

Disciplinary Policy & Procedure

Guidance for Headteachers

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CONTENTS

1. OVERVIEW	2
2 INTRODUCTION	2
3. ENCOURAGING POSITIVE EMPLOYEE BEHAVIOUR	2
4 INFORMAL ACTION	3
5 TRADE UNION AND OTHER REPRESENTATIVES	5
6 LINK WITH OTHER PROCEDURES	5
7 CHILD PROTECTION / SAFEGUARDING ISSUES	6
8. SUSPENSION	6
9 HANDLING EMPLOYEE RESIGNATIONS DURING THE PROCESS	9
10 INVESTIGATION STAGE	10
11 THE DISCIPLINARY HEARING	14
12 OUTCOME	16
13. APPEALS	17
14. FURTHER GUIDANCE	19

1. OVERVIEW

- 1.1 The aim of this guidance is to provide practical advice and guidance to Headteachers about the issues they need to consider and actions they may need to undertake when managing discipline and conduct issues. The Headteacher should always seek support from their Human Resources provider when implementing the formal stages of this procedure.

2 INTRODUCTION

- 2.1 The law on unfair dismissal requires employers to act reasonably when dealing with disciplinary issues. What is classed as reasonable behaviour will depend on the circumstances of each case and is ultimately a matter for employment tribunals to decide. However, an employee's conduct is one of the fair reasons for dismissal under the Employment Rights Act.
- 2.2 Headteachers should ensure that employees are aware of the expected standards of behaviour and conduct. This is usually achieved through setting out clear expectations in written documents, such as code of conduct, employees handbook, disciplinary rules, but they may also be included in employees' professional standards. These should be reinforced through effective induction, probation, training and supervision and management.
- 2.3 Where possible, Headteachers and managers should seek to resolve disciplinary issues at an early stage. Issues should be addressed as soon as they arise as this is likely to be less time-consuming and less likely to damage working relationships.
- 2.4 The primary objective should be to encourage improvement in an employee rather than taking action that may lead to a disciplinary sanction.

3. ENCOURAGING POSITIVE EMPLOYEE BEHAVIOUR

- 3.1 Establishing a positive employee relations culture at the school can help to avoid serious disciplinary issues. An environment in which employees feel valued and engaged is likely to result in good working relationships between all employees.
- 3.2 Headteachers and managers have responsibility for helping to establish and develop the working environment and to model the attitudes and behaviours they

expect from others. The need to carry out disciplinary action will be lessened by Headteachers/managers setting good standards and making it clear that the same standards are expected of employees. Management action explaining the school's requirements will frequently be an effective way of improving behaviour and will reduce the need for disciplinary action. This should be seen as part of the normal responsibilities of management and supervision. Care should be taken to ensure that reasonable standards of privacy and confidentiality are maintained.

- 3.3 The required behaviours and conduct are usually set out in an employee code of conduct and may also be found in professional standards and other documentation. The school will usually have a vision statement which articulates the values of the school, to which employees are expected to contribute.
- 3.4 Headteachers and managers should ensure that the values and expected behaviours are clearly communicated during recruitment, induction, probation, training, and through supervision and management.
- 3.5 Being clear about employees' roles and responsibilities, encouraging employees to reach high standards and providing professional development and opportunities for self-development, also contribute to a positive working environment.
- 3.6 Managers should receive training in how to manage staff, including developing good relationships and how to manage issues such as employee behaviour and conduct.
- 3.7 Positive employee behaviour may be achieved by working with employees (and their representatives) to ensure that:
 - good physical working conditions are provided;
 - new starters are given sufficient training and receive particular attention during the initial period of their work;
 - there is transparent and open communication;
 - regular supervision and 121s.
 - there is an ethos of teamwork and positive employee engagement;
 - jobs are designed so that they provide motivation and job satisfaction;
 - Headteachers/managers are aware of their 'duty of care' responsibility for their employee's health and welfare.

