# Schools Disciplinary Policy

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| **School/Academy Name:** | |
| **Date of Adoption:** | |
| **Chair of Governors Signature** | |
| **Signature of Head Teacher:** | |

**This Policy should not be amended by a School, except for completing the details above. Any changes will invalidate the Policy.**

**The Schools HR Advisory Service will automatically update this Policy to comply with any changes to legislation or ACAS guidance, make corrections or improve clarity. Schools will be notified of any amendments**

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# 1. Introduction

## *Policy Governance Statement*

*Procedural steps that are fundamental to the fair and consistent application of this policy are contained within the main body of the document. Appendices may offer supporting templates or guidance only; no employee rights, obligations, or procedural requirements will be located solely within an appendix.*

The Council and LBBD Schools are committed to providing a working environment where individuals are treated with fairness, dignity and respect. This Policy is designed to ensure that there are fair, transparent and objective arrangements for dealing with disciplinary issues in the workplace.

This Policy is offered to Governing Bodies as an example of good practice for adoption across the Borough. Uniform use of the Policy will ensure fair and equitable treatment for all staff.

The Schools Disciplinary Policy is particularly important, as it addresses a complex and sensitive area of employment practice. The Policy must align not only with the principles of natural justice but also with a range of statutory and regulatory requirements. Errors or inconsistencies in this area can be time-consuming to resolve and may result in significant financial and reputational costs. More importantly, they can seriously undermine working relationships between staff, pupils, School Leadership, and Governors.

The Policy should not be viewed primarily as a means of punishing individuals but as a way of helping and encouraging Employees to improve and to rectify unsatisfactory conduct. It is intended to ensure allegations of misconduct are dealt with promptly, fairly and consistently in accordance with relevant Council and School Policies, Employment Legislation and “Best Practice”.

This Policy (other than the list of possible allegations in (**Appendix 1**) has been agreed with the accredited local Representatives of the recognised Trade Unions. Adoption and operation of this Policy should ensure that the Governing Body, the Head Teacher and SLT operate in accordance with the following provisions:

- The Employment Rights Act 1996 and the Employment Relations Act 1999
- Conditions of Service for School Teachers in England and Wales (Burgundy Book)
- Conditions of Service for Support Staff in England and Wales (Green Book)
- Conditions of Service issued to School staff at the time of their employment and the letters which confirm their contract of employment
- The Education Act 2002 (Section 35 (8) and Section 36 (8))
- The School Staffing (England) Regulations 2009
- ACAS Code of Practice on Disciplinary and Grievance Procedures
- ACAS guidance on Bullying and Harassment at Work

To avoid unfair treatment or discrimination, Governing Bodies and Head Teachers should seek advice and assistance from the Schools HR Advisory Service or the Schools HR Provider at all stages in the operation of this Policy.

The Commissioning Director Education or their Representative is entitled to attend all the meetings of the Governing Body's Disciplinary and Appeals Panels.

Adoption of the Policy will ensure that the Governing Body of Community and Voluntary-Controlled Schools is fully supported by the Local Authority when progressing disciplinary cases. Where a Governing Body wishes to consider adopting an alternative Policy, a copy of the proposed Policy, together with the reasons for seeking to adopt it, should be submitted to the Commissioning Director for Education. The Commissioning Director will then ensure that the Local Secretaries of the recognised Trade Unions and Organisations are appropriately advised.

Governing Bodies should note that they have a Statutory obligation to engage in collective bargaining with the recognised Trade Unions on terms and conditions of their members and the School should ensure that negotiations are pursued with the local Representatives of the recognised Trade Unions/Organisations, who will usually be the local Trade Union/Association Secretaries. Contact details will be provided by the Commissioning Director Education or their Representative .

Governors must ensure that the adopted Policies are readily available to and understood by all members of staff.

This Policy relates exclusively to breaches of discipline by staff, including Head Teachers, in Barking and Dagenham Community and Voluntary Controlled Schools but may be adopted by other Schools, Academies and other Educational Settings.

This document does not apply to Borough Unattached Staff, Peripatetic Staff or Advisory Teachers.

This Policy is designed to ensure compliance with statutory requirements and promote best practice within the School. It supports staff well-being, retention, and performance by providing clear processes and fair treatment.

Schools are asked to monitor and review the implementation of this Policy regularly, using measurable indicators such as staff retention rates, absence trends, and feedback from staff surveys.

Evidence of impact will be documented and available for inspection to demonstrate how this Policy contributes to improved teaching quality and positive outcomes for pupils.

## 2. Summary of Key Stages, Rights, and Responsibilities

### 2.1 Key Stages of the Disciplinary Process:

- **Initial Concern & Informal Resolution**
  - Minor issues should be resolved informally where possible, with appropriate documentation and HR involvement.

- **Investigation**
  - Allegations are investigated promptly and thoroughly by an impartial Investigating Officer.
  - The employee is informed in writing of the allegations and given the opportunity to respond.
  - Witnesses may be interviewed and statements collected.

- **Gardening Leave or Suspension**
  - May be used where necessary (e.g., safeguarding concerns, risk to investigation, or serious allegations).

- Both are not disciplinary actions and do not imply guilt.
- Regular reviews are required if these last longer than six weeks.

- **Disciplinary Hearing**
  - If the investigation finds a case to answer, a formal hearing is convened.
  - The employee receives written notice (minimum 10 working days), details of allegations, evidence, and rights.
  - The hearing is chaired by a Hearing Officer or a Governing Body Panel (for potential dismissals).

- **Possible Outcomes**
  - No disciplinary action
  - Counselling, management advice, or referral to Occupational Health
  - Written warnings (First, Second, or Final, with specified retention periods)
  - Dismissal (with or without notice, depending on severity)
  - Recovery of losses or referral to regulatory bodies in certain cases

- **Appeal**
  - Employees have the right to appeal any disciplinary sanction or dismissal.
  - Appeals must be submitted in writing within 10 working days of the outcome.
  - The Appeals Panel (different governors from the original hearing) will review the case.

**All timescales within this Policy are indicative. They may be shortened or extended where it is reasonable and necessary to do so, considering the complexity of the case, availability of participants, and the need to ensure a fair process.**

**2.2 Rights:**

- **Right to Representation**
  - Employees may be accompanied at formal meetings by a Trade Union Representative, a work colleague, or, as a reasonable adjustment, a family member or support worker.

- **Right to Confidentiality**
  All proceedings are strictly confidential. Breaches may be treated as a separate potential misconduct matter and may affect the fairness of the process.

- **Right to a Fair Process**
  - The process must be impartial, with no prior involvement from the Investigating or Hearing Officer.
  - Employees must be given adequate notice, access to evidence, and the opportunity to present their case.

- **Right to Appeal**
  - Employees can appeal disciplinary outcomes on grounds such as procedural flaws, new evidence, or disproportionate sanctions.

**2.3 Responsibilities:**

- **Employees**
  - Comply with the Code of Conduct, policies, and procedures.



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- Cooperate fully, maintain confidentiality, attend meetings, and follow suspension terms if applicable.

- **Head Teachers & Governors**
  - Ensure staff are aware of standards and Policies.
  - Address concerns promptly, maintain confidentiality, and seek HR advice for serious or safeguarding matters.
  - Oversee fair investigations and hearings.

- **Human Resources**
  - Provide procedural advice and support.
  - Attend formal meetings to ensure fairness and compliance with Policy and best practice.

- **All Parties**
  - Maintain professionalism and confidentiality.
  - Seek permission for any recording of hearings (normally not allowed).
  - Ensure all actions are documented and records are kept in line with data protection laws.

## 3. Definitions

a) "The Local Authority" means the Council of the London Borough of Barking and Dagenham.

b) “The Employer”:

- In Community and Voluntary-Controlled Schools, the Local Authority is the employer.
- In Voluntary-Aided Schools, the Governing Body is the employer.
- In Academies, the Academy Trust is the employer.

