

Disciplinary Policy and Procedure

Policy Details

Policy Level	Trust
Document Approver	Trust Board
Document Status	Final
Applicable to	All Trust Employees
Review Frequency	Every 3 Years

Revision History

Revision	Date	Details	Approved by
0	22 March 2024	First Issue	

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1. Introduction

This policy is designed to help and encourage all employees to achieve and maintain appropriate standards of behaviour and conduct. It provides a method of dealing with apparent shortcomings in conduct, and its main purpose is to encourage an employee whose conduct is unsatisfactory to improve. This policy does not form part of the terms and conditions of any employee's employment with the Trust and is not intended to have contractual effect. However, it reflects the Trust's current practices and employees are strongly encouraged to familiarise themselves with its content.

This policy will be applied consistently and fairly to all employees, based on the circumstances of their case. No-one will be treated less favourably on the grounds of their gender, disability, age, race, creed, colour, religion, nationality, ethnic or national origin, trade union membership or activity, sexual orientation, gender reassignment, medical condition or marital status. Furthermore, the Trust recognises its responsibility to ensure the implementation of the rules of natural justice as part of this policy: i.e. the employee should know the nature of the accusation against them; the employee should have an opportunity to state their case; the Trust should act in good faith.

Employees who raise genuine concerns through the Whistleblowing Policy (LT2-SP-007-I) in good faith are protected against any detrimental treatment as a result of raising a concern. Detrimental treatment includes dismissal or any disciplinary action as described in this policy.

The policy is written in line with the Advisory, Conciliation and Arbitration Service (ACAS) Code of Practice.

All proceedings under this policy shall be held in private and shall be confidential.

An overview of the process contained within the policy can be found in Appendix 1. This flowchart may be a helpful resource for employees when going through the process.

2. Scope of Policy

This policy applies where the Trust has received an allegation relating to the conduct of one of its employees. The origin of this allegation could arise through differing methods, for example, it could arise through the safeguarding process where the allegation relates to child protection concern, or it may arise from the employee's line manager where there are conduct concerns in the day-to-day behaviour or attitude. Where an employee is working their probationary period, this policy should be read in combination with LT2-SP-003-I.

This policy does not apply where there are matters of:

- minor misconduct that should be settled informally by means of counselling or informal reprimand in order to improve conduct
- grievance which is dealt with under the grievance policy (LT2-SP-002-I)
- competence or capability which is dealt with under the capability policy (LT2-SP-006-I), unless it is clear that the employee is capable of reaching the required standard and has actively not done so

- ill health which is dealt with under sickness absence procedures (LT2-NSP-008-I) unless there is good reason to believe that the absence or ill health are not genuine
- bullying, harassment, discrimination and/or victimisation which are dealt with in the first instance under bullying and harassment policies (LT2-NSP-006-I).

3. Responsibilities

The Trust recognises it has a statutory obligation to adopt formal policies and establish workplace procedures for dealing with staff conduct and discipline. The Trust recognises that disciplinary rules and procedures promote good employment relations and is committed to dealing with matters in a fair and consistent way.

The Headteacher has overall responsibility for promoting and maintaining standards of work conduct within each school and the Trust CEO has overall responsibility for promoting this across the Trust.

The Trust HR team are responsible for providing advice on this policy and appointing the investigating officer and panel and overseeing the effectiveness of action being taken.

In matters relating to disciplinary action falling short of gross misconduct and where dismissal is an unlikely outcome, the Headteacher will act as disciplinary officer as part of any hearing. In matters relating to gross misconduct or where dismissal is a potential outcome, a disciplinary panel comprising of three members will be established. It is expected that the Headteacher will be on this panel, along with a HR representative of the Trust and a third senior leader within the school.

The appeals process will be managed by the Chair of Trustees and coordinated by the Clerk to Trustees. The appeal panel will be made up of three trustees.

Disciplinary matters should normally be conducted within the timescales laid down in the policy.

All efforts should be made by employees to attend meetings that constitute part of this policy. When there are valid reasons to reschedule meetings, these should be rearranged within five working days where possible.

4. Representation

Employees have a statutory right to be accompanied at formal disciplinary meetings/hearings by their trade union representative or a workplace colleague. The Trust will extend this right and allow for employees to be accompanied at all informal meetings as part of the disciplinary procedure.

The employee is responsible for arranging their representation, including notifying the representative of the hearing date in good time and sending copies of all relevant documentation. Where the employee's trade union representative is not available at the time proposed for the meeting/hearing, the employee may propose an alternative date and time.

The Trust should try to agree a mutually convenient date for the meeting with the employee and their union representative in order to ensure that meetings do not have to be delayed or rescheduled.

The trade union representative may address a hearing/meeting to put the case for the employee and/or sum up the case, respond on behalf of the employee to any views expressed at the meeting/hearing and may confer with the employee. They may not, however, answer questions on their behalf.

The Trust will need to consider whether any additional support for the employee is required, for example to make reasonable adjustments where there is a physical disability or other special need.

5. Disciplinary action and trade union representatives

In the case where disciplinary action is being considered against an employee who is a trade union representative, the normal disciplinary policy will be followed. In accordance with the ACAS Code of Conduct, the Headteacher will discuss the matter at an early stage with an official employed by the union, after obtaining the employee's agreement.

6. Alleged criminal offences

The case of an employee charged with, or convicted of, a criminal offence should not normally in itself be a reason for disciplinary action. Consideration must be given to what affect the charge or conviction has on the employee's suitability to do the job and their relationship with the Trust and work colleagues. The disciplinary policy will only be instigated where there are reasonable grounds for believing that the nature of the activities is sufficiently serious to have an adverse effect on the ability of, or confidence in, the employee to carry out their duties properly.