4 INFORMAL ACTION

- 4.1 Headteachers and Managers should monitor and evaluate conduct, behaviour and attendance of employees through normal day to day management. Where minor concerns occur, these should be raised with the employee on an individual basis to try to restore and maintain a satisfactory level.
- 4.2 Where it is decided that the matter should be dealt with informally, this will usually be a confidential conversation between the employee and the line manager / Headteacher and might form part of normal supervision arrangements or it could be a separately arranged meeting.
- 4.3 The Headteacher/Manager will not normally need to issue notice to the employee before arranging an informal meeting. The Headteacher/Manager can request the meeting to take place immediately and the employee would be required to attend the meeting.
- 4.4 At the informal private meeting, the Headteacher/Manager should explain the problem to the employee. This should be a two-way discussion, aimed at discussing possible shortcomings in conduct or performance and encouraging improvement. Criticism should be constructive, with the emphasis being on finding ways for the employee to improve and for the improvement to be sustained. The Headteacher/Manager should carefully consider whatever the employee has to say about the issue. It may become evident during the discussion that there is not a problem, if this is the case, then the Headteacher/Manager should make this clear to the employee.
- 4.5 Where improvement is required, the Headteacher/Manager should clearly set out the standards of conduct and expectations around what should happen going forward and the sort of behaviour required, so that the shortcomings can be remedied. The Headteacher/Manager should ensure the employee understands what needs to be done. Support mechanisms and training for the employee should be discussed and identified, in order to support the employee to achieve the necessary improvement. This may include a referral to Occupational Health.
- 4.6 The employees conduct and behaviour should be monitored and reviewed, and a date may be set for the employee's progress to be assessed. The timescales for improvement should be realistic and the period of monitoring should be sufficient in order to ensure a sustained improvement.
- 4.7 The main points discussed should be noted and a copy provided to the employee; for example, this could be in a "management note of guidance" via email or a letter. A copy of the note will be placed on the employee's file.
- 4.8 Informal oral instructions and guidance and management notes of guidance are not regarded as disciplinary sanctions and do not form part of the formal

disciplinary process. There is no right of appeal against the issue of a management note of guidance.

- 4.9 Headteachers/Managers should be careful that any informal action does not turn into formal disciplinary action, as this may unintentionally deny certain rights, such as the right to be accompanied. If, during the discussion, it becomes obvious that the matter may be more serious, the meeting should be adjourned. The employee should be told that the matter will be continued under the formal disciplinary procedure.

5 TRADE UNION AND OTHER REPRESENTATIVES

- 5.1 During the Disciplinary process. the employee will have the right to be accompanied or represented by one person of their choosing, (sometimes referred to as chosen companion), this can be a trade union representative or work colleague. The role of the representative is to support the individual and to provide advice, guidance, and representation where appropriate. The right to be accompanied and the right to be represented are different.

- The right to be accompanied means that the employee may bring a representative with them to support them at meetings. They must represent themselves and should answer and ask any questions themselves. They may wish to discuss their answers with their representative before providing them.
- The right to be represented means that the employee may ask their representative to speak on their behalf. This could include answering and asking questions or presenting all or part of the case at any hearing.

6 LINK WITH OTHER PROCEDURES

- 6.1 If an employee raises a grievance related to the case during the course of the investigation, the Commissioning Manager (usually the Headteacher) should consider whether it is necessary to suspend the investigation for a short period while the grievance is dealt with, or whether it is possible to run the procedures concurrently. If the grievance calls into question the ability of an Investigating Officer, consideration should be given as to whether it is necessary to appoint an alternative Investigating Officer. However, the fact that a grievance is raised during a disciplinary investigation should not unnecessarily delay the completion of an investigation and disciplinary process beyond what is reasonable. Long

delays in the investigation and disciplinary processes can cause stress for those involved and potentially jeopardise the quality of an investigation.

- 6.2 Where an employee subject to this procedure is absent due to sickness, the normal expectation is that the disciplinary process will continue, and the managing sickness procedure will apply as normal.
- 6.3 Where the employee asserts that the disciplinary proceedings being undertaken is unlawfully discriminatory or is motivated by reasons other than conduct, the employee can raise a complaint. If the employee raises this complaint in writing at any stage before the appeal stage of a dismissal, this can be dealt with as part of the disciplinary procedure. If the employee raises the complaint only after the disciplinary procedure has finished and it is on substantial new grounds, then it will be necessary for the employee complaints procedure to be completed in full.

7 CHILD PROTECTION / SAFEGUARDING ISSUES

- 7.1 The Local Authority issues separate guidance on managing allegations of abuse relating to children or young people made against school staff. Schools must refer to this in all cases in which it is alleged that a person who works with children has behaved in a way that has harmed, or may have harmed, a child; or possibly committed a criminal offence against, or related to, a child; or, behaved in a way that indicates s/he is unsuitable to work with children.
- 7.2 In such cases, appropriate and prompt consideration by relevant bodies (for example, the Local Authority Designated Officer or a Multi-Agency Strategy Meeting) should be allowed for before the commencement of any processes under these procedures, usually also including the consideration of suspension. In some cases, this may require consideration of a short period of 'agreed paid leave' pending initial consideration of the allegations under safeguarding procedures.

