



Milecastle Primary School

Disciplinary Procedure

Disciplinary Procedure

1 Introduction

The procedure complies with the ACAS Code of Practice on Disciplinary and Grievance Procedures. The purpose of this procedure is to ensure that cases of misconduct are dealt with in an appropriate, fair and consistent way. It should be used in a way that helps and encourages employees to improve their conduct.

Where reference is made in this document to a head teacher, governing body or school this should also be taken to include a head of school, any relevant management body / sub-committee, or an academy, a Multi Academy Trust (MAT), Free School etc, as is appropriate.

Catholic and Church of England Voluntary Aided schools may wish to use their own nationally established disciplinary procedures.

2 Legal considerations

- This procedure is not contractual and does not create contractual obligations on the school.
- **Statutory reporting:** The school and/or local authority are required to report any teachers who are dismissed on the grounds of misconduct to the National College for Teaching and Leadership. This includes any situation where an employee's contract is ended by mutual agreement as an alternative to dismissal on the grounds of misconduct including where a settlement agreement is used. This also includes situations where an employee resigns in circumstances where they may otherwise have been dismissed. Similarly, any staff dismissed, who leave by mutual agreement or resign in cases relating to the safety and welfare of children and young people will be reported to the Disclosure and Barring Service (DBS).
- **Police involvement:** Where the police are undertaking an investigation into an employee, and the school are seeking to undertake disciplinary proceedings on a related or similar matter, close contact must be maintained with the police and their agreement should be sought before undertaking disciplinary investigations. The disciplinary process should normally begin at the conclusion of any criminal process.

3 Roles and responsibilities

- **Governing Body:** The governing body of a school has overall responsibility for ensuring that there are appropriate procedures for managing misconduct in place and that all staff are aware of them.

The governing bodies of locally maintained schools, academies and free schools should clearly delegate the roles, functions and responsibilities of governors and senior managers in relation to the disciplinary procedure. For example, identifying which governors and /or senior managers can hear which disciplinary stages.

The governing body also has the powers to impose and lift suspensions under the disciplinary procedure.

The governing body is normally responsible for considering an appeal made by an employee at any stage of the procedure. The appeals panel should normally comprise at least three governors. Where exceptionally there are not enough governors available, the appeal may be heard by two governors but there should be no fewer than the number of delegated person(s) that made the initial decision.

- **Head Teacher:** Where the governing body has delegated the responsibility for dismissal to the head teacher, s/he is responsible for making decisions that could result in the dismissal of an employee for the reason of misconduct. The head teacher also has the authority to suspend an employee.

The head teacher may be the investigating officer in disciplinary investigations or may delegate this to another senior manager within the school.

Where there are concerns about the head teacher's own conduct, these roles will be undertaken by the governing body and in the case of locally maintained schools the post holder designated as Chief Education Officer should be kept informed.

The head teacher is also responsible for ensuring that the local authority is provided with the relevant paperwork, entering data on to MSS etc.

- **Employee representatives:** Where an employee has the right to be accompanied to a meeting or hearing, s/he can be accompanied by a fellow worker or trade union representative. All trade union officials, regardless of whether the union is recognised, may represent their members individually. The representative can put the employee's case and confer with the employee during the meeting. However, they cannot answer questions that are put to the employee. A representative who is an employee is entitled to reasonable paid time off during working hours to accompany the employee.

Normally no disciplinary action should be taken under this procedure against a trade union representative until the circumstances of the case have been discussed with the full-time or senior branch official of the union concerned. In cases involving locally maintained schools the post holder designated as Chief Education Officer should be notified

immediately so that discussions with the trade union can take place.

- **Chief Education Officer:** For Community and Voluntary Controlled Schools, the post holder designated as Chief Education Officer has the right for his/her representative to attend and give advice at any meeting where dismissal may be considered. For Foundation / Trust schools the Chief Education Officer or their representative may attend to give advice at any meeting where dismissal may be considered where this has been agreed by the Governing Body.

4 Sharing of information

In the case of disciplinary investigations resulting from a complaint, the person raising the complaint is entitled to know whether or not the matter will be pursued in accordance with the disciplinary procedure and whether any formal action has or has not been taken. A brief explanation of the reasons for the decision may be given. The complainant is not entitled to receive further details of the proceedings.

