

The Auriga Academy Trust

Disciplinary Policy and Procedure

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1. Scope

The procedure applies to all staff directly employed by schools and academies. The procedure is not to be used to deal with matters of unsatisfactory performance due to lack of capability and absence due to ill-health. Separate procedures exist to deal with matters of this nature.

Where the Headteacher or CEO is the subject of disciplinary proceedings, all references to the Headteacher / CEO should be replaced with Chair of Governors / Chair of the Trust Board or equivalent designation within the Trust.

The recognised trade unions have been consulted.

2. Policy

This policy takes into account the ACAS Code of Practice on Disciplinary & Grievance Procedures.

This policy seeks to support and encourage all employees to achieve and maintain the required standards of conduct and provides a fair and consistent method of dealing with alleged failure to observe those standards as well as supporting employees to recognise and resolve any shortfall. It encompasses the following principles:

- No formal disciplinary action will be taken against an employee until the case has been fully investigated and a disciplinary hearing has taken place
- The employee will be advised of the nature of the allegation and given the opportunity to prepare and present their case before any decision is made
- The employee will have the right to be accompanied by a trade union representative or a work colleague, at any stage of the disciplinary process. (See Annex A for details about the role of the companion). Where an employee is not a member of a trade union and is unable to find a suitable work colleague to support them, they can make a request to bring another designated person with agreement of the Trust / school
- No employee will be dismissed for a first breach of discipline except in cases of gross misconduct when the sanction may be summary dismissal i.e. without notice
- Any level of sanction can be applied which is deemed appropriate for the nature of the misconduct
- An employee will have the right to appeal against any disciplinary action taken or sanction applied
- Where disciplinary action is being considered against an employee who is a trade union representative, this procedure should be followed. Depending on the circumstances, however, it is advisable to discuss the matter at an early stage with an official employed by the union, after obtaining the employee's agreement
- Wherever possible, meetings should be held during the employee's normal working time unless otherwise agreed with the employee. Where the employee is suspended from duty, the Trust / school can consider alternative meeting venues (outside of school) if appropriate
- The timeframes specified within this procedure are the minimum. It is recognised that at times it may be necessary to extend the specified timeframes; where this is the case the extension must be reasonable and the employee must be notified accordingly.

3. Authority to take Disciplinary Action

The governing body of the Trust (the Trust Board) is responsible for establishing procedures for the regulation of conduct and discipline of staff at work.

The School Staffing (England) Regulations 2009 (as amended) allow the governing body (the Trust Board) to delegate all its functions relating to staff employment in schools, including dealing with disciplinary matters and taking initial dismissal decisions, to the Headteacher. Where the Headteacher has delegated responsibility, it is expected that the Headteacher will conduct disciplinary hearings with support from Trust HR who will liaise and consult with the Trust's HR advisor. In cases where the potential outcome of a disciplinary hearing is likely to be dismissal, it is recommended that the Headteacher has

two additional Governors and / or Trustees, to form a Disciplinary Hearing Panel to hear the case. An example of where this could be the case is where the allegation constitutes gross misconduct or where the employee has a live final written warning on their record.

Where the Headteacher is not considered to be suitable to hear the case, either because they have previously been involved in the case (e.g. as part of the investigation, or they are the investigating officer, or could not be seen to be impartial, or for any other valid reason) the case should be considered by a Disciplinary Hearing Panel consisting of three other Governors and / or Trustees.

Where the Headteacher is the subject of disciplinary action, the matter will be considered by a Disciplinary Hearing Panel consisting of the Chair of Trustees, the Chair of the local governing body and one additional Governor and / or Trustee. The Trust HR Manager will also be present at the hearing.

All appeals against disciplinary sanctions will be heard by an Appeal Hearing Panel consisting of 3 Governors and / or Trustees.

The Disciplinary and Appeal Hearing Panels should consist of governors and / or Trustees who have not previously been involved in the case, and who are not staff governors and, ideally, not parent governors.

It is strongly recommended that a representative from the Trust's HR Advisory Service and a representative from Trust HR is present in an advisory capacity to the Executive Headteacher / Disciplinary Hearing Panel / Appeal Hearing Panel at any Disciplinary and Appeal Hearings.

4. Investigation / Suspension

When a disciplinary matter arises, it is important to carry out an investigation to establish the facts as soon as possible. During the investigation it may be deemed necessary to suspend the employee (see Annex A for additional guidance on conducting an investigation and suspension).

5. Stage 1: Informal Stage – Informal Management Meeting

Issues related to standards of conduct should be dealt with at the earliest opportunity.

Some issues can be dealt with informally and appropriate support should be provided to the employee to achieve the required standard. The employee will be given a reasonable opportunity to achieve the required standard and informed that in the event of insufficient improvement formal disciplinary action will be taken.

The employee should be advised that informal efforts to resolve the issue **are not** part of the formal disciplinary process. A record of the informal meeting **will not** be held on the employee's personnel file but will be securely retained by the manager for a period of 6 months and can be referred to should a similar allegation of misconduct arise within this period. The employee should be given the opportunity to make comments on any letter/record and this will be kept with the manager's records.

If a pattern emerges where the conduct remains satisfactory during the 6 month period but declines soon after, then the line manager can proceed to deal with the matter under the Formal Stage.

6. Stage 2: Formal Stage – Disciplinary Hearing

If the investigation report recommends that the employee has a case to answer and for the matter to be considered formally at a Disciplinary Hearing, the Headteacher should convene a formal Disciplinary Hearing as soon as possible.

Within Stage 2 – where the case is being heard by a Disciplinary Hearing Panel, all reference to Headteacher should be replaced with Disciplinary Hearing Panel. The Disciplinary Hearing Panel should select a Chairperson to chair the hearing.

6.1 Prior to the Disciplinary Hearing

The employee must be given **10 working days'** notice of the disciplinary hearing in writing (see Appendix 11). This notification will include:

- The date, time and place of the hearing
- The names of those to be present at the hearing
- The allegation(s) and whether, if upheld, they constitute misconduct or gross misconduct and possible sanctions
- The employee's right to produce information and the date by which this must be received
- The employee's right to call witnesses and the date by which they must notify the school of the names of the witnesses
- The employee's right to be accompanied by a trade union representative or a work colleague
- A copy of the evidence produced to support the case against the employee, and this will include the investigation report and witness statements
- A copy of the Trust's Disciplinary Policy & Procedure
- The employee's responsibility for communicating the details of the disciplinary hearing to their representative and providing the representative with a copy of the paperwork
- The employee being asked to confirm whether any adjustments are required for the hearing.

A copy of the disciplinary pack will be sent to all other relevant parties at the same time by Trust HR. This includes the Hearing Panel, the HR Advisor to the Panel, and the Investigating Officer.

The employee must submit any information they want to be considered at the hearing in support of their case, including the names of witnesses they wish to call and their witness statements, no later than **3 working days** before the date of the hearing.

A copy of the additional information provided by the employee must be sent to all other relevant parties as referred to above by Trust HR.

If new evidence is presented after the given timeframe, the Headteacher will determine whether or not the new evidence will be considered as part of the hearing. This may lead to an adjournment.

6.2 Attendance at the Disciplinary Hearing

The employee should make every effort to attend the Hearing.

If the employee is unable to attend due to ill-health, the Trust HR may wish to seek advice from Occupational Health about the employee's fitness to attend the hearing. Where the medical advice remains that the employee is unfit to attend the hearing, it would be reasonable to consider alternative options and if the alternatives are not suitable, to hold the hearing in the employee's absence and a decision reached on the evidence available. The employee should be informed where this is the case.

If the employee's chosen companion is not available to attend on the date and time proposed for the hearing by the school / Trust, the school / Trust must postpone the hearing to a date and time proposed by the employee or their companion, provided that the alternative date and time is both reasonable and not more than **5 working days** after the date originally proposed. Any further extension to this timeframe will be at the discretion of the Headteacher / CEO.

6.3 Persons present at the Disciplinary Hearing

- Headteacher (or in the case of a Disciplinary Hearing Panel, 3 governors and / or Trustees, and this may include the Headteacher if they have not otherwise been involved in the case)
- HR Representative (in an advisory capacity to the Headteacher/Disciplinary Hearing Panel)

- Investigating Officer (to present the investigation findings)
- Employee (subject of the disciplinary case)
- Employee's representative (this can be a trade union representative or a work colleague or another designated person agreed with the school)
- Notetaker (this can be the Clerk to the Governing Board or another suitable person from the school / Trust)
- Witnesses, if required.

6.4 At the Disciplinary Hearing

At the Disciplinary Hearing, the employee and their representative are entitled to be present at all times except when any matter falls solely for the Headteacher to consider with advice from the HR Advisor and / or Trust HR Manager.

Witnesses should attend in person. Witnesses should appear one at a time and should only be present whilst they are giving evidence or are being questioned. Where a witness is unable to attend, the Headteacher will take into consideration their statement and may reduce the weighting given to the statement.

The Headteacher explains the procedure to be followed (see Appendix 6 for guidance), states the allegation(s) against the employee and asks whether the employee admits or denies the allegation(s).

If the employee admits to the allegation(s), the Hearing should proceed in the following manner:

1. The Headteacher asks the employee if they wish to offer an explanation for the allegation(s) against them and to present any mitigating circumstances
2. The Headteacher asks the Investigating Officer if they have any comments to make on the explanation or mitigating circumstances offered by the employee
3. The Headteacher can ask questions of the employee concerning the employee's explanation/mitigation
4. The Headteacher asks both parties to withdraw whilst the Headteacher, advised by an HR Advisor and / or Trust HR, reaches a decision on the evidence presented.

If the employee denies some or all of the allegation(s), the Hearing should proceed in the following manner:

1. The Headteacher asks the Investigating Officer to present the investigation findings and call any witnesses
2. The Headteacher invites the employee and employee's representative to ask any questions of the Investigating Officer and any witnesses called
3. The Headteacher may ask any questions of the Investigating Officer and any witnesses called
4. The Headteacher asks the employee to present their case and call any witnesses. At times, an employee may ask their representative to present their case. This should be allowed, but the representative will not be able to answer questions on behalf of the employee
5. The Headteacher invites the Investigating Officer to ask any questions of the employee and any witnesses called
6. The Headteacher may ask any questions of the employee and any witnesses called
7. The Headteacher invites both parties to sum up their respective cases in the order in which they were presented. The Headteacher may wish to adjourn the hearing briefly, if necessary, to allow both parties to prepare their summations
8. During the summing up no new evidence should be introduced by either party
9. Following the summations, the Headteacher invites both parties to withdraw whilst the Headteacher, advised by an HR Advisor, reaches a decision.

