

Greenshaw Learning Trust

Staff Disciplinary Procedure

May 2018

This Greenshaw Learning Trust Procedure applies to the Greenshaw Learning Trust as a whole and to all the schools and service units in the Trust, in accordance with and pursuant to the GLT Human Resources Policy. The Greenshaw Learning Trust, including all the schools and services within the Trust, their Trustees, governors and staff, must abide by this GLT Procedure.

The Greenshaw Learning Trust is the single employer of all staff within the Trust's schools and in its central services.

The Trust seeks to ensure that all employees achieve and maintain the required standards of behaviour and conduct and where standards are deemed to be unsatisfactory, to support staff to improve. Failure to comply with the expected standards of behaviour / conduct may lead to this Disciplinary Procedure being invoked. The Procedure will be applied consistently and in a non-discriminatory way in order to ensure fair treatment of all employees.

It is the responsibility of the local governing body and Headteacher of each school, and the Board of Trustees and Executive Headteacher for Trust central services, to ensure that their school/service and its staff adhere to this Procedure; in implementing this Procedure the local governing body, Headteacher and Trust staff must take account of any advice given to them by the GLT Head of HR the Executive Headteacher and/or Board of Trustees.

This Procedure is subject to the Scheme of Delegation approved for the school or service. If there is any ambiguity or conflict then the Scheme of Delegation and any specific Scheme or alteration or restriction to the Scheme approved by the Board of Trustees takes precedence.

If there is any question or doubt about the interpretation or implementation of this Procedure, the GLT Head of HR should be consulted.

Approval and review:

This Procedure is the responsibility of the GLT Head of HR.

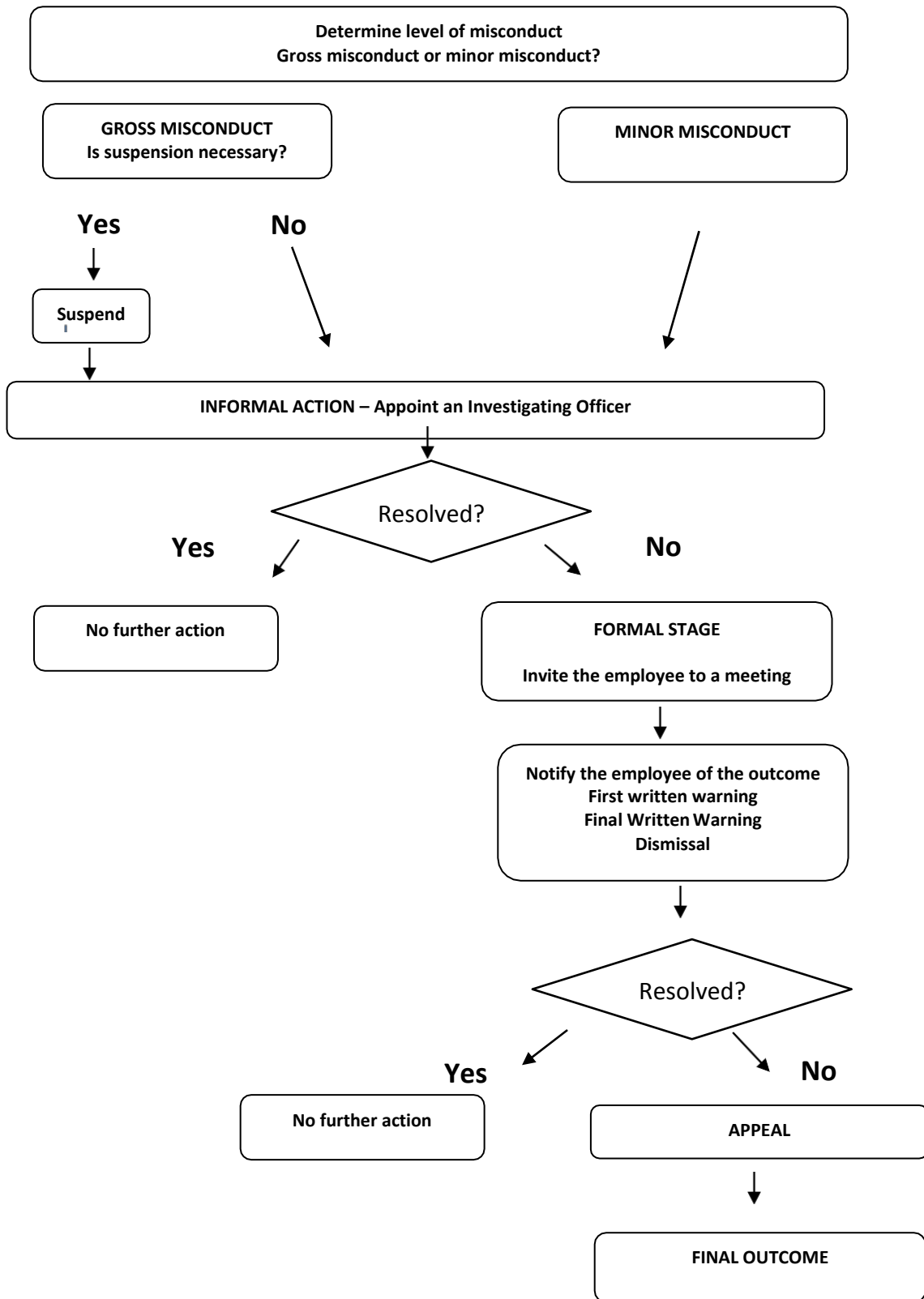
This Procedure was approved by the Board of Trustees on: 23 May 2018

