

# Carlton Primary School

## Disciplinary Procedure



***If you believe, you CAN achieve***

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# 1. Introduction

## 1.1 Procedural Aims and Purpose

The school's governing body, together with the headteacher is responsible for promoting the desired standards of conduct and behaviour at the school. Teachers are also required to be aware of and abide by the 'Teachers' Standards.

This procedure aims to ensure that formal disciplinary action, where necessary, is applied fairly and consistently. The disciplinary procedure will operate in conjunction with the disciplinary policy. Employees are advised to familiarise themselves with the disciplinary policy prior to using this procedure and other supporting documents. The purpose of the procedure is designed to help and encourage all employees to achieve and maintain the expected standards of conduct and behaviour.

## 2. The Informal Process

Formal disciplinary action may not be necessary where a headteacher or member of the leadership team takes informal action for the purposes of improving conduct where an employee commits a minor breach of the established standards of conduct.

### 2.1 Informal Resolution

Where appropriate, informal resolution through coaching, training, and development will be considered prior to taking formal action under the disciplinary procedure. In deciding whether an attempt should be made to resolve the issue(s) informally, account will be taken of relevant factors, such as:

- the nature of the misconduct; and
- the impact on the education service delivered at the school and/or colleagues and/or pupils.

Where informal resolution is initiated, it is important that the employee is given a reasonable opportunity to improve their conduct before the formal stages of the disciplinary procedure are invoked. As part of this process of informal resolution, the manager may advise the employee that the standards of acceptable behaviour have been breached and that further misconduct will lead to formal action under the disciplinary procedure. This will be confirmed in writing and a copy retained by the manager for a **six-month period** and this record will only be relevant in the event that formal action subsequently becomes necessary.

If as a result of the informal process, conduct improves to an acceptable standard, this should be confirmed in writing and the manager should again retain a personal copy of this subsequent letter, as well as ensuring a copy is placed in the employee's personal file.

### 2.2 Preliminary Investigation

Where any incident occurs which gives cause for concern, the school **manager** should carry out a preliminary investigation to ascertain the main issues, in order to establish what happened and who is responsible, and where appropriate, whether the issues can be resolved informally.

Where there are possible misconduct issues, the manager will explore these and discuss proposed solutions with the employee in order to resolve the matter to the mutual benefit of the school and the employee. Alternatively, it may be decided that formal action under the disciplinary procedure is warranted. The manager should keep a note of any of these one-to-one discussions.

### 3. The Formal Process

Nothing in this procedure prevents the school management from deciding the appropriate level at which to address a disciplinary matter. The level of sanction applied will take account of all relevant factors; in particular the seriousness of the employee's alleged misconduct, their overall employment record, and also any mitigating or special circumstances that make it appropriate to lessen the sanction. Where a further act of misconduct occurs while a formal warning is still 'live,' the matter will be considered at the next stage of the procedure, depending upon the seriousness of the subsequent misconduct. The hearing will be convened as soon as is reasonably practicable and this may mean it takes place outside of the warning period.

#### 3.1 Investigation of Incidents

In considering any potential disciplinary offence by an employee, the headteacher should initiate an appropriate investigation by appointing an, '**investigating manager**,' who will compile an investigation report. Where it is likely that the headteacher would hear the disciplinary case, it is recommended and good practice that the task of the investigating manager is delegated to a member of the school leadership team.

The investigating manager will arrange and carry out an investigation. In most cases the employee should be written to, notifying them who will be conducting the investigation, and if necessary whether an investigation meeting will be taking place.

The investigation will establish the facts and the circumstances of the case. A written note will be taken of any investigation meetings. In most cases, it is important that sufficient investigation of the facts is undertaken prior to a formal hearing. Evidence or relevant facts, including issues related to the alleged misconduct, may include documented records of informal action taken.

The investigation will determine, based solely on the evidence, whether a formal disciplinary hearing is warranted and that there allegations of misconduct to answer. The investigation may be in the form of an investigation meeting with the employee. However, in some cases a meeting may not be required and the investigation will be the collation of evidence by the investigating manager. Employees will be advised that they may choose to bring a companion to accompany them to an investigation meeting.

#### 3.2 Investigation Outcome

If based on the evidence of the investigation it is concluded that there is a case to answer, the employee will be asked to attend a formal disciplinary hearing. Please see **section 3.7** for further guidance.

If it is concluded that there is no case to answer following the investigation, the headteacher or designated member of the school leadership team will write to the employee to confirm this.

#### 3.3 Convening a Disciplinary Hearing

Employees will be required to attend a hearing in accordance with the disciplinary procedure where:

- following an investigation, there are grounds to believe that there has been a conduct issue, and/or
- there are grounds to believe that there has been a recurrence of previous unsatisfactory conduct and/or
- following earlier discussions of an informal nature or following a previous disciplinary hearing, any required improvement or change in behaviour has not occurred.

#### 3.4 Notice of the Disciplinary Hearing

Where it is decided that a disciplinary hearing will be held, the employee will normally be given between **5 to 8 working days' notice** in advance of the hearing.

### **3.5 Written notice of a Disciplinary Hearing**

The notification of the requirement to attend a hearing must be confirmed in writing to the employee. The written notice will:

- provide a brief but clear indication of the alleged misconduct;
- advise that the employee that they can be represented at the hearing;
- advise who will chair the hearing and who will present the case on behalf of the school, (plus any witnesses they intend to call);
- advise that the employee may provide evidence in advance and request to call relevant witnesses (the chair of the hearing will determine whether a particular witness is relevant);
- provide a copy of all the evidence to be considered at the hearing;
- provide a copy of the disciplinary procedure; and
- set out the possible outcomes, e.g. if the matter is gross misconduct, then advise that this may lead to summary dismissal, (immediate dismissal without pay in lieu of notice).

### **3.6 Documentation and Witnesses**

The employee will be provided with a copy of all the relevant written evidence, including relevant reports of investigations and witness statements to be referred to during the hearing. This would include any copies of formal meeting notes if they were made.

If the employee intends to refer to any documentation, or wishes to call any relevant witnesses as part of their response to the case, they must provide this information to the chair of the hearing at least **2 working days** before the hearing.

The chair may decide not to consider information supplied by either party outside of these timescales, and their decision on this matter will be final. Likewise, the chair will decide on the relevance of a particular witness.

### **3.7 Procedure at a Disciplinary Hearing**

At the disciplinary hearing, the chair of the hearing will hear evidence from the investigating manager.

At the hearing, the employee should:

- be reminded of their rights under the disciplinary procedure and how the hearing will be conducted;
- be told of the extent of the complaints against him or her;
- hear the evidence, including any details from written reports and statements previously supplied, and any relevant witnesses attending to give evidence;
- be given the opportunity to state their case and to respond to the allegations or concerns raised by the management case and to draw attention to any circumstances relevant to their situation, before any decision is taken. This can include reference to written reports and statements previously supplied and/or any relevant witnesses attending to give evidence;
- be allowed to ask questions of those people providing evidence, or about how the investigation was conducted and
- be able at any stage to confer with their representative or work colleague by way of a short adjournment(s).

The hearing will be adjourned to allow the chair to consider the evidence.

## 4. Disciplinary Stages

A table showing the informal processes that may be followed before potentially embarking on the formal procedure is set below:

Informal Process	Informal Resolution	People Involved
Preliminary Investigation (refer to s. 2.2)	The manager may carry out preliminary enquiries to ascertain the main issues. A decision will then be made on what resulting appropriate action may be required.	Manager
Informal Resolution (refer to s. 2.1)	An informal discussion (s) about the conduct issues will take place which may result in a letter being placed on an individual's file for the duration of <b>6 months</b> .	Manager or as appropriate.

A table showing the level of formal warnings that may be applied under this procedure is set out below:

Level of Warning	Length of Warning	Where issued by	Appeal Heard by
Formal Written Warning	12 rolling <sup>1</sup> months	Headteacher <sup>2</sup>	One Governor <sup>3</sup>
		Member of the School Leadership Team <sup>4</sup>	Deputy Head
		Deputy Head	Headteacher
Final Written Warning	Eighteen months rolling years	Headteacher	One Governor
		Member of the School Leadership Team	Deputy Head
		Deputy Head	Headteacher

<b>Dismissal</b>	<b>OPTION A:</b> Panel of three governors	Appeal heard by: panel of three governors
	<b>OPTION B:</b> Panel of the headteacher (chair) and two governors	

<b>Suspension</b>	Only the headteacher or governing body. Please refer to section 10.
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<sup>1</sup> For the purpose of this procedure a rolling year will commence on the date the warning was issued and will expire on the same date 12 or 18 months after. If the expiry dates falls on a weekend, the warning will cease the Friday before.

<sup>2</sup> The headteacher, with the agreement of the governing body, may delegate responsibility for matters up to a formal or final written warning to the relevant line manager. This would be a member of the leadership team.

<sup>3</sup> The number of governors that hear the appeal will depend on the delegated responsibility authorised by the governing body. This is a guide only.

<sup>4</sup> The deputy head forms part of the leadership team. If the deputy head has issued the warning, the headteacher will hear the appeal.

## 5. Outcomes Arising from a Disciplinary Hearing

### 5.1 Misconduct

Where the outcome of a disciplinary hearing is that an employee has committed an act of misconduct, for a first offence s/he will normally be issued with a formal written warning and informed that further instances could result in a more serious sanction. Depending on the situation however, it may be appropriate a final written warning at the outset.

Where there has been a further instance of misconduct, or more serious misconduct, it may be appropriate to issue a final written warning. Where an employee who already has a final written warning commits a further act of misconduct, this will normally result in dismissal.

Examples of misconduct are provided in the **appendix 1** of this procedure. These examples may be reviewed from time to time and the list provided is not exhaustive.

### 5.2 Misconduct Warranting Dismissal

Where there is repetition of misconduct following the issue of a final written warning, or where a formal written warning was previously applied and further misconduct occurs which is of a serious nature, dismissal with notice may apply.

Where the outcome of the disciplinary hearing is a decision that an employee has committed an act of gross misconduct, this will normally result in summary dismissal, which is dismissal without notice or pay in lieu of notice (please see section 5.8 for further details).

Examples of gross misconduct are provided in the **appendix 1** of this procedure. These examples may be reviewed from time to time and the list provided is not exhaustive.