Where an employee is alleged to have committed a criminal offence and police investigations are underway, disciplinary proceedings must be handled carefully and in accordance with police instructions so as not to interfere in the police investigation.

7. Safeguarding Offences

All disciplinary action which relates to safeguarding concerns must be undertaken in combination with the school's child protection and safeguarding policies. This includes reporting such concerns to the Designated Officer in the Local Authority (LADO). The investigation must be handled carefully and in accordance with the LADO instructions. The recommendations of the LADO should be taken into account when considering if to suspend the employee during the investigation.

Where a disciplinary panel concluded that a safeguarding allegation was substantiated but to a level short of dismissal, i.e. the employee received a written warning, then the school Designated Safeguarding Lead (DSL) shall be made aware and provide necessary training or supervision. However, broader personal details of the case shall be kept confidential in line with this policy.

8. Suspension

It may be necessary for the Trust to suspend an employee whilst an investigation is taking place. Any suspension will be no longer than is reasonably necessary and will be on full pay and from all performance of duties.

Suspension is a neutral act and is not disciplinary action.

The Trust may suspend an employee from duty on full pay at a formal meeting called for the purpose. The employee will be given an opportunity, wherever possible, for a colleague or trade union representative to be present. Suspension could result from:

- any suspicion or allegation of gross misconduct;
- any suspicion constituting a potential risk to other staff, pupils, themselves or to the property;
- any suspicion they would potentially impede or prevent a full and proper investigation;
- their continued presence seriously undermining the reputation of the Trust, or;
- any suspicion constituting a risk of a repetition of any serious alleged misconduct.

A written record confirming the suspension will be provided to the employee within two working days of the suspension. Unless the employee has specific written permission from the Trust, the employee may not be present on any part of the academy site during the time of the suspension. A suspended employee should be assigned a contact officer who should be a senior member of staff not involved with the case. The contact officer will review the suspension at regular intervals (every two weeks where appropriate) and advise the employee of progress with the case.

Further guidance for carrying out a suspension is provided in Appendix 3.

Alternative actions to suspension, if necessary, could be a temporary change to duties, working arrangements or a transfer of workplace. Where an employee has made an allegation against their line manager, if there is no reasonable need to suspend that individual their line management responsibility should be temporarily removed whilst the investigation is completed.

9. Duty of care

The Trust recognises that employees subject to allegations relating to their behaviour or conduct, employees/pupils raising allegations, or employees conducting investigations may find the process outlined in this policy difficult or stressful. Those leading any such process will be expected to take active steps to ensure that support mechanisms are identified and offered as appropriate on a case-by-case basis, including encouraging the employee to seek advice and support from their Trade Union, nominating a senior member of staff (contact officer) to act as a pastoral contact and providing details of the Trust's employee assistance programme who can provide wellbeing support throughout the process. Trust HR is available to support the Investigating Officer through this process and provide advice in addition.

10. Definitions of misconduct and gross misconduct

Misconduct is where an employee breaks specific rules about behaviour or conduct. It is where conduct falls below expected standards and is usually wilful. There may be occasions when negligent conduct amounts to misconduct. Breaches of reasonable conduct at work can take many forms. Consideration will always be given to the particular circumstances and where mitigating circumstances are identified during the process this should be considered in the sanction applied.

Gross misconduct is misconduct which is so serious it may destroy the employment contract between the employer and the employee, and make further working relationships and trust impossible. Some gross misconduct breaches of discipline may be regarded as serious enough to warrant summary dismissal without reference to any prior warnings.

Examples of what could constitute gross misconduct and serious misconduct to aid decision making are provided in Appendix 2.

11. Informal stage

Where possible, potential disciplinary issues should be resolved informally by drawing the employee's attention to the perceived unsatisfactory conduct, discussing the situation and the standards of conduct that are required, and agreeing an appropriate way forward, including any improvement required.

Informal action may often be a more satisfactory way of dealing with a breach of rules than a disciplinary meeting if it takes the form of a discussion with the objective of encouraging and helping the employee. Informal discussion must not turn into a disciplinary meeting and warnings will not be given and recorded.

Consideration should be given to any difficulties that an employee may be facing and a genuine attempt should be made to help the employee to overcome them. Where considered appropriate, line managers should seek professional medical opinion and advice when managing staff who may be suffering from mental illness, alcohol or substance abuse. Where applicable, line managers could seek support from the Trust's occupational health provider to identify if reasonable adjustments could be made to improve their conduct at work.

The Trust HR team are available to support line managers in utilising the informal stage effectively and where support is needed line managers are encouraged to speak to the Trust HR team as soon as possible.

12. Investigation

No formal disciplinary action will be taken without a prompt and appropriate investigation into the circumstances.

Where a conduct issue exceeds the level for informal action and requires formal action, the Trust HR team should be contacted immediately regarding the allegations.

The Trust HR team will appoint an investigating officer who is a senior member of staff and who should normally have received relevant training. Where the allegations are against the

Headteacher, the Trust will appoint an independent investigating officer. The investigating officer will write to the employee at the earliest opportunity and give the following information:

- details of the allegation/s
- copies of appropriate and available information
- a copy of this disciplinary policy
- time and date of any investigation meeting, with five working days' notice
- confirmation of their right to representation by a trade union representative or colleague at all meetings
- how long the process is likely to take.