6.5 The Decision

The Headteacher considers the evidence presented, seeking advice from the HR Advisor and / or Trust HR.

If there is any uncertainty about the information presented, or the discussion raises the need for further questioning of either party's evidence, the Headteacher should invite both parties to return so that further clarification can be sought from either or both parties.

If the Headteacher wishes to question either party on matters which have not already been raised, or new evidence emerges at this stage, either party may request an adjournment to carry out further investigation before responding. The Headteacher will make a decision on any such requests including the length of any adjournment.

On reaching a decision about whether the allegation has been upheld or not, both parties will be invited to return to the hearing. The Headteacher may be required to make a decision based on a balance of probabilities.

Where the allegation is upheld (i.e. substantiated), the employee will be informed of this, and before deciding the level of sanction, the employee will be offered a short adjournment to prepare any mitigation that they would like taken into account.

Both parties will be invited to return to the hearing and the employee will be asked to provide any mitigation they would like to be considered before a decision is taken on the sanction to be applied.

A short adjournment will be called during which the Headteacher, in deciding the level of sanction, will consider the nature and level of the current offence in relation to the employee's job, any mitigation offered by the employee, and the employee's current disciplinary record.

Both parties will be invited to return to the hearing and the Headteacher will inform them of:

- The precise nature of the misconduct; and whether it is misconduct or gross misconduct
- Any mitigating circumstances which have been considered
- What disciplinary action (See Section 8), is being taken and the length of the time for which the disciplinary action is valid, or in the event of dismissal whether it will be with or without notice (the latter will only be in cases of gross misconduct)
- The consequences of further misconduct within the set period of the disciplinary sanction issued. For instance, that it may result in dismissal or some other contractual penalty such as demotion or loss of seniority
- Their right of appeal and the appropriate timescale within which the employee needs to submit their appeal.

Where the allegation is not upheld all reference to the matter will be removed from the employee's file. However, for allegations concerning safeguarding/child protection, only allegations which are found to be false or malicious will be removed from the employee's file. For further details on the allegations which need to be kept on file, see **Paragraph 7.1 of Annex A** of this procedure - Additional Guidance. Please also refer to the **AAT Allegations against Staff, Including Low Level Concerns Policy**.

The outcome of the Hearing should be confirmed to the employee in writing within **5 working days** of the date of the Hearing by Trust HR.

At times, due to the complex nature of the case and the extent of the evidence presented, it may not always be possible for the Headteacher to reach a decision within the timeframes set for the day. At times the Hearing itself may continue late into the day and it may be considered reasonable to allow the employee and their representative to go home. In these circumstances, the employee will be notified of the outcome decision and the corresponding reasons in writing within **5 working days** of the date of the hearing.

7. Stage 3: Appeal Hearing

An employee has the right to appeal against any formal disciplinary action. The appeal is against the decision reached at the Disciplinary Hearing and should not be a re-hearing of the case.

If the employee wishes to appeal against the disciplinary action imposed, they must confirm this in writing to the Chair of Governors / Chair of the Trust, within **10 working days** of the written notification of the disciplinary action, stating their grounds and reasons for appeal which can be based on any of the following:

- The severity of the disciplinary action (e.g. sanction is considered too harsh in relation to the misconduct/gross misconduct)
- The findings of the disciplinary hearing are disputed on a point of fact that may have influenced the outcome
- There was a failure to adhere to agreed procedure that may have affected the outcome
- New evidence

Where no appeal is lodged within the given timescales, the matter will be closed.

With the assistance of Trust HR, the Chair of Governors/Chair of the Trust will arrange for an Appeal Hearing to be convened within **6 working weeks** of receiving the employee's grounds of appeal letter.

The Headteacher, and who for the purposes of the appeals procedure will be known as 'The Presenting Officer', will be required to present the management's case at the appeal hearing. They will also provide a written management case statement which should include the rationale for the decision reached at the Disciplinary Hearing and address any other points raised by the employee in their letter of appeal.

It is recommended that advice is sought from the Trust HR Advisor present at the hearing when completing the management case statement.

7.1 Prior to the Appeal Hearing

The employee must be given **10 working days'** notice of the Appeal Hearing in writing by Trust HR (see **Appendix 13**).

The written notification will include:

- The date, time and place of the hearing
- The names of those to be present at the hearing
- The employee's right to call witnesses where the grounds of appeal include new evidence
- The employee's right to be accompanied by a trade union representative or a work colleague
- Documentation to be considered at the hearing, including that from the Disciplinary Hearing and including the management case statement
- Possible outcomes of the appeal hearing
- A copy of the Trust's Disciplinary Policy and Procedure.
- The employee's responsibility for communicating the details of the appeal hearing to their representative and providing the representative with a copy of the paperwork
- The employee being asked to confirm whether any adjustments are required for the hearing.

A copy of the same must also be sent out to the Appeal Hearing Panel, the Presenting Officer and the designated HR Advisor by Trust HR.

If the employee's chosen companion is not available to attend on the date and time proposed for the hearing by the school / Trust, the school / Trust must postpone the hearing to a date and time proposed by the employee or their companion, provided that the alternative date and time is both reasonable and not more than **5 working days** after the date originally proposed. Any further extension to this timeframe will be at the discretion of the school / Trust.

In the event that the employee is unable to attend due to ill-health, the school / Trust may wish to consider a postponement on the same terms as above. However, if the employee is unable to attend on the rescheduled date and time, the hearing will proceed in their absence. The employee should be informed where this is the case.

If the employee considers there is new information that has come to light which they have not included in their initial written appeal statement, they should submit this information no later than **3 working days**

before the hearing. A copy of the additional information provided by the employee must be sent by Trust HR to all other relevant parties as referred to above.

7.2 At the Appeal Hearing

At the Appeal Hearing the same format will be followed as for the Disciplinary Hearing but with the order of the presentations being reversed i.e. the employee or their representative will present their case first giving their reasons for appealing.

Where the appeal is on the grounds of new evidence, the Appeal Hearing Panel may consider adjourning the Hearing if it is determined that further investigation is required in relation to the new evidence. Where this is the case the most appropriate person to carry out this additional investigation would be the Headteacher in their role as Presenting Officer. The Appeal Hearing will be reconvened where the findings of the investigation will be presented and considered. The employee must be given **10 working days'** notice of the reconvened Appeal Hearing by Trust HR.

7.3 The Decision

The same principles in terms of the process apply as for the Disciplinary Hearing.

Once the Appeal Hearing Panel has reached a decision, both parties should be recalled and informed of the decision by the Chairperson.

The Appeal Hearing Panel may take one of the following decisions at the conclusion of the appeal hearing:

- Uphold the appeal and dismiss any disciplinary action
- Substitute a lesser level of disciplinary action
- Dismiss the appeal and uphold the disciplinary action

If the appeal is upheld, then all records relating to the disciplinary action must be removed from the employee's file.

The decision of the Appeal Hearing Panel is final and should be confirmed in writing by Trust HR to the employee within **5 working days** of the Appeal Hearing (see **Appendix 14**).

8. Disciplinary Sanctions

There are three levels of sanctions which can be applied depending on the nature and severity of the misconduct:

- **Written Warning**
- **Final Written Warning**
- **Dismissal***

* Dismissal will generally be with notice and will be applied from the date of the written notification of the outcome of the Disciplinary Hearing. Dismissal without notice should only occur where gross misconduct has been established. In this case, the dismissal is with immediate effect i.e. from the date the decision is reached.

If the employee appeals successfully against a dismissal decision then the notice of dismissal shall be withdrawn or, if the notice period has already been exhausted or the employee had been dismissed without notice, the employee will be re-instated with effect from the date that their employment had ended, and adjustments to pay made.

8.1 Duration of Warnings

Duration of warnings:

- **Written Warning** to remain on the employee's file for 12 months
- **Final Written Warning** to remain on the employee's file for 2 years.

The warnings should set out:

- How long the warning will remain current
- The nature of the misconduct
- The change in behaviour or improvement required
- The consequences of further misconduct within the set period of the sanction.

Provided the employee's conduct has remained satisfactory throughout the duration of the warning period, all reference to it should be removed from the employee's file upon expiry of the warning period.

Previous expired warnings should not be taken into account when determining a current disciplinary sanction unless the following exceptional circumstances apply:

- Where a pattern emerges of lapses in conduct soon after the expiry of warnings and/or
- There is evidence of abuse.

Here, the employee's disciplinary record can be taken into account in any future hearing and in deciding the duration of any future warning.

Sanctions relating to allegations of safeguarding/child protection should remain on the employee's file until they have reached normal pension age or for a period of 10 years from the date of the allegation whichever is the longer.

8.2 Other Sanctions

Other sanctions may also be used in conjunction with formal warnings. However, in all cases advice must be taken from Trust HR who will consult with the Trust's HR advisor. The following may be considered:

- Transfer to another post
- Demotion with or without protection of salary

9. Referral to external professional agencies (Disclosure and Barring Service/Teaching Regulation Agency)

9.1 Referral to the Disclosure and Barring Service (DBS)

The school / Trust, as a regulated activity provider, has a legal duty to make a referral to the DBS in specified cases. Such a referral must be considered at the conclusion of the disciplinary process where the employee is dismissed (or would have been dismissed had they not resigned) or where the employee has been removed from regulated activity.

Please also see **Section 3 of Annex A** within this procedure for guidance where a referral to the DBS may be appropriate at the suspension stage.

Guidance on making a referral to the DBS can be found [on GOV.UK](https://www.gov.uk).

9.2 Referral to the Teaching Regulation Agency (TRA)

If the employee is a teacher, the school / Trust is under a statutory duty to consider referral of cases involving serious professional misconduct to the TRA. Where a teacher has been dismissed for serious professional misconduct, or would have been dismissed had they not resigned first, the school / Trust must consider whether to refer the case to the TRA. Guidance on making a referral to the TRA can be found [on GOV.UK](https://www.gov.uk).

9.3 Referral to Any Other Regulated Professional Body

Where there is a duty to refer an employee who is a member of a regulated Professional Body, the guidance provided by the relevant professional body should be followed. The professionals referred to here include, for example, Occupational Therapists and Physiotherapists engaged by the school.