8. SUSPENSION

- 8.1 The Headteacher (including an acting or interim Headteacher) may suspend an employee and this power is delegated to any Deputy Headteacher in the absence of the Head. The Headteacher will inform the Chair of the governing body of any suspension and, in a community or voluntary controlled school, will also inform the Director of Children's and Cultural services. Suspension will normally be considered only:

- i) Where there is a reasonable belief the employee's continued presence at work may put themselves or others at risk, or risk their employer's responsibilities to other parties;
 - ii) Where there is a reasonable belief that the employee's continued presence at work may hamper or compromise an investigation process; or
 - iii) Where relationships have broken down.
- 8.2 In all cases, consideration should be given to alternatives to suspension (for example, additional supervision or alternative/restricted duties, work arrangements or agreed paid leave), remembering that consideration can be given to suspension at any time during the investigation. A record of considerations should be kept to support any decision made, such as alternative duties, working from home, reasons why there is a concern for the employee to remain at school, and keep this for future reference.
- 8.3 The decision to suspend or make adjustments to the employee's normal working practice can be made at any stage of the disciplinary process and can also be revisited at any stage. It is not always necessary for a suspension to last for the entirety of an investigation or disciplinary process and will be dependent on the individual circumstances.
- 8.4 If it is necessary to suspend the Headteacher, the decision must be taken by the Chair of Governors, who must immediately inform the Director of Children's and Cultural services. In circumstances where the Chair of Governors is unable to take a decision regarding the suspension of the Headteacher, for example, where s/he is indisposed or has a conflict of interests, the decision to suspend the Headteacher may be taken by the Vice-Chair.
- 8.5 The Headteacher or Chair of Governors will usually meet with the employee to inform them of the decision to suspend and to make the conditions of suspension clear. Due to the nature of suspension and the potential need to remove the employee from the school premises as soon as possible, the meeting can be held without notice.
- 8.6 Employees may have a Trade Union representative or work colleague present at the point of suspension, but there is no statutory right of representation, therefore where the employee is unable to find a suitable representative, this will not prevent the employee from being suspended. Headteachers should advise the appropriate TU representative prior to the meeting to try to ensure they can attend to support their member.
- 8.7 Normally an employee will be told the precise reasons why they are suspended. Where this is inappropriate (for example it may prejudice an investigation) the

employee should be given broad reasons. It is, for example, appropriate to tell an employee about suspension pending an investigation into alleged falsification of attendance sheets without going into detail.

- 8.8 The employee should be given a brief opportunity to respond to the allegations when the decision to suspend is conveyed. However, it is important that this does not inadvertently become a formal investigation meeting.
- 8.9 The employee should be asked to return any school property/access cards/keys etc. before they leave the workplace.
- 8.10 The employee should be informed of the timescales for their initial period of suspension and when it will be reviewed. Suspension should be for as short a period as possible, unless there are exceptional circumstances, in which case the period may be extended. For example, a suspension arising from a criminal investigation or allegation of gross misconduct may last for a longer period. Suspensions will be regularly reviewed by the Chair of the governing body in consultation with the Headteacher.
- 8.11 A letter confirming the suspension and signed by the Headteacher will usually be provided to the employee at the suspension meeting, or where this is not the case it will be within three working days of the meeting.
- 8.12 Suspension does not constitute disciplinary action; it is a neutral act. If it is necessary to suspend an employee during investigations, it will be on full pay. Support for an employee who is suspended should be made available.
- 8.13 The school will usually nominate a Contact Officer who will be an employee with no involvement in the case who will provide the employee with a communication link with the school. This is a neutral role, and the Contact Officer may be asked to pass on information regarding the progress of the investigation, as well as any update on changes at the school. The frequency and format of contact will be as agreed between the employee and the Contact Officer.
- 8.14 It is recognised that it can be a stressful period of time for an employee, and as such the employee should be offered appropriate support, including a referral to Occupational Health and access to any Employee Assistance / Support Programme that the school may have in place.
- 8.15 Any suspended employee who desires access to the school premises for the purpose of preparing his/her case must seek permission from the Headteacher and, in the case of a Headteacher, from the Chair of Governors. Access may be restricted or denied in exceptional circumstances, but a decision should be given

within two working days. Where possible alternative arrangements will be made in order for the employee to access relevant information.

