a result of taking alcohol or drugs other than in accordance with medical advice

Appendix 2: Flowchart – formal disciplinary hearing



Appendix 3

General principles underlying this process

The nature of this document is such that it will be subject to periodic amendments to ensure that it remains a well developed and effective management tool. Amendments will be subject to the approval of the governing body.

Confidentiality

The disciplinary processes will be treated with confidentiality. However, the desire for confidentiality does not override the need for the head teacher and governing body to quality-assure the operation and effectiveness of the HR policies.

Consistency of treatment and fairness

The governing body is committed to ensuring consistency of treatment and fairness and will abide by all relevant equality legislation. The needs of employees will be given careful consideration when applying this policy.

Definitions

Unless indicated otherwise, all references to “teacher” include the head teacher/principal.

Delegation

Normal rules apply in respect of the delegation of functions by governing bodies, head teachers/principals and local authorities.

Monitoring and evaluation

The governing body and head teacher will monitor the operation and effectiveness of the schools disciplinary policy.

Management guidance

Governors/head teachers/managers should read the disciplinary guidance notes in conjunction with the disciplinary policy/procedure.