10. Grievances Raised during a Disciplinary Process

Where an employee raises a grievance during a disciplinary process, the disciplinary process may, if considered reasonable and appropriate, be temporarily suspended in order to deal with the grievance. Where the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently.

11. Criminal Proceedings

Under the Disciplinary Code, any act which could be subject to criminal proceedings is classified as gross misconduct.

If an employee is charged with, or convicted of a criminal offence, consideration should be given to what effect the charge or conviction has:

- On the employee's suitability to do the job and risks attached
- On the employee's relationship with their employer, work colleagues and the children.

Annex A: Additional Guidance

1. INVESTIGATION

When a matter of concern regarding conduct arises, it is important that a thorough investigation takes place to establish the facts as soon as possible. It is important to be able to demonstrate that any subsequent disciplinary action is based on reasonable attempts to investigate all the circumstances surrounding the alleged incident.

The Headteacher / CEO must consider the appropriate person to conduct the investigation having regard to the seniority status of the accused employee and the nature of the allegation. The Investigating Officer should be neutral and independent and not otherwise involved in deciding the outcome of the case. It is strongly recommended that the Headteacher / CEO should not, unless absolutely unavoidable, carry out investigations as this will automatically exclude them, on grounds of impartiality and objectivity, from taking part in any subsequent disciplinary hearing.

Once an Investigating Officer has been appointed, they must be clear from the outset about:

- The reason for the investigation
- The precise issues to be investigated
- How the investigation will be conducted
- The proposed timeframe
- All key and relevant evidence to be gathered.

The extent of the investigation will depend on the nature and seriousness of the alleged misconduct. For example, in the case of poor timekeeping, a meeting with the employee and a record of attendance, and previous informal efforts to deal with the matter may be the only form of investigation required prior to a decision on whether or not to convene a formal disciplinary hearing. In other cases, the alleged misconduct may be of a more serious nature and will require a more detailed investigation.

It is important to identify the type of evidence needed and this will be determined by the nature of the alleged misconduct. The investigation will usually require the person making the allegation and any witnesses to the alleged incident to be interviewed as soon as possible in order to obtain as accurate an account of events as possible. However, there may be other forms of evidence that may be relevant e.g. documentary evidence, CCTV footage, computer records. Care should be taken to ensure such evidence is obtained as a priority as it may be destroyed before being obtained.

Often, further facts will come to light during the investigation. This may present the need for the Investigating Officer to carry out further investigation and may involve interviewing other witnesses or revisiting certain areas of the investigation with the witnesses or the employee for clarification or fresh evidence.

During any fact-finding interviews, care should be taken to adopt a probative approach and to avoid using leading questions. Any questions should encourage individuals to recall their version of events in their own words. **Witnesses must be advised of the purpose and confidential nature of the interview and that they must not discuss the investigation with people outside of it.**

Witnesses must be informed that they may be required to give evidence at any subsequent disciplinary hearing. Reasonable notice should be given of the interview.

At times a witness may be reluctant to give evidence or will only do so if they are given an assurance of anonymity. In such circumstances, the Investigating Officer should try and establish the reasons for such reluctance and ensure the witnesses are aware of their obligation to help assist with establishing the facts. It would also be reasonable to investigate the motivation of any witness and why there is any reason for anonymity. No guarantee of complete anonymity can be given to witnesses as there is always

a risk that if the matter becomes subject to legal proceedings, they may be required to present evidence.

Where a child is a witness to an alleged incident, it is the responsibility of the Headteacher, in conjunction with the parents/carer, to determine whether they may be interviewed or questioned. Any such interview will only be carried out following advice from the Local Authority Designated Officer for Child Protection (LADO). However, this does not preclude the Headteacher asking the child to give a written account of events.

The employee should be notified of the allegation(s) and asked to attend a meeting with the Investigating Officer (see **Appendix 10**). They should be informed that the meeting is not a disciplinary hearing but an opportunity for them to respond to the allegation(s) and to assist in establishing the facts. The employee should be given reasonable notice of the meeting and advised that they may be accompanied by a trade union representative or a work colleague. At the meeting, any explanations put forward by the employee, including whether there are any special circumstances to be taken into account must be considered and investigated.

If the employee unreasonably refuses to participate in the investigatory meeting, they should be informed that a decision will be based on the remaining evidence gathered.

If the employee is unable to attend due to ill-health, Trust HR should seek advice from occupational health about the employee's fitness to attend the meeting. Where medical advice suggests the employee is unfit to attend the meeting, consideration can be given to alternatives to a meeting. For example, the employee can be asked to submit a written statement or provide a written response to questions from the Investigating Officer.

All meetings held with the employee and witnesses must be recorded. The Investigating Officer needs to plan how the meetings will be recorded; they can take notes of the meeting themselves, have a notetaker, use a recording device with the consent of the interviewee and/or their representative with the notes to be transcribed/typed up. The notes should record:

- The date and place of interview
- Names of all parties present
- An accurate record of the interview (the notes taken do not need to record every word that is said but they should capture the key points of any discussion)
- Any refusal to answer a question
- The start and finish times, and details of any adjournments.

Notes from all interviews should be typed up to ensure a legible copy. The employee and any witnesses interviewed as part of the investigation should be given a copy of their statement to check that they agree it is accurate. This should be done as soon as possible after the meeting. Once the interviewee has checked the document they should sign and date the statement confirming it is an accurate reflection of the conversation. Where the interviewee considers there are inaccuracies in the record, they should submit their amendments to the Investigating Officer for consideration. If the Investigating Officer agrees with the amendments, they should make the amendments to the statement and the revised statement should be sent to the person. If the Investigating Officer disagrees with the amendments, then the copy received from the person should be appended to the original statement.

At the end of the investigation, it may be appropriate to have a further meeting with the employee to obtain a further statement on presentation of the facts of the investigation. Where discussion with the employee results in further information being obtained which needs investigating, the investigation must continue for the information to be explored. It may be necessary to reconvene the meeting with the employee following the investigation of the information.

Once the investigation has been concluded, the Investigating Officer will submit their findings in the form of an investigation report which should clearly identify options for action by the Headteacher and/or Governing Board. The Investigating Officer can make the following recommendations:

- There is a case to answer and the matter should be considered formally at a Disciplinary Hearing. Here, the Investigating Officer will be required to present their findings at any such hearing.
- There is no case to answer and no grounds for further action.
- There are grounds for informal action under the procedure.

2. SAFEGUARDING/CHILD PROTECTION RELATED INVESTIGATION

Allegations relating to safeguarding/child protection against employees should be dealt with in accordance with the **AAT Allegations against Staff, Including Low Level Concerns Policy**. This policy states:

Every effort should be made to reach a conclusion in all cases of allegations bearing on the safety or welfare of children, even if:

- The individual refuses to co-operate, having been given a full opportunity to respond to the allegation and make representations
- It may not be possible to apply any disciplinary sanctions because the individual's period of notice expires (where the staff member has resigned) before the process is complete.

Where an investigation has established that there is a case to be considered at a disciplinary hearing and where the employee has left through resignation or other means, the matter would need to be concluded at a Disciplinary Inquiry. The Disciplinary Inquiry would follow the same process as the school's disciplinary procedure including the appeal process.

3. SUSPENSION

In exceptional circumstances it may be deemed necessary to suspend the employee from work during an investigation. Suspension should be for the minimum amount of time possible in all circumstances and will be with full contractual pay. Suspension has no implication of guilt.

The Headteacher / CEO and the Governing Board / Trust Board have authority to suspend an employee but only the Governing Board / Trust Board has the authority to end a suspension.

Suspension might be considered appropriate in the following circumstances:

- The allegation being investigated (if upheld) could constitute gross misconduct
- The employee's presence at work might hinder or influence the disciplinary investigation
- The presence of the employee constitutes a serious risk to pupils, staff, school property or themselves
- The conduct of an employee is subject to criminal investigation/charges, and the alleged offences relate to or may affect the employee's duties or suitability for duties in a professional capacity
- Strong recommendation by the Local Authority's Designated Officer (LADO) at Allegations against Staff & Volunteers (ASV) meeting.

The school / Trust should undertake an appropriate risk assessment (see **Appendix 7**) to determine if suspension is appropriate. Suspension should not be an automatic response to a serious allegation. Options to avoid suspension should be considered in all cases and may include:

- Temporary redeployment to another role or another location
- Work under supervision of another designated person

Where it is deemed necessary to suspend, the employee will be notified in writing of the suspension giving reasons for the suspension (see **Appendix 8**).

Where the allegations relate to safeguarding/child protection and there is strong evidence to support that the 'harm test' has been met (the person has harmed a child or put a child at risk of harm), there may be a case to make a referral to the Disclosure and Barring Service at this stage. It is strongly recommended that the school seek advice from the LADO prior to doing so. Advice should also be sought from the LADO about notifying the employee where it has been decided to make such a referral.

Other than not attending work and not undertaking the duties of the job, all the employee's other contractual obligations remain in force during the period of suspension. Therefore, the employee must make themselves available to attend meetings and hearings at the request of management. In the event that the employee is unwell during a period of suspension they should report their sickness absence to their designated contact and provide medical certificates in line with the school's / Trust's sickness absence procedures.

The suspension should be kept under continued review and the employee informed in writing of the progress of the case (see **Appendix 9**).

Being suspended from work can be very distressing for an employee and they can be left feeling very vulnerable. It is recommended that the employee is given details of any Employee Assistance Programme (EAP) that the school may have in place so that the employee can access support if needed.

The Headteacher should appoint a designated contact at the school for the employee during their period of suspension. The employee should be given the contact details of the designated contact. The designated contact should not be involved in the disciplinary process. In the event they are identified as a witness to the investigation, the Headteacher should consider appointing a different member of staff as the designated contact and inform the employee accordingly.

If a suspended employee is to return to work, consideration must be given to what help and support might be appropriate (e.g. a phased return to work and/or provision of a mentor) to assist the employee in their return to work.

4. ROLE OF THE REPRESENTATIVE

Employees have a statutory right to be accompanied, regardless of length of service, by a trade union representative or a work colleague at a disciplinary hearing and any subsequent appeal hearing. If the representative is a work colleague, they should be afforded reasonable paid time off. This should cover time to attend the hearing and also time to familiarise themselves with the case and confer with the employee before and after the hearing.

A representative has the right to address the hearing in order to:

- Put across the employee's case
- Sum up the employee's case
- Respond on the employee's behalf to any view expressed at the meeting.