The investigating officer will promptly carry out a full, thorough, comprehensive and unbiased investigation into the allegations in as timely a manner as the circumstances will allow. Care will be taken to ensure that, where appropriate, evidence is also sought from employees who may be supportive of the employee's case. This will involve the gathering of all relevant evidence from the relevant parties and an investigation meeting with the employee. This may also include the gathering of physical evidence, such as but not limited to, emails, paperwork, receipts, computer records, phone records, CCTV recordings and attendance records.

Where an investigation is seeking to establish the facts regarding an alleged pattern of behaviour, it is important that a timeline of events is established and which evidence has been corroborated against that timeline.

The investigation report should be completed as soon as possible and within 15 working days for allegations of misconduct and other cases where the fact finding is relatively straightforward. For allegations of gross misconduct and more complex cases, the investigation process should take no longer than 20 working days. In very complex cases or exceptional circumstances, a reasonable timescale will be agreed by mutual consent.

The investigation may require employees and witnesses to be interviewed to establish the facts. Employees should be given notice of at least five working days in advance of any investigation meetings/interviews. Witnesses should be advised to seek advice as appropriate. Minutes of these meetings will be taken and agreed with the employee as a true record.

The role of the investigating officer is to gather evidence and produce a report that will recommend whether:

- no further action is required
- the Trust guidance is appropriate
- training is required
- the case should be referred to a hearing
- whether the matter is potentially one of gross misconduct.

If other areas of concern arise during the process that require further investigation, the investigating officer will adjourn the meeting/investigation in order to undertake this.

If there is no case to answer, the matter will be closed, the employee informed in writing and all documentation removed from the employee's file. If the matter does not warrant a disciplinary hearing, the Trust may arrange counselling or take informal action. If on completion of the investigation the investigating officer is satisfied that the alleged misconduct warrants a hearing, they will inform the employee and a disciplinary hearing will be arranged.

In the case of the Headteacher, the investigating officer will submit a report to the Trust CEO with a copy to the chair of Trustees. The Trust CEO and the chair of Trustees will decide if any further action is required and whether there needs to be a formal hearing convened with the Trust Board. The Trust will be represented on the panel.

Persons directly involved in the investigative process may present a case or appear as a witness, but may not give advice to, nor sit on, the subsequent disciplinary hearing panel.

For more guidance on conducting investigations, refer to Appendix 4.

13. Disciplinary hearing

The employee will be notified in writing (by registered post and email, unless otherwise agreed) of the following:

- the date, time and venue of the hearing – with at least 10 working days' notice from receipt of the letter. If the employee or their chosen trade union representative is unable to attend this hearing for a valid reason, a new date will be set within five working days
- the names of intended disciplinary panel members
- the specific nature of the allegation/s
- the right to produce written statements and to call witnesses
- the right to representation
- the names of any Trust witnesses
- all supporting documents to be used as evidence by the Trust
- the possible/likely outcome of the hearing if the allegations are considered proven, i.e. warnings, dismissal etc.
- a copy of the disciplinary policy.

The employee should be notified that if they wish to call witnesses or to provide relevant paperwork, this should be provided to the chair of the panel as appropriate, at least two working days prior to the hearing.

The Trust will make provision for any reasonable adjustments to accommodate the needs of a person with disabilities at the meeting. The Trust must be informed of requirements at least two working days before the hearing.

If the employee's chosen representative is not able to attend, an employee may offer a reasonable alternative time within five working days of the original date, unless mutually agreed otherwise.

As per the responsibilities in section 3, the case will be heard by either the Headteacher or a disciplinary panel depending on the severity and potential outcome.

If the employee fails to attend the hearing, the case will be heard in their absence, unless acceptable reasons have been presented in advance and it is therefore agreed to postpone the hearing to a later date.

It is for the Headteacher/chair of the panel to decide whether late evidence from either side is acceptable. The views of both parties should be sought when considering the late admission of evidence, and the Headteacher/chair should consider the fairness and reasonableness when making their decision. If the late evidence accepted is in written form, it would be usual to allow a brief adjournment for reading the document/s.

The Headteacher/chair must ensure that the employee receives a fair and impartial hearing, is encouraged to be represented or accompanied, is allowed to present their case or have it presented, and is allowed to bring witnesses and to question the Trust case presenter and any Trust witnesses.

It is not recommended to make an immediate decision on the outcome of the hearing and the sanction, if applicable. The panel should convene in private to deliberate on the evidence and reach a consensus decision. This should be as quick as possible, whilst ensuring fair assessment of all evidence, and the decision should be confirmed in writing to the employee within 10 working days of the hearing.

For more guidance on conducting hearings, refer to Appendix 5.

14. Disciplinary sanctions

The possible actions arising from a disciplinary hearing are:

- No further action to be taken.
- Recorded verbal warning – this will remain on the employee's record for 3-6 months dependent on the nature and severity of the breach.
- Written warning – this will set out the nature of the misconduct/reasons for the warning, and any improvements and the change in behaviour required. The employee will be notified that the warning constitutes part of the formal disciplinary process and the consequences of any further misconduct could be a further written warning and ultimately dismissal. It will remain on the employee's record for six to 12 months.
- Final written warning – this will be given where misconduct is serious but is not considered serious enough to justify dismissal. A final written warning may also be issued where there is a failure to improve following previous written warning/s. It will remain on the employee's record for 12-18 months dependent on the nature and severity of the breach.

- Summary dismissal - this will be given where misconduct is serious and the employee is unable to return to work for a significant reason, for example serious safeguarding or criminal actions.

Where a final written warning is issued during the term of a first written warning, the duration of the final written warning will supersede that of the first written warning. Upon expiry, the warning will be removed from an employee's personnel file except for warnings relating to the safety and welfare of children or young people.

