

Bishop Hedley RC High School
Ysgol Uwchradd Gatholig Esgob Hedley

Staff Disciplinary Policy

Staff Disciplinary Policy



MERTHYR TYDFIL COUNTY BOROUGH COUNCIL

DISCIPLINARY POLICY, PROCEDURAL FRAMEWORK AND GUIDANCE NOTES FOR SCHOOLS

Date of Implementation: 01/09/18
Date of next review: Summer 2019

Turning Opportunities Into Reality

Troi Cyfle'n Realiti



DISCIPLINARY POLICY, PROCEDURAL FRAMEWORK AND GUIDANCE NOTES

(Subject to local adaptation for Voluntary Schools)

Contents

1. Introduction

1.1 Purpose

1.2 Scope

1.3 When should the procedure be used?

1.4 What constitutes misconduct?

1.5 Principles

2. Roles and Responsibilities

2.1 Employee responsibilities

2.2 Headteacher responsibilities

2.3 Responsibilities of the Chair of Governors

2.4 Responsibilities of the Staffing Committee

3. Disciplinary Procedure

3.1 Informal stage

3.2 Suspension from duty

3.3 Step 1 - The Disciplinary Investigation

3.4 Step 2 - Formal Procedures – The Disciplinary Hearing

3.5 Possible outcomes of the Disciplinary Hearing

3.6 Step 3 - Appeals

4. Other issues

4.1 Right to be accompanied

4.2 Conduct outside work including criminal offences and convictions

4.3 Allegations relating to child abuse

4.4 Sickness

4.5 Grievances during Disciplinary Procedures

4.6 Confidentiality

4.7 Referral to NAFW / DfES / GTCW

4.8 Training

Annex 1 Standards of Expected Behaviour

Annex 2 Examples of Misconduct

Annex 3 Diagrammatic view of the Disciplinary Process

Annex 4 Guidance on Disciplinary Hearings

Annex 5 Guidance on Appeals

1.0 Introduction

This document sets out to promote good performance and conduct by outlining a framework of standards and expectations enabling management to focus and direct their staff towards achieving school objectives.

The Policy and Procedure has been developed in consultation with Trade Unions and in accordance with the ACAS Code of Practice – Disciplinary and Grievance Procedures; WAG Guidance Circular 45/2004 – Staff Disciplinary Procedures in Schools; the School Standards and Framework Act 1998; the Education (School Government) (Wales) Regulations 1999 and the Education (Supply of Information) (Wales) Regulations 2003.

This is a robust framework which will assist schools in pursuing continuous improvement in standards of conduct and behaviour, and ultimately in the services they provide to the children of the County Borough.

1.1 Purpose

1.1.1 The vast majority of employees want to work in an environment where there is clarity as to the boundaries of acceptable conduct and behaviour. This framework is designed to help and encourage all employees to achieve and maintain standards of conduct and discipline and to assist school managers in bringing about improvement when necessary. The standards of behaviour expected are reflected in **Annex 1** of this document and also within the Council's employee code of conduct.

1.1.2 Where there are concerns about an employee's conduct or behaviour, the procedure provides a mechanism for ensuring employees are treated objectively, sensitively, consistently and fairly.

1.1.3 The procedure is also designed to set and maintain standards of best practice and to ensure that schools comply with current employment legislation.

1.2 Scope

1.2.1 This policy and procedure, where adopted, applies to all school employees whose employment is under the purview of the Governing Body. It does not apply to centrally managed employees who work within the school i.e. those under the purview of the Local Authority. It covers all staff employed by schools on a permanent, fixed term, secondment or temporary contract, regardless of role or location.

1.2.2 The procedure does not apply to the following circumstances:

- Redundancy;
- the expiry of an agreed probationary period if applicable;
- the expiry of a fixed term contract of employment;
- where the employee is above the normal retirement age of 65;

- Capability / Competence;
- Absences due to ill-health.

1.3 When should the procedure be used?

1.3.1 The disciplinary procedure should be used when an employee's conduct and/or behaviour is, or could be, regarded as unsatisfactory. It is not intended that the procedure is viewed primarily as a means of imposing sanctions, but rather, as a way of helping and encouraging improvement amongst employees.

1.4 What constitutes misconduct?

1.4.1 It is not possible to provide an exhaustive list of all possible circumstances, deemed to constitute misconduct and where the disciplinary procedure may be instigated, but, an indicative list of examples of misconduct is included at [Annex 2](#). This list also differentiates between gross misconduct and less serious kinds of misconduct.