This Procedure is due for review by: May 2021.

This Procedure was approved following consultation with Trade Unions. It will be reviewed from time to time in full consultation with Trade Unions.

The Greenshaw Learning Trust is a charitable company limited by guarantee registered in England & Wales. Company number 7633694, registered office Greenshaw Learning Trust, Grennell Road, Sutton, Surrey, SM1 3DY.

Disciplinary Procedure – Outline Flowchart



It is good practice to allow the employee to be accompanied at all stages of the disciplinary process by a trade union representative or work colleague.

DISCIPLINARY POLICY AND PROCEDURE

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PART A - DISCIPLINARY PROCEDURE

1. Introduction

- 1.1** This Disciplinary Procedure applies to all Greenshaw Learning Trust employees.
- 1.2** The Greenshaw Learning Trust has a Staff Code of Conduct which outlines the rules and standards expected of all staff, including timekeeping, absence, health and safety, use of the school's facilities, discrimination, harassment, bullying and standards of personal appearance. The Teachers' Standards also set a clear baseline of expectations for the professional practice and conduct of teachers. Failure to comply with these expected standards of behaviour / conduct may lead to this Disciplinary Procedure being invoked.
- 1.3** The GLT Head of HR should be informed whenever disciplinary action is commenced and will provide advice and guidance accordingly.
- 1.4** The aim of this Procedure is to help and encourage all employees to achieve and maintain the required standards of conduct and where standards are deemed to be unsatisfactory, to support staff to improve. This policy and procedure will be applied consistently and in a non-discriminatory way in order to ensure fair treatment of all staff. Wherever possible any issues should be dealt with informally. The aim of this policy is correct behaviour not to punish wrongdoing.
- 1.5** No disciplinary action will be taken against an employee until there has been a full investigation.
- 1.6** This Procedure may be implemented at any stage dependent on the severity of the complaint.
- 1.7** An employee will not be dismissed for a first offence except in case of gross misconduct.
- 1.8** Information relating to disciplinary issues will be treated with sensitivity and in the strictest confidence. Documentary records will be kept in line with the relevant data protection legislation.
- 1.9** This Procedure applies to cases of misconduct and does not cover sickness absence, proposed redundancies or poor performance. These will be covered under the relevant Procedure.
- 1.10** If there is any question or doubt about the interpretation or implementation of this Procedure, the GLT Head of HR should be consulted.