References to “Employer” within this Policy should be interpreted accordingly.

c) "The Governors" means all members of the Governing Body of a School appointed from time to time, in accordance with the provisions of the Education Acts and in accordance with the decisions of the Local Authority and the provisions of the Articles and Instrument of Government.

d) "The Commissioning Director Education" means the Chief Officer appointed as such by the Council of the London Borough of Barking and Dagenham, or their Representative (Schools HR Advisory Service).

e) "The Head Teacher" means the person who has been appointed - whether on a permanent, temporary or acting basis - in accordance with the provisions of the Articles of Government.

f) "The Employee" means the person employed by the Local Authority in a maintained School who is paid in accordance with the scales of salaries for teachers or for non-teachers in such School.

g) "Complaint" means an allegation of misconduct, indiscipline and/or any other specific cause of disciplinary enquiry and/or action against an Employee. A complaint may be about a single matter or be comprised of several separate issues.

h) "Work colleague” means the person accompanying the Employee but not representing them.



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i) "Trade Union Representative" means the person accompanying, advising and/or representing the Employee that is accredited with a recognised Trade Union.

j) "Misconduct" means a failure by the Employee to observe the normally understood and accepted rules affecting work Policy, safety standards and professional conduct, whether written or not, to which the Employee is lawfully and reasonably expected to conform.

k) "Gross misconduct" means serious misconduct.

l) An "Investigating Officer" is a person appointed by the Governing Body, Head Teacher or the Commissioning Director Education (after seeking advice from their HR Provider) to carry out the disciplinary investigation.

m) A "Hearing Officer" is a person appointed to chair the disciplinary hearing. This will normally be the Head Teacher, or the Chair of the Panel appointed by the Governing Body for this purpose.

n) "Governors designated person" or "designated person" is the person appointed by the Governors in cases where the Head Teacher is the Employee about whom complaints or allegations have been made.

o) "Natural Justice" has a specific meaning in the law. Natural justice comprises two rules, the rule against bias and the rule of the right to a fair hearing. Because of the necessity of maintaining confidence in the process, it is most important that people who are engaged in these processes feel that they have had a fair hearing and that there has been no bias.

## 4. General

### 4.1 Advice and Support

The Schools HR Advisory Service will support and advise Head Teachers and Governors considering allegations of misconduct and monitor all formal disciplinary cases to ensure that they are dealt with in accordance with this Policy, employment and equalities legislation, and "best practice".

### 4.2 Using Alternative HR Providers

Community and Voluntary-Controlled Schools using Human Resource Providers other than the Local Authority recognised service provision must ensure that the Local Authority is notified in line with this Policy. Said provider must adhere to the agreed Policy, when providing support.

Alternative HR providers must ensure that relevant disciplinary case information is shared with the Local Authority for monitoring, safeguarding oversight, and governance purposes, in line with this Policy and Statutory requirements.

**In cases, where the allegation is Gross Misconduct and/or any allegation which may lead to the possibility of dismissal, the Local Authority should receive notification prior to all hearings. In Community and Voluntary-Controlled Schools, the Local Authority is the employer and is responsible for issuing notice of termination. In other settings, this responsibility rests with the relevant employer as defined above**

**Where a School does not buy into the Schools HR Advisory Service (LBBD) charges are likely to apply.**

### 4.3 Support at Formal Meetings

Employees have a Statutory right to be accompanied by a Fellow Worker, a Trade Union Representative , or an official employed by a Trade Union at disciplinary and appeal hearings (and any other qualifying meetings).

The companion may address the hearing in order to present and summarise the Employee's case, respond on the Employee's behalf to any views expressed during the meeting, and confer privately with the Employee throughout the hearing. However, the companion does not have the right to answer questions on the Employee's behalf, speak if the Employee does not wish them to do so, or prevent the Employer from presenting its case.

In exceptional circumstances, and following consultation with the Schools HR Advisory Service, an Employee may be accompanied or represented by a Legal Representative at formal hearings and appeals. This will apply only where the potential outcome of the process may have implications beyond the Disciplinary Policy itself, for example where the matter could lead to the Employee being barred from future employment, such as in cases involving serious Safeguarding allegations. As all formal hearings and appeals will be conducted in accordance with this Policy, any Legal Representative involved must be familiar with its requirements.

It is primarily the Employee's responsibility to arrange for representation and to inform the Representative of the arrangements (time and dates) of meetings. By agreement and to avoid delay, the Employee's Representative may be communicated with directly by the Employer/the Schools HR Advisory Service on such matters and vice versa.

Furthermore, the School may, in consultation with the Schools HR Advisory Service (or alternative Provider), and as a reasonable adjustment, allow the Employee to bring a companion who is not a Colleague or Trade Union Representative (for example, a member of their family) if they are disabled and refusing the request would place the Employee at a substantial disadvantage.

In addition to family members, a request to bring a mental health support worker or personal assistant if the Employee is physically disabled would also be examples of reasonable adjustments which might be made.

### 4.4 Confidentiality

In the interests of natural justice, to avoid prejudicing the outcome of any disciplinary investigation and because of legal obligations under the UK General Data Protection Regulations as amended the proceedings must be kept **Strictly Confidential**.

Confidentiality will be maintained as far as reasonably practicable; however, information may be shared on a need-to-know basis and where required or permitted by law, including for safeguarding purposes, regulatory reporting, obtaining legal advice, and to comply with statutory duties.

All witnesses involved in the process will be required to always **maintain confidentiality** and so must not discuss or disclose details of allegations, witness statements or the outcome of meetings

with anyone or via the media. It is imperative that witnesses are not approached by anyone other than those who have been nominated to do so.

All parties involved in the various stages in this Disciplinary Policy are advised that, under no circumstances, should they discuss the case with any other party or amongst themselves. Any breach of confidentiality may be treated as a separate potential misconduct matter and may also affect the fairness of the process.

A breach of confidentiality will be treated as a separate potential misconduct matter and will not automatically invalidate the disciplinary process. Any such breach will be assessed proportionately, taking into account context, intent, and the principles of natural justice.

**4.5 Fairness and Objectivity**

It is important to make sure that the Disciplinary process is conducted in a fair and unbiased manner.

The Investigating Officer and the Hearing Officer must, to remain impartial, have had no prior involvement in the case being investigated either as a witness or complainant. Head Teachers, Senior Leaders and Governors involved in applying the Policy should undertake appropriate training. To preserve impartiality and comply with the principles of natural justice, Governors who may later serve on a Disciplinary Hearing Panel or an Appeal Panel must not have prior knowledge of the case or be involved in any discussions or decisions at an earlier stage. This ensures that any Panel is unbiased, independent, and able to consider the evidence fairly.

**4.6 Record Keeping**

Disciplinary records will be retained in line with the School's Retention Schedule. As a guide:

- Written warnings will normally be disregarded after their stated expiry period;
- Investigation records may be retained for up to 6 years where appropriate;
- Safeguarding-related records may be retained for longer in line with statutory requirements.

Personal data will be processed in accordance with UK GDPR, with a clear lawful basis under Article 6(1)(c) and Article 9(2)(b).

The ACAS Code of Practice recommends that records should be kept of disciplinary hearings, detailing the following:

- the complaint against the Employee
- the Employee's defence
- findings made and actions taken
- the reason for actions taken
- whether an appeal was lodged
- the outcome of the appeal
- any grievances raised during the Disciplinary Policy
- subsequent developments
- Notes of any formal meetings

Records must be treated as confidential and maintained in accordance with our Policy, the UK GDPR and the Data Protection Act 2018. Employees are entitled to receive copies of any personal data records relating to them.

Where disciplinary material includes special category data, such as health information, it will be processed under Article 6(1)(c) and Article 9(2)(b) of the UK GDPR. Data will be minimised, retained only where necessary and proportionate for legal and employment purposes, and supported by an appropriate Schedule 1 policy document where required.