5 Initial action when considering disciplinary matters

5.1 Conduct an initial assessment

- When an allegation of misconduct is made or an incident takes place, the head teacher (or other manager) should carry out an initial “fact finding” assessment to determine the key facts.
- This should be undertaken at the earliest opportunity and should ensure that there is sufficient substance to the allegation and that it has not been made maliciously.
- Where an allegation is made against an employee regarding a safeguarding matter, the Head Teacher must immediately contact the named officer (LADO) under the LA child protection procedure and refer to the procedures for dealing with allegations of abuse. (Please see the Procedure for Dealing With Allegations of Abuse Made Against Staff, Volunteers and Agency Workers for further details.)
- The initial assessment, which may involve some degree of investigation, should be undertaken by the Head Teacher, and may involve initial questioning of the employee, the person(s) who have made an allegation or any other key witnesses or professionals who may be able to contribute to the initial assessment.
- Where the allegations are potentially very serious and may result in the employee being placed on paid leave or being suspended, the head teacher or senior manager may wish to consider consulting with their HR Adviser and the employee's trade union representative [where the employee's consent is given] prior to a decision being made to place the employee on paid leave or to suspend.
- In deciding on the course of action to be taken, the head teacher will

consider:

- the potential seriousness of the matter taking into account relevant school's policies and procedures and disciplinary rules - see Annex 2;
- whether this is the first instance of misconduct, or whether there have been previous examples and, if so, the nature of the misconduct. This will include consideration of live warnings or informal action;
- any personal difficulties or circumstances outside of the control of the employee, which may have been a contributing factor;

5.2 Decide appropriate action

The head teacher will decide to:

5.2.1 Take no further action

- Where the allegations appear to be without substance, and it is clear that any further investigation is not necessary, then the Head Teacher should take no further action.
- The employee should be informed of the allegations or suspicions of misconduct and the subsequent decision to take no further action.

5.2.2 Informal Action

- Cases of relatively minor misconduct or unsatisfactory behaviour may be dealt with by informal action under the Disciplinary Procedure.
- If dissatisfied with the employee's explanation it should be explained to the employee:
 - details of their inappropriate conduct and why;
 - the standards of behaviour that is required;
 - that they are being informally warned about the matter in accordance with the disciplinary procedure;
 - the action they should take in order to improve; and
 - the timescales by which this should be improved.
 - that a file note will be kept in relation to being informally warned, and that it may be referred to in the future if formal disciplinary action in this or a related area has to be taken. (File notes relating to safeguarding issues will be retained indefinitely and may be referred to in the future depending on the specific circumstances of the case.)

Where additional training, coaching and advice is required this should be discussed with the employee and offered.

5.2.3 Conduct a formal investigation

- Where the Head Teacher decides that there is sufficient substance in the allegation and it is sufficiently serious to warrant a formal investigation, this should be undertaken as a matter of urgency. Arrangements for conducting investigation are set out below.

Before proceeding with the investigation, the head teacher must also decide whether the employee, during the investigation:

- remains at work undertaking their normal or alternative duties;
- is placed on paid leave on full pay; or
- is suspended from duty on full pay (without prejudice).

- The employee must be informed that a formal disciplinary investigation will be undertaken, with a brief outline of the allegations made against them, that this information is confidential and they should not approach and discuss this with other members of staff. They must also be informed whether they are to remain at work during the investigation. They should be provided with a copy of the procedure.

Paid leave is appropriate where the head teacher deems that:

- the investigation could be compromised; and/or
- it would be inappropriate for the employee to remain at the school whilst the investigation is taking place.

Paid leave or suspension may also be appropriate where the employee is currently under investigation by the police, and the school have been asked to wait before proceeding with any disciplinary investigations.

The decision to place an employee on paid leave must be confirmed in writing. The employee should be informed that being placed on paid leave is a neutral act and does not prejudice either the disciplinary investigation or any subsequent hearing.

The employee may be suspended at any stage prior to, during or following the investigation. The circumstances regarding when it is appropriate to suspend an employee shall always be dependent upon the facts of the case.

In reaching a decision to suspend an employee, the head teacher or governing body should consider whether one or more of the

following circumstances applies:

- the alleged misconduct is so serious that dismissal without notice is possible;
- the employee maybe a risk to people or property; and/or
- it is necessary in order to allow the investigation to proceed unimpeded.