### 5.3 Formal Written Warning

A formal written warning will be appropriate where:

- conduct issues previously addressed informally have not been resolved or
- more serious breaches of rules or standards of conduct have arisen whether or not they have been addressed informally previously.

A formal written warning will be taken into account in capability discussions and assessments, any recognition schemes or in any selection processes which occur during the period in which the warning remains in force. If a further act of misconduct occurs or there is a failure to satisfactorily improve or sustain the expected standards of conduct whilst the formal written warning remains applicable, this will be taken into account in any subsequent disciplinary hearing or discussion.

Further action under the disciplinary procedure will normally result in a final written warning being issued, unless the matter is serious enough to warrant dismissal.

After the **12 rolling month period** stipulated for a formal written warning has expired; whilst the warning will not remain active in relation to any future disciplinary matters, a record of what has occurred will be kept on the individual's personal file.

## 5.4 Final Written Warnings

A final written warning will be appropriate where:

- a further incidence of misconduct occurs during the period for which a formal written warning remains applicable; or
- a misconduct of a serious nature arises.

Where a final written warning is issued for misconduct, the period of the warning will be **one and a half rolling years** except where this was in substitution for a decision to dismiss, (see the section below, 'indefinite written warnings'). A final written warning will be taken into account in performance discussions and assessments any recognition schemes or in any selection processes occurring during the period that the warning remains in force.

Where the required improvement in behaviour has been demonstrated, confirmation of this will remain on file for the duration of the warning.

In the event that any further act of misconduct or a failure to satisfactorily improve, or sustain the required standard of conduct occurs during the period for which the final written warning remains applicable, this will be taken into account at any further disciplinary hearing. Further formal action taken under the disciplinary procedure will normally result in a decision to dismiss.

After the **eighteen months** stipulated for a final written warning has expired, whilst the warning will not remain active in relation to any future disciplinary matters, a record of what has occurred will be kept on the individual's personal file.

## 5.5 Indefinite Written Warnings

There may be exceptional circumstances in which dismissal is not the outcome but where the nature and gravity of the complaint is so serious, verging on gross misconduct, that it cannot be disregarded in the future.

A decision to issue an indefinite final written warning must be agreed by the chair of the panel. The employee will be advised that while the warning remains on file, any recurrence or further act of misconduct may lead to dismissal.

A final written warning issued in substitution for a decision to dismiss will remain applicable for an indefinite period, but will be reviewed by an appropriate member of the school leadership team or governing body, (in the event that the warning was issued by the headteacher), after **3 rolling years**, after which the decision may be made to remove the warning. Consideration will be given to the employee's conduct during the warning period and representations made by the employee will be taken into account.

## 5.6 Decision to Dismiss: Option A or Option B

The option that has been adopted at the school will determine who has responsibility of taking a dismissal decision. An explanation of the two options is detailed in **section 11.3** of the procedure, ('the role of the governing body').

## 5.7 Recommendation for Dismissal

A recommendation for dismissal will be appropriate where:

- there has been a more serious incident of misconduct during the period for which a final written warning is applicable or
- there has been a recurrence of misconduct during the period for which a final written warning is applicable or
- the act of misconduct is so serious as to warrant dismissal for the first complaint, (gross misconduct).

## 5.8 Summary Dismissal

Summary dismissal, (i.e. dismissal without notice and without payment in lieu of notice), will be applied for acts of gross misconduct. For other acts of misconduct, dismissal will be with notice, although a payment in lieu of notice may be applied. The appropriate dismissal panel will recommend to the local authority whether dismissal be with or without notice.

## 5.9 Dismissal where an Employee has Additional Employment

Where an employee has additional employment elsewhere within the local authority and is recommended by the dismissal panel for dismissal, the Director of Children, Schools and Families will make a decision on any action to be taken in relation to the remaining employment and this decision will be final. Please see the FAQs for further information.

## 5.10 Disciplinary Hearing Outcome Confirmation

The outcome of the disciplinary hearing will be confirmed in writing. The chair should ensure that a copy of the letter is sent to Camden HR and the school's payroll provider. In the letter the employee will be advised of:

- any sanction issued;
- the reason(s) why the sanction was issued;
- the implications and duration of the sanction;
- where further recourse to the disciplinary procedure may result in a final written warning or dismissal, this will also be specified;
- the right to appeal against the sanction and enclose the appeal template; and
- in cases of dismissal, the date at which employment is terminated.

As a guide, the employee should be notified of the decision in writing within **5 working days** after the hearing. The chair of the hearing will also put together a summary of the hearing. This is known as a case summary. A copy of the case summary should normally be provided to the employee within **10 working days** of the hearing. The case summary is the formal record of what happened at the disciplinary hearing. It should give a brief summary of the case, outline the decision made and give justification for coming to the final decision. A copy of the letter and the case summary confirming the outcome of the hearing will be kept on the employee's personal file.

## 5.11 Other Formal Sanctions

Other formal action may result from a disciplinary hearing, in place of or in addition to the issuing of a warning. Other formal action may include compulsory transfer within the school. Compulsory transfer can only be determined by the headteacher or by the disciplinary panel of the governing body, in consultation with HR.

## 5.12 Alternative or Supplementary Action or Support at any Stage of the Formal Procedure or Informal Process

At any stage in this procedure, alternative action or support to address issues of misconduct can be decided on, for example:

- additional training; or
- coaching

## 6. Distinguishing between Disciplinary and Capability Issues

Where it is established that an employee is not capable of performing to the required standard, this will be managed through the school's capability policy and procedure.

Where poor performance is due to carelessness, a failure to observe safe working practices, lack of application or motivation, inattention to work matters or any other reason related to the employee's conduct, then this will be managed under the disciplinary procedure. This will include situations where it has been determined that the employee is capable of undertaking the task but knowingly fails to perform the activity.

If an employee refuses to co-operate with the management of performance issues, then this will be considered a disciplinary matter. Failure to meet the required standards through the deliberate refusal to comply with these requirements and reasonable management requests is also a disciplinary and not a capability issue.

Negligence is defined as lacking attention, care or concern. Cases of negligence will normally be dealt with under the disciplinary procedure but during the investigation, it may be decided that issues are best dealt with under the capability procedure. There could be a number of incidents or one error that has serious consequences. It includes habitually neglecting duties and responsibilities etc. In these circumstances HR should be contacted for advice at the earliest possible stage.

## 7. Other Issues

This procedure applies to all matters relating to conduct in the workplace. Where in the course of investigating an incident of alleged misconduct it transpires that there are other issues of ill-health or capability rather than misconduct, the matter should be referred for action under the relevant procedure.

If there are other issues occurring at the same time as conduct concerns, the manager must deal with all the issues under the appropriate procedure, according to **sections 7.1 or 7.2** below. Please be advised that overlapping issues can be investigated by the same manager.

### 7.1 Other unrelated issues occurring at the same time as misconduct

It must be made clear from the outset if there are other issues occurring which are **unrelated** to the conduct issues. All the issues may be discussed separately at the same formal hearing using a series of consecutive formal meetings under the relevant procedure.

Sanctions and/or appropriate outcomes can be issued under the sickness absence, capability, and disciplinary procedures simultaneously if necessary.

Grievance issues can also be dealt with at the same time as other matters. HR can provide advice in all these circumstances.

### 7.2 Other related issues occurring at the same time as misconduct

Similarly to above, where there are issues occurring at the same time as conduct issues, and these appear to be **related**, these issues would usually be explored together in the same formal meeting.

## 8. Accompaniment, Representation and Requests for Postponement

### 8.1 Accompaniment

The employee subject to the disciplinary action can be accompanied to investigation meetings **only** by a trade union official or a representative from a self-organised employee group, or a work colleague.

Being accompanied is different from being represented. The companion will not be allowed to speak on the employee's behalf, but may ask for clarification on the questions asked. At the end of the meeting the companion may raise any other issues that are important to the case with the investigating manager, but the employee must answer any questions that result from this.

### 8.2 Representation

The employee can be represented at a formal disciplinary or appeal hearing by a trade union official or a representative from a self-organised employee group, or a work colleague. In cases relating to alleged discrimination, employees may bring a second representative from an appropriate self-organised employee group. In these circumstances the employee must confirm which representative will present their case.

The employee's representative, (or chosen 'primary' representative in cases where an employee has two representatives) will be allowed to address the hearing to present the employee's case, respond on behalf of the employee to any views expressed at the meeting, and confer with the employee during the hearing. However, the representative does not have the right to answer questions on the employee's behalf, address the hearing if the employee does not wish it, or prevent the employee from explaining their case.

### 8.3 Notice of Accompaniment or Representation

Where an employee is to be **accompanied**, they should provide relevant details to the manager convening the meeting as soon as possible, but at least within **2 working days** of the meeting.

Where an employee is to be **represented**, they should provide relevant details to the manager convening the meeting at least within **2 working days** of the meeting.

It is the employee's responsibility to supply a copy of the relevant documentation to their representative or companion. Where a formal meeting has been scheduled the employee and their representative or companion should make every effort to attend.

### 8.4 Postponement

The employee can request a postponement of the formal disciplinary or appeal hearing by up to **5 working days** (beginning with the day after the day on which the meeting was originally convened), and only for reasons of non-availability of a chosen representative or companion. One postponement of a formal hearing on these grounds may be allowed. In exceptional circumstances, other reasons for postponement may be considered. However, there is no entitlement and it cannot be guaranteed. If the employee fails to attend a hearing, it may be held in their absence.

### 8.5 Safeguarding Issues

Where the allegation or complaint relates to safeguarding, the Local Authority Designated Officer (LADO) should be contacted before any further decision is taken about how to proceed. The contact person for this is the Principal Officer - Children, Schools and Families, (Family Services and Social Work).

## 9. Appeals

### 9.1 Right of Appeal

An employee, or in the case of dismissal, a former employee, has the right to appeal a sanction from a formal disciplinary hearing if they meet the requirements of the accepted grounds for appeal.