The written notification will include the following information:

- the exact nature of the misconduct proven
- the basis of their decision
- the period of time given for improvement, if appropriate, and the standard of improvement expected
- the disciplinary sanction being applied and, where appropriate, how long this will last
- notification of the likely consequences of further proven misconduct
- information about the employee's right of appeal, including how they should make it and to whom.

15.Appeals

An employee can appeal against any formal disciplinary action. The appeal must be made in writing to the Chair of Trustees via the Trust Clerk (lt2clerk@learningleading.org) within 10 working days of receipt of the decision letter.

Disciplinary appeals will usually be conducted and determined by a panel of three members of the Trust Board.

Appeals against the fairness and reasonableness of any disciplinary action may be considered by the appeals panel in relation to one or more of the following grounds:

- The procedure – the grounds of appeal should detail how any procedural irregularities prejudiced the disciplinary decision.
- The facts – the grounds of appeal should detail how the facts do not support the decision or were misinterpreted or disregarded. They should also detail any new evidence to be considered.
- The decision – the grounds of the appeal should state how the act(s) of misconduct did not justify the level of disciplinary action taken or the act was one of misconduct rather than gross misconduct.

Wherever possible the appeal should be heard within 20 working days of the lodging of the appeal, and the employee should have at least ten working days' notice of the appeal hearing.

No member of the disciplinary hearing panel shall be a member of the appeal panel. All documentation presented to the hearing, together with the decision of the

Headteacher/chair of the panel, as well as any subsequent correspondence, must be made available to the appeal hearing panel. Any new evidence should be copied to all parties at least five working days before the appeal hearing.

Dismissal and notice periods are effective from the initial dismissal decision. Should the appeal be successful, reinstatement will also be from the original date with no break in employment continuity.

16. Appeal hearing

The appeal panel will deliberate in private, paying particular attention to any new evidence that has been introduced by the employee as well as hearing representations from both the Trust and the employee or representative, in order to determine whether the decision of the hearing was fair and reasonable in view of the evidence available. The appeal panel cannot increase the disciplinary sanction but they may confirm, revoke or substitute the decision. The decision of the appeal panel is final and binding on all parties.

Minutes of the appeal hearing will be taken by the Clerk to Trustees or another suitable person, as arranged by the Trust. Copies of the notes will be circulated to all parties within two working days of the hearing.

Refer to Appendix 5 for further details on the appeals hearing procedure.

17. Grievance

Sometimes an employee may raise a grievance during the course of a disciplinary case. Where this happens, and depending on the circumstances, it may be appropriate to suspend the disciplinary process for a short period until the grievance can be considered. The school may need to consider changing the investigating officer or disciplinary panel to continue to hear the disciplinary case. Grievances relating to the process may be heard during the disciplinary hearing or the appeal hearing.

18. Record keeping

Managers and panels must keep written records of meetings and discussions relating to the disciplinary process. Copies of all final meeting records must be given to employees. Written confirmation of the outcome of any meetings will be sent to the employee for their information and a copy kept on the employee's personnel file.

Upon expiry, any warning will be removed from the employee's personnel file except for warnings relating to the safety and welfare of children or young people.

19. Resignations and settlement agreements

Keeping Children Safe in Education 2023 sets out specific requirements in relation to handling allegations concerning the safety and welfare of children and young people.

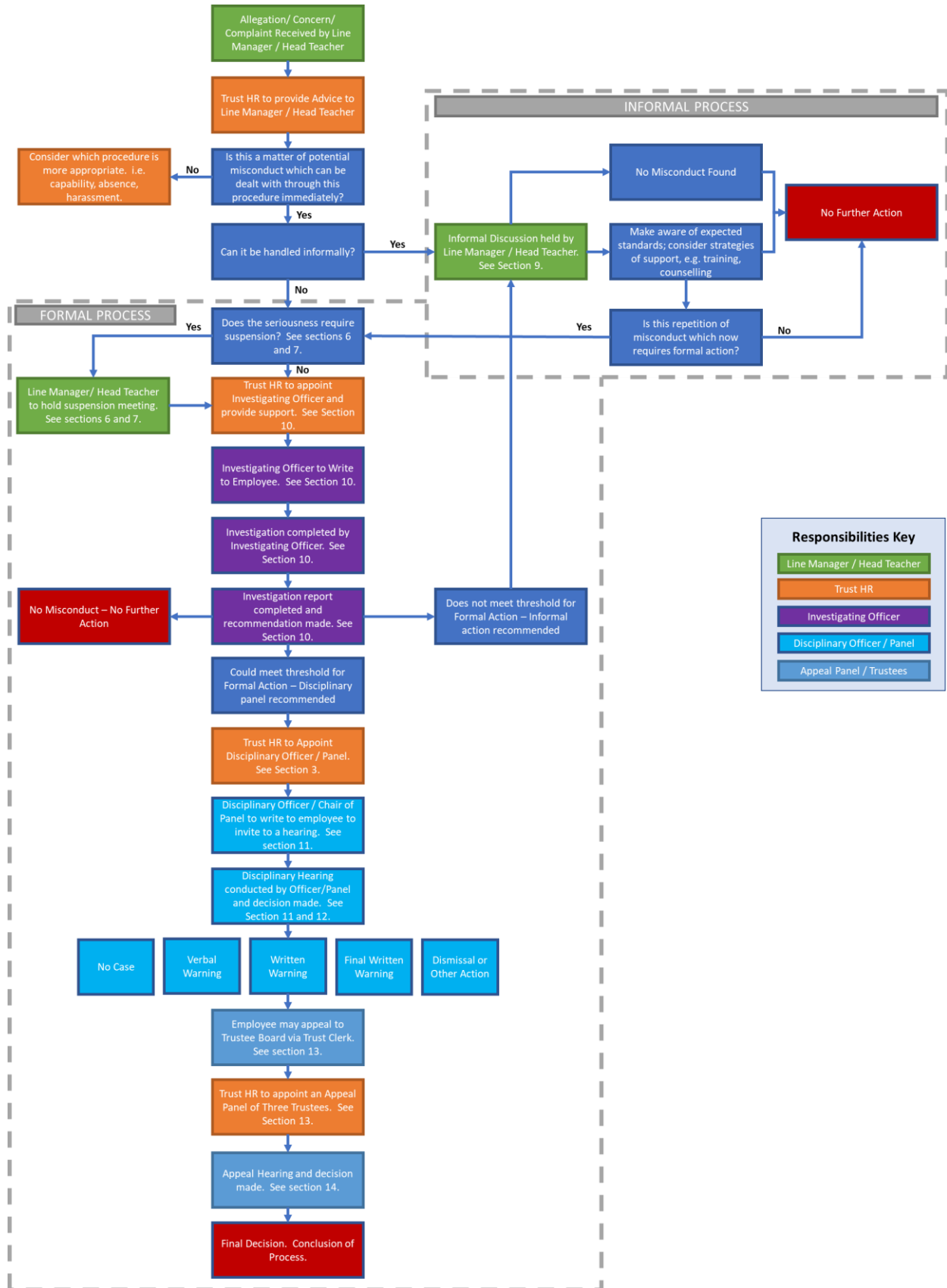
"Allegations concerning the safety and welfare of children must be investigated and heard even if the employee has resigned. The School must reach a conclusion of the investigation whether or not the ex-employee co-operates in the proceedings."