The reason for the suspension must be made clear to the employee in writing as soon as possible. This shall normally be the next working day. The employee should be informed that being suspended is a neutral act and does not prejudice either the disciplinary investigation or any subsequent hearing. Whilst suspended the employee must continue to receive full pay.

The head teacher, governing body and chief education officer must all be informed when an employee is suspended in a locally maintained school.

6 Formal investigation

Where the allegations are substantiated and a disciplinary hearing is convened at Stage 3 (final written warning) or Stage 4 (dismissal), the investigating officer and the person(s) hearing the case must be different.

Where a hearing is convened at Stage 1 or 2, the investigation and hearing should be conducted by different person(s) wherever possible.

6.1 Appointment of an investigating officer

- Where the initial assessment indicates there are sufficient grounds for investigation, the Head Teacher or governing body should appoint an investigating officer to carry out the investigation.
- Investigation of alleged financial irregularities must be conducted by Internal Audit from the outset in a locally maintained school.

An Academy or Free School may wish to seek support from DfE auditors in carrying out investigations into alleged financial irregularities.

Once completed, a report will be prepared for the Head Teacher, and this will form the basis of any action necessary.

- In the cases of misuse of IT equipment, the head teacher may decide to use the services of an appropriately qualified IT expert

to determine the nature of the misuse.

- The head teacher may determine that it is appropriate to use an external investigating officer. The investigating officer will normally be a senior member of staff, a governor or the Head Teacher.

6.2 Conducting the formal investigation

Any allegation of misconduct should be dealt with as a matter of urgency. The purpose of the investigation is to establish the relevant facts surrounding the alleged misconduct. The employee's personal file should be scrutinised for any relevant or similar live warnings.

Role of the Investigator

The role of an investigator is to be fair and objective so that they can establish the facts of the matter and reach a conclusion on what did or did not happen. An investigator should do this by looking for evidence that could both support or refute the allegations.

The investigation should be undertaken without prejudice, and the investigating officer should not reach any conclusions until all the relevant information has been obtained and a reasonable investigation has been carried out.

6.3 Interviewing witnesses

The investigating officer should interview any witnesses that have relevant information regarding the facts of the case.

Witnesses must be provided with the opportunity to make a formal statement, which they should subsequently have the opportunity to amend and sign.

Witnesses must be informed that they may be required to attend a formal disciplinary hearing and that copies of their statement may be provided to the employee and their representative.

If members of the public are interviewed as witnesses, they should be interviewed by at least two officers.

If it is necessary to interview children or vulnerable service users the investigating officer must consider whether permission from the adult responsible for the person to be interviewed should be sought beforehand. The interview should be conducted by a professional with experience and/or training in interviewing such individuals,

with the investigating officer in attendance if that is appropriate.

Witnesses may bring a trade union representative or fellow worker to the interview. They must be informed that this is for their support and that their representative does not have any right to answer any questions on their behalf, nor make any representations regarding the process.

Any representative that attends the interview(s) with the witness must have no prior or subsequent involvement in the case, and must keep all information strictly confidential.

6.4 Investigation meeting with the employee

The investigating officer should normally meet with the employee to provide him/her with an opportunity to explain his/her version of events.

The employee should be given a minimum of three working days' notice of the investigation meeting and this should be confirmed in writing as soon as possible.

When inviting the employee to the investigation meeting, the investigating officer should set out in writing the nature of the allegations against the employee.

The employee must be offered the opportunity to be accompanied to the investigation meeting by a trade union representative or fellow worker. They must be informed that this is for their support and that their representative does not have any right to answer any questions on their behalf, nor make any representations regarding the process.

The employee does not have the right to ask questions of the investigating officer(s) other than ones relating to the investigation process, procedure and the allegations.

After the meeting the investigating officer must send a record of the meeting or a draft statement and ask the employee to sign it as an accurate record of the meeting. The employee may make any amendments they require.

The content of the meeting is strictly confidential and should not be discussed with other employees or third parties.