A representative can also confer with the employee during the hearing.

A representative does not have the right to:

- Answer questions on the employee's behalf
- Address the hearing if the employee does not wish them to do so
- Prevent the Investigating Officer from explaining their case.

Given the importance of the representative's role, it is good practice to allow them to ask questions and participate as fully as possible.

5. DISABILITY DISCRIMINATION UNDER THE EQUALITY ACT 2010

Reasonable adjustments should be made for employees or their companions who have a disability within the meaning of the Equality Act 2010 to ensure they are not disadvantaged and can participate fully in the disciplinary processes. The nature of the reasonable adjustments, which have to be considered, will depend on an assessment of all the facts and circumstances of each case.

6. GUIDANCE ON NOTE TAKING AT HEARINGS

- Formal note-taking at hearings is not a requirement of either the disciplinary or appeal procedure but is advisable to do so. If the Chairperson of the Panel makes the decision that notes will be taken, the provision of the note-taker will be the responsibility of the Panel/school/Trust
- The Panel and HR Advisor may take notes at hearings for their own purposes which are adequate to enable for key decisions to be made. These are informal notes and are not for distribution to attendees
- The outcome of the hearing must be fully documented, including the issues that were considered (including mitigation) in reaching the decision and the detailed rationale behind the decision
- The Panel may allow digital recordings with the agreement of all parties e.g. in the case of a person with a disability when a digital recording may be necessary and regarded as a reasonable adjustment.

7. KEEPING RECORDS

It is important, and in the interests of both the school / Trust and the employee, to keep written records during the disciplinary process. Records should include:

- The complaint against the employee
- The employee's defence or mitigation
- Findings made and the actions taken
- The reasons for actions taken
- Whether an appeal was lodged
- The outcome of the appeal
- Any grievance raised during the disciplinary process; and
- Any subsequent developments
- Notes from any formal meetings/hearings

Records should be treated as confidential and should be retained in accordance with the data protection principles under the Data Protection Act 2018 and the UK General Data Protection Regulation (UK GDPR). Schools / Trust should seek guidance from their Data Protection Officer prior to sharing or distributing the disciplinary paperwork to a third party.

7.1 Keeping Records (where the allegation is related to safeguarding/child protection)

See Dealing with Allegations or Concerns Raised Against Teachers and Other Staff policy and Keeping Children Safe in Education statutory guidance. These procedures set out the potential outcomes for safeguarding/child protection allegations as follows:

- Substantiated
- Unsubstantiated
- Malicious
- False
- Unfounded.

Details of allegations that are found to have been malicious or false should be removed from personnel records. For all other allegations it is important to ensure that the following details are kept on the individual's confidential personnel file:

- A clear and comprehensive summary of the allegation
- Details of how the allegation was followed up and resolved
- A note of any action taken, and decisions reached and the outcomes as categorised by the KCSIE statutory guidance
- A declaration on whether the information will be referred to in any future reference.

A copy should be provided to the individual concerned where agreed by the Local Authority children's social care or the police.

The purpose of retaining this record is:

- To enable accurate information to be given in response to any future employment reference;
- To provide clarification if a future DBS disclosure reveals information from the police that an allegation was made which did not result in a criminal conviction; or
- To prevent unnecessary re-investigation if an allegation re-surfaces after a period of time.

The record should be kept at least until the person has reached normal pension age or for a period of 10 years from the date of the allegation whichever is the longer.

8. COLLABORATION OF GOVERNING BODIES

The Schools Governance (Collaboration) (England) Regulations 2003, S.I 1962 and as amended by the School Governance (Roles, Procedures and Allowances) (England) Regulations 2013, S.I 1624 Part 1 Regulation 4, enable the Governing Boards of two or more maintained schools to work together in relation to staffing functions including dismissals. These provisions allow schools to draw on a wider pool of governors for the purposes of the disciplinary processes.

A school wishing to use collaborated governors should seek advice from Trust HR regarding the engagement of collaborated governors and the procedure to follow.

Annex B: Disciplinary Code of Conduct

1. Scope

This Code applies to all employees of the Trust. The Trust's Code of Conduct should also be referred to when considering the disciplinary process.

2. Principles

Offences, which breach the Disciplinary Rules, can be considered as either Gross Misconduct or Misconduct according to the seriousness of the offence and the nature of the employee's job.

The list and types of misconduct in these rules is neither exclusive nor exhaustive.

3. Definitions

3.1 Gross misconduct

Misconduct of such a nature that the school / Trust cannot allow the continued presence of the employee at work and that, if the offence is established and there are no acceptable mitigating circumstances, will result in dismissal without any previous warnings.

A dismissal for gross misconduct is justified at the first offence and may, depending on the circumstances, be without notice.

It is strongly recommended that in cases where gross misconduct and summary dismissal is considered then the Headteacher / CEO and/or Governing Board / Trust Board should seek advice from Trust HR, who will consult with the Trust's HR advisor.

3.2 Misconduct

Misconduct is when an employee's inappropriate behaviour or action contravenes workplace rules.

Misconduct will not **normally** warrant dismissal without previous warnings. In the case of misconduct an employee shall be entitled to at least a written warning before a decision to dismiss is made.

4. Disciplinary Rules

4.1 Gross Misconduct

The following are examples of offences that would normally be considered as gross misconduct. This list **is not exhaustive** and the panel may consider a derivative of these examples as an offence constituting 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:

4.1.1 Acts which take place in the course of employment:

- a) Any act which could be subject to criminal proceedings (certain circumstances may call for the discretion of the Headteacher depending upon the nature and context of the offence)
- b) Stealing from the school, its staff or the public
- c) Deliberate damage to or deliberate neglect of school property (unless for justifiable reasons of protection or safety)
- d) Gross negligence in failing to attend to or to carry out the duties of the post
- e) Falsification of any document, for monetary advantage or for any other purpose
- f) Deliberate falsification of qualification or information which is a stated requirement of employment and/or which could result in financial gain
- g) Soliciting or accepting gifts or gratuities
- h) Involvement in any acts of bribery
- i) Attempted use/or use of official position for improper purpose
- j) Dishonest or improper use of information obtained in the school's employment
- k) Doing unauthorised private work (whether paid or not) during hours when contracted to work for the school / Trust or during periods of sick leave
- l) Sexual misconduct

- m) Child abuse or other conduct giving rise to safeguarding/child protection issues or any other inappropriate conduct towards a child
- n) Fighting or physical assault at work either with fellow employees or other persons; including maltreatment of persons in the care of the school / Trust. This does not include reasonable self-defence in the case of an assault on employee. (Refer to the Trust's policy on **Violence at Work**)
- o) Serious breaches of safety regulations, endangering yourself or other people, including deliberate damage to, neglect or misappropriation of safety equipment
- p) Deliberate disclosure without authorisation, to the media of information about an employee or student who has AIDS/HIV
- q) Acts of bullying or harassment, on grounds of age, disability, gender (including sexual harassment), sexual orientation, race and ethnicity, and religion or belief
- a) Serious insubordination – undermining of the Leadership and Management of the school / Trust
- b) Unauthorised disclosure of information classified as confidential by the school / Trust, governors / Trustees or the Local Authority
- c) Raising grievances which have been determined to be malicious
- d) Being under the influence of drink or drugs (other than those that have been medically prescribed) so that performance of duties is detrimentally affected and/or which could endanger anyone's safety
- e) Conduct resulting in breach of trust and confidence
- f) Any act that could bring the school / Trust into serious disrepute
- g) Breaches of, or abuse of, the Trust's **ICT Usage Policy**
- h) Breaches of the Trust's **Social Media Policy**
- i) Breaches of the Trust's **Code of Conduct**
- j) Serious breaches of professional standards e.g. Teachers' Standards for teaching staff.

4.1.2 Acts which take place outside the course of employment:

- a) Criminal offences which have been committed outside the course of employment and where:
 - Employment by the school / Trust in any way enabled or assisted in the commission of the offence
 - School / Trust property was used to aid the commission of the offence
 - Continued employment would:
 - (i) Put at risk those served or employed by the school / Trust
 - (ii) Adversely impact upon the school's / Trust's reputation or ability to perform its function.
- b) Any other conduct in personal life giving rise to safeguarding/child protection issues and/or impacting on the person's suitability to continue in post. This includes a failure to disclose relevant information to the Trust / school which may impact on employment.

4.2 Misconduct

The following are examples of offences that would normally be considered as misconduct. However, they may also be considered as gross misconduct according to the seriousness of the offence and the nature of the employee's job:

4.2.1 General

- a) Refusal to carry out a reasonable instruction within the remit of the employee's job description
- b) Offensive or abusive behaviour (including harassment on grounds of age, disability, gender, sexual orientation, race and ethnicity, and religion or belief) towards other employees or students
- c) Sleeping on duty unless expressly permitted.

4.2.2 Absence from Duty and Timekeeping

- a) Unauthorised absence from work or being late without sufficient cause
- b) Failure to report absence from work and the reason for such absence

- c) Failure to provide a medical certificate as required under sickness absence procedures
- d) Poor timekeeping including taking excessive refreshment breaks
- e) Abuses of the sick pay scheme including failure to provide acceptable reasons for short-term sickness absence
- f) Unacceptable levels of absence for reasons other than sickness.

4.2.3 Neglect of Duty

- a) Failure to discharge obligations in accordance with a statute or contract of employment without sufficient cause
- b) Negligent, careless or wilfully inadequate standards of work
- c) Failure to account properly for or to make a prompt and true return of any money or property, which comes into the possession of an employee during the course of duty.

4.2.4 Misuse / Falsification of Information

- a) Knowingly or through neglect making a false, misleading or inaccurate oral or written statement in respect of official business
- b) Failure to disclose a conviction, caution, reprimands or final warnings that are not 'protected' as defined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 as amended
- c) Communicating to persons outside of the school / Trust, any committee meeting proceedings or the contents of any document unless required by law or authorised to do so or unless seeking advice of their union on the implications of the meeting
- d) Deliberate disclosure without authorisation to colleagues, any members of the public or person known to an employee or client, of information about an employee or student who has AIDS/HIV.