### 9.2 Grounds for Appeal

The 'raising an appeal' form should outline the grounds on which the appeal is based, clearly stating how the appeal relates to one or more of the following:

- A belief that the manager did not follow the relevant **procedure** properly, and that this significantly affected the decision. A small procedural flaw that would not have significantly influenced the decision is not sufficient grounds for upholding an appeal.
- A belief that the manager made a decision about a **significant fact**, which it was not reasonable for him or her to take.
- A belief that the **outcome** of the hearing was one which no reasonable person could have come to. The fact that the employee disagrees with the manager's outcome is not a sufficient ground for upholding an appeal.
- The fact that **new evidence** has come to light, which the employee could not have introduced at an earlier stage, and which could have a significant effect on the decision taken. Employees cannot present new evidence which was previously available and they could have presented at an earlier stage.

### 9.3 Appeal Process

The request for an appeal must be made by completing and returning an appeal form, (see the template form, available on the Schools Webpages of Camden Essentials), within **10 working days** of receipt of the case summary, stating the grounds for appeal, as above.

Appeals will not be allowed on any other grounds, other than those listed in **section 9.2** above. For an appeal to be heard, the grounds for an appeal must be properly and fully substantiated. Any appeal submissions which are not properly substantiated within **10 working days** of receipt of the case summary will be considered invalid for appeal purposes and the decision of the designated manager on this matter will be final.

### 9.4 Notice of an Appeal Hearing

Within **10 working days** of receiving the completed appeal form, the relevant officer will organise the appeal hearing and provide the employee with the details. Appeal hearings will be arranged as soon as reasonably practicable and should be confirmed in writing to the employee, giving **between 5 and 8 working days' notice** in advance of the hearing. See the template letter on the Schools Webpages of Camden Essentials.

An employee has the right to be represented at any appeal hearing, (**see section 8** – 'Accompaniment, Representation and Requests for Postponement').

## 9.5 Appeal against Sanctions other than Dismissal

Where sanctions (excluding dismissals) are issued by	Appeal Heard by	Appeal Form sent to
Headteacher <sup>5</sup>	One Governor <sup>6</sup>	Chair of Governors with a copy to the HR Advice Manager for information
Member of the Leadership Team <sup>7</sup>	Deputy Head	

## 9.6 Appeal against Dismissal

Where sanction issued is dismissal	Appeal Heard by	Appeal Form sent to
	<p>The governing body will form an appeal panel to hear appeals against dismissal and will consist of no fewer than <b>three governors</b>.</p> <p>Those on the panel will not have previously been involved in the subject matter of the appeal. In exceptional circumstances, where efforts to assemble a panel of three governors have failed (for example, because there are insufficient governors available on a particular date and time or governors have had to withdraw due to their previous involvement in the case), the governing body may co-opt one or more associate governor(s) to the disciplinary appeal panel.</p> <p>The chair of the panel will be agreed by the panel members at the start of the hearing and will have responsibility for deciding on procedural matters.</p>	Sent directly to the HR Advice Manager

Governing bodies are also required to establish a panel to consider appeals against dismissals, with the exception of the dismissal of a headteacher, (please refer to **appendix 7** for details of how the procedure applies to headteachers).

The governing body appeal panel will consist of at least three members of the governing body who wherever possible should have had no prior involvement in the case. (Please see the table in **section 9.6** above).

## 9.7 Appeal Hearings

The chair of the original disciplinary hearing will also attend to present the management response to the appeal and any questions raised. Relevant information will be considered including the facts presented at the disciplinary hearing that were relevant to the decision to issue the sanction and any new written evidence presented to them. It is not a re-hearing of the facts but a hearing to determine that the sanction applied was fair and appropriate.

<sup>5</sup>The headteacher, with the agreement of the governing body, may delegate responsibility for matters up to written warning to the relevant manager. This would be a member of the leadership team.

<sup>6</sup> The number of governors that hear the appeal will depend on the delegated responsibility authorised by the governing body. This is a guide only.

<sup>7</sup>The deputy head forms part of the school leadership team. If the deputy head has issued the warning, the headteacher will hear the appeal.

The appeal panel may decide to:

- Uphold the original sanction(s);
- Reject the original sanction(s);
- Partially uphold the original sanction(s);
- Vary the original sanction(s) or substitute a lesser decision in place of the original decision; or
- Reinstate the employee

## 9.8 Outcome of Appeal

The decision of the appeal panel will be given to the employee (or former employee) in writing, normally within **10 working days** of the appeal hearing. The decision of the appeal panel is final and there is no further right of appeal.

If an outcome of a disciplinary hearing has been to monitor an employee, the monitoring can still take place in the period between the initial hearing and any appeal.

Where an employee's employment was terminated prior to the appeal hearing and their appeal against dismissal is subsequently upheld, they will be reinstated. Any loss of salary for the period between dismissal and reinstatement will be compensated for, and all other terms and conditions of employment will be reinstated. Service built up throughout this time will be unbroken.

## 10. Suspension

Under the School Staffing (England) Regulations 2009, only the headteacher or the governing body may take the decision to suspend an employee and subsequently to end a period of suspension. The headteacher must consult with the chair of the governing body and HR when suspension is being considered.

A decision to suspend is not the imposition of a penalty and will not be seen to be a predetermination of the outcome of the investigation, nor does it automatically follow that a disciplinary hearing will be called as a consequence of the suspension occurring.

**Appendix 6** contains details of the procedure to be applied where it is deemed necessary to suspend a headteacher. Alternative courses of action to suspend should always be given due consideration.

### Suspension is considered where:

- there is an allegation of gross misconduct;
- there is a belief that evidence or witnesses could be interfered with;
- this would enable investigations to be made;
- where the possibility of dismissal may arise; or
- where there are grounds for doubt as to the suitability of the employee continuing to work for the time pending the hearing (or conclusion) of the case.

A decision to suspend an employee shall ordinarily be conveyed in person. If a formal suspension meeting is deemed to be required for any reason, the employee may bring an available companion. The suspension will subsequently be confirmed in writing stating the reasons for the suspension.

The school will endeavour to ensure that the period of suspension is as short as possible according to the circumstances that prevail, and will keep the employee informed of the situation. The headteacher should carefully consider how suspensions are communicated to colleagues as appropriate.

**Suspension will normally be on full pay.** However, there may be exceptional circumstances where suspension without pay may be considered necessary, e.g. where there are strong indications of fraud or

where the employee hampers the disciplinary investigation process. Where suspension is without pay, pay will automatically be reinstated where the charges are not proved. Advice should always be sought from HR before deciding to suspend without pay.

Whilst an employee is on suspension s/he must be available to assist with or participate in the disciplinary process at the instruction of management as if s/he were at work. An employee under suspension should not return to the school, or attempt to contact colleagues at the school unless this has been approved by the headteacher or the chair of governors in writing.

## 11. Roles and Responsibilities

### 11.1 Authority

Where this procedure refers to the **Director of Children Schools and Families, the Advice and Change Manager or the Head of Legal Services**, this can include any officer authorised to act on their behalf. Any person who is required to take formal disciplinary action under this procedure must ensure that they have not had any previous involvement in the case in question. Where this procedure refers to **managers**, this can include the headteacher or a designated member of the school's leadership team.

Delegation of responsibilities in terms of taking formal disciplinary action can be devolved to a member of the school leadership team, excluding dismissal decisions.

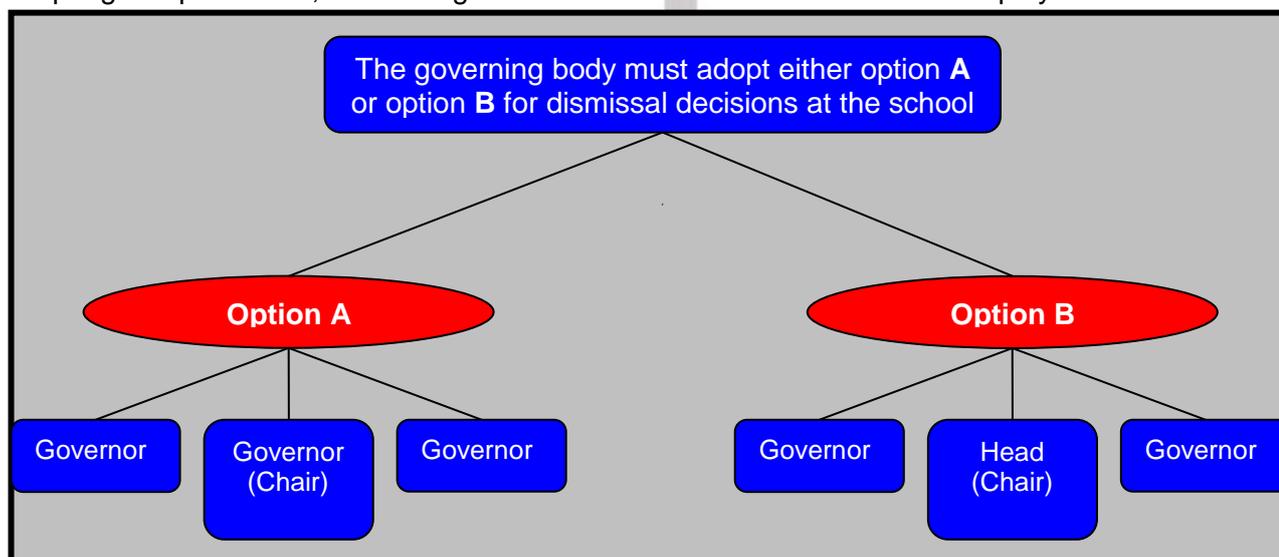
In the case of community and special schools, the local authority has a statutory right to send an HR representative to all proceedings relating to the dismissal of any employee (including the head or deputy head) should they wish to do so. For voluntary-aided, foundation and foundation special schools, the local authority does not have a statutory right to attend proceedings but may do so by agreement in writing with the governing body of that school.

### 11.2 Role of the Governing Body

Governing bodies of schools with delegated budgets are responsible for disciplinary matters at their school and have a legal obligation to adopt disciplinary procedures for employees. The governing body has overall responsibility for all staff dismissals at the school with the exception of the dismissal of headteachers, where different arrangements apply (please see **appendix 7**).