6.5 Investigation report

The investigating officer should consider all the relevant evidence and produce an investigation report. This would normally include the following

information:

- the name(s) of the investigating officers;
- a description of the process of the investigation;
- details of the issues that have been investigated;
- any specialist advice taken;
- the details of people interviewed and an overview of what they said;
- any explanation put forward or circumstances in mitigation;
- whether any evidence could not be obtained or witnesses who could not be interviewed;
- a summary of the key facts of the case based evidence, documentation, witness statements including facts have been established and what facts it was not possible to establish
- any relevant live warnings on the file that have been considered;
- a conclusion as to whether there is a case to be answered and whether a disciplinary hearing should be convened, and, if so, a recommendation at what level it is held;
- all witness statements used in the investigation must be included in an annex to the report.

If the investigation report recommends that a disciplinary hearing should be convened, it should consider and take into account disciplinary rules and recommend that the hearing be considered at one of the following stages:

- Stage 1 = Recorded Oral Warning
- Stage 2 = Written Warning
- Stage 3 = Final Written Warning
- Stage 4 = Dismissal

The investigating officer in her / her report should only recommend a Stage at which the allegations are to be heard and should not directly refer to a particularly level of disciplinary sanction eg Final Written Warning, dismissal etc.

The investigating officer should submit their report to the person or persons with delegated responsibility for hearing disciplinary matters. The person or persons with delegated responsibility must then consider the report and decide at what Stage (eg Stage 1, 2, 3 or 4) the allegations will be heard or alternatively decide there is no case to answer or that the matters should be dealt with informally.

Once a decision is made person or persons with delegated responsibility for hearing the disciplinary matters should notify the employee in accordance with paragraph 7.

7 Formally notify the employee of the decision to hold a hearing

Summer 2016

- The employee must normally be informed in writing 10 working days (or 14 days out of term time) before the hearing of:
 - details of the alleged misconduct;
 - the Stage at which the hearing is being held;
 - the date, time and place for the hearing;
 - the employee's right to:
 - (i) produce witnesses and written statements.
 - (ii) ask questions of the author of any written statement produced (excluding the situation where statements have been taken from children).
 - (iii) state his/her case in person and/or through a representative;
 - (iv) be accompanied by a trade union representative or fellow worker.

- If dismissal is a possibility then this must be made clear in the letter inviting the employee to the disciplinary hearing.

- The letter inviting the employee to the disciplinary hearing would normally be sent out by the person or persons with delegated responsibility for hearing the disciplinary matters.

- At least five working days before the hearing commences all parties shall circulate the relevant documentation, including the investigation report, and any copies of statements taken from witnesses.

- The employee can request to waive the 10 working days (or 14 days out of term time) notice of the hearing and agree an earlier date to hold the hearing. If this is possible the hearing should be held at an earlier date.

8 Hold a disciplinary hearing

- A suggested format for the disciplinary hearing is included in Annex 1 below.

- The employee or their TU representative or fellow worker and the management representative may present their case and ask questions of witnesses in order to further explain their case. In addition, the HR officer involved in supporting the investigation process may assist the management representative in presenting the case at the hearing.

- Witnesses should only be present for so long as they are giving evidence or answering questions.

9 Decide on an outcome and action

- The outcome of a disciplinary hearing shall normally be one of:
 - no further action;

- a Recorded Oral Warning, in the case of relatively minor offences;
 - a Written Warning in the case of a more serious offence(s) or where there is an accumulation of minor offences;
 - a Final Written Warning in case of serious misconduct or repeated misconduct and warnings;
 - A Final Written Warning will contain a statement that any further incidents may lead to dismissal.
 - Dismissal with notice - where this is on a topping up basis and a live Stage 3 warning is in effect;
 - Summary dismissal in the case of gross misconduct.
- The disciplinary hearing cannot impose a greater sanction than the disciplinary hearing stage provides. For example if the hearing is held at Stage 3 (Final Written Warning) the delegated person(s) can decide to impose no sanction, a Recorded Oral Warning, Written Warning or Final Written Warning but not dismissal. For a dismissal to take place the hearing must be held at Stage 4.
- If the disciplinary hearing decide to impose a warning, the employee should be informed of:
 - the detail of their misconduct;
 - the improvement in behaviour or actions that are expected of them; and
 - the consequences of not improving their action or behaviour, which may well be further action under the disciplinary procedure.
 - Their right of appeal
- At Stage 4 hearings where the delegated person(s) reach a decision to dismiss, they must satisfy themselves that they have considered all actions short of dismissal (including, if appropriate, consideration of redeployment to another post) and have no reasonable alternative but to dismiss. Consideration of redeployment would not normally be appropriate in cases of dismissal due to gross misconduct.
- Following the hearing the delegated person(s) must inform the employee (and their representative) in writing of their decision and reasons for it within five working days
- The employee must be informed that they can appeal a disciplinary sanction and that if they wish to do so they must submit an appeal to the chair of governors within five working days (seven consecutive days out of term time). If the employee wishes to appeal s/he should be asked to state clearly their grounds of appeal.