1.5 Principles

The following principles will apply at all stages of the procedure:

1.5.1 The Policy will follow good practice as described in the ACAS code of practice on disciplinary and grievance procedures.

1.5.2 The day-to-day supervision of staff is part of the normal management process and is outside the formal procedure for dealing with breaches of discipline. There is likely to be less recourse to the formal procedure if deficiencies in an employee's conduct are brought to his/her attention at the earliest possible stage by his/her immediate supervisor. In principle, it is intended that day-to-day managerial approaches are adopted wherever possible.

1.5.3 It is important to ensure that a full and thorough investigation takes place so as to come to a fully informed and logical conclusion, but in disciplinary matters the burden of proof rests on 'the balance of probabilities' of the employee committing the act of misconduct.

1.5.4 Disciplinary matters will be considered in the light of all relevant mitigating circumstances. Where these circumstances relate to personal, domestic, social or health issues the assistance of the Occupational Health Physician and/or Counsellor may be called upon where appropriate.

1.5.5 Although the disciplinary procedure has a number of sanction levels, any sanction may be given if the employee's alleged misconduct warrants such action, however, no one will be dismissed for a first breach of discipline except in the case of gross misconduct. In circumstances where previous disciplinary

sanctions have been applied and not yet expunged, then this may also lead to dismissal.

1.5.6 Wherever possible and in usual circumstances, every effort will be made to deal with disciplinary matters as expeditiously as possible, and within the timescales set out in this procedure.

1.5.7 Professional Human Resources advice is available during all stages of this procedure from the Council's nominated HR Officers if the Governing Body has purchased the appropriate Service Level Agreement.

2.0 Roles and Responsibilities

2.1 Employee responsibilities

2.1.1 Staff employed by the School are responsible for:

- Ensuring they read, understand and comply with the procedure
- Fully co-operating with the requirements of the procedure when it is in operation
- Maintaining confidentiality at all times during any disciplinary proceedings, with the exception of any conversations which may be necessary with their union representative.

2.2 Headteacher responsibilities

2.2.1 The Headteacher is responsible for:

- Establishing, maintaining and consistently upholding standards of acceptable conduct of employees
- Obtaining professional advice on all matters relating to conduct and discipline
- Keeping adequate notes and records of events and evidence to support the use of the policy
- Initiating informal discipline i.e. Minor reprimand, counselling or coaching, and monitoring its effect
- Nominating a member of the senior management team to investigate allegations of lesser misconduct which may lead to use of the formal disciplinary procedure
- Initiating formal disciplinary action when the investigation outcome supports the need to do so
- Ensuring that the school's disciplinary procedures are adhered to at all times
- Conducting a disciplinary interview and issuing an appropriate level of sanction (up to and including final written warning) if necessary
- Maintaining confidentiality at all times.

2.3 Responsibilities of the Chair of Governors

2.3.1 The Chair of Governors is responsible for:

- Initiating consideration of allegations of misconduct against the Headteacher
- Appointing an external investigator (normally a representative from Council's Human Resources section)
- Liaising with the investigator on a regular basis and providing progress reports to all parties involved in the process as appropriate
- Referring the matter to the Staffing Committee upon the conclusion of the investigation.

2.4 Responsibilities of the Staffing Committee

2.4.1 The Staffing Committee is responsible for:

- Considering allegations of gross misconduct against staff and any form of misconduct against the Headteacher
- Deciding on the need for an investigation and on the appropriate individual(s) to undertake it
- Liaising with the investigator on a regular basis and providing progress reports to all parties involved in the process as appropriate
- Considering the investigators report and determining whether the matter should be progressed to a disciplinary hearing
- Considering all the evidence put forward at disciplinary hearing and issuing an appropriate level of sanction (up to and including dismissal)

3.0 Disciplinary Procedure

3.1 Informal stage

3.1.1 In cases other than gross or serious misconduct, any concerns relating to an employees conduct should usually be discussed with them in order to see if it is possible to correct the matter without invoking the formal disciplinary procedure. In many cases informal discussion at an early stage of a problem having been identified will resolve it and formal disciplinary action may not be necessary.

3.1.2 The formal disciplinary procedure will be instigated where an employee has failed to meet a reasonable standard of conduct despite the fact that informal discussions have taken place, or where misconduct is sufficiently serious as to merit immediate consideration under the procedure.

3.1.3 In all cases where informal action is taken, the manager taking the action must make a file note recording the action taken as well as the date it was taken and the reason for the action. See [Annex 3](#) for a diagrammatic view of the process.