4.2.5 Misuse of School Materials/Equipment/Resources

- a) Unjustifiable wastage of school / Trust materials/equipment/resources
- b) Deliberate failure to report any loss or damage to any property of the school / Trust, within your area of responsibility
- c) Unauthorised use of school vehicles whether during or outside the working day
- d) Unauthorised use of school vehicles for personal journeys including journeys to and from home or during the lunch break
- e) Unauthorised use of any school / Trust facilities for private purposes unless authorised by a relevant school authority to do so
- f) Use or waste of school / Trust material without express authority
- g) Use of school / Trust labour, materials, equipment or resources for private purposes.

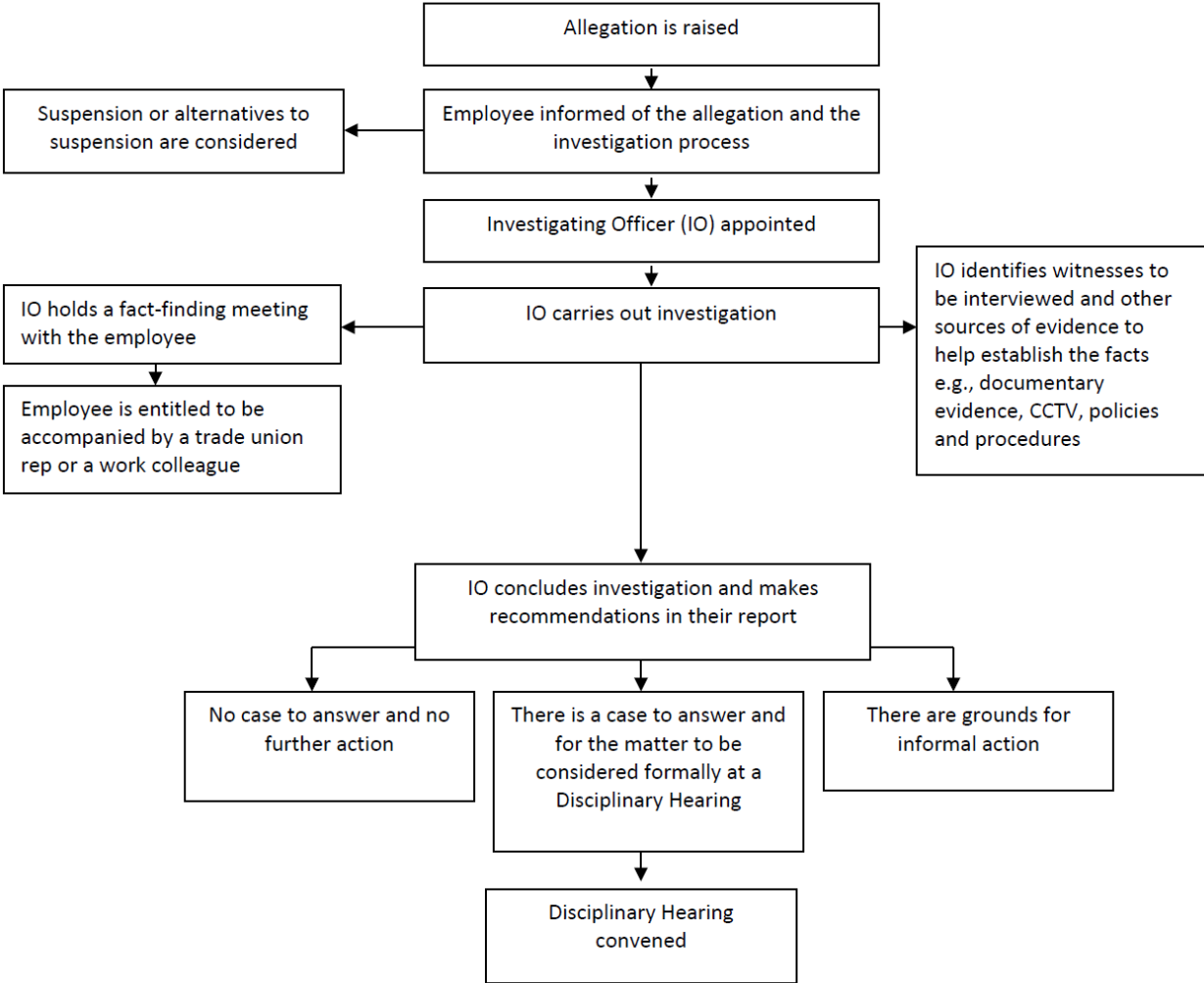
4.2.6 Discrimination

- a) Discrimination against an employee, student, parent or a member of the public on **any grounds** including age, disability, gender reassignment, marriage & civil partnership, pregnancy & maternity, race, religion and belief, sex, and sexual orientation.

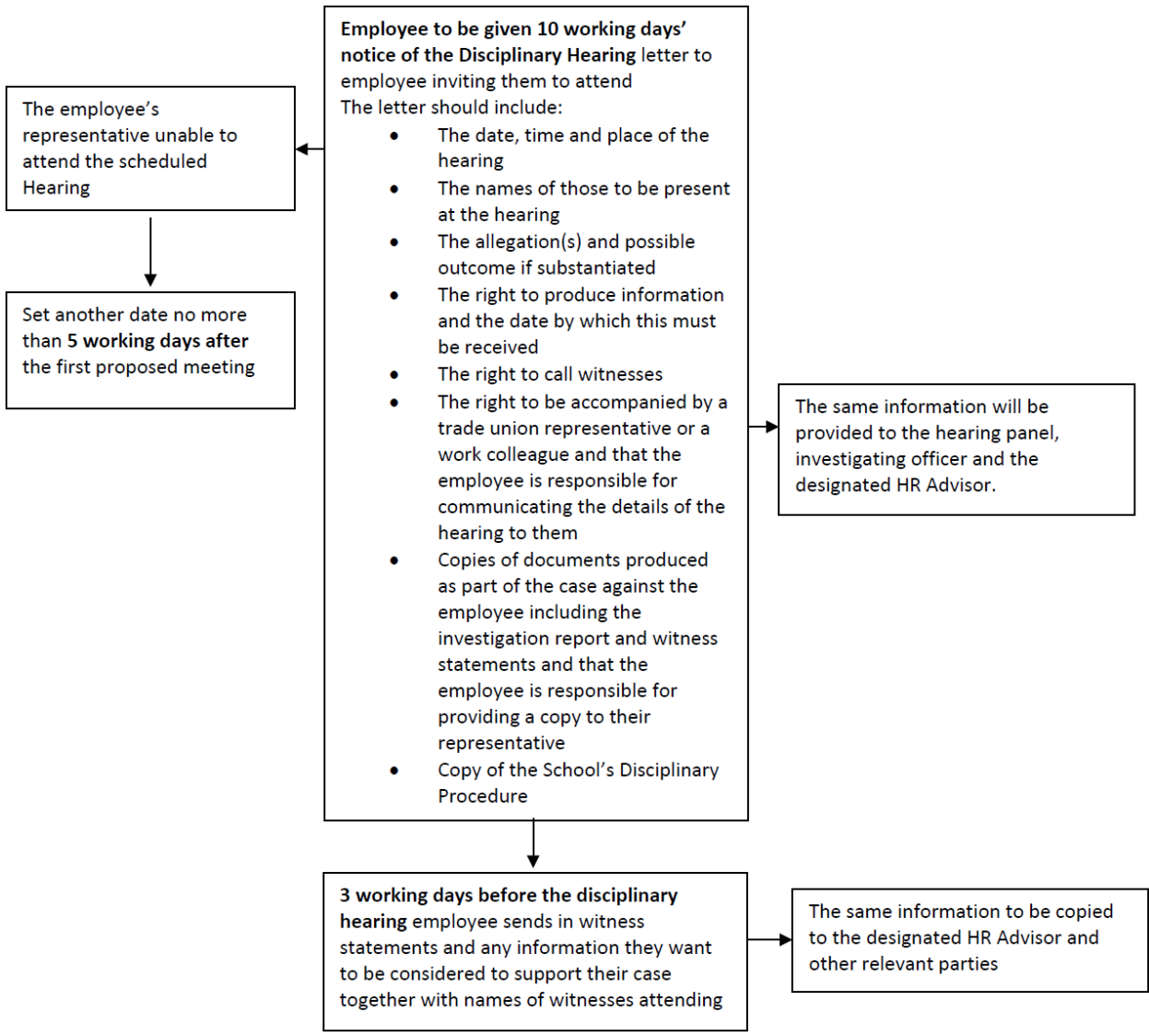
4.2.7 Health and Safety

- a) Failure to comply with the obligation placed upon you under the terms of the Health and Safety at Work etc. Act 1974
- b) Failure to wear appropriate protective clothing or use necessary safety equipment provided by the school for particular duties
- c) Failure to comply with accident reporting procedures
- d) Failure to comply with department hygiene requirements
- e) Dangerous or reckless behaviour involving risk of injury to yourself or to other persons or other conduct at work likely to diminish safety standards
- f) Neglecting to carry out any instructions of a medical officer appointed by the school, while absent from duty on account of sickness, committing any act or adopting any conduct to delay return to duty
- g) Smoking in areas designated as 'no smoking'.