### 4.7 Monitoring

The Schools HR Advisory Service will update the Schools Disciplinary Policy to comply with any changes to legislation and / or ACAS guidance, monitor closely the application of the Policy and seek to consult with the recognised Trade Unions any amended draft from time to time.

## 5. Special Circumstances Affecting Disciplinary Cases

### 5.1 Criminal Offences

Criminal convictions, cautions or charges are not automatic reasons for dismissal. The Head Teacher or Designated Person, with the Schools HR Advisory Service (or alternative Provider), should consider all the facts and whether the allegation is relevant to the person's employment and warrants investigation and action under this Policy.

### 5.2 Child Protection / Fraud

Head Teachers and Governors must seek advice from the Schools HR Advisory Service (or alternative Provider) where there are allegations of misconduct relating to child protection issues or fraud before taking any action under the Policy .

Allegations could form part of or be linked to another Policy and may therefore need to involve other Officers of the Local Authority for example the Local Authority Designated Officer (LADO) for child protection or the Local Authorities Counter Fraud and Risk Management. Employees should be referred to the appropriate local guidelines in child protection cases.

Where allegations raise potential Safeguarding concerns, the Local Authority Designated Officer (LADO) will be consulted for advice and guidance. The LADO's role is advisory in nature. Any decision to suspend an Employee, where this is considered appropriate, remains the responsibility of the Employer, who must take account of all relevant information, ensure the decision is proportionate, and consider whether suspension is necessary as a protective measure.

### 5.3 Trade Union Officials

Head Teachers and Governors must seek advice from the Schools HR Advisory Service (or alternative Provider) where there are allegations of misconduct against a Trade Union Shop Steward, Branch Official, Health and Safety or Learning Representative. A Senior Officer/Official of the Trade Union must be contacted before starting a formal investigation under the Policy.

### 5.4 Workers Not Directly Employed by the School

Head Teachers and Governors must seek advice from the Schools HR Advisory Service (or alternative Provider) on dealing with any allegations of misconduct concerning agency workers or workers not directly employed by the School.

# 6. Roles and Responsibilities

## 6.1 Employees

Employees are required to comply with the London Borough of Barking and Dagenham's Employee Code of Conduct, the School's Policies and any relevant Professional Codes of Conduct (i.e. Teachers' Standards)

Employees must comply with arrangements detailed in this Policy which are designed to ensure that disciplinary issues are dealt with fairly and objectively. Employees are required to:

- co-operate fully with the process
- maintain confidentiality
- attend meetings at the times and places designated
- give as much notice as possible when they or their Representatives cannot attend formal meetings and be reasonable when suggesting alternatives, which should be within 5 working days of the original date except by mutual agreement; and
- follow the terms of any suspension.

## 6.2 Head Teachers and Governors

The Head Teacher and Governors must ensure that Employees are made fully aware of the standards expected in the Schools Employee Code of Conduct, the School's Policies and Procedures, relevant Professional Codes of Conduct and Contractual Terms and Conditions.

The Head Teacher and Governors must comply with arrangements detailed in this Policy which are designed to ensure that disciplinary issues are dealt with fairly and objectively. The Head Teacher (or Chair of Governors in cases of disciplinary proceedings against Head Teachers) is required to:

- promptly notify the Employee of any concerns about unsatisfactory conduct and/or behaviour and ensure that copies of signed and dated complaints made are available to the Employee at the appropriate point in the Policy
- maintain confidentiality
- try and resolve minor issues informally with the Employee through informal discussion and advice, which must be documented and copies provided for the Schools HR Advisory Service for retaining on personnel files subject to deletion in accordance with this Policy
- establish the facts promptly before recollections fade and decide whether a formal investigation is required
- seek advice from the Schools HR Advisory Service (or alternative Provider) before undertaking any further investigations in cases where there is a complaint/allegation that comes under the remit of Child Protection; and
- ensure that regular contact is maintained with Employees (and their Representatives whenever possible) on suspension to keep them advised of the progress of the investigation.

## 6.3 Human Resources

Procedural advice should be sought from Schools HR Advisory Service (or alternative Provider) to ensure adherence to the Policy and the concept of natural justice. A Human Resources Advisor should attend all formal Disciplinary Meetings and Appeals to ensure a thorough and fair process for all concerned in line with the School's Policy and best practice contained therein.

The Human Resources Advisor will be available to give appropriate support and advice during the process; this will include:

- talking through the process to be followed and
- advising where to go for further help and support

### 6.4 Responsibilities for All

All attendees at Hearings and Appeal Hearings are asked to seek permission from the Chair of the Disciplinary Panel if they wish to record the proceedings. In most circumstances, permission to record will not be granted. Any recording made without the knowledge and agreement of all parties will be regarded as inappropriate and may be considered a breach of trust, which could lead to further disciplinary action.

Where an Employee wishes to record a Hearing or Appeal Hearing as a reasonable adjustment directly related to a disability, a written request should be submitted in advance of the meeting to the Head Teacher or, where applicable, the Chair of the Panel. Such requests will be considered carefully and reasonably, considering the Employer's equality duties and the specific circumstances of the case.

In line with ACAS guidance, covert recording will normally be regarded as potential misconduct. However, each situation will be considered on its individual facts, including the context, the Employee's circumstances, vulnerability, intent, and any legitimate purpose for the recording. A blanket assumption of dishonesty will not be applied.

Hearings and Appeal Hearings must be conducted in a respectful and professional manner at all times. Where a participant's conduct falls below the expected standard, the Hearing Officer or Chair of the Governors' Panel may, at their discretion, ask that individual to leave the proceedings in order to preserve the integrity, fairness, and effectiveness of the process.

## 7. Disciplinary Process

The flowchart for the Disciplinary Process can be found at **Appendix 2**.

### 7.1 Gardening Leave

Gardening leave describes the practice where an Employee leaving a job having resigned or otherwise had their employment terminated is instructed to stay away from work during the notice period, while remaining on the payroll.

Locally Agreed (LBBD) Gardening Leave normally describes the situation when an Employee is sent home pending possible formal suspension or initial fact finding, where a serious allegation has been made. This can be performed without notice and the action should be confirmed, together with the reasons for it, in writing to the Employee.

The continuation of Gardening Leave will be under regular review. If Gardening Leave exceeds a period of six weeks there will be a review of the need for continuing the Gardening Leave and the Employee or their Representative will be contacted by the Employer for that purpose. Gardening Leave should be reviewed by the Chair of Governors.

### 7.2 Suspension

Where the alleged misconduct is so grave that it is not reasonable for the Employee to remain at School pending an investigation and following completion of the risk assessment (**Appendix 3**), the Head Teacher, in consultation with the Chair of the Governing Body and the Commissioning Director Education or Representative, may suspend the Employee on full pay. The Employee will be advised to make immediate contact with their Trade Union or Workplace Colleague and that they may be accompanied by this person at the meeting called for the purpose of formal suspension.

The meeting should be held within 5 working days' notice (excluding School closure periods) and the action should be confirmed, together with the reasons for it, in writing to the Employee.

Where such action is against the Head Teacher the role of the Head Teacher will be taken by such person as the Governing Body chooses to appoint for that purpose.

**Employees will be suspended on full pay and paid as normal.**

**Note:** In some cases, Headteachers or Governors may consider suspension during an investigation where emerging evidence indicates that it is necessary and proportionate.

Circumstances in which suspension may occur include:

- When children are deemed to be at risk;
- where allegations are so serious that dismissal for gross misconduct is possible;
- where the conduct of the investigation may be impeded by the presence in School of the Employee;
- when there is some other justifiable substantial reason for preventing the Employee's presence in the School.

The continuation of suspension will be under regular review. If suspension exceeds a period of six weeks there will be a review of the need for continuing the suspension and the Employee or their Representative will be contacted by the Employer for that purpose. Suspension should only be reviewed by the Chair of Governors.