“Settlement Agreement is a legal device to terminate the employee’s contract in which an employer agrees not to pursue a disciplinary process and an employee agrees not to pursue any legal claim against the employer. Where there are allegations concerning the safety and welfare of children, a Settlement Agreement must not be used.”

20. Appendices

Appendix 1	Flow Chart to Assist with Disciplinary Issues
Appendix 2	Examples of Misconduct and Gross Misconduct
Appendix 3	Guidance for Carrying Out a Suspension
Appendix 4	Guidance for Conducting Investigations
Appendix 5	Guidance for Completing a Disciplinary or Appeal Hearing

Appendix 1 – Flow Chart to Assist with Disciplinary Issues



Appendix 2 – Examples of Misconduct and Gross Misconduct

Gross Misconduct

The following are examples of issues which might constitute gross misconduct. These are illustrative only and do not constitute an exhaustive list.

- A fundamental and/or willful breach of the Trust policies. Including serious breaches of the Trusts Data Protection Policy, Code of Conduct, Electronic Communications Policy and Bullying and Harassment Policy.
- Serious breaches of the Trust's Safeguarding and Child Protection Policies and Procedure and, in respect of teaching staff, serious breach of the standards of professional conduct as set out in the Teacher's Standards. A serious breach in relation to these policies would be defined as putting the pupils, colleagues or trust at risk of harm, this could be identified as being Tier 3 or higher in the LADO Threshold Document.
- Discrimination or harassment or other breach of the Trust's Equal Opportunities and Diversity Policy.
- Gross negligence or dangerous behaviour, which causes or might cause unacceptable loss, damage or injury.
- Grossly indecent or immoral behaviour.
- Intimidating or threatening or violent behaviour, verbally, fighting or physical assault. This does not need to take place on Trust premises to be covered by this policy.
- Deliberate falsification of any records (e.g. Sickness Self-Certification Form and time-sheets) in respect of the employee or any fellow employee.
- Undertaking private work on the premises and/or during working hours and wilful disregard of duties or of instructions. Or allowing or assisting any unauthorised person to gain entry to the premises.
- Giving or receiving a financial or other advantage in connection with the improper performance of a position of trust, or a function that is expected to be performed impartially or in good faith.
- Theft or misappropriation of money or property whether belonging to the Trust, another employee or a third party.
- Unauthorised consumption of alcohol on the premises, or reporting for work under the influence of alcohol or controlled drugs. Any taking or possession of controlled drugs or stimulants, which have not been prescribed by a registered medical practitioner.

- Destruction/sabotage of Trust property or any other property on the premises.
- Serious Health and Safety breaches, for example intentionally leaving a child unattended or put in harms way.
- Gross insubordination and/or refusal to obey legitimate instructions given by any members of the Senior Leadership Group.
- Any breach of a legal statute, which has a direct effect on the employee's ability to undertake stated duties and/or on the desired characteristics of his or her position.
- Any fundamental and/or substantial breach of trust or unauthorised disclosure of information relating to the Trust's or its students' affairs to third parties (Declaration of Pecuniary Interest).
- Deliberately driving on Trust business without an appropriate licence and/or the appropriate insurance.
- Failure to inform the Senior Leadership Group of any criminal charges/convictions or police cautions that are relevant to the employee's employment.
- Repeated offences where a formal written warning has previously been issued.

Serious Misconduct

The following are examples of issues which might constitute serious misconduct. These are illustrative only and do not constitute an exhaustive list. Serious misconduct could result in a final written warning.

- Breaches of the Trust's Safeguarding and Child Protection Policies and Procedure and, in respect of teaching staff, breaches of the standards of professional conduct as set out in the Teacher's Standards, which constitutes unacceptable behaviour but poses none or limited threat to pupils, colleagues, or members of the public. This could be categorised as Tier 2 or lower in the LADO Threshold Document.
- Breaches of Trust policies which are serious but considered unintended or accidental or where the burden of proof is not high enough to justify gross misconduct.
- Making or initiating public statements likely to lead to a lowering of public confidence in the Trust including seeking to use the media to raise issues and inappropriate postings on social networking sites.
- Use of school resources for personal use.
- Consistent underperformance in their role which is attributed to conduct rather than capability, for example consistently poor punctuality, or lack of attentiveness in completing contracted duties.