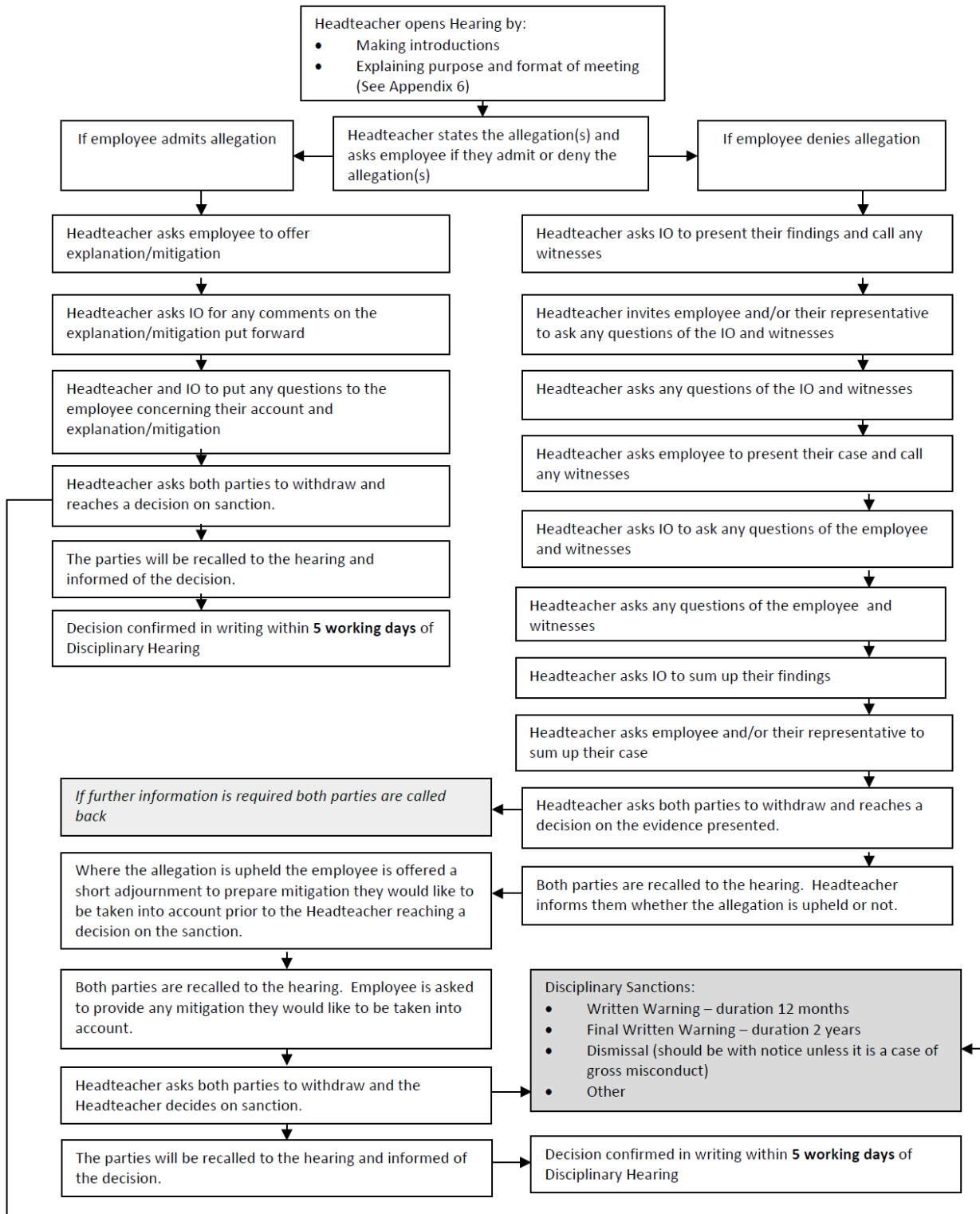
Appendix 1: Investigation Flowchart



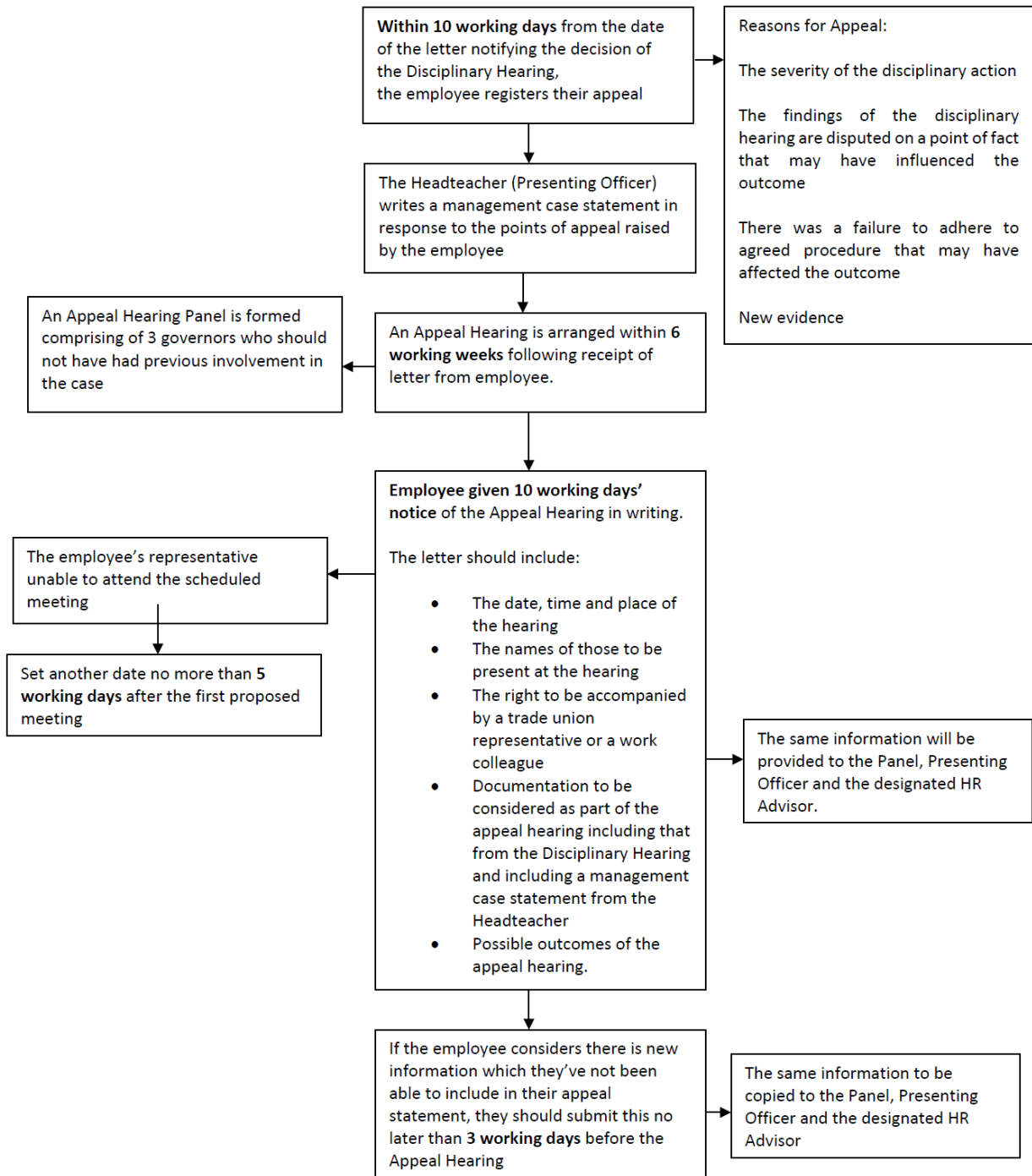
Appendix 2: Preparation for Disciplinary Hearing Flowchart



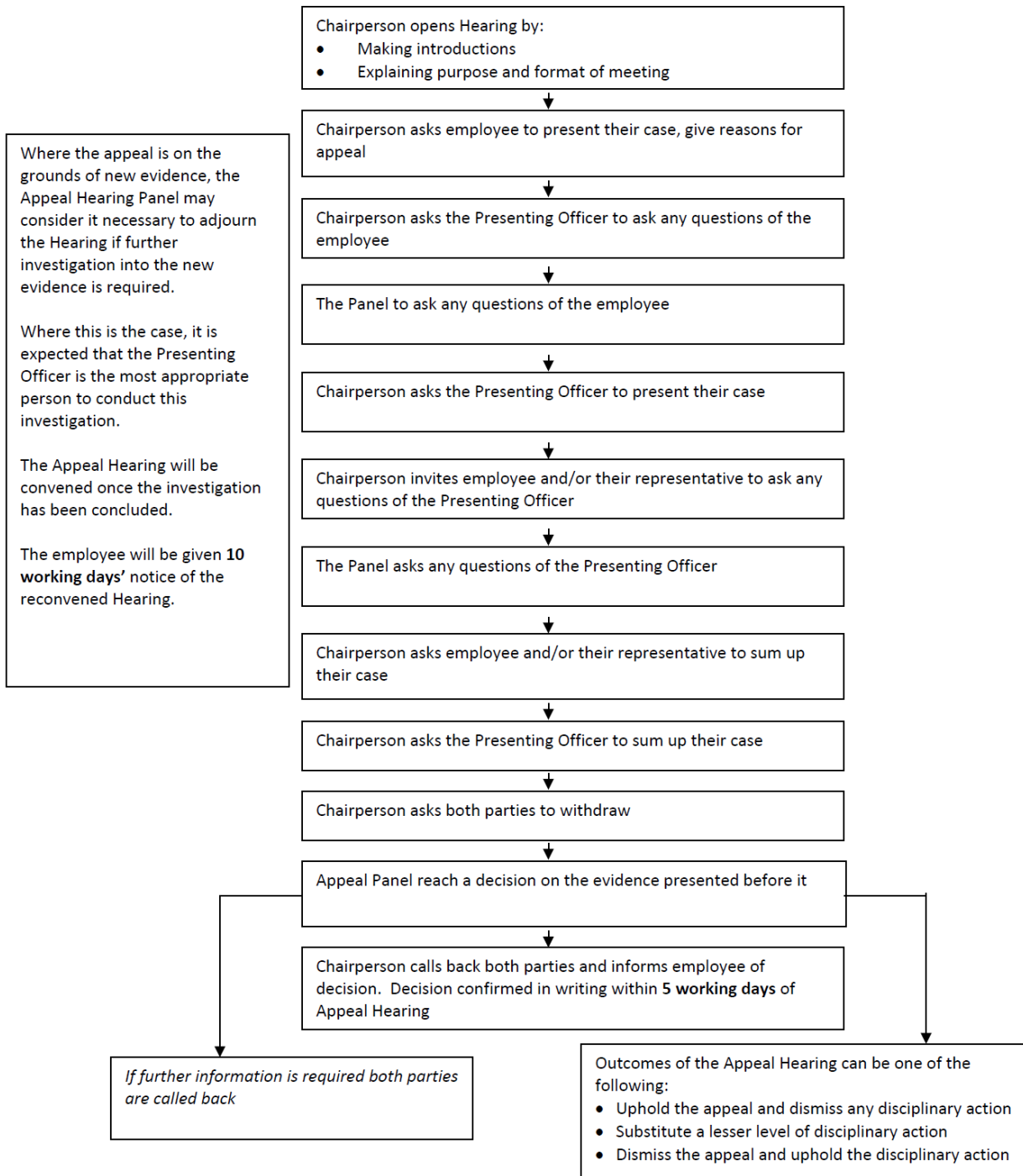
Appendix 3: Disciplinary Hearing Flowchart



Appendix 4: Preparation for Appeal Hearing Flowchart



Appendix 5: Appeal Hearing Flowchart



Appendix 6: Front Sheet and Opening Statement for the Headteacher/Chair of Panel

DISCIPLINARY HEARING

Name: *(insert name of employee)*

Date of Hearing: *(insert date of hearing)*

Time of Hearing: *(insert time of hearing)*

Venue: *(insert venue)*

Headteacher/Disciplinary Hearing Panel:	<i>(Insert name of Governor / Trustee 1)</i>
	<i>(Insert name of Governor / Trustee 2)</i>
	<i>(Insert name of Governor / Trustee 3)</i>
Investigation Officer:	<i>(Insert name of Investigating Officer)</i>
HR Advisor:	<i>(Insert name of HR Advisor)</i>
Employee's Companion:	<i>(Insert name of representative and if a union rep state which union)</i>
Names of Witnesses being called by the Investigating Officer:	<i>(List the names of witnesses)</i>
Names of Witnesses being called by the Employee:	<i>(List the names of witnesses)</i>

Allegation(s): *Insert the allegation(s) here as outlined at the outset*

Documents Enclosed: *List the documents which are being enclosed under cover of this Front Sheet*

Opening statement for the Headteacher/Chair of Panel

“Thank you for attending the meeting today. I will start with introductions, I am *(name)*, I will be chairing the meeting today and this is *(introduce the other members of the panel)*. Can I ask you to introduce yourselves as well so that we all know who is who?”