**NOTE: Gardening Leave and Suspension are not a Disciplinary act and do not imply guilt. Careful consideration should be given to the case before an Employee is suspended.**

**NOTE: If Gardening Leave or Suspension are considered/decided on, a risk assessment must be completed and kept on record.**

Please see **Appendix 3** for a Template Risk Assessment.

### 7.3 Investigation

It is essential that any complaints alleging misconduct are investigated and the facts established promptly before recollections fade. Investigations do not need to be time-consuming, but speed should not be at the expense of thoroughness. Complaints should be put in writing, be signed and dated and copies made available to the Employee about whom the complaint has been made the appropriate point in the Policy.

In accordance with the principles of natural justice, Employees will be advised at each stage, by the Investigating Officer, of the precise nature of the complaint and any allegation(s) against them and given the opportunity to respond, as part of the investigation, before any decision is made about the outcome of an investigation.

No disciplinary action will be taken until the matter has been investigated and Employees will not be dismissed for the first instance of misconduct except, if so determined, in a case of gross misconduct or for breach of implied term of mutual trust and confidence.

In most cases disciplinary issues will be investigated by a person appointed by the Head Teacher, normally, a member of SLT.

Advice must be sought from the Schools HR Advisory Service (or alternative Provider) where there are any concerns as to the impartiality of the nominated Investigating Officer. Any disagreement will be referred to the Chair of Governors whose decision is final.

The Employee will normally be informed in writing of the allegation, the nature of the allegation and that an investigation is taking place.

The focus should be on the specific complaints/allegations made and determination of whether the allegation may be considered misconduct or gross misconduct which will arise from the evidence acquired and statements provided.

The Investigating Officer should establish the facts as quickly as possible, avoid the potential for collusion amongst potential witnesses and obtain all the relevant information by collecting written evidence and interviewing the Employee and known witnesses. The officer should then decide whether there is an issue to be dealt with informally or a case to be dealt with using the formal Policy.

It is important to remember that disciplinary investigations are stressful for all concerned, especially for the Employee, the complainant and potential witnesses. Moreover, the integration of Employees subjected to lengthy Disciplinary Policy back into the workplace may be much more difficult to achieve. Therefore, consideration should be given as to what priority and support is needed to enable the School to carry out a full investigation as speedily as possible.

It is not possible to set rigid timescales for the completion of investigations, but the Investigating Officer must seek advice as soon as possible from Human Resources if this is likely to take longer than four weeks. The Employee and their Representative should be kept regularly advised of the progress of the investigation if this is likely to last more than four weeks.

### 7.4 Witness Evidence and Involvement of Pupils

#### 7.4.1 Witness Evidence

- Witnesses should be interviewed and/or asked to provide written statements. All statements and interview notes must be signed and dated by the witness.

- A clear record must be kept of all interviews, meetings, and statements. These records should be signed and dated by the witness to confirm accuracy.

- Witnesses must be reminded of their duty to maintain confidentiality at all times. They should be informed that:

  - They may be required to attend future hearings.
  - Their statements will be used as evidence and made available to all parties involved, in line with data protection and safeguarding requirements.

- Witnesses should be supported throughout the process and given the opportunity to clarify or amend their statements if necessary.

### 7.4.2 Involvement of Pupils

- If, during the investigation, pupils are involved, especially young or vulnerable pupils, they may be asked to make an oral statement. This statement should be written verbatim, witnessed on their behalf, and signed by the adult present.

- Questioning pupils should be undertaken with particular sensitivity:

  - Leading questions must be avoided.
  - The process should be age-appropriate and trauma-informed.
  - Statements from pupils should be anonymised to protect their identity, unless disclosure is required by law or safeguarding protocols.

- The welfare of pupils must be prioritised at all times. Where possible, a trusted adult or support worker should be present during any interview.

- All parties must be reminded that any attempt to influence or intimidate witnesses, including pupils, is strictly prohibited and may itself be subject to disciplinary action.

### 7.5 Investigation meeting with the Employee

The investigation will normally require the Employee to have a face-to-face meeting with the investigating officer. The Investigating Officer, in consultation with Schools HR Advisory Service (or your alternative Provider), must notify the Employee as soon as practicable that an investigation is being conducted and the reason for this and arrange an investigation meeting.

The Employee will be formally notified in writing of the arrangements for the meeting and be given at least 5 working days' notice (excluding School closure periods) of the meeting. The Employee should also be notified in writing of the specific complaints made and potential outcomes of the investigation. A copy of the Disciplinary Policy will be provided to the Employee if not already made available.

Employees may be accompanied at any meetings under the Policy either by a Trade Union Representative or Work Colleague. If a chosen Representative is unable to attend a meeting, the Investigating Officer will reschedule the meeting to a mutually convenient time, not more than 5 working days (excluding School closure periods) after the original notified date.

This deadline may be extended by agreement provided the meeting is held within 20 working days (excluding School closure periods) of the originally notified date.

**NOTE:** If the Employee's preferred Trade Union Rep remains unavailable, then it will be down to the Employee and their Trade Union Representative to make alternative arrangements i.e., an alternative Rep or it may be necessary to base any findings on the information that is available.

The purpose of the investigation meeting is to give the Employee the opportunity to respond to the allegation(s) and to raise any concerns or make comment as part of the fact-finding process.

Following the meeting it may be necessary to seek further information or to interview/re-interview witnesses to check facts or seek further clarification. Where new information is obtained **during the investigation** and potential new allegations come to light, it may be necessary to reconvene the investigation meeting to give the Employee the opportunity to respond.

Once the investigation is completed, the Investigating Officer should produce an Investigation Report setting out the complaints/allegations made, the evidence and recommendations as to whether there is a case of misconduct or gross misconduct to pursue.

Where there is sufficient information/evidence i.e., correspondence relating to the allegation the requirement to carry out an investigation meeting with the Employee may not be necessary, however the Employee should be notified if this is the case.

**NOTE:** The decision as to whether a case constitutes misconduct or gross misconduct should only be made following a full investigation. The School must avoid making assumptions or pre-judging the outcome when informing the Employee of the reasons for the investigation. If there are reasonable grounds to consider that the matter may amount to gross misconduct, this should be communicated to the Employee during the initial interview and reiterated in any subsequent correspondence regarding a disciplinary hearing.

Any recommendation should take into consideration the following:

- Has the Employee admitted to any of the allegations?
- Has the Employee broken any rules and Policy?
- Are the rules known to Employees and have they been applied consistently?
- Is it reasonable to expect the individual to know their conduct was wrong?
- If there has been an instance of potential misconduct, does it require formal action or can it be dealt with informally by counselling, training and development, etc.?

The Employee will be notified in writing of the outcome of the investigation and the recommendation(s) as soon as possible after the conclusion of the investigation.

**NOTE:** No new allegations should be added once the report has been concluded and submitted to the Employee.

### 7.6 Agreed Outcomes

Agreed outcomes may be used where all parties consider that a formal hearing is not necessary or proportionate. Agreed outcomes are voluntary, must be entered into freely by the employee, and must be based on a clear understanding of the implications.

#### 7.6.1 Cooling-Off Period

To ensure fairness and prevent undue pressure, employees will be provided with a cooling-off period after an agreed outcome is proposed. During this period, the employee may withdraw their agreement without disadvantage and the matter will revert to the formal disciplinary process.

### 7.6.2 Withdrawal Rights

Employees retain the right to withdraw from an agreed outcome at any point before it is formally confirmed in writing. No negative inference will be drawn from a decision to withdraw, and the School will resume consideration of the case under the appropriate stage of the procedure.

An outcome of anything up to and including a final written warning can be 'agreed'.

Please see **Appendix 4** for the Procedure.