### 11.3 Dismissal Options

Please see below a chart outlining the two options that the governing body can choose between when adopting this procedure, in deciding who will take the decision to dismiss employees at the school:



Once the governing body has decided which option to apply at the initial adoption of this procedure, their chosen option will then remain indefinitely until further notice - for example, the chosen option may be subsequently scrutinised at a subsequent procedure review which HR would carry out in consultation with recognised trade unions and other stakeholders. Therefore, once the governing body has taken the decision on how they wish to delegate responsibility for dismissal (Option A or Option B) they cannot then alternate between the two options.

#### **11.4 Role of the Headteacher**

For the purpose of this procedure, the headteacher has responsibility for all disciplinary decisions involving employees, although they can delegate this responsibility accordingly. The headteacher, with the agreement of the governing body, may delegate responsibility for matters up to final written warning (and indefinite warnings) to the relevant line manager. This would be a member of the leadership team. Appeals against any formal disciplinary sanction imposed by the headteacher should be heard by one or more governors (depending on the arrangements of delegation in place).

Responsibility for dismissal decisions will depend on whether option A or B above has been adopted. Appeals against dismissal should be heard by a governing body appeal panel. (Please see the summary table in **section 9.6**).

In cases where the headteacher believes given the circumstances of the case that it is inappropriate for the matter to be dealt with by them, the governing body will take the lead.

Where it is not appropriate for the headteacher to undertake or to arrange an investigation, the chair of the governing body should liaise with HR in order to identify and appoint an appropriate person to fulfil this function. Please refer to **appendix 5** for further information.

Where a headteacher is on long-term sick leave, secondment or other long-term absence, the governing body should consider whether it is necessary to confer full or partial delegated responsibility to the person acting in the headteacher's absence.

#### **11.5 Role of the Investigating Manager**

Following the preliminary investigations carried out by the school manager as outlined in **section 2.2** as part of the informal process, an investigating manager will be appointed at the formal stage where this is considered necessary, and this role may be carried out by the headteacher or a designated member of the school leadership team.

The person who conducts the formal investigation should not chair a subsequent disciplinary hearing into the same matter. The investigating manager will arrange and carry out an investigation and will carry out such investigations as appropriate to establish the facts or circumstances of the matter and keep a written note of any meetings.

#### **11.6 Role of the Human Resources Department**

HR advice is available throughout the whole process and they can:

- Provide advice and guidance to managers in the interpretation and application of this procedure as and when required
- Provide advice and support in relation to managing disciplinary concerns
- Give advice to managers and governors at formal disciplinary hearings and
- Monitor and report on the issuing of outcomes of formal sanctions to ensure consistency with due regards to equality and diversity issues.

Schools are strongly advised to seek HR advice in relation to any disciplinary proceedings at the earliest possible issue. HR should attend disciplinary hearings where appropriate but are required at a hearing where dismissal is a possible outcome.

## **12. Other Considerations**

### **12.1 Trade Union Officials/Teacher Association Representatives**

Recognised trade union/teacher association representatives are subject to the same standards of discipline as other employees, but will be advised that they have a right to be represented by their Branch Secretary. No disciplinary action will be taken against the representative until the Branch Secretary or convenor of the union has been notified of the circumstances of the case. If, in any circumstances, such discussion cannot immediately take place then the nature of the case and of the arrangements for the hearing will be notified to the District Officer and the local Trade Union Branch Secretary in writing. Thereafter the procedure to be followed will be as prescribed for all employees .

### **12.2 Application of this Procedure to Headteachers**

Please refer to **appendix 7** for details on the application of this procedure to headteachers.

### **12.3 Qualification and Compliance Issues**

Formal disciplinary action may have direct implications for requirements to hold a certain regulatory classification and/or maintain a certain standard, in order to carry out their job, e.g. registration with a professional organisation.

Before taking any formal disciplinary action, the manager should (without prejudging the case) consider the impact a written disciplinary warning might have on the employee's ability to continue to perform his or her duties. Managers' are advised to seek the advice of HR, either before the meeting is held or during any adjournment. This would include any formal action that needs to be declared, e.g. to a statutory body. Please see the Teaching Agency website for more information.

If a statutory body is involved (e.g. for compliance/regulated posts), depending on its scope, serious conduct issues may need to be reported. This will not preclude matters from being dealt with internally as normal. However, if the individual loses their registration with the external regulators, the case will need be reviewed in order to assess the impact on the individual's capability to do their job.

In all these circumstances, the headteacher should take specific advice from the Director of Children, Schools and Families.

## **13. Supplementary Information from HR or on the Schools Webpages on Camden Essentials**

[Templates and Checklists \(Disciplinary\)](#)  
[Flow Chart on the Disciplinary Procedure](#)  
[FAQs on application of the Disciplinary Policy and Procedure](#)

## 14. Procedure Ownership and Effective Dates

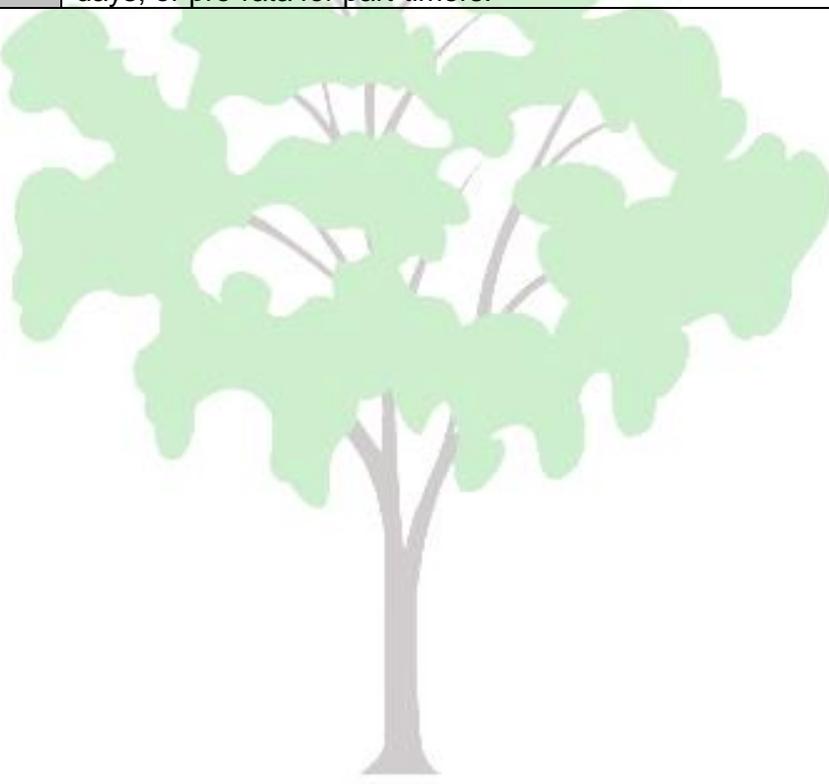
This procedure will be reviewed on a regular basis in line with legislative changes and the schools policy. As a consequence we may need to change this procedure in future, but if we do, we will do so in consultation with our recognised trade unions and will let employees know. If we need to do something different, we will always be fair and reasonable.

Procedure Owner	Camden HR
Approving Body	The school's governing body
Date Approved	September 2014
Effective Date	October 2014
Review Date	December 2015
Version	V1.0

## 15. Glossary

Associate Governor Members	Associate governor members will consist of an available pool of governors from comparable schools.
Capability	An employee's ability or qualification to do their job.
Chair	The term 'chair' refers to the decision or panel chair of a meeting. The chair is responsible for ruling on matters pertaining to the individual case in question.
Conduct	An employee's behaviour in the workplace.
Employee	An employee is a person with a contract of employment with the school - for example teaching assistants, teachers and support staff.
Governing body	<p>The governing bodies of community, foundation, voluntary-aided and voluntary controlled schools are corporate bodies with a legal identity. Parliament has given a range of duties and powers to governing bodies under the Education Acts and also responsibilities under employment law. The governing body is accountable to the Local Authority for the way the school is run.</p> <p>The main staffing functions of the governing body are set out in the School Staffing (England) Regulations. The governing body has overall responsibility for staffing which includes the appointment and the regulation of conduct and discipline of staff.</p> <p>Many staffing functions may be delegated and the governing body may delegate these to the headteacher or an individual governor or panel of governors.</p>
Governors	Governors are members of a school's governing body. In state schools they have responsibility for raising school standards through their three key roles of setting strategic direction, ensuring accountability and acting as a critical friend. They are the largest volunteer force in the country.
Headteacher	The headteacher has responsibility for the internal organisation, management and control of the school and for implementation of the strategic framework established by the governing body. The headteacher is accountable to the governing body – both for the functions performed as part of the headteacher's normal role and for powers delegated by the governing body.
Leadership Team	The leadership team is the designated senior management team at the school, which would include the headteacher and deputy headteachers.
Negligence	Lacking attention, care or concern (could include one error that has serious consequences or habitually neglecting duties and

	responsibilities etc).
Primary Schools	These are schools providing primary education in the state sector. They generally cater for children aged from four to eleven.
Rolling Year	A rolling year will commence on the date the warning was issued and will expire on the same date the following year. If the date falls on a weekend, the warning will cease the Friday before.
Sanction	A punishment imposed on an employee as a result of unsatisfactory performance or misconduct. Sanctions may include dismissal or actions short of dismissal.
Secondary Schools	A secondary school is for children from the ages of 11 to 18.
Summary Dismissal	Immediate dismissal without notice or pay in lieu of notice. Summary dismissal will apply in cases of gross misconduct.
Witnesses	The role of a witness is not that of an advocate or helper for one side; a witness's obligation is simply to tell the truth. Individuals are asked to be witnesses because they know something about the incident or about matters directly related to the incident in question. Witnesses are asked to share that information at the hearing.
Working Day	All references to working days should be taken to mean whole working days, or pro-rata for part-timers.



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# 1. Appendix 1: Disciplinary Rules

## 1. Introduction

The disciplinary rules set out below apply to all employees of the school. Their purpose is to make employees aware of the standards of conduct required by the school to indicate the likely consequence resulting from particular breaches of school standards and to enable decisions on breaches of policy and standards of conduct to be made consistently and reasonably.

Disciplinary rules apply to conduct at work and/or conduct which has an effect on employment within the school. The rules given are examples, and are not an exhaustive list. Where there is a breach of a disciplinary rule, any employee concerned may be liable to disciplinary action under the school's disciplinary procedure. Serious disciplinary penalties, especially dismissal, will only be enacted as a last resort. Where informal action has not resolved the conduct issue(s), or where action occurs that cannot be dealt with informally, then formal action must be taken.