- 8.16** Suspension should not be unnecessarily protracted. The continuance of suspension should be kept under regular review and immediately lifted if the circumstances of the case no longer justify it. Despite the neutrality of suspension in formal disciplinary terms, its implications can be extremely traumatic for the employee. Where an employee returns to work after a period of suspension, they should first attend a meeting with the Headteacher, or the Chair of the governing body in the case of a Headteacher, to discuss a managed return to normal working patterns and professional relationships.
- 8.17** Schools should consider the potential permanent professional reputational damage to all employees that can result from suspension where an allegation is later found to be unsubstantiated, unfounded, or maliciously intended. Schools should also consider any communication/reason for absence provided to staff members during an employee's suspension so as to minimise the scope for unwanted questions or adverse inferences.
- 8.18** Suspension can be ended during an investigation, or on completion of an investigation where the investigating officer determines that the misconduct allegations are either not substantiated or are no longer viewed to be sufficiently serious to warrant suspension.
- 8.19 Sickiness during suspension**
Where an employee is certified as unfit to perform the duties of their post during a period of suspension their pay for the period of certified sickness will be based on the provisions of the sick pay scheme and the period of sickness absence will be recorded.

9 HANDLING EMPLOYEE RESIGNATIONS DURING THE PROCESS

- 9.1** If a member of staff submits their resignation whilst they are under investigation or prior to their disciplinary hearing, they are expected to serve a period of notice as set out in their terms and conditions of service. Schools should make every effort to conclude the investigation and any disciplinary hearing prior to the employee's last day of service.
- 9.2** If an employee leaves their employment with the school before the conclusion of such processes, it will usually be appropriate to continue with the process even after they have left. HR advice should be sought in relation to this.

- 9.3 Where it is decided not to proceed with the process, any references requested would need to advise that the employee left the schools employment pending the outcome of a disciplinary investigation, and the employee should be advised as such.

10 INVESTIGATION STAGE

- 10.1 When an allegation of misconduct is made, an investigation must take place before deciding whether any action under the disciplinary procedure is necessary. The investigation stage is a crucial part of the process. If an employee is ultimately dismissed and the case is taken to employment tribunal, one of the tests of fairness is whether or not a *reasonable investigation* has taken place. Further information on workplace investigations can be found on the ACAS website. <https://www.acas.org.uk/investigations-for-discipline-and-grievance-step-by-step>.
- 10.2 The investigation should be carried out by someone who will not be responsible for making a decision in any disciplinary hearing. The investigation should be initiated *after* any initial actions have been implemented, such as discussions with relevant agencies or the LADO and/or consideration of suspension from duty.
- 10.3 Any allegation of misconduct where there is potential harm to children, must be thoroughly investigated until a conclusion is reached and recorded (even if the employee resigns before or during the process). All records must be kept in accordance with Keeping Children Safe in Education.

10.4 Appointing an investigating officer

- 10.4.1 If the Headteacher is going to hear any potential case for disciplinary action, then they should not be involved in the investigation. The Headteacher should appoint an investigating officer, who will normally be a member of senior management in the school. The Headteacher should then step away from the investigative process to avoid potential bias.
- 10.4.2 The investigating officer should not have been previously involved in or a witness to the alleged misconduct.
- 10.4.3 In some cases, it may be helpful to use an external investigator. If this is a consideration, the Headteacher should seek advice on this from the school's HR provider and/or the Local Authority.

10.4.4 If the Headteacher is an important witness to the misconduct or has already had significant involvement in the matter, then any potential case for disciplinary action should be heard by a panel of governors.

10.4.5 In the case of allegations against the Headteacher, the Chair of Governors should appoint a suitable person to investigate the matter. The Chair should seek advice from the school's HR provider and/or the local authority.

10.5 The purpose of the investigation and the role of the investigator

10.5.1 An investigation is a fact-finding exercise to collect all the relevant information on a matter. A properly conducted investigation can enable an employer to fully consider the matter and then make an informed decision on it.

10.5.2 Making a decision without completing a reasonable investigation can make any subsequent decisions or actions unfair and leave an employer vulnerable to legal action.