### 7.7 Disciplinary Hearings

The purpose of the disciplinary hearing is to consider the allegations, review the evidence, and determine whether disciplinary action is appropriate.
Following the completion of the investigation, where there is a case to answer, the matter will be referred to a disciplinary hearing.

In cases where dismissal is a potential outcome, the hearing will normally be heard by a panel of Governors in accordance with the School Staffing (England) Regulations 2009. In all other cases, the hearing may be conducted by the Headteacher or an appropriate senior leader, supported by Human Resources.

The Hearing Officer or Panel will be impartial and will not have been directly involved in the investigation.

The employee will be notified in writing of the disciplinary hearing, giving a minimum of 10 working days' notice (excluding school closure periods) to allow reasonable time to prepare. The notification will include:

- details of the allegations;
- the potential outcomes, including the maximum level of sanction that may be applied;
- copies of all relevant documentation, including the investigation report and any witness statements;
- the names of witnesses to be called by management;
- the right to be accompanied by a trade union representative or workplace colleague;
- the opportunity to respond to the allegations and to raise questions regarding the evidence presented.

The employee may also submit their own evidence in advance of the hearing and may request that witnesses attend. The school will consider such requests and take reasonable steps to facilitate attendance where appropriate.

The employee will be given the opportunity to present their case, respond to the allegations, and consider the evidence before a decision is made.

If the employee's chosen representative is unavailable on the proposed date, they may request an alternative date within five working days of the original hearing date.

The 10 working days' notice period may only be waived with the employee's informed written agreement.

If the employee fails to attend without good reason, the hearing may proceed in their absence based on the available evidence.

The hearing may be adjourned to allow for further investigation or consideration where necessary. In reaching a decision, the Hearing Officer or Panel will consider all evidence presented, including any mitigating factors.

The outcome of the hearing will be confirmed in writing within 5 working days (excluding School closure periods), including the reasons for the decision, any sanction applied, and details of the employee's right of appeal.

The arrangements and schedule for Hearings are detailed at **Appendix 5 and 6**.

### 7.8 Possible Outcomes

When determining an outcome of the case the Hearing Officer/Panel should consider the following:

- Has there been as much investigation as is reasonable in the circumstances?
- Have the requirements of the Disciplinary Policy been properly complied with?
- Has sufficient regard been given to any explanation put forward by or on behalf of the Employee?
- Is there sufficient evidence, following a reasonable investigation, for the relevant Committee of the Governing Body to form a genuine and reasonable belief that the employee has committed misconduct?
- Are there reasonable grounds upon which to sustain that belief?
- Is the misconduct serious enough to warrant the disciplinary sanction contemplated?
- Has sufficient regard been given to any mitigating circumstances put forward by, or on behalf of, the Employee and to the response by the person presenting the case against the Employee?
- Is the decision reasonable in all the circumstances, considering the individual's service history and action taken in similar cases?

After full consideration of the evidence presented, the Hearing Officer/Panel may adjourn the hearing, pending further investigation of issues raised at the hearing, before reconvening to decide on the outcome or determine an outcome from the following:

#### (i) No Disciplinary Action

When it is apparent that there is no case to answer or the matter does not warrant a warning, the Employee will be informed that the matter is being dropped and that no disciplinary action will be taken.

However, in some cases, when no disciplinary action is taken, it may be appropriate to make recommendations relating to the case in the form of Management Advice.

The outcome and any recommendations will be confirmed to the Employee in writing and retained in accordance with the School's data retention schedule and applicable data protection requirements.

The records and other documentation from the investigation will be retained only for the minimum period necessary and in line with statutory retention schedules. A minimal note of the case outcome will be kept to ensure transparency, organisational learning, and legal compliance.

### (ii) Counselling/Management Advice/Referral to Occupational Health

Where the inappropriate behaviour, or misconduct, can be dealt with through additional training, support, advice or counselling, such a determination should be made and consideration given to a referral to Occupational Health if there are concerns about the individual's health.

The Employee will be informed of the outcome in writing and of the arrangements for any identified support or action taken.

**Note:** Hearing Officers and Governors must ensure that any support agreed is provided, since it will be unfair to review the case for further action if the Employer or Employer's Representative has not complied with the outcome determined.

**Note:** Counselling/Management Advice/Referral to Occupational Health can be given in addition to any of the written warnings detailed below.

### iv) Written warnings and retention of records

In the event of a decision to issue a warning, the Hearing Officer/Panel should ensure that the Employee is clear about both the reasons for the warning, and the consequences of failure to heed it.

a) **1st Written Warning** – **For a period of 6 months**. First written warnings are normally given for a first or less serious offence. A first written warning will be removed from the Employee's file six months after the date upon which it was issued.

b) **2nd Written Warning** – **For a period of 12 months**. Second written warnings are usually given for a second and more serious offence. A second written warning will be removed from the Employee's file twelve months after the date upon which it is issued, providing no further breaches of discipline have occurred during that period.

c) **Final Written Warning** - **For a period of 18 months**. Final written warnings are usually given for further instances of misconduct or a first instance of gross misconduct, depending on the seriousness of the case. A Final Written Warning will be removed from the Employee's file eighteen months after the date upon it was issued, providing no further breaches of discipline have occurred during that period, except in exceptional circumstances notified at the time of the issuing of the final written warning.

### v) Dismissal

If the misconduct is of such a serious nature that the Hearing Officer concludes that the Employee cannot continue in their job, it may result in the Employee being dismissed with or without notice, depending on the seriousness of the case.

In cases of dismissal following cumulative warnings, excluding instances of gross misconduct, payment in lieu of notice will be provided.

**Consideration of outcomes should take into account:**

- the seriousness and nature of the allegation;
- the Employee's previous record;
- mitigating circumstances;
- the nature of the job.

**Note:**

1. Action may be taken to recover any monies misappropriated / lost in fraud cases or through breaches of Financial Regulations and / or any other policies and procedures relevant to the case.

2. When, as a result of the outcome of a case, there is an intention by the employer to refer the Employee to any professional, statutory or regulatory body i.e., Teaching Regulation Agency and/or Disclosure and Barring Service that could bar the Employee from working with children and vulnerable adults, the Employee should be informed that such a referral might be made.

3. In all cases, the Hearing Officer/Panel will notify the Employee in writing of the outcome of the Hearing, including any recommendations, within 5 School working days (excluding School closure periods), along with the right to appeal as appropriate.

### 7.9 Appeals

#### 7.9.1 Right of Appeal

Employees have the right to appeal against any disciplinary sanction or dismissal. The appeal must be submitted in writing to the Chair of Governors within 10 working days (excluding School closure periods) of receiving the letter confirming the outcome of the disciplinary hearing. The appeal submission must state the specific grounds for the appeal.

#### 7.9.2 Grounds for Appeal

Appeals may be lodged on the following grounds:

- The decision or the process was flawed.
- The policy was not followed properly.
- False evidence was used.
- The employee was not allowed to produce evidence.
- The sanction was too harsh.
- The employee was not allowed to bring their Trade Union Representative.
- There were mitigating circumstances that were not considered.

#### 7.9.3 Appeal Hearing

- The appeal will be heard by the Appeals Panel of the Governing Body, typically comprising three Governors who were not involved in the original disciplinary hearing.



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- The employee will be provided with at least 10 working days' notice (excluding School closure periods) of the date, time, and location of the appeal hearing.
- Appeals will not usually involve a full re-hearing of the case, unless this is necessary in the circumstances.
- If either party intends to present new evidence, all relevant documentation must be shared in advance, in line with agreed timescales, typically no later than three working days before the appeal hearing.
- The Chair of the original panel must attend the Appeal Hearing solely for the purpose of answering any questions regarding the basis for the original decision.

The schedule for an appeal hearing can be found at **Appendix 7**.