## 2. Gross Misconduct or Misconduct

The disciplinary actions which may be taken in relation to a disciplinary offence depend upon whether it amounts to 'misconduct' or 'gross misconduct.' Detailed in **sections 3 and 4** below are examples of breaches of school standards which would normally be either gross misconduct or misconduct. The decision as to whether a breach, (listed below or otherwise), is gross misconduct or misconduct will depend on the particular circumstances of each case and the seriousness of the offence. The factors which should be taken into account in making this decision include:

- the nature of the particular incident, i.e. the degree of variation from the required standards of conduct;
- wilfulness/intent (whether there has been a deliberate intention to breach school policy);
- persistence – including any efforts, formal or informal, to resolve the misconduct and any current disciplinary warnings which the employee has on record;
- the employee's position in the school, responsibilities of the job, length of service, and access to information (e.g. taking into account whether it is part of the employee's work to set the standards for other employees);
- attempts made by management to clarify and set standards and expectations for the employee and
- any relevant mitigating circumstances.

## 3. Gross Misconduct

Gross misconduct is misconduct so severe that, if it is found to have occurred, is so serious that the employee can no longer remain employed by the school. For example if an assault took place on a pupil. If found proven at a disciplinary hearing, this misconduct would normally lead to an employee's dismissal. Examples of offences likely to be deemed gross misconduct are: (this is not an exhaustive list)

- serious breaches of the school's Equality Policies, including discrimination or harassment of any individual group specified in the School's/Council's Equality Policies;
- serious breaches of any school policies, procedures, standing orders, codes of practice;
- theft from or defrauding the school, its pupils, users, members of the public, employees of the Council, members of the Council, school governors or any other person with whom the employee comes into contact whilst on official duty. For example, falsification for financial gain of any

document, such as petty cash slips, receipts, timesheets, bonus sheets, overtime and subsistence claims, invoices, accounts etc.;

- assault upon pupils, users, members of the public, employees of the school, school governors, members of the Council or any other person;
- deliberate damage to/serious neglect of/misappropriation of property, assets, equipment, money, investments etc. belonging to the school, its pupils, users, members of the public, employees of the school, school governors, members of the Council, or any other person with whom the employee comes into contact whilst on official duty;
- corruption or other improper practices such that an employee improperly uses or attempts to use her/his official position for the private advantage of her/himself or some other individual or group. This includes the soliciting or acceptance of bribes or gratuities from, or the use of abusive, harassing, or threatening behaviour to, school users, pupils, other employees, or school governors;
- serious breaches of statutory health and safety regulations endangering the employee and/or other people, including deliberate damage to, neglect of or misappropriation of safety equipment;
- engaging in unauthorised employment during hours when contracted to work for the school/Council or during periods of specially designated leave, e.g. sick leave, study leave etc.;
- deliberate and wilful negligence in the performance of duties which have serious implications for the school, its pupils, users, members of the public, employees of the Council, school governors or members of the Council;
- unauthorised disclosure of school information or information gained during the school's employment, or dishonest or improper use of such information (that is when an employee, without proper authority, communicates to any person information which was given to her/him as an employee of the authority), e.g. disclosure of personal/confidential information about users.

#### **4. Misconduct**

There are other breaches of school standards which are not as serious as those described above, which under most circumstances not result in dismissal, but which may result in other disciplinary action being taken. Examples of offences deemed misconduct are (this is not an exhaustive list):

- breaches of the school/Council's Equality Policies;
- breaches of any other school or Council policies, procedures, standing orders, codes of practice, and operational regulations;
- failure to carry out reasonable and justified instructions, (i.e. when an employee without sufficient cause omits or neglects to carry out justified instructions);
- failure to account for, or negligence in taking due care of, any property or money which came into the employee's possession or area of responsibility in the course of duty, and to ensure its safe return;
- failure to co-operate with any relevant health and safety provisions required by or of the school;
- failure to give due care and attention to the health and safety of other people who may be affected by the employee's conduct at work, e.g. pupils, members of the public, employees of the school, school governors, members of the Council and failure to give due care and attention to the health and safety of him/herself, (as stated in the Health and Safety at Work Act);
- unauthorised absence from the workplace, (this includes persistent lateness);
- conduct or behaviour which falls below the school's standards, e.g. rudeness or abusive behaviours to users, members of the public, employees of the school or members of the Council;
- when an employee knowingly makes any false, misleading or inaccurate oral or written statement or entry in any record or document made, kept or required for the purposes of the school;
- misconduct in relation to official documents e.g. when an employee destroys or mutilates any record made or kept for the purposes of the school, or alters, erases or adds to any entry in such a record or document without legitimate reasons;
- failure to carry out duties and responsibilities in a satisfactory manner;
- being under the influence of drink or drugs;

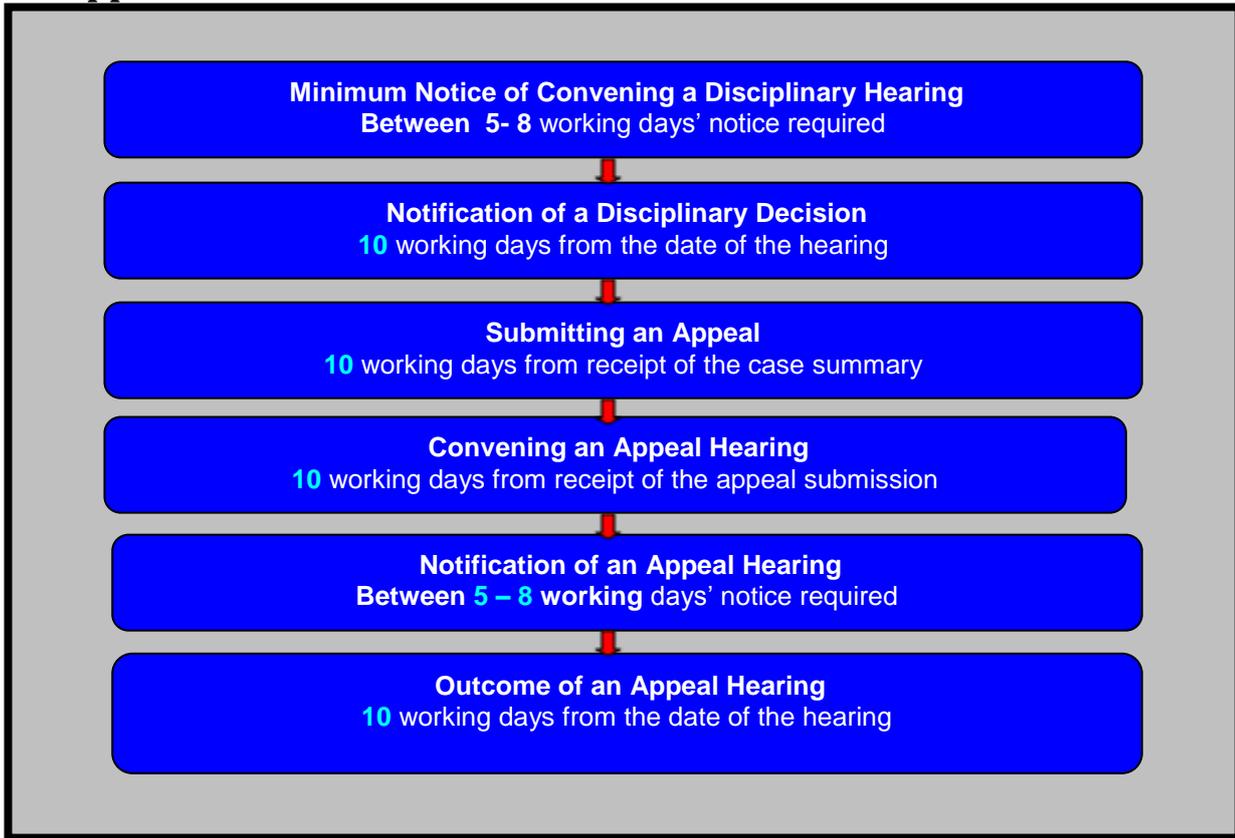
- employees under the influence of medically prescribed drugs should inform the headteacher or other member of the leadership group if this in any way affect their ability to carry out their duties or responsibilities; and
- failure to declare directorship or membership of any organisation, company, association or society (secret or otherwise) which may compromise the school, its' governors or employees and which conflicts with the employee's duties at the school

## 2. Appendix 2: Description of Schools

Voluntary aided School (Faith)	A voluntary aided school is a state-funded school in England and Wales in which a foundation or trust (usually a religious organisation) owns the school buildings, contributes to building costs and has a substantial influence in the running of the school. Such schools have more autonomy than voluntary controlled schools, which are entirely funded by the state.
Community School (Special)	A community school in England and Wales is a type of state-funded school in which the local education authority (LEA) employs the school's staff, is responsible for the school's admissions and owns the school's estate.
Academy	An academy is a school that is directly funded by central government.
Free Schools	Free Schools are non-profit making, independent, state-funded schools. They are not defined by size or location.
Foundation Schools	A foundation school is a state-funded school in which the governing body has greater freedom in the running of the school than in community schools.