10.5.3 The role of an investigator is to be fair and objective so that they can establish the essential facts of the matter and reach a conclusion on what did or did not happen. They should remain impartial, guard against making assumptions and should avoid giving personal opinions, getting involved in arguments, or making personal remarks.

10.5.4 An investigator should do this by looking for evidence that supports the allegation *and* evidence that contradicts it. In potential disciplinary matters, it is not an investigator's role to prove the guilt of any party but to investigate if there is a case to answer.

10.5.5 The investigating officer should familiarise themselves with the disciplinary procedure and refer to it, as necessary, throughout. Check the timescale for completing the investigation (normally 20 working days) and use the template investigation report.

10.6 Documentary and other evidence

Gather key documents and other evidence. This might be, for example, relevant school procedures, correspondence, timesheets, receipts etc.

10.7 Statements/interviews with witnesses

10.7.1 Identify potential key witnesses and plan the areas of questioning.

- 10.7.2 Meet with witnesses individually, as soon as possible after the alleged misconduct, giving them the option to be accompanied if they wish (as long as this is not by another potential witness).
- 10.7.3 When meeting with witnesses, explain the need for confidentiality, that the information they provide may be made available to all parties involved in the disciplinary matter, and that they may be called upon during any formal hearing to provide evidence and answer questions.
- 10.7.4 Record the questions witnesses are asked and what their response is. Witnesses may be asked to write out a 'statement' and sign and date their response, or the investigating officer may record the details of the interview and ask them to sign as a written record of the meeting.

10.8 Investigation interview with the employee

- 10.8.1 Arrange to meet with the employee, ensuring that they are aware of their right to be accompanied by a work colleague or trade union representative, and provide them with a copy of the disciplinary procedure. The meeting with the employee should be recorded; it may be helpful to have a note taker present (this would be the responsibility of the school to arrange).
- 10.8.2 In the meeting with the employee, they should be informed of the allegation(s) against them and may be presented with evidence against them e.g. CCTV footage, photographs. They should be advised of any witness account(s) but there is no requirement to identify them at this stage or show any witness statement(s).
- 10.8.3 The employee should be given the opportunity to respond to the allegation(s) and the investigating officer should ask questions to clarify their response and/or probe areas already identified as requiring further information.
- 10.8.4 Ask the employee if there is any evidence, they think the investigating officer should take into account, or any witnesses that they feel would have important information for the investigation.
- 10.8.5 After the meeting, provide the employee with a copy of the notes of the meeting. The employee should be asked to sign as a true record or provide comments to add to the notes made. If the employee refuses to sign, the investigating officer should note this, but can still use the record as part of the investigation.

10.8.6 After interviewing the employee, if new information has emerged, the investigating officer may wish to meet some witnesses again or arrange to meet with further witnesses.

10.9 Writing the investigation report

10.9.1 It may be helpful to complete parts of the investigation report as the investigation proceeds.

10.9.2 An investigation report should cover all the facts that were and were not established, and whether there were any mitigating circumstances that also require consideration. To exclude any information may leave an investigation open to accusations of bias and filtering evidence to suit their findings.

10.9.3 Establish the pattern of events, matters of fact and those still in dispute. Seek to resolve any matters of dispute and any conflicting statements prior to making a decision.

10.9.4 When deciding what happened it is helpful to arrange the evidence into:

- **Uncontested facts:** Where the facts are not in dispute, they can simply be reported as factual.
- **Contested facts:** Where the facts are contested or contradictory, they should determine what, on the balance of probabilities, took place (see below).
- **Unsubstantiated claims:** Where an investigator is unable to substantiate an allegation, they should consider if further investigation is reasonable or report that they are unable to draw a conclusion.

10.9.5 At the conclusion of the report, recommend either:

- **formal action** (i.e. there is a case to answer and it should be considered at to disciplinary hearing); or
- **informal action** (this may be management instruction or professional advice, mediation, additional training, or other action); or
- **no further action.**

10.9.6 If formal action is recommended, the investigating officer should believe that, in the light of all the available evidence, on the balance of probabilities there was an act of misconduct or a failure of duty serious enough to warrant a formal disciplinary sanction.

10.9.7 The Headteacher/manager who commissioned the investigation should consider the report and decide on how to proceed. If the decision is that there is a case to answer, they should write to the employee advising them of the decision. If the decision is such that a disciplinary hearing could result in a decision to dismiss (i.e. the case is potentially gross misconduct or where a final written warning is in place), the employee should be informed of this.