3.2 Suspension from Duty

3.2.1 Suspension from duties will be on normal pay entitlement and is not in itself a disciplinary measure. An employee may be suspended before or during an investigation and is a means to enable an unhindered investigation to establish facts. A meeting should take place with the employee and their trade union representative so that matters may be clarified before the decision to suspend is taken. The suspension must be confirmed in writing outlining the reasons and that the suspension is subject to review.

3.2.2 The Governing Body and the Headteacher has the power to suspend school employees. The Governing Body should delegate this power to the Chair of Governors for when the suspension of the Headteacher may be necessary, although it is recommended that he/she seeks advice from the Council's HR adviser before doing so. The Headteacher would suspend other members of staff after consulting with the Chair of Governors.

3.2.3 Suspension is a very serious step which needs to be considered very carefully before being taken. It should not be undertaken without good reason and without first consulting the school's HR Adviser. Circumstances in which suspension could properly occur include:

- Where this would allow a more objective examination of the allegation;
- Where the alleged misconduct is sufficiently serious that the outcome may be dismissal;
- Where the member of staff is the subject of a police investigation and the alleged offence is considered relevant to the performance of his/her duties;
- Where there is a reasonable ground to believe that it would seriously affect the interests of the School and/or the employee if he/she were to remain at work;

Or

- Where a child/or children is/are at risk.

3.2.4 Paid leave of absence, mutual agreement to refrain from work, alternative duties or locations may also be used as an alternative to suspension.

3.2.5 The suspension may be lifted at any stage but may only be done so by the Governing Body. An appropriate written statement confirming the end of the period of suspension should be issued.

3.2.6 The LEA must be informed immediately about the imposing or lifting of a suspension.

3.3 Step 1 - The Disciplinary Investigation

3.3.1 When management action has not produced the required standard of conduct from the employee or where the matter is serious enough to justify disciplinary investigation action from the outset, an investigating officer must be appointed to conduct the investigation.

3.3.2 All matters of a potentially disciplinary nature must be thoroughly investigated before any decision in relation to disciplinary action is taken.

3.3.3 The purpose of the investigation is to:

- Ascertain the facts as far as is reasonably possible
- Enquire into the circumstances surrounding the alleged misconduct
- Give the employee the opportunity to offer an explanation
- Interview all relevant individuals
- Take an objective view of the information that emerges
- To prepare an investigation report detailing the main findings

3.3.4 Where other agencies are investigating the matter, e.g. the Police, or Health and Safety Executive, it may be necessary to suspend the internal investigation at the request of these agencies. Where the Police are involved it is usual that internal investigation is suspended to avoid potential interference with a criminal investigation. In these circumstances any suspension that has been enacted will remain in force pending the outcome of the external agency's investigation. However both employees and trade union representatives should be aware that a decision not to pursue a prosecution by an external agency or an extremely lengthy external investigation does not necessarily preclude the possibility of internal disciplinary action.

3.3.5 In conducting the investigation the investigator must confirm in writing to the employee that an investigation is to take place, explain what it is they are alleged to have done and why this could breach the disciplinary rules of the school. The letter will invite the individual to an interview in order that the matter can be investigated and should also advise them that they may be accompanied by a trade union representative or work colleague if they so wish. A copy of the Disciplinary Policy and Procedural framework should also be forwarded to the employee if this has not already been done. The employee should have sight of their statement in order for them to confirm it is an accurate account of the meeting and make any amendments or additions necessary before signing it.

3.3.6 The individual may request that the investigator speak to witnesses regarding the alleged breach and if this is the case they too will have the opportunity to read and check their statement for accuracy before signing and dating it.

3.3.7 Once the investigation is completed the investigating officer will conclude whether the matter should be referred to a Disciplinary

Hearing/Interview. The conclusion of the investigation officer will also require the relevant approval from the authorised individual(s) as prescribed in section 2.0. The decision will be communicated in writing to the employee. Prior to any hearing the investigating officer will disclose all relevant records from the investigation – investigation report, witness statements and any other documentation that will be cited in support of the investigation outcomes.

3.3.8 An external complaint falling within the scope of the School's Complaint Policy will be referred under the Disciplinary Policy where the allegation relates to a breach of disciplinary rules.

3.4 Step 2 - Formal Procedures – The Disciplinary Hearing

3.4.1 If, following a disciplinary investigation, the decision is made that there is a case for the employee to answer; it will usually proceed to a disciplinary hearing before the Staffing Committee or disciplinary interview before the Headteacher.