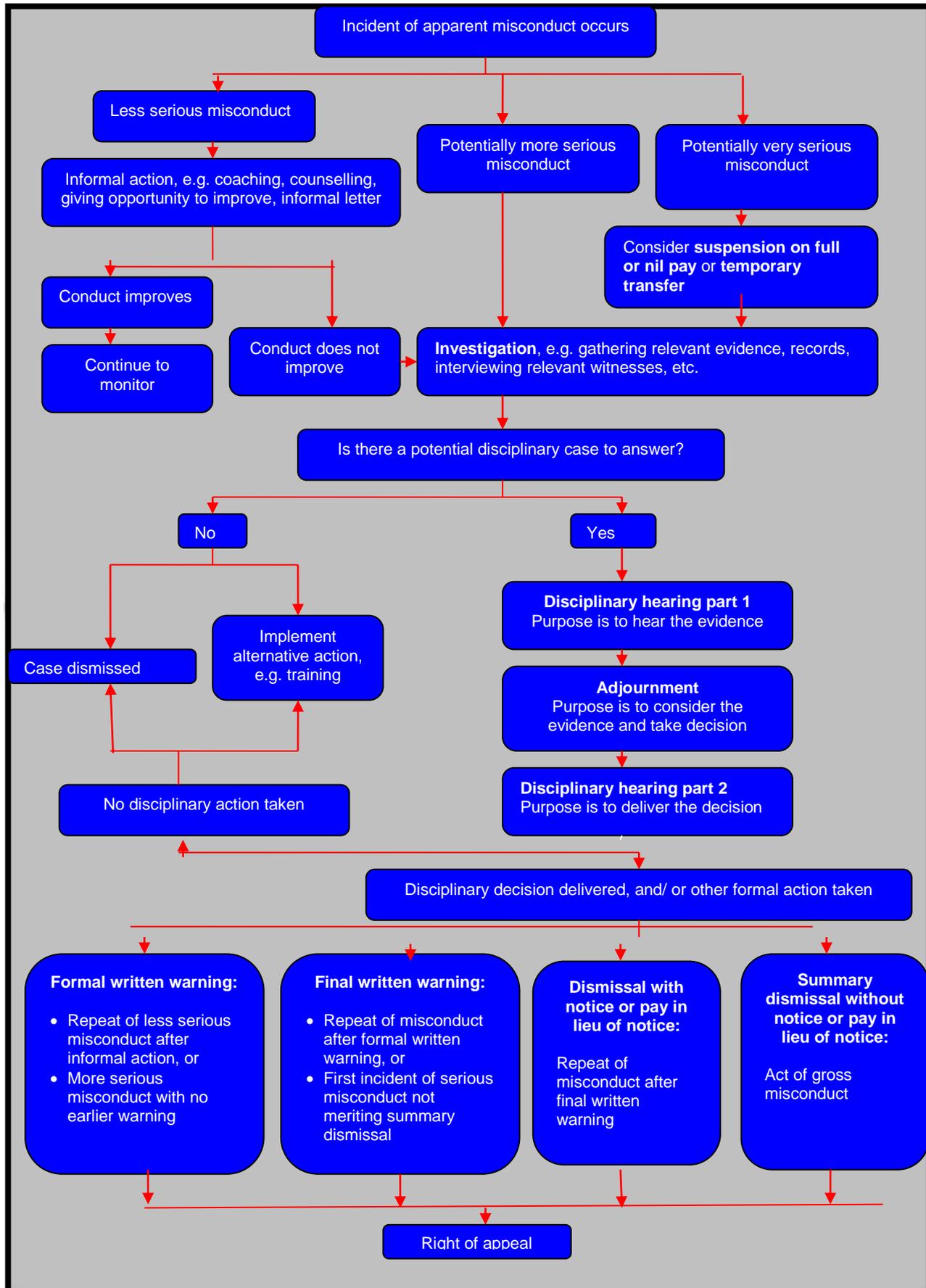
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### 3. Appendix 3: Flow Chart: Notification of Timescales at a Glance



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#### 4. Appendix 4: Flowchart of the Procedure at a Glance

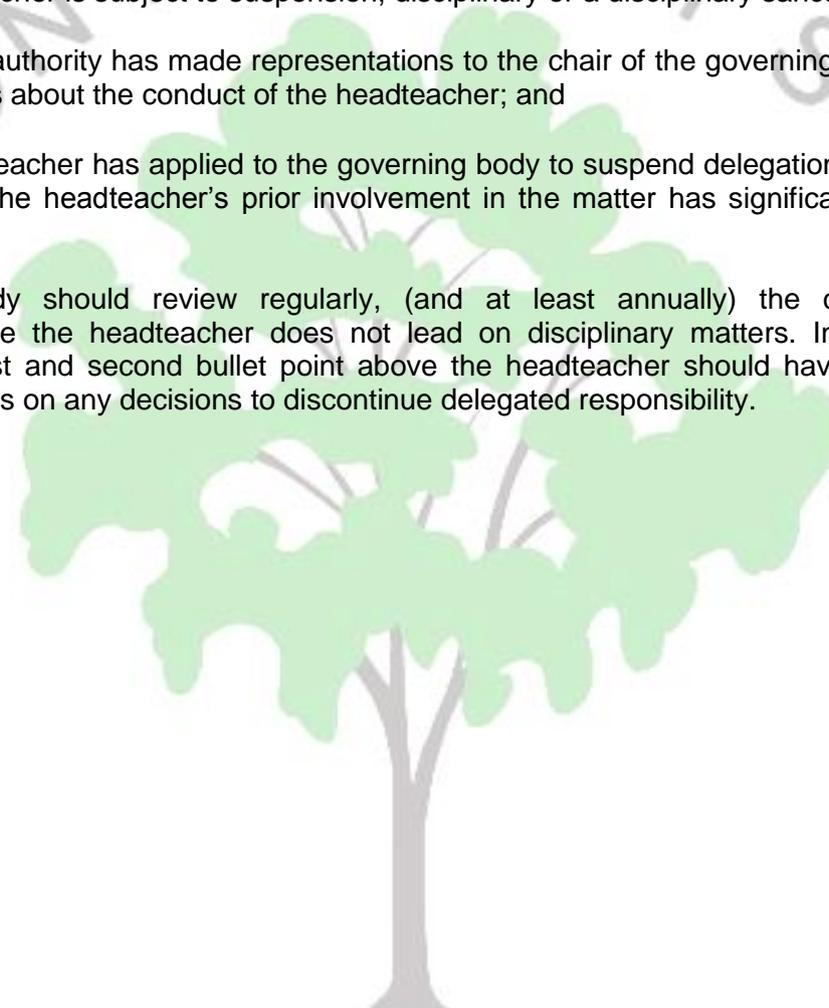


## 5. Appendix 5: Alternative Arrangements for Disciplinary Matters

In certain circumstances the governing body may decide that it is not appropriate for the headteacher to exercise delegated responsibility for some or all disciplinary matters and may consider applying alternative arrangements. This would involve a governing body disciplinary panel exercising responsibility in place of the headteacher. The circumstances in which delegated responsibility for employee disciplinary matters may be suspended in whole or in part and exercised by the governing body are:

- where a headteacher is subject to suspension, disciplinary or a disciplinary sanction;
- where the local authority has made representations to the chair of the governing body on grounds of serious concerns about the conduct of the headteacher; and
- where the headteacher has applied to the governing body to suspend delegation in a particular case either because the headteacher's prior involvement in the matter has significantly prejudiced their impartiality.

The governing body should review regularly, (and at least annually) the continuation of any circumstances where the headteacher does not lead on disciplinary matters. In the circumstances described in the first and second bullet point above the headteacher should have the opportunity to make representations on any decisions to discontinue delegated responsibility.



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## 6. Appendix 6: The Decision to Suspend, and the Process for Suspending a Headteacher

### 6.1 The Power to Suspend a Headteacher

Under the School Staffing Regulations 2009, **the governing body have the power to suspend** a headteacher where a serious breach of conduct is suspected, pending an investigation. Suspension should not be imposed on a headteacher without reasonable and proper cause. It is the **duty of the governing body** to inform the local authority with immediate effect, through the Director of Children, Schools and Families or delegate.

Any suspension **may only be lifted by the governing body**. The governing body, before lifting a suspension, should seek advice from the **HR advice and change team** before doing so.

In practice, suspension by the governing body or the lifting of suspension will be an action taken by the chair of governors on behalf of the governing body.

A headteacher may be suspended in cases where they are thought to have committed an act of gross misconduct or where misconduct may have occurred and there are grounds for doubt as to the suitability of the person to continue at work pending an investigation.

Suspension will normally be on full pay, however there may be exceptional circumstances where suspension may be without pay, e.g. where there are strong indications of fraud.

The chair will review the suspension every **4 weeks** to ensure that no headteacher is suspended for a period longer than necessary.

When considering suspension, the **HR advice and case management team** can advise and provide support at any stage of the proceedings.

### 6.2 The Process for Suspending a Headteacher

When there are grounds for suspending a headteacher, the chair of governors is advised to have an informal discussion with either the Director of Children, Schools and Families or delegate and then to take the following steps before any action is taken:

- Notify the local authority formally of the allegation by immediately informing the **Head of Primary or Secondary School Improvement**, (as appropriate);
- Where the school is a foundation or voluntary aided school, notify the relevant Diocesan authority;
- Where possible, a meeting to inform the headteacher of the suspension should be arranged at a time that is reasonable, although it may be that the meeting will take place immediately, depending on the need;
- It should be noted that headteachers have the right to be accompanied at all formal stages of the procedure including to any subsequent investigation meetings. (This does not include a right to be accompanied to meetings in the informal stage.);
- Advise the headteacher that they may wish to contact their professional association/trade union.
- A letter should be sent as soon as the headteacher has been suspended, confirming the decision to suspend and the reason(s) for the suspension, and that this action is being taken under the school's formal disciplinary policy and procedure. The headteacher should be informed that they

should be available during the period of the suspension to attend an interview at any time during normal working hours. This would include attendance at either an interview with the investigating officer or the formal disciplinary hearing itself.

- The chair of governors must inform the governing body of the decision to suspend immediately after notifying the headteacher, or as soon as practically possible thereafter. The chair should also call an emergency meeting of the full governing body to confirm the decision to suspend (without going into any detail) and to meet and/or liaise with the Director of Children, Schools and Families or delegate who will be supporting the school.

If a local authority has serious concerns about the performance of a headteacher, it must send a written report of its concerns to the chair of the governing body of the school and at the same time send a copy of the report to the headteacher. The chair must notify the local authority of any action the chair proposes to take in the light of the local authorities report.

The Head of Primary or Secondary School Improvement will be responsible for coordinating the response by, and communication with relevant officers of the local authority. They will ensure that the governing body is provided with all the necessary advice and support and will check any decision with the Director of Children, School and Families or delegate before confirming its advice and recommendations for action to the governing body.

The governing body is strongly advised to take advice from HR on the detail of implementing the disciplinary procedure and from the local authority's governor support team on matters of governing body procedure. Any LBC officer contacted for such advice will check with the Head of Primary or Secondary School Improvement (as appropriate) before giving advice and only once this advice has been received in writing by the chair of governors, should the governing body act upon it.