### 7.9.4 Outcome

- The Appeals Panel can dismiss the appeal or uphold the appeal.
- If the appeal is dismissed (not accepted as sufficient for changing the original decision), the original decision arising from the hearing will stand.
- If the appeal is upheld (accepted in full or in part), the committee may, as deemed appropriate:
    - Impose a lesser penalty
    - Reinstate the employee
    - Make recommendations
- The Appeals Panel will not have the power to impose a more severe penalty than originally imposed by the Hearing Officer or Disciplinary Panel.
- Any decisions should be communicated in writing to the employee within 5 working days (excluding School closure periods) of the appeal hearing.
- The Appeals Panel will not include any member of the Disciplinary Panel. The Appeal Committee will normally consist of three members of the Governing Body and, in any case, no fewer members than the Disciplinary Panel.

### 7.9.5 Final Stage

The opportunity to appeal against a disciplinary decision is essential to the concept of natural justice. This is the final stage; there is no further right of appeal.

## 8. Support for Staff Wellbeing

The School is committed to supporting the emotional and psychological wellbeing of all staff throughout the disciplinary process. Being subject to investigation can be stressful and isolating; therefore, the following support mechanisms are available:

**Emotional Wellbeing and Counselling**

- Staff under investigation will be signposted to the Employee Assistance Programme (EAP), which provides confidential counselling, wellbeing advice, and emotional support.
- Access to Occupational Health is available for assessment, advice, and support regarding mental health and fitness for work.
- Staff are encouraged to seek support from their Trade Union Representative or a trusted colleague.

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- Where appropriate, referrals to external counselling or mental health services can be facilitated, with the staff member's consent.

**Ongoing Communication and Support**

- The Investigating Officer or a designated HR contact will maintain regular, sensitive communication with the staff member under investigation, ensuring they are kept informed of the process and available support.
- Staff will be reminded that they should not experience disadvantage or victimisation for raising concerns or being subject to investigation. Any such concerns should be reported immediately to HR or a Senior Leader.

**Reintegration and Post-Investigation Support**

Following the conclusion of an investigation or disciplinary process, where the employee remains in employment, the school, supported by Human Resources, will offer appropriate support to assist the employee in reintegrating into the workplace, as appropriate to the circumstances of the case.

This may include:

- a return-to-work meeting to discuss any ongoing needs or adjustments;
- access to counselling or other support services, where appropriate;
- mediation or facilitated discussions to support the restoration of professional working relationships, where required;
- a phased return to work or reasonable adjustments, in line with Occupational Health advice.

**Confidentiality and Respect**

- All support and communications will be handled with the utmost confidentiality and respect for the individual's dignity.
- Staff are encouraged to access support at any stage of the process, and information about available services will be provided at the outset and conclusion of any investigation.

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# Appendix 1: Examples of Misconduct/Gross Misconduct

Gross misconduct is conduct of such seriousness that it may justify summary dismissal (dismissal without notice), subject to a fair disciplinary process.

**Examples of offences that could lead to disciplinary action being taken as a result of an investigation**

Below is a list of **examples** of disciplinary offences only and not intended as an exhaustive list. What is listed under "misconduct" may also be considered as "gross misconduct" (and vice-versa) according to the seriousness of the case and the nature of the Employee's job.

These examples are illustrative only and do not determine the classification of misconduct or gross misconduct in isolation. Each case will be considered individually, based on its context, severity, impact, and all available evidence.

Schools should avoid using the list as a menu to select from in order to create a case.

Complaints/Allegations made and the investigation process will inform what the disciplinary offence may look like and whether misconduct or gross misconduct may be the charge that is heard in any subsequent disciplinary hearing.

The Head Teacher/Chair of Governors should take advice from the Schools HR Advisory Service (or alternative Provider) on whether an alleged offence may be deemed to constitute a case of misconduct or gross misconduct**.**

**Misconduct**

The following are examples of offences that may be considered as misconduct:

**Health and Safety**

- Wilful or negligent failure to comply with the obligation placed upon Employees under the terms of the Health and Safety at Work Act 1974 and any subsequent amendments.
- Wilful or negligent failure to wear appropriate protective clothing or use necessary safety equipment provided by the School for particular duties.
- Wilful or negligent failure to comply with Accident Reporting Policy .
- Threatening behaviour, intimidation, physical assault or fighting at work either with fellow Employees or other persons. This does not include reasonable self-defence in cases of assault on an Employee.
- Serious breaches of health and safety regulations, endangering yourself or other people, including deliberate damage to, neglect or misappropriation of safety equipment.
- Dangerous or reckless behaviour involving risk of injury to a member of staff or to other persons or other conduct at work likely to diminish safety standards.

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**Misuse of School Equipment, Materials and Resources**

- Accessing or downloading pornographic or offensive material from the web, intranet and/or any other sources.
- Deliberate or negligent damage to or deliberate neglect of School property.
- Misuse of materials, equipment or resources that is likely to endanger the health and safety of Employees or any other persons or result in a financial loss to the School.
- Using the School's facilities and equipment, including e-mail, and mobile devices to threaten, bully or harass Employees, or pupils.
- Unauthorised use of School materials, equipment or resources for private purposes.

**Neglect of duty and Inappropriate Behaviour**

- Wilful or negligent failure to renew or maintain accreditations, licenses or qualifications that are a requirement for the post or the responsibility of the post-holder.
- Wilful or negligent failure to account properly for or to make a prompt and true return of any money or property which comes into the possession of a member of staff during the course of duty.
- Wilful or negligent failure to follow financial Policy when submitting and approving claims for expenditure, including the provision and checking of receipts
- Making a false, malicious or vexatious complaint or accusation.
- Posting defamatory, offensive, incorrect or improper comments or disclosing confidential information about the School, its pupils, or fellow Employees through any media including social networking sites.
- Offensive or Abusive Behaviour.
- Being under the influence of alcohol or drugs (other than those that have been medically prescribed) so that performance of work duties is detrimentally affected.
- Bringing the reputation of the employer into disrepute

**Absence and timekeeping**

- Wilful or negligent failure to report absence from work and the reason for such absence.
- Wilful or negligent failure to provide an absence certificate as required under sick leave Policy
- Persistent bad timekeeping

- Absence resulting for an application for 'leave of absence'/'special leave', i.e., where this has been refused, partially granted or has been granted unpaid

**Gross Misconduct**

Some acts by their nature are so serious that they destroy the employment relationship between the Employee and the employer and make any further working relationship, confidence and/or trust impossible. These acts are considered to be gross misconduct and will normally lead to summary dismissal (dismissal without notice following a hearing).

The following are **examples** of offences that may be considered as a fundamental breach of contract and Gross Misconduct. However, they may also be considered as misconduct according to the seriousness of the offence and the nature of the Employee's job:

**Safeguarding**

- Breaches of child safeguarding principles, practice or Policy including conduct out of working hours that harms a child or vulnerable adult or puts a child or vulnerable adult in harm's way

**Absence and timekeeping**

- Deliberate failure to follow the School's Sickness Absence and Reporting Arrangements, including unauthorised absence from work. (Lawful industrial action taken as part of a lawful trade dispute should not be regarded as relevant in this context).

**Criminal offences in/outside work**

- Wilful failure to notify the employer of being subject to criminal proceedings.
- Wilful failure to disclose a conviction/caution for a criminal offence whilst employed by the School.
- Criminal offences committed in or outside work will be considered according to the particular circumstances of the case, but dismissal may be the outcome when:
    - there is theft against the public purse amounting to fraud
    - continued employment would put at risk those taught or employed by the School.

**Data and information protection**

- Failure to follow the School's Policies and requirements leading to a loss of confidential or personnel information relating to the School, its pupils or fellow Employees.
- Misuse of data or personnel information relating to the School, its pupils or fellow Employees.

**Discrimination, bullying and harassment**

- Sexual misconduct at any time with any person for whom the employer is vicariously liable including but not limited to fellow Employees, pupils and contractors

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- Acts of bullying and /or harassment that involve physical or mental intimidation or assault and discrimination on any grounds.