1.11 Designated persons

- **GLT Head of HR:** Jenny Cain Email: jcain@greenshaw.co.uk telephone: 020 8715 1078
- **GLT legal Advisors:** Stone King. Email: lisasaggers@stoneking.co.uk telephone: 020 7324 3327
- **Clerk to the Trust:** Susanne Wicks. Email: swicks@greenshawlearningtrust.co.uk telephone: 020 8715 1078

Other appropriate persons in the Trust central service should be contacted via the GLT Head of HR and the Chair of the Board of Trustees should be contacted via the Clerk to the Trust. Each school within the Trust will have a designated School HR Manager and will have their own designated Clerk to the LGB (please refer to the School Headteacher or School Business Manager for further information).

This policy applies to all employees, however for those with protected enhanced terms under TUPE regulations, only the enhanced terms will apply.

2. Application of the Procedure

2.1 This Procedure is drafted to make it directly applicable to a grievance that is raised by an employee in a school (except the Headteacher), and the responsible persons carrying out the key stages are shown as:

- The informal stage will be carried out by the employee's line manager.
- The formal stage will be carried out by the Headteacher, supported by the School HR Manager, who should inform and seek advice from the GLT Head of HR.
- The Investigating Officer will be appointed by the Headteacher.
- An appeal will be heard by a Disciplinary Committee of the Local Governing Body; administered by the Clerk to the Local Governing Body, supported by the School HR Manager, who should inform and seek advice from the GLT Head of HR.
- If suspension is appropriate, the Headteacher or Executive Headteacher may suspend. Advice should always be sought from the GLT Head of HR or GLT HR Advisors prior to a suspension taking place.

Exceptions and Modifications to the Procedure

Where the subject of the Procedure is a person other than an employee in a school, the Procedure will be followed except that the responsible person should be read as specified below.

2.2 Where the Headteacher is subject to a disciplinary process in a school, in this Procedure:

- 'Employee' will be read as 'Headteacher'.
- 'Line manager' will be read as 'appropriate GLT Director of Education'.
- 'Headteacher' will be read as 'Chair of the LGB'.
- 'School HR Manager' will be read as 'GLT Head of HR'.
- 'GLT Head of HR' will be read as 'Executive Headteacher'.
- An appeal will be heard by a Disciplinary Committee of the Local Governing Body made up of persons other than the Chair of the Local Governing Body.
- When arranging a Disciplinary Committee for an appeal, the Clerk must advise the Chair of the Board of Trustees and Trustees must be represented on the committee if the Chair so decides.

2.3 Where the Executive Headteacher is subject to a disciplinary process in this Procedure:

- 'Employee' will be read as 'Executive Headteacher'.
- 'Line manager' and 'Headteacher' will be read as 'Chair of the Board of Trustees'.
- 'School HR Manager' will be read as 'GLT Head of HR'.
- 'GLT Head of HR' will be read as 'GLT HR Advisors'.
- 'Disciplinary Committee of the LGB' will be read as 'Disciplinary Committee of the Board of Trustees', made up of persons other than the Chair of the Board.
- 'Clerk of the Local Governing Body' will be read as 'Clerk of the Trust'.

2.4 Where an employee of the Trust central service is subject to a disciplinary process, in this Procedure:

- 'Headteacher' will be read as 'Executive Headteacher'.
- 'School HR Manager' will be read as 'GLT Head of HR'.
- 'Disciplinary Committee of the LGB' will be read as 'Disciplinary Committee of the Board of Trustees'.
- 'Clerk of the Local Governing Body' will be read as 'Clerk of the Trust'.