The Head of Primary or Secondary School Improvement (as appropriate) will ensure that relevant officers attend meetings of the governing body where the suspension of the headteacher or its implications for the school forms any part of the agenda.

If the allegation is from a parent and has been dealt with, the parent will be informed on a confidential basis and within the boundaries imposed by employment law/practice of the outcomes.

### **6.3 Support during Suspension**

Suspension is seen as a neutral act, and is not the imposition of a penalty. Nevertheless, it is likely to be a stressful process. Consideration should be given to welfare provision for the headteacher during this difficult period. The headteacher should be given details of the employee assistance (counselling) programme. The headteacher may also be referred (if appropriate) to the Occupational Health Service.

### **6.4 Sickness Absence during Suspension**

If the headteacher is certified as sick and produces a doctor's certificate during their suspension, this will be treated as sickness in accordance with the sick pay scheme for teachers. Medical certificates should be sent to the chair of governors. The terms of the suspension will continue to apply during any such period of sickness.

### **6.5 Lifting a Suspension**

Any suspension **may only be lifted by the governing body**. The governing body, on ending a suspension, shall immediately inform the local authority. In practice, suspension by the governing body or the lifting of suspension will be an action taken by the chair of governors under emergency powers.

## 7. Appendix 7: Procedure for Invoking Disciplinary Action against a Headteacher

### 7.1 Scope

This appendix covers the procedure to be used to deal with disciplinary issues arising from potential issues of misconduct by headteachers or acting headteachers.

### 7.2 The Role of the Chair of the Governing Body

The chair of the governing body is strongly advised to consult with the Director of Children, Schools and Families or delegate in the first instance prior to any action being taken under this procedure, whether this is formal or informal action. The following steps should be taken before any action is considered:

- Notify the local authority formally of the allegation by immediately informing the **Head of Primary or Secondary School Improvement**, (as appropriate), or
- Where the school is a foundation or voluntary-aided school, notify the relevant Diocesan authority.

It is important to remind governors that any concerns about the headteacher's conduct are to be regarded as an extremely sensitive matter and therefore special care should be taken to ensure confidentiality of all information relating to the situation. Under no circumstances should incidents relating to a headteacher's conduct be discussed and considered by governors prior to disciplinary proceedings.

### 7.3 Media Enquiries

If enquiries about disciplinary proceedings concerning a headteacher do come from the media, then the chair of governors should seek advice from the Director of Children, Schools and Families or their nominated representative.

### 7.4 The Informal Process

#### An Informal Approach

An informal approach by the chair of governors should be considered first, as in many cases an informal discussion may be all that is needed and will often be the best way of dealing with a minor disciplinary matter. A first and relatively minor infringement of the expected standards would normally be appropriately dealt with in this way. On the other hand, in the case of repeated, and/or more serious infringements it would be appropriate to move straight to the formal stages.

#### Informal Resolution

Governors and headteachers will normally have informal discussions about matters concerning the management of the school. This is normal practice and where a minor conduct issue concerning a headteacher arises, this is best dealt with by the chair of governors discussing the matter with the headteacher on a confidential one-to-one basis. In some situations, the chair of governors may need to reinforce the discussion with a confidential note setting out the concerns, the headteacher's response and the chair of governor's conclusions on the matter in terms of future expectations of the headteacher. Such a note is referred to as a '**note of understanding**' in these procedures and remains confidential to the chair of governors and the headteacher. This note would be retained by the chair for a **6-month** period and this record will only become relevant in the event that formal action subsequently becomes necessary. Where the chair of governors feels that an informal discussion and/or a '**note of understanding**' is not sufficient, (e.g. a formal warning may be appropriate instead), then the formal disciplinary procedure should be followed.

## 7.5 Accompaniment and Representation

The headteacher has a statutory right to be accompanied or represented by a companion or representative who may be a trade union official, or a representative from a self-organised employee group or a work colleague at any disciplinary hearing/meeting. In addition the headteacher should be given the opportunity to arrange for another individual to be present who can take notes.

## 7.6 Postponement

The governors should normally agree to any reasonable request to extend the stated time limit for a formal meeting/hearing, as requested by the headteacher, for reasons of non-availability of a chosen representative or companion. Normally just one postponement of a formal hearing on these grounds may be allowed.

## 7.7 Initial Investigation

Any complaints or allegations concerning the conduct of a headteacher should be referred immediately to the chair of governors.

The chair of governors should make preliminary investigations promptly. Alternatively, the chair may appoint an “investigating officer” to do this on his/her behalf. This may mean taking statements from complainants, relevant witnesses and the headteacher concerned. If the preliminary investigation reveals the need for further detailed investigation beyond the means and scope of the chair or investigating officer alone, the Director of Children, Schools and Families or delegate should be consulted to arrange an investigation by an appropriate Council Director.

Formal investigations should normally commence straightaway once the chair of governors has received the complaint or allegation. The headteacher may be asked to attend an investigatory meeting with the chair or investigating officer(s) and at such an interview has the right to be accompanied by a companion who may be a trade union official, a representative from a self-organised employee group or a work colleague. Formal investigations should be concluded as soon as is reasonably practicable. The headteacher should be advised immediately of the outcome of any investigation and the outcome should normally be confirmed in writing at the earliest opportunity.

The chair should review the requirements of the disciplinary procedure and any legal advice that may be provided to them. Where criminal activity is suspected, the chair should seek immediate further specific advice from the legal team, the internal audit department or an appropriate outside body.

## 7.8 Potential Gross Misconduct

If the investigation indicates that there may be substance to a complaint of **gross misconduct**, the chair of governors should immediately discuss the case with the Director of Children, Schools and Families or delegate and suspension should be considered as a matter of urgency, (the details of which are contained within **appendix 6**), and a disciplinary hearing convened at the earliest opportunity.

## 7.9 Action to be taken following investigation

The chair of the board of governors should:

- Contact the Director of Children, Schools and Families or delegate and the legal department if appropriate and request advice, if not already sought
- The chair should decide which of the following would be appropriate:
  - (i) take no action;
  - (ii) give informal advice;
  - (iii) hold a formal disciplinary hearing;
  - (iv) continue with further investigations as appropriate or
  - (v) consider immediate suspension where there is a reasonable belief that gross misconduct may have occurred (please refer to **appendix 6**).

## 8. Appendix 8: The Formal Disciplinary Process

### 8.1 Calling a Hearing of the Disciplinary Panel of the Governing Body

The chair of governors should ensure that the **disciplinary panel** of the governing body, (comprising of the chair and two other governors), is formed.

The chair may also request the Director of Children, Schools and Families or delegate to nominate an adviser to the disciplinary panel, and must do so if a recommendation for dismissal is a possible outcome. Ordinarily this would be an advisor from the HR department.

An investigating officer(s) may not act as a member of the disciplinary panel, but they will be called to attend to present their findings to the panel.

The chair of the disciplinary panel should write to the headteacher, giving between **5-8 working days notice** of the hearing with the following information:

- date, time and place of the disciplinary hearing;
- the alleged conduct or characteristics or other circumstances which lead the panel to contemplate holding a disciplinary hearing which may result in formal disciplinary action including dismissal;
- all parties who are expected to attend the hearing, including the names of any relevant witnesses to be called;
- a statement that the headteacher may call relevant witnesses but the panel must be advised of this in good time before the hearing;
- any documentary evidence which provides the basis of the disciplinary allegations;
- a statement that the headteacher will be given a reasonable opportunity to consider the information in the letter and the accompanying documents before the hearing and if the headteacher has any concerns over this, the headteacher or his/her companion should contact the chair of the disciplinary panel or the adviser to the disciplinary panel;
- the right of the headteacher to be accompanied by a companion (which may be a trade union official, a representative from a self-organised employee group or a work colleague) ;
- a statement that the headteacher must take all reasonable steps to attend the meeting;
- a copy of the disciplinary procedure which is applicable to headteachers; and
- an indication of the range of possible outcomes arising from the hearing.

A separate set of the notice of the hearing and all relevant documents should be sent to the headteacher's companion/representative (if known) unless he/she requests otherwise. A copy of the notice and all documents must be sent to the adviser nominated by the Director of Children, Schools and Families or delegate.

### 8.2 Procedure at a Formal Disciplinary Hearing

- The disciplinary panel should elect a **chair of the disciplinary panel** (hereafter referred to as the 'chair') who should then introduce those present and explain the purpose of the hearing. This may be the chair of governors, or another governor as nominated into this role
- The chair should present evidence on the alleged misconduct and circumstances, calling on relevant witnesses and presenting relevant documentation as appropriate
- The chair will decide whether a particular witness is relevant to the case in hand, and their decision on this matter will be final
- The headteacher and his/her companion or representative should be given the opportunity to ask questions
- The members of the panel and their adviser should be given the opportunity to ask questions

- The chair should be given the opportunity to re-examine any relevant witnesses on the issues already raised
- The headteacher or his/her representative should present his/her response, calling on available witnesses and documentation
- The chair should be given the opportunity to ask questions
- The members of the panel and their adviser should be given the opportunity to ask questions
- The headteacher, or his/her companion/representative, should be given the opportunity to re-examine his/her witnesses only on the issues already raised
- The chair should make a closing statement
- The headteacher, or his/her representative may make a closing statement
- The chair should call an adjournment. All parties are required to withdraw except members of the panel and their adviser(s), who will consider the evidence, discuss the case and reach a decision if they are able to.

Should the members of the panel require further information or clarification during an adjournment, both parties to the hearing should be recalled at a later time once all the relevant information has been gathered.

- The chair should reconvene the hearing with both parties present to inform the headteacher and his/her companion or representative of the decision and the right of appeal against a formal sanction, if applicable
- The chair may vary the order of procedure in exceptional circumstances and at any stage in the proceedings a request by either party for an adjournment may be granted at the discretion of the panel
- If formal disciplinary action is decided upon, the chair should confirm the disciplinary action and right of appeal in writing. This will be done using a letter and case summary. The decision letter and case summary should be sent to the employee **within 5 working days** of the hearing wherever possible, but normally **no later than 10 working days** after the hearing. The case summary is the formal record of what happened at the disciplinary hearing. It should give a brief summary of the case, outline the decision made and give justification for coming to the decision. A copy of the letter and the case summary confirming the outcome of the hearing will be kept on the headteachers personal file
- If no disciplinary action is taken a note should be kept of the hearing and the decision taken. A copy of the note should be given to the headteacher and he/she asked to confirm its receipt in writing.
- It is important to remind all members of the disciplinary panel of the **confidentiality nature** of any disciplinary proceedings and that there should be absolutely no discussion about the case with others, including other members of the governing body.