10

Notice

10.1

Dismissal for gross misconduct

Community and Voluntary Controlled Schools: the employee is not

entitled to notice. No notice or pay in lieu of notice is provided.

The Governors must notify the local authority immediately so that it can inform the employee concerned in writing of their summary dismissal. The governing body must also notify Employee Services / Payroll in writing using the appropriate forms of the termination as soon as possible.

Foundation / Trust Schools, Free Schools and Academies: the employee is not entitled to notice. No notice or pay in lieu of notice is provided. The governing body must write to the employee terminating their employment with immediate effect. The governing body must also notify Employee Services / Payroll in writing using the appropriate forms of the termination as soon as possible.

All other dismissals

Community and Voluntary Controlled Schools: If employee is dismissed for reasons other than gross misconduct, appropriate notice must be issued to the employee. Schools must instruct the local authority to issue notice to the employee. This will normally be done within 14 days of notification.

Foundation / Trust Schools, Free Schools and Academies: If the employee is dismissed for reasons other than gross misconduct, appropriate notice must be issued to the employee. The governing body must write to the employee terminating their employment.

The governing body must in all cases notify Employee Services / Payroll in writing using the appropriate forms of the termination as soon as possible.

The period of notice to which employees are entitled is as follows:

- **Support staff:** the greater of statutory notice of one week's notice per year of continuous service up to a maximum of 12 weeks or contractual notice;
- **Teachers:** the greater of statutory notice of one week's notice per year of continuous service up to a maximum of 12 weeks or contractual notice of two months if ending on 31 December or 30 April or three months if ending on 31 August. In the case of a head teacher three months in autumn and spring term and four months in the summer term;

11 Handling appeals against disciplinary sanctions

- If the employee appeals against the decision of the disciplinary hearing, the school should normally notify the employee in writing of a date for the appeal hearing within five working days of receipt of the appeal (seven consecutive days out of term time). At least five working days' notice (or seven consecutive days out of term time) should be given to the employee of the appeal hearing and they should be informed of the

right to be accompanied by a trade union representative or fellow worker.

- In considering the appeal, the appeals panel should consider:
 - Reasonableness of the original decision;
 - Any new evidence, and whether the new evidence presented is sufficiently significant to affect the original decision made;
 - Procedural fairness - was the procedure followed fairly and reasonably, and were there any procedural irregularities. And, if there were any procedural irregularities were these sufficiently significant to affect the original decision made.

- The appeals panel should only consider a re-hearing where:
 - the initial hearing was procedurally flawed such that in the view of the panel a fair and reasonable decision could not have been reached;
 - new evidence has come to light that undermines the initial decision to such an extent that a full re-hearing is necessary to consider all previous evidence in the light of the new evidence;
 - there is evidence to indicate that the person(s) hearing the original case have deliberately acted in bad faith.

- The appeal panel has the powers to impose a lesser sanction than that imposed by the disciplinary hearing, for example they can uphold an appeal against dismissal and impose a Final Written Warning. The appeal panel cannot impose a greater sanction than the disciplinary panel.

- If an employee successfully appeals against their dismissal their notice, if appropriate, will be rescinded or they will be reinstated from the original date of dismissal.

- The decision of the appeals panel must be confirmed in writing to the employee within five working days of the appeal.

12 Notification to the National College for Teaching and Leadership and the Disclosure and Barring Service (DBS)

- Where a teacher is dismissed under the disciplinary procedure (or resigns in circumstances where they might have been dismissed or accepts a settlement agreement as an alternative to dismissal) in very serious misconduct cases that do not raise issues relating to the safety, welfare and safeguarding of children and young people) but calls into serious question their suitability to teach the school must refer the case to the National College for Teaching and Leadership. (HR services will support and advise schools with this process.) Please note this excludes professional incompetence.