3.4.2 The hearing should take place as soon as practicable following the conclusion of the investigation and in normal circumstances no more than 15 working days after the conclusion of the investigation.

3.4.3 Employees should be notified in writing at least 5 working days in advance of the hearing. The notification should refer to the seriousness of the disciplinary charges against them, i.e. gross or lesser misconduct. The employee is required to submit any papers to be considered at the hearing (including a list of any witnesses they wish to call) to the hearing at least 2 working days in advance of the hearing.

3.4.4 The purpose of the disciplinary hearing is for the Headteacher or Staffing Committee to consider all the evidence regarding an allegation and to make a decision as to whether, on the balance of probabilities, the allegations against the employee are substantiated. If the allegations are substantiated the authorised person(s) should determine an appropriate sanction with consideration to the seriousness of the allegation and any mitigation presented by the employee. The hearing is the employees' opportunity to respond to the allegations against them and to state their case. Further guidance on disciplinary hearings can be found at [Annex 4](#).

3.4.5 The School reserves the right to conduct a disciplinary hearing in the absence of the employee should the circumstances warrant it. Examples of circumstances that may warrant a disciplinary hearing taking place in the absence of the employee are:

- Where the employee has confirmed that the case can go ahead in their absence, in the presence of their representative;
- Where there is a refusal to attend the hearing in person;
- Where the employee is physically unable to attend e.g. If in prison, but a decision on their employment needs to be made.

- Where an employee fails to attend a hearing without notification, the hearing may take place in their absence, with the presentation of the investigator's case.

3.5 Possible outcomes of the Disciplinary Hearing

3.5.1 The possible sanctions that may be imposed as a result of a disciplinary hearing are detailed below. It should be noted that time limits set out below will not apply where the misconduct involves sexual, racial or any other form of harassment, or where there is a pattern of repeated misconduct shortly after the expiry of previous warnings i.e. Within 6 months.

Noted Oral warning

For minor misconduct the employee may be given an oral warning. A written note of this along with papers relating to the investigation and hearing will be held on the employee's file but will be disregarded for disciplinary purposes after 6 months if there is no further recurrence of misconduct.

Written warning

If the misconduct is more serious or where there is recurrence of minor misconduct the employee may be given a written warning. Papers relating to the investigation and hearing will be held on the employee's file but will be disregarded for disciplinary purposes after 9 months if there is no further recurrence of misconduct.

Final Written warning

If misconduct is sufficiently serious to warrant only one written warning but insufficiently serious to justify dismissal or if previous misconduct fails to improve, a final written warning may be given. Papers relating to the investigation and hearing will be held on the employee's file but disregarded for disciplinary purposes after 12 months if there is no further recurrence.

Dismissal

Dismissal will only be considered for a first offence where there are allegations of gross misconduct. However, dismissal may also result from repeated misconduct where previous warnings are still current and conduct has not improved. In these circumstances notice of the dismissal or pay in lieu of notice will normally be given. Where the Staffing Committee is satisfied, with regard to mitigation that gross misconduct has occurred the result will be summary dismissal without notice or pay in lieu of notice.

Penalties

In addition to or instead of a warning, the panel may decide to impose a penalty. There is no fixed scale relating penalties to particular offences, each case is decided individually in light of the circumstances. The penalty will be reasonable and proportional to the nature of the misconduct.

Options include:

- Reimbursement by the employee of the cost of culpable loss or damage caused (such payments may be recovered from salary but should take account of existing commitments)
- Transfer to another role or section of the School for a specified period
- Demotion
- Financial penalties e.g. pay increase withheld for a specified period.

3.5.2 In addition, the Headteacher or Committee may also make recommendations, for example, in relation to changes to working practices, the provision of training, additional peer/line manager support etc.

3.5.3 Disciplinary action is usually cumulative where previous misconduct has occurred and previous disciplinary action held on files has not expired. For example, if an employee already has an oral warning, the panel cannot recommend another oral warning, the minimum action would be to issue a written warning. Repeated serious misconduct may therefore result in dismissal with notice.

3.5.4 If an employee has more than one allegation proven at a disciplinary hearing the disciplinary action will need to reflect the most serious allegation. Gross misconduct will only be found if any one allegation is deemed to be this serious.