The purpose of the meeting today is to consider the allegation(s) made against *(insert name of employee)*. An investigation has been carried out and it is considered that *(insert name of employee)* has a case to answer. I will now go through the order of the meeting today:

- I will read out the allegation(s)
- I will ask *(insert name of employee)* if he/she admits to the allegation(s) wholly or in-part.

If *(insert name of employee)* admits to the allegations wholly:

I will ask *(insert name of employee)* if he/she would like to offer an explanation and if there are any mitigating circumstances that he/she would like the panel to take into consideration

- The Investigating Officer and I/the Panel may ask any questions of *(insert name of employee)* on the explanation given
- I will then ask both parties to leave the room and wait outside so that I/the panel can reach a decision on the evidence presented. All parties will be called back into the room once a decision has been reached.

If *(insert name of employee)* does not admit to the allegations wholly or in part:

- I will ask *(insert name of the Investigating Officer)* to present their findings during which he/she may call witnesses
- *(Insert name of employee)* and *(insert name of representative)* may ask *(insert name of the Investigating Officer)* and any witnesses that are called questions about the facts presented by them
- Any witnesses called will appear one at a time and remain in the room only whilst they are giving evidence
- The panel may also ask questions of the Investigating Officer or the witnesses
- I will then ask *(insert name of employee)* to present his/her case during which he/she may call any witnesses. Then *(insert name of Investigating Officer)* and the panel may ask *(insert name of employee)* and his/her witnesses questions on the facts presented by them
- After this, both parties will be invited to sum up their case in the order in which presentations were made
- After this I will ask both parties to leave the room and wait outside whilst the panel reach a decision. I will call everyone back into the room when a decision has been reached
- If during our deliberations I/we need to seek clarification from either party about the evidence that has been presented, both parties will be called back into the room
- I would just like to clarify the role of *(insert name of employee's representative)* in this meeting. He/she may: present *(employee's name)*'s case, sum up *(employee's name)*'s case, respond on *(insert employee's name)*'s behalf to any view expressed in this meeting; however, he/she cannot answer any questions on *(insert employee's name)*'s behalf which are put to him/her in this meeting
- Does anyone have any questions about the order and the process of the meeting?

I will now read out the allegation(s) against *(insert name of employee)*.

(State the allegation(s) here)

(Insert employee's name) "do you admit to the allegation(s) which has/have been made against you?"

Continue the meeting in the order as stated above.

Appendix 7: Suspension Risk Assessment

This form can be used to assist the consideration of suspension and alternatives to suspension. In cases involving allegations of child abuse/safeguarding, the Local Authority's Designated Officer (LADO) should be consulted about suspension.

DETAILS of MANAGER CARRYING OUT THE RISK ASSESSMENT

Name:	School and Job Title:
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EMPLOYEE DETAILS:

Name:	School and Job Title:		
How long has the employee been employed at the Trust:			
Details of any similar previous concerns/allegations:			
Details of allegation(s)			
Risk Assessment:	Yes	No	Unknown
Does the nature of the allegation suggest the person has behaved in a way that has harmed a child, or may have harmed a child?			
Does the nature of the allegation suggest the person has possibly committed a criminal offence against or related to a child?			
Does the nature of the allegation suggest the person has behaved towards a child or children in a way that indicates he or she may pose risk of harm to children?			
Are the police investigating the allegation?			
Do the police have objection to the employee continuing to work during the investigation?			
Does the LADO have objection to the employee continuing to work during the investigation?			
Has the individual accepted that the version of events provided is accurate?			
If substantiated, is the allegation(s) of a nature likely to constitute gross misconduct.			

ASSESSMENT OF RISK:

Potential hazard	Likelihood (tick one)				
	Very Low	Low	Moderate	High	Very High
Is there a risk to the safety or welfare of others?					
Detail					
Is there a risk to the individual's safety or welfare?					
Detail					
Is there a risk to school premises or property?					
Detail					
Is there a risk to the investigation (e.g. potential for interference)?					
Detail					
Is there a risk to reputation and/or service delivery if the individual is allowed to stay at work?					
Detail					

ALTERNATIVES TO SUSPENSION:

Are there alternatives to suspension which would lessen the risk?	YES / NO (delete as appropriate)
If YES , please outline the possible alternative(s) below. If NO , please explain why. (Provide details):	

OVERALL ASSESSMENT:

(Please provide any relevant comments below):

DECISION:

SUSPEND / DO NOT SUSPEND <i>(delete as appropriate)</i>	
If decision is NOT to suspend please outline any recommended control measures/alternatives to suspension below: (if employee does not accept these, this may require the assessor to review their decision not to suspend).	

SUSPENSION CHECKLIST:

Date on which suspension/alternative arrangements confirmed to employee:	<i>(insert date)</i>
Is a referral being made to DBS? (see Annex A – Section 3)	YES / NO <i>(delete as appropriate)</i>
Date written confirmation letter given/sent to employee:	<i>(insert date)</i>
Date of review of suspension/alternative arrangements	<i>(insert date)</i>
Name and designation of Manager undertaking the review:	
Insert details about what has changed and if this strengthens/weakens the original decision on suspension:	
Continue with suspension:	YES / NO <i>(delete as appropriate)</i>

Appendix 8: Notification of Suspension

Dear *(insert employee's name)*

I refer to the allegation that you *(details of the allegation)* which needs to be investigated under the Trust's **Disciplinary Policy & Procedure**.

Following an appropriate risk assessment, I am writing to confirm the decision taken under the Trust's **Disciplinary Policy & Procedure**, to suspend you from work with effect from *(insert date)* until further notice. Your suspension is without prejudice and on full pay.

The reason for your suspension is because *(insert appropriate reason/s as listed below)*:

- o *The allegation being investigated (if upheld) could constitute gross misconduct*
- o *Your presence at work might hinder or influence the disciplinary investigation*
- o *Your presence constitutes a serious risk to pupils, staff, school property or themselves*
- o *Your conduct is subject to criminal investigation/charges, and the alleged offences relate to or may affect your duties or suitability for duties*
- o *It is a strong recommendation by the Local Authority's Designated Officer (LADO) following the recent Allegations against Staff & Volunteers (ASV) meeting held on *(insert date)*.*

Having considered alternatives to avoid suspending you from work, which included:

- o *Temporary redeployment to another role or another location*
- o *Work under supervision of another designated person*

it was considered that these were not reasonable safeguards to address the measured risks.

Please do not return to the school unless it is with my express agreement. Please do not contact any other member of staff, pupil at the school or any member of the Governing or Trust Board without my knowledge or agreement, whilst the suspension is in force, this includes the use of any social media sites.

You are required to maintain confidentiality in respect of your suspension from work and any matters that relate to this investigation. For the avoidance of doubt this does not preclude you from speaking to or taking advice from your trade union representative or work colleague you have chosen to support you. In the case of the latter you must inform me of the name of the colleague prior to making contact. Please be advised that a breach of confidentiality may in itself be subject to disciplinary action.

The decision to suspend you will be reviewed regularly and may be reconsidered at any time in the light of new evidence during the investigation. As suspension can be lifted at any time, during your suspension you are regarded as being available for work or to attend for any reason related to the investigation.

Should you be sick during your period of suspension please inform your designated contact named below. You should provide medical certificates to cover your sickness absence in the normal manner.

Requests for annual leave or requests for leave under the **Special Leave Policy** should be made in the normal manner and will remain subject to approval by management prior to the leave being taken.

Following the investigation, if it is considered that you have a case to answer, the Trust's Disciplinary Policy & Procedure will be followed, and you will be notified accordingly. If the matter subsequently progresses to a disciplinary hearing and you need to contact any school employee to prepare your own witness statement you must inform me before making contact.

(Name of designated person) will be your designated point of contact at the school / Trust during the period that you are away from the school / Trust. He/she will keep you informed of general activities and news at the school / Trust. If you wish to contact the school / Trust for any reason please telephone *(name of designated person)* on *(insert telephone number)*.

If you wish to collect any personal belongings at the school please contact *(name of designated person)* who will make the appropriate arrangements.

I appreciate that this will be a difficult time for you and would like to inform you that the school's confidential Employee Assistance Programme (EAP) is available if you require support at this time. You can contact them on:

Health Assured Contact Information

Free 24 Hour Confidential Helpline

0800 028 0199

Online Information Portal - <https://healthassuredeap.co.uk/>

Username – wellbeing

Password – GripGoldSash

My Healthy Advantage Mobile App Registration Code

MHA261191

A copy of the school's/Trust's Disciplinary Policy & Procedure is attached/enclosed.

Yours sincerely

Headteacher/ CEO / Chair of Governors / Chair of Trustees

Encl.

Appendix 9: Notification of Suspension Review

Dear *(insert employee's name)*

Review of Suspension

I am writing to inform you that your suspension will continue until further notice as the investigation into the allegation(s) has not been concluded.

I would like to remind you that the Trust's confidential employee assistance programme is available for you to access if you wish to do so. Details have been previously provided to you.

or

I am writing to inform you that the investigation into the allegation(s) that you *(enter details of the allegations)* has now been concluded and recommends that the matter progresses to a formal disciplinary hearing.