**Finance Regulations and School Policies**

- Stealing from the School, its staff or pupils;
- Offering or accepting bribes
- Deliberate contravention Financial Regulations or neglect of duty by failing to follow procurement rules that results in a financial loss to the School or damages its reputation or affects staff employment or brings the reputation of the employer into disrepute.
- Fabrication of any document for financial gain.
- Deliberate fabrication of qualifications or information which is a stated requirement of employment or which could result in financial gain.
- Dishonest or improper use of information obtained in the School's employment.
- Doing unauthorised private work during hours when contracted to work for the School or during periods of sick leave.
- Offences, including failures to declare conflicts of interest, which would affect the Employee's ability to undertake contractual duties or conduct obligations in accordance with a relevant code of conduct.

**Neglect of duty and Inappropriate Behaviour**

- Wilful failure to follow financial Policy s when submitting and approving claims for expenditure, including the provision and checking of receipts
- Making a false, malicious or vexatious complaint or accusation.
- Posting defamatory, offensive, incorrect or improper comments or disclosing confidential information about the School, its pupils, or fellow Employees through any media including social networking sites.
- Offensive or Abusive Behaviour.
- Being under the influence of alcohol or drugs (other than those that have been medically prescribed). Alcohol- or substance-related incidents are not automatically gross misconduct. Each situation will be assessed on its context, severity, safeguarding implications, and the employee's role and responsibilities.
- Bringing the reputation of the employer into disrepute

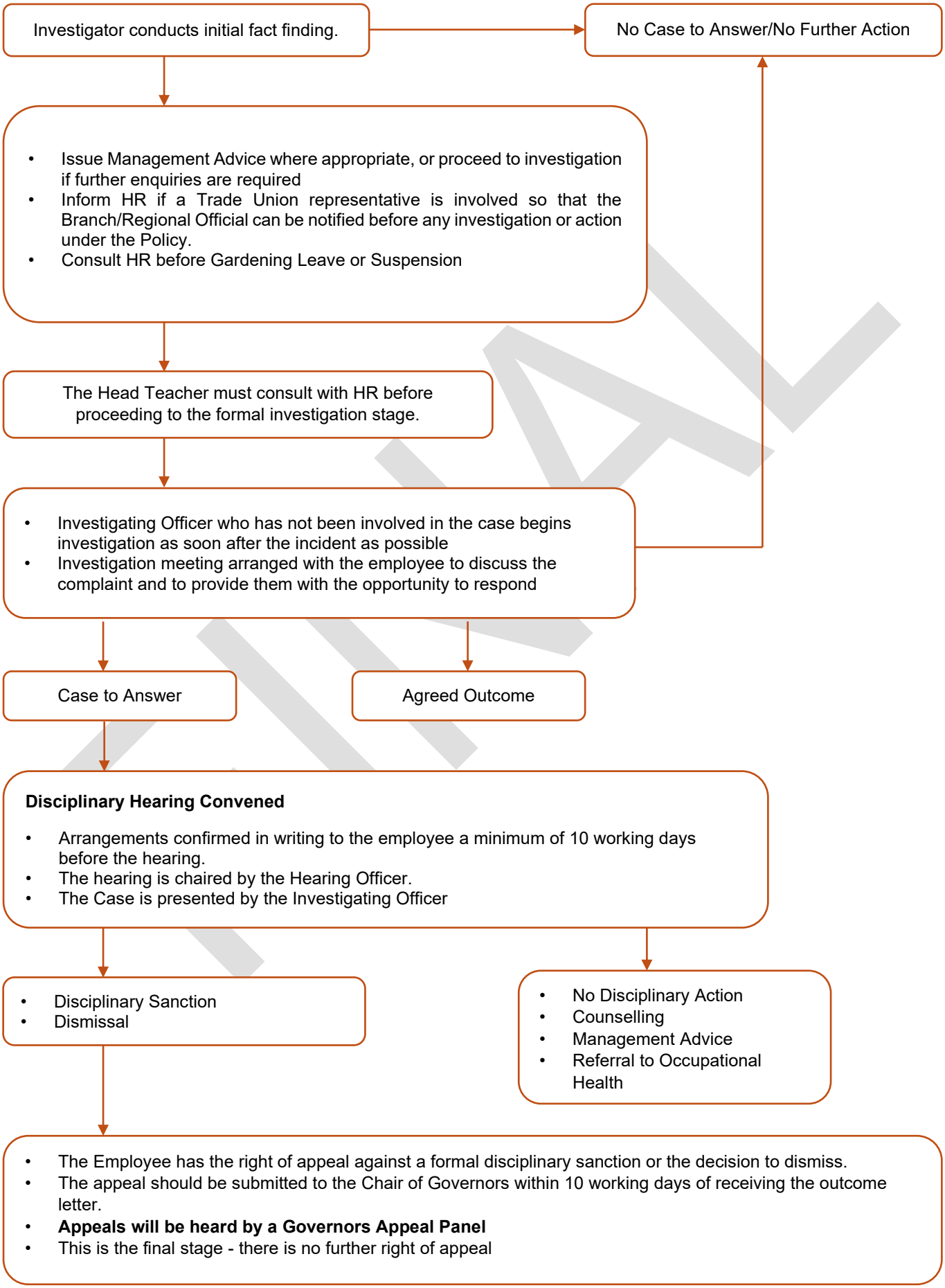
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**Cumulative Misconduct**

For example, where a warning for misconduct has not expired and a further act of misconduct has been committed and the conduct in its totality provides a sufficient reason for dismissal.

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# Appendix 2: Disciplinary Policy – Flowchart



## APPENDIX 3: Gardening Leave/Suspension Risk Assessment

# Gardening Leave/Suspension Risk Assessment

### Risk Assessment for NAME following allegation(s) DATE

This document is to be used to assess if alternative options can be considered prior to formal Gardening Leave/ Suspension. Due to the nature of the allegation(s) the School needs to consider the risks against the allegation(s).

| Hazard / activity | Persons at risk | How Harmed and injury level: High Medium Low | Alternative options considered and control measures | In Place yes / no | Residual Risk Rating: High Medium Low | Comments / Actions (if Gardening Leave/Suspension is considered whom is the designated contact person and how regularly will they make contact) |
|---|---|---|---|---|---|---|
| | | | | | | |
| | | | | | | |
| | | | | | | |

**Completed by: NAME**

**Head Teacher/Governing Body**

**Date: DATE**

**Present: NAMES**

# APPENDIX 4: Agreed Outcome Procedure

## When is an Agreed Outcome Appropriate?

An “Agreed Outcome” may be considered instead of a formal disciplinary hearing when all the following criteria are met:

- The employee fully accepts the allegations and acknowledges their conduct.
- Both the school (represented by the Head Teacher or Governing Body) and the employee (and their representative) agree that a formal hearing is not required.
- The proposed sanction does not include dismissal (i.e., outcomes are limited to written warnings, management advice, counselling, or referral to Occupational Health).
- The employee’s right to representation is respected throughout.
- The agreed outcome is documented in writing, with both parties signing to confirm acceptance.

An Employee will not be required or pressured to accept an agreed outcome.

The Employee retains the right to request that the matter proceeds to a formal disciplinary hearing.

Any agreed outcome must:

- Be entered into voluntarily;
- Be confirmed in writing;
- Be supported by advice from the Schools HR Advisory Service (or alternative HR Provider).

## Examples of Suitable Situations

- A staff member admits to a first instance of minor misconduct (e.g., repeated lateness) and agrees to a first written warning and attendance at time management training.
- An employee acknowledges a breach of school policy (e.g., inappropriate use of school equipment) and both parties agree on a final written warning and a period of monitoring.
- A support staff member accepts responsibility for a one-off error in record keeping, and the agreed outcome is management advice and additional training.