- Persistent wearing of inappropriate attire.
- Unprofessional or inappropriate comments in breach of code of conduct.
- Absences from duty without authorization.
- Insubordination (refusing to do work or a specific task without good reason)
- Repeated offences where a formal first written warning or verbal warning has previously been issued.

Misconduct

The following are examples of issues which might constitute misconduct. These are illustrative only and do not constitute an exhaustive list. Misconduct could result in a first written warning or a formal verbal warning.

- One-off incidents which need to be formally acknowledged and addressed (informal action decided to be inappropriate) but which do not meet the threshold of serious or gross misconduct, for example unacceptable comments made to colleagues or students.
- Recurring incidents which have been attempted to be resolved through informal means but have been unsuccessful, for example, wearing inappropriate clothing to work or persistent lateness.

Appendix 3 – Guidance for Carrying Out a Suspension

You should only suspend someone if it's a reasonable way of dealing with the situation. If it's not reasonable, there's a risk you could be breaking the employment contract, which could lead to legal action.

To help decide whether suspension is reasonable, you should consider:

- what you've found so far;
- the wellbeing of the person under investigation, and how their mental health might be affected if they're suspended;
- the risks if you do not suspend an employee – this might be a risk to children, others at work, the business or the investigation;
- how serious those risks are;
- any alternatives to suspension you could use.

Suspensions should be as short as possible. The longer someone is suspended, the higher the chance it will affect their health and wellbeing and could lead to a breakdown in trust between employer and employee.

It is important to note that a suspension is a neutral act and therefore there should be no implication of guilt during the suspension process both in terms of how this is communicated verbally to the employee and presentationally how this is carried out. Care should be taken that a public scene is not created and all conversations should take place in a private location.

Once it has been established and agreed by the headteacher or Trust CEO (where they are a Trust central team employee) that a suspension is warranted, based on the nature of the allegations, there should be immediate action taken by the headteacher/CEO.

If the nature of the allegations presents an immediate risk to the safety of children, then the employee must be immediately removed from their lesson or office but care must be taken to ensure neutrality and it must be conducted in a way not to cause alarm or speculation amongst students or colleagues.

If the nature of the allegations does not present an immediate risk to the safety of children, then the employee should be asked to attend a meeting with the Headteacher/CEO at a suitable time fitting in with the timetable that day and allowing suitable cover to be put in place for the remainder of the day. It is not necessary to remove someone in front of students or colleagues if there is not an immediate risk.

Immediate risk will be a subjective decision and should be agreed between the Headteacher and CEO and, in allegations related to child protection, the Designated Safeguarding Lead (DSL) at the school where the incident took place and in line with the school child protection and safeguarding policy. An example of an immediate risk is a safeguarding concern for a

pupil who is going to be taught that day by the teacher in question. In this situation there is an immediate risk and action should be taken before that lesson is scheduled.

The Headteacher or CEO should hold a meeting with the employee and explain to them that they are being suspended on full pay whilst an investigation is completed in relation to allegations made about their conduct. To ensure confidentiality of the accuser, they are not permitted to know who made the claims against them at any point in this process. However, the general reasons for the suspension should be explained to them as this may help them understand the situation and show that a fair procedure is being followed.

For example, it could help to tell them:

- What the investigation is about.
- why they are involved.
- why it was decided to suspend them.

For example, it could relate to a bullying claim made against them within a given date range, or it could relate to a safeguarding concern which has been raised through a yellow form.

You should state and ensure the employee understands that:

- The suspension does not mean they have decided that they have done something wrong and that the investigation will be fair and they will have the opportunity to present their point of view and own evidence.
- The investigation process may take some time to complete and set out the likely timescales and what the next steps will be.
- They will still remain on full pay and benefits during this period of suspension.
- Unless the employee has specific written permission from the Trust, the employee may not be present on any part of the academy site during the time of the suspension.
- They will be assigned a contact officer who should be a senior member of staff not involved with the case. The contact officer will review the suspension at regular intervals (as specified in this policy) and advise the employee of progress with the case.
- Confirm the contact details and emergency contact details we hold for them are correct as they will not have access to their school/trust email account.
- There is support available to them through our Employee Assistance Program and they should be provided with the contact information for this service. They can also request the support of their Trade Union or a colleague throughout this process.

A written record confirming the suspension will be provided to the employee within the timeframe detailed in this policy using letter template **LT2-CO-001-I**.

Summary of Timelines for Suspension

Action	Time to Complete
Suspension Meeting	Same day as decision to suspend
Written Notification of Suspension	Within 2 working days of suspension meeting
Contact Officer to review with suspended employee	At least every 2 weeks

Appendix 4 – Guidance for Conducting Investigations

How to conduct a Disciplinary Investigation

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

The role of an investigator is to be fair and objective so that they can establish the essential facts of the matter and reach a conclusion on what did or did not happen. An investigator should do this by looking for evidence that supports the allegation and evidence that contradicts it.

It is important to recognise the employee is not yet found guilty and may return to the work environment, therefore to maintain existing work relationships it is important to be neutral and demonstrate that you are acting on behalf of the Trust and trying to establish both sides of the argument.