3.5.5 Wherever possible the decision resulting from the hearing should be given to the employee on the same day as the hearing. Written confirmation should be sent to the employee within 5 working days and should include details of:

- The allegations heard and whether the panel upheld the allegations
- The sanction/penalty applied
- The standards that must be achieved
- Any training that may be given
- Any special monitoring of the employee's conduct
- The time scale of the warning/penalty
- The date(s) at which the employee's conduct will be reviewed and the date the warning/penalty expires
- What will happen if further misconduct occurs
- The right of appeal

3.5.6 Where the result of the disciplinary hearing is dismissal the employee should be provided with a statement of the decision. This should detail the allegations heard, the evidence considered and the conclusions reached.

3.6 Step 3 - Appeals

3.6.1 Where a disciplinary hearing has resulted in a sanction being applied, an employee has a right of appeal. An appeal may be made on the grounds that:

(i) There was a serious procedural error which resulted in a significant detriment to the employee.

(ii) The decision reached at the hearing was unfair and unreasonable in the circumstances having due regard to the severity of the allegations and any mitigating circumstances.

(iii) Further information has come to light, which had it been known by the disciplinary panel at the time of the hearing, may have affected the panel's decisions.

3.6.2 An appeal must be submitted in writing to the Clerk of the Governing Body, usually within 5 working days of the employee receiving written confirmation of the outcome of the disciplinary hearing. The employee must state the grounds for appeal that should include at least one of the grounds listed above and outline their case accordingly.

3.6.3 The purpose of the appeal is to rehear the case and consider any new evidence which has come to light. Any sanction or penalty applied as a result of the outcome of the disciplinary hearing can be reviewed and amended by the appeal panel.

3.6.4 An appeal should be heard as soon as possible after the receipt of the employee's notification of the grounds of appeal and in normal circumstances within 20 working days of it being submitted. At least 5 working days notice of the arrangements for the appeal must be given in writing to the employee. Further guidance on appeal hearings can be found at [Annex 5](#).

3.6.5 The outcome of the appeal should normally be given verbally and confirmed in writing to the employee within 5 working days of the hearing. Where an appeal against dismissal is not upheld the employee should also be provided with a statement of the decision detailing the grounds for appeal presented to the panel, the evidence considered and the conclusion reached.

4.0 Other Issues

4.1 Right to be accompanied

4.1.1 Employees subject to allegation/investigation are entitled to be accompanied by their Trade Union representative or workplace colleague at any investigation interview and disciplinary or appeal hearing. Employees who wish to have a representative present should take all reasonable steps to engage an available representative.

4.1.2 When attending an investigation interview as a witness or attending a disciplinary hearing as a witness, staff can request to be accompanied. If staff feel an issue is particularly sensitive these requests will not be unreasonably refused by the investigating officer. However, whether a request is agreed will depend upon the circumstances, including the reasons for wanting

representation, the seriousness of the matter and the availability of a representative/colleague.

4.1.3 During the course of an investigation, in order not to prolong the process, if the employee's representative will not be available, within a reasonable time scale, to accompany the employee, the employee may be requested to make alternative arrangements.

4.1.4 Employees have the right to postpone any investigation interview and disciplinary or appeal hearing date for up to 5 working days if they or their Trade Union representative/workplace colleague are not available for the first proposed date. Every effort will be made to accommodate the availability of the representative. However, where this might cause the process to be unduly delayed the employee may be requested to seek alternative representation.

4.2 Conduct outside work including criminal offences and convictions

4.2.1 Disciplinary procedures may commence if any member of staff:

- Is charged with a criminal offence (except for a traffic offence with an unofficial vehicle for which the penalty is less than imprisonment); or
- Is convicted of such an offence; or
- Is disqualified from driving (and who drives private vehicles on official duty); or
- Behaves in such a way outside of work which could compromise the image and integrity of the school and the LEA, effectively bringing them into disrepute.

4.2.2 Being charged with or convicted of a criminal offence will not automatically result in disciplinary action or dismissal. Each situation which arises will be treated on an individual basis.

4.3 Allegations relating to child abuse

4.3.1 It is imperative that all allegations of child abuse are initially discussed with the lead child protection officer in the LEA. The officer concerned will determine if the matter needs to be referred to statutory authorities under local child protection procedures.

4.3.2 If it is concluded that the matter does not need to be referred then the school is able to proceed with internal disciplinary proceedings if necessary.

4.3.3 If the decision is taken to refer the case to the Local Safeguarding Children Board (LSCB), then no internal investigation or informal discussions should commence within the school as such action could impede any subsequent investigation by the statutory authorities. The LSCB (Allegations of Professional Abuse Committee) will determine the appropriate process for considering the allegation and will ensure that the nominated school representative (normally the Headteacher) is fully involved in such matters.