- Where any member of staff is dismissed under the disciplinary

procedure (or resigns in circumstances where they might otherwise have been dismissed in very serious misconduct cases) that raise issues relating to the safety, welfare and safeguarding of children and young people, the school must refer the case to both the Disclosure and Barring Service (all staff) and the National College for Teaching and Leadership (teachers only.) (HR services will support and advise schools with this process.)

13 Expiry of warnings and withdrawal of records

Except in agreed circumstances, any formal warnings issued under the disciplinary procedure must be disregarded and removed from the employee's personal file after the periods of time set out below.

- Recorded Oral Warning: will be removed after a period of 6 months;
 - Written Warning: will be removed after a period of 12 months;
 - Final Written Warning: will be removed after a period of 24 months.
- All warnings for misconduct in relation to children/pupils and other vulnerable people must be retained after removal from the personal file and kept indefinitely on a confidential file held by the school. A note should be added to the employee's personal file indicating that a confidential record is held and where it is held. The employee can have access to the confidential record on request. Records of warnings in relation to conduct involving children and other vulnerable people may be used in relation to a subsequent disciplinary or child protection investigation in relation to children or vulnerable people. Such records will also normally be referred to in references provided in relation to appointments with substantial access to children.

Relationship with Grievance Procedure: Where an employee raises a grievance during a disciplinary process consideration should be given to temporarily suspending the disciplinary process in order to deal with the grievance. However, where the grievance relates directly to the disciplinary procedure, process or investigation it may be more appropriate to consider the grievances at the disciplinary hearing.

Where the disciplinary and grievance cases are related it may be appropriate to deal with both issues concurrently.

Revision Record of Published Versions			
Author	Creation Date	Version	Status
HR Services	10 January 2007	1.0	Approved by Executive Director of Children's Services

Changed by	Revision Date		
HR Services	31 December 2007	2.0	Approved by Executive Director of Children's Services
HR Services	27 January 2009	3.0	To reflect reporting changes to ISA and the GTC
HR Services	31 March 2009	4.0	To reflect changes to ACAS Code of Practice
HR Services	Spring 2014	5.0	Updated by HR – no substantial change
HR Services	Spring 2016	6.0	General update

Annex 1: Suggested Format of the Disciplinary Hearing

The normal format of a disciplinary hearing is described below. The chair of the hearing has discretion to vary the order of proceedings.

At the hearing requests for an adjournment by any party should not be unreasonably refused.

1 Introduction

The chair introduces the person(s) hearing the case, asks others in attendance to introduce themselves, explains the order of proceedings and checks that everyone has the relevant documents.

2 Management Case

- **Statement of case:** The management representative puts forward any relevant points that they wish to bring to the attention of the delegated person(s).
- **Presentation of witnesses:** If the management representative wishes to present witnesses they may do so at this point. Witnesses will only remain at the hearing for so long as they are giving evidence or being questioned.
- **Questions to witnesses:** All parties shall have the opportunity to ask questions of witnesses. This begins with the management representative followed by the employee and/or their representative and finally the delegated person(s) and their adviser. In exceptional cases the authors of written statement may not be willing to attend hearing (e.g. members of public) or it would be inappropriate for them to attend (school pupils). The delegated person(s) must give due consideration to this and take into account any possible disadvantage to either side.
- **Questions to management representative:** All parties will have the opportunity to ask questions of the management representative. This begins with the employee and/or their representative and finally the delegated person(s) and their adviser.

3 Employee Case

- **Statement of case:** The employee (or their representative) puts forward any relevant points that they wish to bring to the attention of the delegated person(s).
- **Presentation of witnesses:** If the employee or their representative wish to present witnesses they may do so at this point. Witnesses will only remain at the hearing for so long as they are giving evidence or being questioned.

- **Questions to witnesses:** All parties shall have the opportunity to ask questions of witnesses. This begins with the employee or their representative, followed by the management representative and finally the delegated person(s) and their adviser.
- **Questions to employee:** All parties will have the opportunity to ask questions of the employee. This begins with the management representative and finally the delegated person(s) and their adviser.

4 Questions to both sides from delegated person(s) and adviser

The delegated person(s) and their adviser may ask questions of both parties.