Planning for an Effective Investigation

The Investigating Officer will make an Investigation plan and may look into the following (depending on the situation):

- what needs to be investigated
- who is carrying out the investigation
- anyone who needs to be spoken with ('witnesses')
- any sources of evidence, for example work records, emails or CCTV recordings
- any time limits, for example CCTV footage being deleted or staff going on leave
- timeframes
- policies or workplace guidelines to follow
- whether the person investigating is expected to give recommendations at the end of the investigation
- setting out the importance of confidentiality
- any other relevant points or information

A clear plan can help to:

- make the investigation as quick and easy as possible
- make clear exactly what needs to be done
- make sure the process is full and fair
- avoid negative effects on staff or the organisation

Notifying an Employee about an Investigation

When the Investigating Officer tells the employee they are opening an investigation, they will explain:

- why they're carrying out an investigation
- who will be carrying it out
- what they're going to do
- that they'll need to talk to any witnesses
- how long it could take
- what will happen next, for example a meeting
- that everything will be kept confidential

The employee should not be told who has made the claims against them in order to protect the privacy of that person, however they should be given as much information as reasonably possible to give them confidence in the process. This could include the broad reasons for the allegations so they can be prepared for any meeting but care must be taken not to provide specific information which could identify individuals.

The employee should be notified tactfully, respecting their own right to privacy on the matter. Letter template **LT2-CO-002-I** should be used by the investigating officer to contact the employee.

Holding Investigation Meetings and Finding Evidence

It can be beneficial to encourage a neutral and relaxed atmosphere during any investigation meeting, regardless of the allegations made and any personal thoughts you may have. This will reduce the likelihood of creating a hostile environment and make the employee more comfortable in answering difficult questions.

Tips for conducting a fair and thorough investigation:

- Make written records of all conversations and evidence reviewed
- Take care to ask the right questions so that you are not leading participants
- Use open questions to provide broad responses and closed questions to clarify specific points raised
- This is not an interrogation – avoid framing questions towards the individual, i.e. why did you do that?
- Ask one question at a time
- Verify information where possible to establish facts

- Refer to policies and statutory requirements if relevant
- Maintain confidentiality throughout

If the employee is refusing to answer questions relating to a topic or is purely stating it did not happen, then it is in the best interests of the investigation to try and extract more information from the employee as this would be a contested fact in the report. An example question could be, “I understand you do not recognise this allegation, however the evidence I have been presented with is [X] and I would like to understand all possible scenarios as part of my investigation. Therefore, can you think of any instances which could have resulted in this allegation other than those I have mentioned?”.

The Investigating Officer can use the letter template **LT2-CO-003-I** to invite the employee to a meeting to discuss the allegations made about them.

Reporting the investigation findings

Once the investigation has been concluded as far as reasonably possible and appropriate, you will need to produce an investigation report that explains your findings. The report should cover the facts that were and were not established, and whether there were any mitigating circumstances. No information should be excluded where relevant so that it can be considered unbiased.

The report should reflect your own conclusions, however your opinions on what may or may not have occurred should not form part of this report as they are not relevant facts to the disciplinary process. The report should be written in an objective style, avoid the use of jargon, be kept simple wherever possible, be concise and explain any acronyms used.

You may use template **LT2-TE-003-I** to write the report. An investigation report should cover (where sections are applicable):

Introduction	Investigation authorized by (name and role) Investigator (name and role) Date investigation began Terms of reference / scope of the investigation Brief background on the investigation
Process of the investigation	Explain how the investigation was authorized Evidence collected Evidence not collected Persons interviewed Persons not interviewed Anonymised statements
The investigation findings	Summary of written and physical evidence - name and summarise each document contained, set out how the evidence supported or did not support your findings and why

	<p>Summary of witness evidence - name and summarise each witness statement, quote from statement where relevant, set out how the witness statement supported or did not support your findings and why</p> <p>Facts established</p> <p>Facts that could not be established</p> <p>Mitigating factors</p> <p>Any other relevant information</p>
Conclusion of report	<p>Recommendation</p> <p>Further details on recommendation - such as the type of action suggested and if there are any other recommendations related to the matter. In disciplinary matters, the investigator should not recommend a possible sanction. This should only be considered at a disciplinary hearing.</p>
Supporting documents	<p>List all documents collected as part of investigation and included in report</p>

Where there is not absolute certainty on a matter, you should arrange your evidence into:

- **Uncontested facts** – where facts are not in dispute
- **Contested facts** – where facts are contested or contradictory, you should determine what, on the balance of probabilities, took place
- **Unsubstantiated claims** – where it has not been possible to substantiate an allegation

The report should make a recommendation on whether further action may be necessary or beneficial. The recommendation should be either formal action, informal action, or no further action.

Formal Action – This could be first written warning, final written warning, or dismissal to be determined in the disciplinary hearing.

Informal Action – This could be a verbal warning which identifies training, counselling, or mediation and should be discussed with their line manager and Headteacher.

No Further Action – No actions necessary, but could recommend that counselling, or mediation would be beneficial to the parties in the organisation.

The Investigating Officer should notify the employee in writing regarding the outcome of the investigation and next steps. The letter template [LT2-CO-004-I](#) can be used to support this.

Summary of Timelines for Investigation

Action	Time to Complete
Investigating Office to write to employee to outline investigation	As soon as possible once appointed
Notice of Investigation Meeting	5 working days' notice
Investigation Report Completed	15 working days for misconduct cases 20 working days for potential gross misconduct cases

Appendix 5 – Guidance for Completing a Disciplinary or Appeal Hearing

Procedure for a hearing

Before the Hearing

In good time before the hearing, the Headteacher or the Chair of the Panel should put in writing to the employee using letter template **LT2-CO-005-I**:

- the alleged misconduct or performance issue
- any evidence from the investigation
- any other information they plan to talk about
- the date, time and location of the hearing
- information on the employee's right to be accompanied to the hearing
- the possible outcomes

All evidence must be submitted to the Headteacher or Chair of the Panel at least **two** working days prior to the hearing. Once the final evidence list is established and the agenda has been set, this must be sent to all members of the panel, the employee, and their representative on the same day (**two** working days prior to the hearing) to allow time to review all the evidence which will be presented and prepare questions for witnesses.