4.3.4 Unless an investigation by the statutory authorities leads to a criminal conviction and subsequent dismissal, the Staffing Committee of the school will be required to consider the case. In circumstances where the allegation of child abuse is considered to be potentially an act of gross misconduct, an external independent service must conduct an investigation on behalf of the school and report its findings back to the Staffing Committee. The Committee would then determine the necessary course of action in accordance with the procedures set out within this document.

4.4 Sickness

4.4.1 The school's aim is to proceed with all disciplinary matters with the minimum of delay. The disciplinary process may therefore continue during an employee's sickness, which will not preclude the school from starting or completing the process, including the collection of statements, conducting interviews or hearings. This will be on an exceptional basis depending on the nature of the illness and the likely length of the absence. Professional medical advice will be sought where appropriate.

4.5 Grievances during Disciplinary Procedures

4.5.1 There may be occasions when a disciplinary matter and a grievance are related. In such circumstances the matter raised first will normally be concluded prior to proceeding to resolve the other. An exception to this will be where the grievance is specifically about the behaviour of a manager during the course of a disciplinary process, in which case it may be appropriate to suspend the disciplinary procedure until the grievance can be considered.

4.6 Confidentiality

4.6.1 Confidentiality should be maintained at all stages throughout the disciplinary process by ensuring that only those people who need to know have access to details of the case. The person investigating the case should only discuss the case with the appropriate Human Resources Adviser. The disciplinary panel should maintain the confidentiality of those proceedings.

4.6.2 Staff should not normally be advised that a disciplinary matter is being investigated unless there is an effect on the day to day working relationships. If an explanation is required due to the suspension of an employee, there is no need for staff to receive details of the case.

4.6.3 All staff involved in a disciplinary matter, including any employee who is being investigated or who is requested to provide information, and their representative, should ensure that confidentiality is maintained at all times. A breach of confidentiality may lead to disciplinary action. This does not preclude discussion with appropriate person(s) where advice is required in an employment context e.g. Trade Union representative or legal representative.

4.7 Referral to National Assembly for Wales / Department for Education and Skills / General Teaching Council for Wales

4.7.1 Disciplinary cases leading to dismissal should be referred to the National Assembly for Wales in the first instance. All reports of dismissal on the grounds of misconduct received by the National Assembly for Wales are then passed on to the Department for Education and Skills (DfES). The DfES will either deal with cases themselves or they will pass cases onto the General Teaching Council for Wales for them to deal with if there are no issues involving the safety and welfare of children, or medical fitness or the case relates to an unregistered teacher. It is the responsibility of the Chair of the Staffing Committee who imposed the sanction to make the referral although the HR Adviser to the Committee will normally undertake this task on their behalf.

4.8 Training

4.8.1 In order to ensure an objective, sensitive, consistent and fair approach to disciplinary matters; it is important that those involved in using the procedures receive appropriate guidance and support.

4.8.2 It is the aim of the LEA to ensure that all Headteachers/Governors involved in the implementation of disciplinary procedures have access to training and guidance on matters related to discipline and the associated procedures.

Annex 1

Standards of behaviour

All employees have the right to:

- Be communicated to in an appropriate and respectful manner;
- Have their life and commitments outside the school respected;
- Have their point of view listened to and given consideration;
- Speak out if they are the victim of bullying, vindictiveness, verbal or physical aggression and to expect their complaint to be taken seriously;
- 'whistleblow' (see school policy in relation to this).

All employees have a responsibility to:

- Have consideration for others in the exercise of their duties;
- Express their point of view without being aggressive;
- Listen to what others say and respect their point of view;
- Take prompt action if they witness or are made aware of unreasonable behaviour, including harassment in any form. Employees should not assume it is someone else's problem;
- Try to learn from their mistakes in handling relations with others;
- Take every complaint or disagreement seriously and work to find common ground;
- Ensure that they act in a professional manner towards their colleagues;
- Ensure that their conduct (both at work and outside) and their appearance during working hours and whilst representing the school does not cause embarrassment and that no action on their part compromises the mutual trust between the school and other employees or with the general public.

Annex 2

Examples of Misconduct

1. Gross misconduct

Where allegations of gross misconduct are found to be substantiated on completion of disciplinary investigation and hearing, the result will normally be summary dismissal without notice and without payment in lieu of notice.