## How the Agreed Outcome Differs from a Formal Hearing

- The process is less adversarial and focuses on resolution rather than determining guilt.
- There is no need for a full hearing with witness testimony, as the facts are not in dispute.
- The range of possible outcomes is limited (no dismissal).
- The employee retains the right to withdraw from the agreed outcome process at any point before signing, in which case the formal disciplinary process resumes.

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- The principles of natural justice are upheld: the process is fair, unbiased, and both parties have the opportunity to be heard and represented.

Where an agreed outcome has been accepted as a way forward for both parties, the following procedure should be followed:

- Written confirmation between the School and Employee that both parties agree to proceed in this way.

- A meeting should be held with the Hearing Officer, giving 5 working days' notice (excluding School closure periods) or sooner if the Employee agrees.

- Present at the meeting should be the Hearing Officer, Employee, Trade Union Representative or work colleague, Schools HR Advisory Service (or alternative Provider) if required and a minute taker.

- At the meeting, all information relevant to the allegations(s) must be available and both parties must have a full opportunity to discuss all the issues.

- The meeting can be adjourned and reconvened at any time if, for example, there is a need to obtain more information.

- On conclusion of the meeting, the Employee will be written to confirming the agreed outcome and to sign a written acceptance of their misconduct/Gross misconduct and the relevant disciplinary sanction proposed. The sanctions available are the same as those contained in this Policy and do not include dismissal.

- The Employee will receive the outcome letter within 5 working days (excluding School closure periods).

- Following the meeting, the Employee must be allowed a 'cooling off' period of 5 working days (excluding School closure periods), to allow them to consider their decision to accept the agreed outcome or change their mind if they so wish.

- If the Employee does change their mind, the normal disciplinary process will re commence and right of appeal will be offered at the end.

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# APPENDIX 5: Procedure for Hearings and Appeals

Any witnesses called, will, after giving any evidence, withdraw from the proceedings.

Any person involved in an earlier stage of the decision-making process set out in this document should not be involved in a later stage of decision-making process in the same case.

1. **Hearing Officer's Role**

- The Hearing Officer will clarify the roles of those present, check both sides have copies of the documentation and details of the witnesses to be presented and outline the process to be followed.

- The Hearing Officer will not normally allow any further documentation or witnesses to be presented at the Hearing unless both sides agree.

- The Hearing Officer, Human Resources Advisor, the Employee and their Representative will be present throughout the hearing except for any adjournment and when the Hearing Officer is considering a decision.

2. **Presentation of the evidence**

**NOTE**: Where the Employee admits to the allegation(s) and an agreed outcome has not been reached, the Hearing Officer may consider claims of mitigation instead of having the whole case presented.

The Hearing Officer will still allow the Employee or their Representative to clarify any points raised during questioning and the opportunity to ask questions

**Investigating Officer**

- Evidence should normally be presented by the Investigating Officer with the support of the HR Advisor, calling witnesses and referring to documentation and evidence as appropriate

- Questions may be asked by the Employee and/or Representative in relation to the evidence presented.

- The Investigating Officer and/or the Human Resources Advisor will be given the opportunity to respond to the questions.

- The Hearing Officer may then ask questions.

- The Investigating Officer and/or the Human Resources Advisor will be given the opportunity to respond to the questions.

**Employee**

- The Employee and/or their Representative will present a response to the evidence and complaint/ allegation made, calling witnesses and referring to documentation and evidence as appropriate.

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- After the presentation, the Investigating Officer, with the support of Human Resources, may ask the Employee and/or their Representative questions.

- The Employee and/or their Representative will then have the opportunity to respond and clarify any points raised during the questioning.

- The Hearing Officer may then ask questions.

**4. Summing up**

- Both parties, starting with the Investigating Officer, will have the opportunity to summarise their case if they wish and make a concluding statement without introducing new evidence.

- Neither party will be allowed to ask any further questions.

- Both parties will then withdraw whilst the Hearing Officer considers the case in order to decide on the outcome. If it is necessary to recall the Employee or a witness, to clarify points of uncertainty as to the evidence presented, this must be done in the presence of the Employee and Representative.

**5. Outcome**

- In some cases, the Hearing Officer will recall the Employee to notify the outcome, if a decision has been made.

- If further time is needed to consider the matter, the Hearing Officer will confirm the decision and any recommendation(s) in writing within 5 working days (excluding School closure periods) and arrange for the notes of the meeting to be issued to the Employee and Representative as soon as possible afterwards.

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# Appendix 6: Schedule – Governing Body Disciplinary Hearing

The Governing Body will follow a procedure as set out below. The Governors will act through a Disciplinary Panel with delegated powers. This Panel would normally comprise of three members:

- Where a complaint is referred to the Governing Body a meeting of the Panel will be convened within 20 working days (excluding School closure periods) to consider the complaint/allegation.

- No less than 10 working days (excluding School closure periods) before the date of the meeting the Employee will be provided with two copies of all documents/written evidence and a list of witnesses.

- The Commissioning Director Education will appoint an appropriate Officer to advise the Governors as required on Policy and to act on their behalf as Clerk to the proceedings.

- The Head Teacher or designated person will present the case against the Employee and will call witnesses as necessary in the presence of the Employee who may be accompanied by a work colleague or Representative .

- The Employee and/or their Representative will have the opportunity to ask questions of the Head Teacher or designated person or any witnesses on the evidence presented.

- The Employee or their Representative will present the Employee's case calling witnesses and/or documentary evidence they consider appropriate.

- The Head Teacher or designated person will have the opportunity to ask questions of any witness on the evidence presented.

- The members of the Governing Body will have the opportunity at each stage to ask questions of all participants.

- Before summing up, either party may, in appropriate circumstances, recall and re-examine any witness. Thereupon the other party will also, have the right of re-examination.

- The Head Teacher or designated person will have the opportunity to sum up but may not introduce new evidence at this stage.

- The Employee, or their Representative , will have the opportunity to make the final summing up but may not introduce new evidence at that stage.

- Both parties will then withdraw, leaving the Governing Body to deliberate in private. The

- officer appointed as Clerk will remain with the Governing Body in order to advise on procedural matters and to record their decisions.

- If there is a need to recall anyone to clarify points of uncertainty, then both parties will return.

- Witnesses may be recalled and re-examined by the Governors in the presence of both parties.

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- The Employee and the Head Teacher or designated person may be informed of the decision immediately after the meeting and will be communicated to both in writing as soon as possible thereafter.

- The Governors may decide to take one or more of the following courses of action:

  - to take **no further action** where no suspension has taken place or to **rescind** the suspension.

  - to issue **a First Written Warning, Second Written Warning or Final Written Warning**. In addition to such warnings the Governors may also take such action as may be appropriate under the relevant pay and conditions document, i.e., STPCD, Green book or Burgundy book.

  - to **Dismiss**

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# Appendix 7: Schedule – Appeal Hearing

In the event of the Employee wishing to appeal.

Written notice of the appeal, together with the grounds upon which the appeal is based should be sent within 10 working days (excluding School closure periods) of the date of the warning to the Chair of the Governing Body.

The appeal will be heard by the Appeals Panel of the Governing Body and at least 10 working days' notice (excluding School closure periods) of the date and place of the hearing will be given to the Employee.

The Chair of the original panel must attend the Appeal Hearing solely for the purpose of answering any questions that the Employee or their Representative , the Hearing Officer (Management) and/or Appeal Panel may wish to ask regarding the basis for the original decision.

The Appeals Panel may decide to dismiss or uphold the appeal:

- If the appeal is dismissed (not accepted as sufficient for changing the original decision) the original decision arising from the hearing will stand.

- If the appeal is upheld (accepted in full or in part) the Appeals Panel may as deemed appropriate:

    - reinstate the Employee
    - impose a lesser penalty
    - make recommendations

This will not a be a re-hearing of the case but a hearing to hear the Employee's reason for appealing the original decision.

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