### 8.3 Possible Outcome of a Disciplinary Hearing

- No disciplinary action to be taken and/or informal procedures.
- A formal written warning
- A final written warning
- Dismissal

## 8.4 Disciplinary Action

When deciding whether a disciplinary penalty is appropriate and what form it should take, governors should bear in mind the need to act reasonably. Governors should also note that any level of warning can be applied as appropriate – in other words, if deemed necessary, a first infringement could, depending on the severity of the misconduct, mean the application of a final written warning (rather than a formal written warning.) Thus, a sequential application of warnings is not required as one can escalate through the warnings if necessary.

The appropriate action should be decided on taking account of all relevant factors and the advice of the governors' adviser.

## 8.5 Formal Written Warning

If following a formal disciplinary hearing of the disciplinary panel, it is decided that the complaint was justified and the infringement is regarded as serious the headteacher may be issued with a **formal written warning** which must state:

- the expectations of the governors, including the change in conduct expected and by when;
- that any further complaint of misconduct found justified after a disciplinary interview or hearing could lead to a final warning and perhaps eventually dismissal;
- the right of appeal and the appeals procedure; and
- that if the headteacher is given no further warning of misconduct within **one rolling year** then the headteacher can apply for the warning to be disregarded. The chair of governors will consider formally disregarding the warning.

The decision letter and case summary should be sent to the employee **within 5 working days** of the hearing wherever possible, but normally **no later than 10 working days** after the hearing.

## 8.6 Final Written Warning

A **final written warning** may be given following a formal disciplinary hearing of the disciplinary panel. Such a warning would be given when it is decided that the complaint is justified and the headteacher has already been given a first written warning, which has not been disregarded, and it is felt that a final written warning would not be appropriate.

It could also be the case that a final written warning could be issued for a sufficiently serious first misconduct offence.

Confirmation of the warning must contain the information outlined in the '**formal written warning**' section above.

The decision letter and case summary should be sent to the employee **within 5 working days** of the hearing wherever possible, but normally **no later than 10 working days** after the hearing. The headteacher should be asked to confirm its receipt in writing.

The decision letter and case summary confirming the final written warning must state:

- the reasons for the decision;
  - the improvement expected from the headteacher;
  - that any further complaint of misconduct found justified after a hearing of the disciplinary panel could lead to dismissal;
  - the right of appeal of the headteacher and the disciplinary appeals procedure.
- 
- if there is no further complaint about misconduct within **one and a half rolling years** then the headteacher can apply for the warning to be disregarded.

## 8.7 Other Formal Sanctions

Other formal action may result from a disciplinary hearing, in place of or in addition to issuing a warning.

## 8.8 Alternative or Supplementary Action or Support at any Stage of the Formal Procedure or Informal Process

At any stage in this procedure, alternative action or support to address issues of misconduct can be decided on, for example:

- additional training, or
- coaching.

## 8.9 Dismissal and Notice Requirements

If the disciplinary panel decides that a valid complaint is raised against a headteacher who has a final written warning which has not been disregarded, then it will normally decide to dismiss him/her with contractual notice.

If the disciplinary panel considers that an allegation of gross misconduct is substantiated then it will normally decide to dismiss the headteacher without notice.

A disciplinary hearing will be convened, **following all the elements laid out in section 3.7 of the main disciplinary procedure above.**

Should the disciplinary hearing result in dismissal, the confirmation letter and case summary will confirm:

- the reasons for the decision to dismiss;
- advise of the right to appeal **within 10 working days of receipt of the case summary** against the decision to the appeals panel, which would be comprised of three associate governors from another school and the Director of Children, Schools and Families or delegate and a nominated adviser.
- enclose a copy of this procedure which includes the disciplinary appeals procedure.

## 8.10 Where the right to appeal is not lodged

If the headteacher does not exercise his/her right of appeal within the time limit specified, the chair to the disciplinary panel must notify the Director of Children, Schools and Families or delegate **within 3 days**. This must be in writing, and must:

- enclose copies of all documents considered by the disciplinary panel;
- enclose a copy of the dismissal letter and case summary to the headteacher and
- confirm that the headteacher has not exercised his/her right of appeal within the time limit allowed.

## 8.11 Right of Appeal

All appeals against disciplinary action, whether against written disciplinary warnings or dismissal will be heard by the **appeals panel**.

**The appeals panel** should be comprised of three members to include two associate governors from another school and the Director of Children, Schools and Families or delegate and a nominated adviser.

Those governors who were involved in preliminary investigations or were party to the decisions or recommendations of the disciplinary panel shall be eligible only to attend an appeal for the purposes of

reporting or providing explanations, and shall not be present while the appeals panel consider and decide upon the appeal.

The adviser will not be the same adviser as was in attendance at the original hearing; and will be appointed by the Director of Children, Schools and Families or delegate.

### 8.12 Procedure for Registering an Appeal

A headteacher who wishes to exercise a right of appeal should, **within 10 working days of receipt of the case summary**, send to the chair of the disciplinary panel written notice of appeal using the template on Camden Essentials.

The notice of appeal must state the grounds of the appeal and enclose any relevant documents. The nature of the appeal hearing will depend on the grounds of appeal and will either be an examination of the specific issues in the notice of appeal. The appeals panel will decide on this after consultation with their adviser and the appellants.

### 8.13 Calling a Hearing of the Appeals Panel of the Governing Body

The chair of governors must request the Director of Children, Schools and Families or delegate to nominate an adviser to the panel if the appeal is against a decision to dismiss and may do so for appeals against a warning.

The investigating officer(s) may not act as a member of the appeals panel.

The chair may decide to nominate a person to present the case to the panel.

The chair must arrange for the appeal to be heard **as soon as is reasonably practicable** on receipt of the notice of appeal.

The headteacher will be given no less between **5-8 working days' notice** and will be given the following information:

- Date, time and place of the appeal hearing;
- A reference to any key documents that may form part of the hearing and, if appropriate, copies of these;
- The right of the headteacher to be accompanied by a companion (who may be a trade union official, or a representative from a self-organised employee group or a work colleague);
- A statement that the headteacher must take all reasonable steps to attend the meeting;
- The names of any witnesses to be called by those putting the case for the school, similarly a statement that the member of staff may call witnesses;
- A statement of the range of possible outcomes of the hearing.

A separate set of the notice and all relevant documents should be sent to the headteacher's companion or representative unless he/she requests otherwise.

The chair should formally convene the meeting of the appeals panel in advance and append a copy of the above notice and all documents.

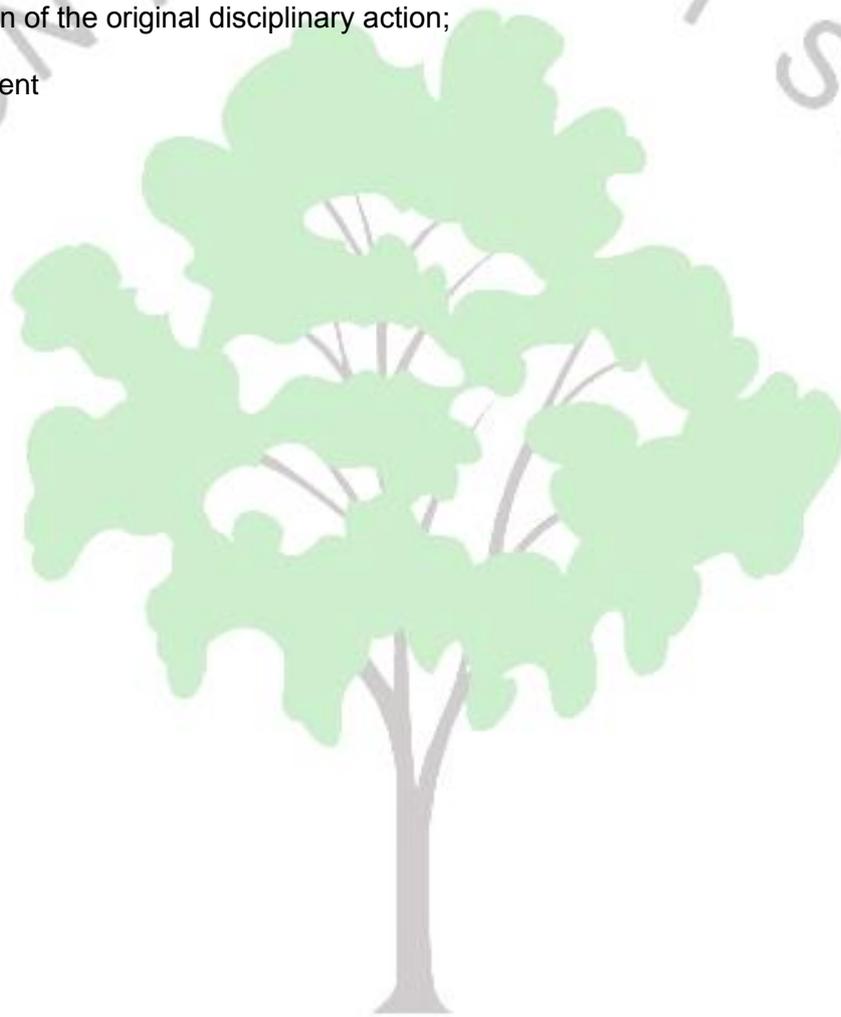
A copy of the notice and all documents must be sent to the adviser nominated by the Director of Children, Schools and Families or delegate.

#### 8.14 Procedure at an Appeals Hearing

The chair of the appeals panel must confirm the decision of the panel in writing to the headteacher normally **within 10 days** of concluding the hearing. It should be confirmed that the decision of the appeals panel is final.

#### 8.15 Possible Outcome of an Appeal Hearing

- The withdrawal of disciplinary action;
- The substitution of different disciplinary action;
- Confirmation of the original disciplinary action;
- Reinstatement



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