The following, if occurring during the course of, or in connection with employment, would normally be regarded as gross misconduct:

- Discrimination or harassment of any kind i.e. On the grounds of race, sex or sexuality; bullying; victimisation.
- Mistreatment of children.
- Theft; fraud; deliberate falsification of records; misappropriation of funds or property
- Fighting or physical assault on another person relating to their employment
- Verbal abuse including swearing at colleagues, members of the public, suppliers or anyone else outside the school, or any kind of threatening or intimidating behaviour
- Improper disclosure of information/breaches of confidentiality (except in relation to the public interest disclosure act 1998)
- Serious negligence or breach of H&S procedures which causes unacceptable risk, loss, damage or injury to persons or property
- Deliberate damage to school property
- Corrupt practices; abuse of position for personal gain
- Insubordination; wilful or repeated failure to follow a legitimate instruction expressed or implied within the contract of employment
- Incapacity whilst at work due to the influence of alcohol or substance abuse
- Collusion with others to pervert the course of justice
- Falsely claiming to be sick
- Inappropriate conduct/behaviour which may bring the School into disrepute
- Conviction for a criminal offence
- Computer misuse e.g. Accessing/downloading pornography

2. Serious misconduct

- Computer misuse e.g. forwarding of inappropriate emails, unauthorised personal use.
- Loss or destruction of official papers
- Concealment of errors of work
- Failure to carry out proper procedures
- Failure to follow legitimate management requests
- Persistent unsatisfactory time-keeping
- Serious misconduct may also be a less serious type of conduct listed under gross misconduct.

3. Misconduct

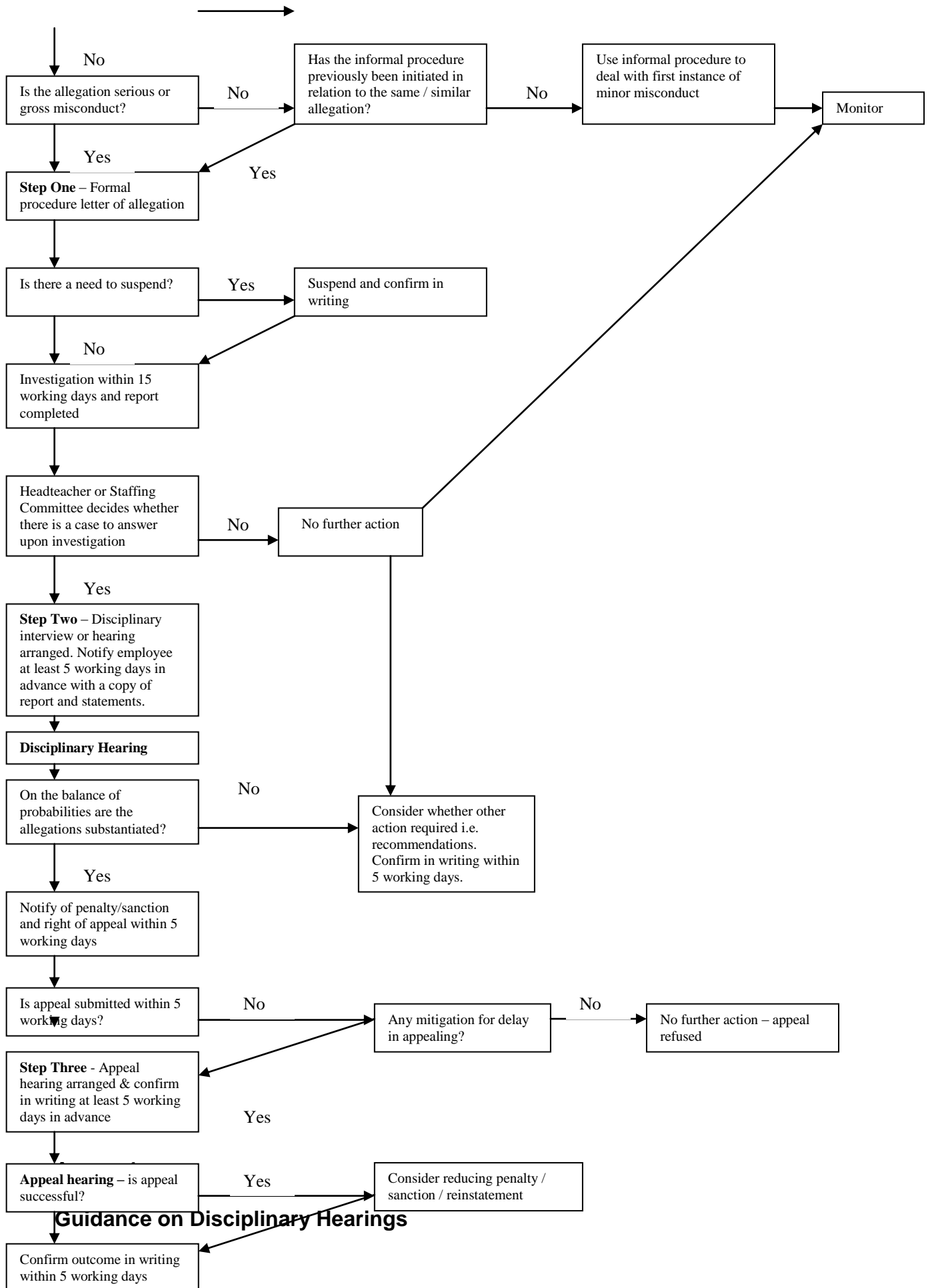
- An isolated and minor instance of improper use of official equipment or stationery
- An isolated and minor instance of unsatisfactory time-keeping or short unauthorised absence.
- A lack of professional courtesy to colleagues, public citizens, suppliers or anyone else outside the school.