11 THE DISCIPLINARY HEARING

11.1 The Headteacher/manager should arrange a mutually convenient date and location for all parties to attend the hearing and advise witnesses where and when they are required. In view of the sensitivity of the situation, particular consideration will need to be given to the arrangements for the hearing. For example, the venue will need to comfortably accommodate all parties during the course of the meeting and provide a suitable room for any witnesses waiting to give evidence.

11.2 The Headteacher/manager should send out the notification of the hearing to the employee, giving adequate notice of the right to attend and be accompanied. The employee should be provided with a copy of all the documents to be relied upon at the hearing. The employee should be asked to provide, in advance of the hearing, a copy of any documents they will refer to in the hearing, and the names and positions of any witnesses they wish to call.

11.3 The investigating officer is responsible for putting together the pack of documents for the hearing and preparing the presentation of the case on behalf of the management of the school.

11.4 The school is responsible for arranging for an appropriately experienced and confidential note taker to take detailed notes of the meeting. HR support should be available to advise the disciplinary panel. It may also be appropriate for HR support to be provided to the investigating officer who is presenting at the hearing.

11.5 The following people will attend the meeting;

- Where dismissal is not going to be an outcome, the Headteacher will personally hear the case supported by a HR Advisor. If dismissal is a possible outcome, the case will be considered by the Disciplinary Panel which will usually comprise the Headteacher (who will Chair the hearing) and one governor (other than the Chair of Governors, who will normally sit on the Appeals Committee). They may be supported by an HR adviser.

- The investigating officer will present the case for disciplinary action and may be supported by an HR adviser. (The investigating officer is normally a senior member of staff at the school, or from another school. In some cases, the school may appoint an external investigator, with a knowledge of schools, to conduct the investigation)
- The employee will attend and be given the opportunity to present their case. They are entitled to be accompanied by a trade union representative or work colleague.
- Witnesses for either party will wait separately and will attend the hearing only to present evidence and be questioned by the other party and the Headteacher/panel. Unless otherwise determined by the parties to the hearing, the witnesses may be subject to recall.
- A representative from the Local Authority may attend to advise on proceedings where dismissal is a potential outcome.

11.6 Order of Business for Disciplinary Hearing

1. The Headteacher/panel Chair will explain the process and ensure that introductions are made and that all parties have the relevant documentation.
2. The investigating officer will outline the allegation(s), present the evidence against the employee, and call any witnesses.
3. The employee (or their companion) may question the investigating officer and the witnesses.
4. The Headteacher/panel and their HR adviser may question the investigating officer and the witnesses.
5. The employee (or their companion) will respond to the allegations and may call witnesses.
6. The investigating officer may question the employee (or their companion) and the witnesses.
7. The Headteacher/panel and the HR adviser may question the employee (or their companion) and the witnesses.
8. The investigating officer will sum up the case against the employee.
9. The employee (or their companion) will sum up the response.

10. The Headteacher/panel will adjourn to consider the evidence and make a decision regarding the allegation and, if proven, the appropriate disciplinary action.
11. The employee will be advised of the decision verbally at the conclusion of the hearing, or within five working days of the hearing.
12. The decision will be confirmed to the employee and the investigating officer in writing within 10 working days.

12 OUTCOME

- 12.1 Following a disciplinary hearing, the Headteacher/panel will decide whether or not an allegation is substantiated. If the allegations are not upheld, then the employee should be advised of this and that no further action will be taken.
- 12.2 If the allegations are upheld, the Headteacher/panel will need to decide on the appropriate sanction.
 - revert back to informal management processes;
 - first written warning;
 - second written warning;
 - final written warning;
 - dismissal, with or without notice
- 12.3 The severity of the action taken will relate to the gravity of the misconduct and, before a decision is reached, account will need to be taken of all appropriate factors.
- 12.4 The school should bear in mind that, for the purposes of disciplinary proceedings, the standard of proof is different to that in a criminal case. The employer is required to show only a genuine and reasonable belief in the employee's guilt, on the balance of probability, and not proof beyond reasonable doubt.
- 12.5 When reaching a decision, the Headteacher/Panel must consider all action that has been taken in relation to the case to ensure that it is fair. This includes checking whether relevant procedures have been followed correctly, the employee is aware of the allegations against them, the employee has been given the opportunity to state their case prior to the disciplinary outcome being decided and the employee is given access to an appeal mechanism.
- 12.6 Where a decision to dismiss is made by a Community or Voluntary Controlled school, the Chair of Governors or Headteacher must first write to the employee to inform them of their decision to dismiss and appeal rights and then to the Local

Authority to formally request that the employee's employment is terminated with the Council. The Local Authority will then write to the employee to confirm their dismissal and appeal rights.