During the Hearing

The Headteacher or Chair of the Panel will chair the meeting and ensure that all parties have the opportunity to fairly state their case. As part of the introductions, the Chair should acknowledge the likely stress caused by this situation for the employee and ensure they are comfortable and have the opportunity for a break during the hearing should they need it.

The case for the Trust will be made by the Trust Representative. The Trust representative may be the Investigating Officer or may be someone independent of the investigation who is coordinating the evidence collated. The case for the employee may be made by themselves or their appointed representative. Note that their representative should not answer on their behalf during any questioning. It is advisable to agree between all parties that evidence will be heard in full before questioning so that the full picture can be presented without talking over each other. The employee should be assured that their perspective will be heard by the panel should they disagree with the evidence presented.

Witnesses called should only be present in the room whilst they are giving evidence. Once they have completed their evidence, they should leave the room. Any written statements should be treated as evidence and submitted to all parties in advance of the hearing in line with this policy. Verbal questioning of witnesses should be minuted for the record.

Minutes should be taken by a suitable individual from the Trust. In the disciplinary panel this is most likely to be an employee of the school operational team and in the appeal hearing this is most likely to be the clerk to the Trustees. Copies of all minutes should be circulated to all parties as soon after the hearing as possible.

After the Hearing

Once the Headteacher/panel have heard the case and are satisfied that all relevant evidence has been provided, they will consider all the facts of the case, whether these constitute unacceptable conduct and what the level of sanction should be, if any. Any potential mitigating factors should be highlighted during the hearing and there should be an opportunity for the employee or their representative to raise these. These discussions should be minuted but any observers or witnesses to the hearing should leave the room during these deliberations.

A decision does not have to be made immediately following the hearing if further time is needed for deliberation. It should be explained to the employee that a decision will be communicated to them in writing within the timeframes outlined in this policy.

If the panel decides there has been no unacceptable conduct, they will write to the employee to inform them that there is no case to answer and that all record of the process will be removed from the file.

If the panel consider that unacceptable conduct has taken place, they will write to the employee and their representative to let them know in line with this policy.

The letter template **LT2-CO-006-I** can be used to communicate this outcome.

Before deciding what disciplinary sanction to impose, if any, the Headteacher/panel should also consider whether the employee has been subject to any previous disciplinary action and whether any warnings are still current.

Summary of Timelines for Hearing

Action	Time to Complete
Notice of disciplinary hearing date	10 working days
Notice to request change of date	5 working days
Submission of all witnesses and evidence to Chair	2 working days prior to hearing date
Request for reasonable adjustment for the hearing	2 working days prior to hearing date
Circulation of agenda and all evidence and final witness list	2 working days prior to hearing date
Decision of panel	As soon as possible following hearing date
Decision of hearing in writing to employee	10 workings following hearing date
Notice of appeal of decision	10 working days from decision letter
Notice of appeal hearing date	10 working days prior to hearing date
Deadline for new evidence to be submitted	5 working days prior to hearing date
Completion of appeal hearing	20 working days from appeal notification
Circulation of appeal hearing minutes	2 working days following appeal hearing

Guide to Structuring a Hearing

<p>1. <i>Preliminaries</i></p>	<p>Introductions, identification of panel members, employee, representative, HR support if not on the panel, observers and why they are present, note taker.</p> <p>Where witnesses are called, they are only present for the period of questioning.</p>
<p>2. <i>Trust case</i></p>	<p>The Trust representative presents the Trust case and calls witnesses for the Trust case.</p> <p>Employee/representative have the opportunity to question the Trust representative and witnesses.</p> <p>Headteacher/panel have the opportunity to question the Trust representative and witnesses.</p> <p>Further questions if necessary from the employee/representative. Further questions if necessary from Headteacher/panel.</p>
<p>3. <i>Employee's case</i></p>	<p>Employee/representative presents their case and calls witnesses for the employee's case.</p> <p>The Trust representative has the opportunity to ask questions of the employee/representative and witnesses.</p> <p>Headteacher/panel have the opportunity to ask questions of the employee/representative and witnesses.</p> <p>Further questions if necessary from Trust representative. Further questions if necessary from Headteacher/panel.</p>
<p>4. <i>Summing up</i></p>	<p>The Trust representative has the opportunity to sum up their case (no new evidence to be submitted at this point).</p> <p>The employee/representative has the opportunity to sum up his/her case (no new evidence to be submitted at this point).</p>
<p>5. <i>Adjournment and deliberation of whether misconduct has taken place</i></p>	<p>The Headteacher / chair of the panel will outline the next steps to the employee and the timeframe for written notification of the outcome of the hearing.</p> <p>The Trust representative and employee/representative to withdraw.</p> <p>Headteacher/panel to consider the facts presented to them and determine whether misconduct has taken place. Where misconduct has taken place, the Headteacher/panel to consider the appropriate sanction based on this policy and historical approaches taken in similar situations by the Trust.</p> <p>The hearing may also be adjourned at the deliberation stage in order to allow for further investigation if the Headteacher/panel feels that there are points that require clarification. An opportunity may be given to re-examine the evidence/witnesses.</p> <p>Decision of panel to be confirmed in writing to all parties within the timeframes outlined by this policy.</p>