It should be noted that whilst these lists are intended to be indicative, they are not exhaustive. In determining the appropriate outcome, each case will be judged objectively on its merits.

Is the employee in their probationary period?

Yes

Use Probationary procedure



The disciplinary hearing should normally be conducted as follows:

1. The chairperson should:

- Introduce those present and explain why they are there.
- Explain that the purpose of the hearing is to hear all the evidence and to make a decision as to whether the allegations are substantiated. The aim is to give a fair hearing in order, as far as possible, to establish the truth.
- State the nature of the allegation. Only the allegations communicated to the employee in writing in advance of the hearing can be discussed at the hearing.
- Explain how the hearing will be conducted and notify the employee that they can request an adjournment at any time during the proceedings.

2. The process for the hearing should normally be that:

- The investigation report is presented first by the investigator followed by questions from the panel and then the employee/representative.
- Either side may call witnesses relevant to the allegations but they must have been notified in advance of the hearing that they will be required to give evidence, and will only remain present whilst giving evidence.
- The employee and/or their representative are then allowed to present their case, followed by questions from the investigating officer and the panel.
- Each side sums up to the panel, but this should not include the introduction of any new evidence.
- The chairperson should ensure that the employee has had every opportunity to fully state their case before adjourning to make a decision.
- The chair/panel should always adjourn with the Human Resources advisor to consider the evidence and to reach an appropriate outcome. The HR Adviser is present to advise on procedure and does not have a vote in the determination of an appropriate outcome.

3. In making a decision the panel should:

- Ensure that there is sufficient information on which to reasonably form a belief.
- Have reasonable grounds for that belief i.e. balance of probabilities.
- Be satisfied that as thorough an investigation as was reasonable under the circumstances has been conducted and a fair procedure was followed.
- Agree a sanction that is appropriate to the level of misconduct and takes into account any previous warnings that have not expired.
- Consider whether any other penalties or recommendations are appropriate.

4. Where a decision has been reached:

- Wherever possible the employee should be recalled and informed of the outcome immediately after the adjournment.
- If disciplinary action is taken the employee should be advised of their right of appeal and the process for appeal.
- The chairperson should confirm the outcome and any expected improvement, in writing, within 5 working days.

Annex 5

Guidance on Appeals

The appeal hearing should normally be conducted as follows:

1. The chairperson should:

- Introduce those present and explain why they are there.
- Explain that the purpose of the hearing is to re-hear the case and to consider any specific grounds of appeal and decide whether the decision reached at the disciplinary hearing was appropriate.
- State the grounds for appeal. Only the grounds previously notified by the employee in writing should normally be considered.
- Explain how the hearing will be conducted and notify the employee that they can request an adjournment at any time during the proceedings.

2. The process for the appeal would follow the same format as the process for the disciplinary hearing as outlined in Annex 7.

3. In making a decision the Panel should:

- Ensure that they have sufficient information on which to make a decision.
- Not seek proof 'beyond reasonable doubt' but should consider whether a decision was a reasonable one to make in the circumstances. Where there is a conflict in written or verbal evidence the panel should take a decision on what was the most likely course of events, and whether, on balance, this was reasonable.
- In relation to procedural breaches, assess the impact that they had and what detriment they posed to the employee. It should not automatically follow that if minor breaches have occurred the decision should be overturned.

4. Where a decision has been reached:

- Wherever possible the employee should be recalled and informed of the outcome immediately after the adjournment.
 - The chairperson should confirm the outcome in writing within 5 working days.
-