- 12.7 Where a decision to dismiss is made by a Foundation or Voluntary Aided school, the Chair of Governors or Headteacher must write to the employee directly to inform them of their decision to dismiss and their appeal rights.

13. APPEALS

- 13.1 There is a right of appeal against any formal disciplinary sanction (first, second and final written warnings, dismissal, and summary dismissal). The purpose of the appeal hearing is to examine the grounds of appeal as raised by the employee, to investigate any valid grounds, and to remedy any defects in the decision resulting from the disciplinary hearing.

- 13.2 New evidence will not be considered unless the appellant can demonstrate that it may significantly affect the previous decision and it has genuinely come to light since the disciplinary hearing, or it was impossible for the employee to produce the evidence at that hearing. This ground of appeal is not an opportunity to state the case with different evidence.

- 13.3 The appellant must state, in writing, their grounds of appeal to the Chair of Governors within **ten working days** of the letter confirming the outcome of the disciplinary hearing.

- 13.4 Every effort should be made to hear the appeal as soon as practicably possible following the written grounds of appeal being lodged with the Chair of Governors. It is intended that, where possible, this will be within 30 working days of the appeal being received.

- 13.5 The appeal must be heard by a panel of Governors who have had no significant involvement in the case during the earlier stages. It will usually be chaired by the Chair of the governing body.

- 13.6 The following parties will usually be in attendance at the appeal hearing:

- The Appeal panel
- The employee (appellant), and their trade union representative or work colleague, where they have arranged this
- The Headteacher / Chair of the Panel, from the original disciplinary hearing, and an HR representative, where required
- A note taker

- 13.7 A HR Advisor should be present to provide appropriate advice and support to the Appeal committee.
- 13.8 The appellant should normally be given at least **five working days'** written notice of the appeal hearing date, unless agreed by all parties that a shorter period would be appropriate. This notice will outline the date, time, and venue of the appeal hearing.
- 13.9 The supporting paperwork for the appeal hearing will usually be circulated to all parties no later than **five working days** prior to the appeal hearing, i.e. at the point of issuing the invite letter. This will consist of the statement of case and supporting evidence of both the employee and the Headteacher/Chair of the Disciplinary panel.
- 13.10 If either the employee or the Headteacher/Chair of the Disciplinary panel wish to bring any witnesses to the appeal hearing, they should give notification of any such witnesses that they intend to call, in writing, at least **one working day** before the appeal hearing, in order for the Appeal panel to accept or decline this request. The employee is responsible for making arrangements for their witnesses to attend the hearing.

13.11 Procedure for Appeal Hearing

1. The Chair of the Appeal panel will explain the process and ensure that introductions are made and that all parties have the relevant documentation.
2. The appellant, or their companion, presents to the appeal panel their grounds for appeal, calling witnesses, and/or presenting written statements/documents as necessary to support their case.
3. The Headteacher/Chair of the Disciplinary panel may question the appellant (or their companion) and the witnesses.
4. The Appeal panel and their HR adviser may question the employee (or their companion) and their witnesses.
5. The Headteacher/Chair of the Disciplinary panel will outline the allegation, against the appellant (as presented at the original disciplinary hearing), the reasons for the decision to uphold the case and to issue a warning/dismiss the employee. They will call witnesses relevant to the appeal as required.

6. The appellant (or their companion) may question the Headteacher/Chair of the Disciplinary panel and any witnesses.
7. The Appeal panel and the HR adviser may question the Headteacher/Chair of the Disciplinary panel, and any witnesses.
8. The Headteacher/Chair of the Disciplinary panel will sum up their case.
9. The appellant (or their companion) will sum up their case.
10. The Appeal panel, together with the HR adviser will adjourn to consider the appeal decision.
11. The appeal decision will be given verbally at the conclusion of the appeal hearing or within five working days of the appeal hearing.
12. The decision will be confirmed in writing to the employee and the Headteacher/Chair of the Disciplinary panel within 10 working days.

13.12 The appeal decision may be:

- To confirm the sanction
- To decrease the sanction
- To remove the sanction

There will be no further internal right of appeal.

14. FURTHER GUIDANCE

For further guidance please contact your HR provider.