5 Summing up by Management Representative

The management representative should provide a summary of their case, highlighting the key points that they wish the panel to consider.

6 Summing up by Employee (or Representative)

The employee or their representative should provide a summary of their case, highlighting the key points that they wish the panel to consider.

7 Adjournment

The delegated person(s) (with their adviser in attendance) consider in private the information put forward at the hearing and reach a decision.

8 Decision

Where practical the parties should be informed of the decision directly by the chair of the hearing. This must be subsequently confirmed in writing, with sufficient detail to enable all parties to understand the decision and the rationale behind it.

Annex 2 Disciplinary rules / Misconduct

It is the policy of the governing body to treat the following examples of behaviour (if proved on the balance of probabilities) as misconduct.

The list below is not intended to be exhaustive; other circumstances not listed here may be defined as misconduct:

Managers should not consider dismissal for a first disciplinary offence unless they believe the action(s) amount to gross misconduct.

Behaviour that is considered to be gross misconduct could result in the summary dismissal of an employee (i.e. without notice).

Minor general misconduct

Persistent lateness;
Breaches of school dress code;
Issues of minor insubordination;
Less serious issues of inappropriate and /or unprofessional behaviour.

Serious misconduct

Disregard of health and safety rules
Failure to carry out a reasonable management instruction
Negligence by the post holder carrying out their duties and responsibilities;
Unreasonable failure to follow established school procedures and processes;
Inappropriate and unprofessional behaviour towards children, staff or members of the public;

Gross misconduct

The following offences will normally be considered to be gross misconduct.

Please note this is not an exhaustive list :

- acts which lead to a fundamental breakdown in trust and confidence in the employee, for example, physical, sexual or psychological abuse of children or young people, an intimate or sexual relationship with any pupil including those above the legal age of consent, sexual misconduct or leaving a pupil in danger;
- acts of violence including the physical assault or threat of physical assault;
- conviction of a criminal offence, whether or not involving an incident occurring in the course of employment, of such a nature that it is unacceptable for the employee to remain in their post;
- deliberate or malicious discrimination so as to treat someone less favourably in any matter relating to their education, employment or the provision of services to them on account of their race, religion or belief, culture, ethnic origin, gender, marital status, sexual orientation, disability, age or former convictions;
- deliberate or malicious harassment. Harassment is behaviour towards another person, whether on a number of occasions or in a single serious instance, so as to make them feel threatened, humiliated or distressed on account of their race, religion or belief, culture, ethnic origin, gender, marital status, sexual orientation, disability, age or former convictions;
- bringing the school or the employer into serious disrepute or seriously

- damaging its reputation on social or professional media forums or through other means. This includes such activities whether they are carried out inside or outside work;
- unauthorised removal, possession or theft of property (including misuse of vehicles);
 - wilful damage to school or the employer's property or equipment;
 - deliberate falsification of qualifications or information which are a statutory or essential requirement of employment or which result in additional remuneration;
 - deliberate falsification of time sheets, bonus sheets subsistence, mileage or other expenses claims;
 - acceptance of bribes or corrupt practices;
 - material breaches of Standing Orders, Financial Regulations and financial procedures;
 - serious breach of confidence including deliberate unauthorised disclosure of confidential information;
 - causing loss, damage or injury through serious negligence;
 - serious breach of health and safety rules including deliberate damage to or misappropriation of safety equipment or putting others at risk of injury;
 - serious offences relating to the misuse of computers and other communication devices. For example, cyber bullying, using social media etc to deliberately threaten, harass, bully and intimidate staff or other persons carried out during work time or outside work time.
 - offences relating to the misuse of the employer's or school computers or devices including deliberately accessing internet sites containing pornographic, offensive or obscene material;
 - other offences set out in the school's Code of Conduct.
 - Falsely declaring to be off work due to sickness when this is not the case.
 - unauthorised absence from work without a valid or reasonable explanation including failure to maintain reasonable contact with the school / employer.
 - Gross negligence
 - Professional malpractice

The following offences may be considered gross misconduct depending on the particular circumstances involved:

- serious insubordination including serious verbal abuse towards a pupil, colleague or member of the public;
- serious breaches of the school's Dignity At Work policy;
- misuse of the employer's or the school's property or equipment;
- abuse of internet facilities;
- incapability at work brought about by the consumption of alcohol or illegal drugs.