The school will make arrangements for a disciplinary hearing to be convened and you will be notified accordingly once these arrangements have been finalised. You will be given due notice of the hearing in accordance with the Disciplinary Procedure and you will be supplied with the relevant paperwork to support the case against you.

You will have the right to be accompanied to the hearing by a trade union representative or a work colleague.

Your suspension remains in force until the outcome of the disciplinary hearing is known.

I would like to remind you that the school's confidential Employee Assistance Programme (EAP) is available for you to access if you wish to do so. Details have been previously provided to you.

or

I am writing to inform you that the investigation into the allegation(s) that you *(enter details of the allegations)* has been concluded and finds no case against you. As a result your suspension has been lifted with immediate effect.

Please attend work on *(date)* at *(time)* when I will meet with you to discuss the arrangements to support your return to work and give you the opportunity to ask any questions that you may have about your return to work. For avoidance of doubt I will not be able to discuss any aspect of the investigation.

Yours sincerely

Headteacher/ CEO / Chair of Governors / Chair of Trustees

Encl

Appendix 10: Notification of Fact-Finding Meeting

Dear *(insert employee's name)*

Fact-Finding Meeting

I am writing to advise you that you are the subject of an investigation under the Trust's **Disciplinary Policy & Procedure**. The investigation will consider the following allegation/s against you:

[Insert the allegation/s] and [If relevant, insert brief details for example, this relates to the incident which occurred on [date]].

During the investigation process, it may become necessary for the school / Trust to amend or add to the allegation in which you case you will be notified accordingly.

Please note that *(insert name of assigned Investigating Officer)* will undertake the investigation in accordance with the Trust's **Disciplinary Policy and Procedure** (copy enclosed for your information). *(Name of Investigating Officer)* will arrange to meet with you as part of the investigation and to seek your response to the allegation/s.

I would like to inform you that this is not a disciplinary meeting. The purpose of the meeting is to give you the opportunity to respond to the allegation and assist in establishing the facts.

You may bring a trade union representative or a work colleague to accompany you to the meeting.

I realise that this will be an anxious time for you and would like to give you details of the school's employee counselling service so that you may seek help and support if you need it. You can contact them on:

Health Assured Contact Information

Free 24 Hour Confidential Helpline
0800 028 0199

Online Information Portal - <https://healthassuredeap.co.uk/>
Username - wellbeing
Password - GripGoldSash

My Healthy Advantage Mobile App Registration Code
MHA261191

Should you require additional support or adjustments to accommodate a disability, then please let me know so that we can consider this further and make the necessary arrangements.

Finally, I take this opportunity to remind you that this is a confidential matter and you are required to maintain confidentiality in regards to this investigation. For the avoidance of doubt, this does not preclude you from speaking to or taking advice from your nominated representative. Where this is a work colleague you must inform me of their name prior to making contact with them. You should note that a breach of confidentiality may in itself be subject to disciplinary action.

If you have any questions about the content of this letter please contact me.

Yours sincerely

Commissioning Officer

Appendix 11: Notification of Disciplinary Hearing

Dear *(insert employee's name)*

Disciplinary Hearing

I am writing to advise you that as a result of the investigation into the allegation(s) that you *(set out summary details of the alleged misconduct)*, your attendance is required at a formal Disciplinary Hearing. The Hearing will take place on *(date)* at *(place)* at *(time)* and will be heard by *(list those hearing the matter)*.

I must inform you that if the allegation is upheld (i.e. substantiated) it may constitute gross misconduct under the Disciplinary Code for Schools and, without any acceptable mitigation, will lead to your dismissal.

or
I must inform you that if the allegation is upheld (i.e. substantiated) it will constitute misconduct under the Disciplinary Code for Schools and could lead to a written warning/final written warning.

In the event that you are already subject to a written warning/final written warning, this will be taken into account when determining the level of sanction.

The following witnesses will be called to give evidence at the Hearing in support of the Management Case:- *(State the names of witnesses)*

You have the right to be accompanied by a trade union representative or a work colleague. It is your responsibility to arrange for a representative to accompany you to the Hearing. If your chosen representative is unable to attend the scheduled hearing, you may propose another date and time for the meeting to take place to me. Any such alternative date must be on or before *(enter date 5 working days after the date being proposed in this letter)*.

You also have the right to produce written statements and to invite witnesses to give evidence in support of your case. You should ensure that copies of any written statements upon which you wish to rely at the hearing are given to me no later than 3 working days before the hearing, together with the names of any witnesses that will be attending.

I enclose copies of the documentation which will be considered at the hearing and includes the Investigation Report, Witness Statements and a copy of the school's Disciplinary Policy & Procedure. It is your responsibility to pass a copy of the paperwork to your representative should they request it.

I appreciate that this will be a difficult time for you and would like to inform you that the school's Employee Assistance Programme (EAP) is available if you require support at this time. You can contact them on:

Health Assured Contact Information

Free 24 Hour Confidential Helpline

0800 028 0199

Online Information Portal - <https://healthassuredeap.co.uk/>

Username – wellbeing

Password – GripGoldSash

My Healthy Advantage Mobile App Registration Code

MHA261191

Should you require additional support or adjustments to accommodate a disability, then please let me know so that we can consider this further and make the necessary arrangements.

If you have any queries with regards to the contents of this letter or the Disciplinary Policy & Procedure please contact me.

Yours sincerely

Headteacher/ CEO / Chair of Governors / Chair of Trustees

Appendix 12: Notification of Outcome of Disciplinary Hearing

Dear *(insert employee's name)*

Outcome of Disciplinary Hearing on *(insert date)*

Following the disciplinary hearing on *(date)*, I write to confirm that *(I/the Disciplinary Hearing Panel)* have determined that:

The allegation(s) against you has/have not been upheld and no further action will be taken

or

The allegation(s) against you has/have been upheld in full (i.e. substantiated) and constitute *(misconduct/gross misconduct)*

or

The following allegations *(give details)* have been upheld against you but *(I/the Disciplinary Hearing Panel)* concluded that allegations that you *(give details)* were not substantiated.

The reasons for reaching this decision are *(insert reasons)*.

As a result, *(I/the Disciplinary Hearing Panel)* have decided that *(insert any of the following)*:

- You should receive a *(written warning/final written warning)* to remain on your record for *(12 months/2 years/other)* and this letter constitutes notice of the same
- You are to be dismissed and your employment terminated with effect from *(date)*
- No formal action will be taken on this occasion but *(I/the Disciplinary Hearing Panel)* require(s) you to *(details of standard of conduct required)* and remind you that failure to maintain such standards may result in further disciplinary action being taken against you
- You should receive a *(written warning/final written warning)*, but as you are already subject to a *(written warning/final written warning)*, you will receive a *(final written warning/you will be dismissed)* *(set out details of improvement expected of employee, if applicable)*
- To assist and support you in attaining these standards *(details of support structures)*. Your progress will be reviewed at the meeting with *(headteacher/line manager)* in *(insert)* weeks' time
- If you fail to reach the required standards, further disciplinary action may be taken against you, which could lead to *(a final written warning being issued/or your dismissal without further warning)*

Notes from the Disciplinary Hearing are attached for your information.

You have the right to appeal against the disciplinary action in accordance with the Trust's **Disciplinary Policy & Procedure**. If you wish to appeal, you must submit a written statement of appeal to me (with a copy being sent to Trust HR HR@aurigaacademytrust.org.uk) within **10 working days** of receipt of this letter. The letter should clearly state the grounds of the appeal, which can be based on any or all of the following:

- The severity of the disciplinary action and/or
- The finding of the disciplinary hearing on a point of fact and/or
- A failure to adhere to agreed procedure and/or
- New evidence.

Any appeal will be heard by an Appeal Hearing Panel.

Yours sincerely

(Headteacher / CEO / Chair of Disciplinary Hearing Panel)

Appendix 13: Notification of Appeal Hearing

Dear *(insert employee's name)*

Appeal Hearing

Following your letter of *(date)* notifying the school that you wish to appeal against the decision taken at the Disciplinary Hearing held on *(date)*, I am writing to inform you that an Appeal Hearing will take place on *(date)* at *(time)* at *(venue)* to hear your appeal.

You are appealing on the grounds of: *(select whichever is relevant)*

- The severity of the disciplinary action and/or
- The finding of the disciplinary hearing on a point of fact and/or
- A failure to adhere to agreed procedure and/or
- New evidence.
-

The Appeal Hearing Panel will be: *List the 3 panel governors here*

Name of Headteacher/Chair of Disciplinary Hearing Panel who will present the school's case in response to your grounds for appeal.

You have the right to be accompanied by a trade union representative or a work colleague. It is your responsibility to arrange for a representative to accompany you to the hearing and to inform them of the details of the Appeal Hearing. If your chosen representative is unable to attend the hearing on the given date and time, you may propose another date and time for the hearing-to take place. Any such alternative date must be no later than *(enter date 5 working days after the date being proposed in this letter)*.

Should you require additional support or adjustments to accommodate a disability, then please let me know so that we can consider this further and make the necessary arrangements.

The documentation to be considered at the Appeal Hearing is attached. It is your responsibility to provide a copy to your representative should they request it.

Yours sincerely

Chair of Disciplinary Panel

Appendix 14: Notification of Outcome of Appeal Hearing

Dear *(insert employee's name)*

Notification of Outcome of Appeal Hearing

Following the Appeal Hearing on *(date)* I am writing to confirm the decision of the Appeal Hearing Panel. In making their decision the Appeal Panel considered all of the information presented to them by yourself, the Presenting Officer, and the documentary evidence available. *(Indicate here any other factors which have influenced the decision)*

It is the Appeal Panel's decision to:

Dismiss your appeal and to uphold the decision taken by the Disciplinary Hearing Panel.

or

Uphold your appeal and dismiss the disciplinary action.

The panel has reached this decision based on *(state the grounds for the decision)*

You are to be re-instated in your post as *(post title)* with effect from *(date of termination/where the notice has expired from the date of the expiry of the notice period)*.

Any record of the disciplinary action that has been placed on your personnel file will be removed.

or

Substitute a lesser level of disciplinary action to:

- Written warning/Final Written warning
or
- Transfer to another post *(state details of post and effective date)*
or
- Demotion to *(post title) (with/without)* protection of salary

The panel may wish to make recommendations around monitoring and review of conduct in the post/any trial periods etc.

I must advise you that the Appeal Hearing Panel's decision is final.

Yours sincerely

Chair of Governors / Chair of Trustees