2.5 Where a School HR Manager is subject to a disciplinary process, in this Procedure:

- 'Employee' will be read as 'School HR Manager'.
- 'School HR Manager' will be read as 'GLT Head of HR'.

2.6 Where the GLT Head of HR is subject to a disciplinary process, in this Procedure:

- 'Employee' will be read as 'GLT Head of HR'.
- 'Line manager' will be read as 'Director of Resources'.
- 'Headteacher' will be read as 'Executive Headteacher'.
- 'School HR Manager' and 'GLT Head of HR' will be read as 'GLT HR Advisors'.
- 'Disciplinary Committee of the LGB' will be read as 'Disciplinary Committee of the Board of Trustees'.
- 'Clerk of the Local Governing Body' will be read as 'Clerk of the Trust'.

Governors may be required to serve on a committee to consider an appeal under the disciplinary procedure. It is therefore, essential that matters relating to individual disciplinary cases are not discussed at governing body meetings.

Timescales and Definition of a Working day

- 2.7** For the purposes of the operation of this Procedure, timescales are expressed in working days. For employees who are contracted to work term time only, a working day should be reckoned as a day that the school is open. Where disciplinary issues arise just before a school holiday, arrangements to resolve the matter speedily should be discussed between the parties. An intervening school holiday should not of itself be a cause for an undue delay in resolving the matter.

For employees contracted to work all year round, a working day is defined as Monday to Friday calendar days, except bank holidays.

3. Stage one - Resolving Disciplinary Issues Informally

- 3.1** Cases of minor misconduct or breaches of rules are normally best dealt with informally in the first instance. A quiet word from the employee's Line Manager, is often all that is required to improve an employee's conduct. In some cases additional training or advice may be needed. However, there may be cases where the misconduct is repeated or the matter is deemed to be more serious and formal action is required.

- 3.2** When the informal approach is being used the Line Manager will:

- Talk to the employee in private.
- Discuss the shortcomings in conduct and encourage improvement. Any criticism should be constructive, with the emphasis on finding ways to improve conduct and for that improvement to be sustained.
- Listen to what the employee has to say and if it becomes evident that there is no problem, make this clear to the employee.
- Be clear about next steps including timelines for monitoring / review.
- Take notes of any discussions including action[s] agreed, review timescales and next steps.
- Monitor progress.

- 3.4** If during the informal discussion it becomes apparent that the matter is more serious the meeting should be adjourned and the employee should be told that the issue will be dealt with under the formal procedure.

- 3.5** Mediation could be offered and is often a helpful approach to resolve the issue and if both parties would be agreeable to participating in the process.

- 3.6** Where informal action does not resolve the matter or the misconduct is more serious it may be necessary to follow the formal procedure.

4. Stage two - The Formal Procedure

4.1. Establishing the Facts

It is important to carry out a thorough investigation of potential disciplinary matters in order to establish the facts of the case. This should be done without undue delay. When an issue is reported. The Headteacher will conduct a brief investigation to establish if there is a prima facie case to answer.

- 42** If, during the course of a disciplinary investigation child protection / safeguarding concerns come to light the investigation will be put into abeyance and guidance should be sought from the school's Designated Safeguarding Lead who will inform the Local Authority Designated Officer (LADO).
- 43** Employees should be dealt with in a fair and reasonable manner. It is important to keep an open mind and take a balanced view; looking for evidence which supports the employee's case as well as evidence against.
- 44** A suitably trained Investigating Officer will be appointed by the Headteacher to carry out a full investigation, including interviewing witnesses where necessary. This could be another member of the SLT, or an external person e.g. Deputy Head of another GLT school.
- 45** The Investigating Officer must give priority to the investigation taking note of the timescales in the procedure.
- 46** The Investigating Officer will arrange to gather any documentary evidence and interview the employee and any witnesses. It is important that at this stage disciplinary action is not considered; this will be done at a later stage when all of the facts have been established.
- 47** It is good practice to allow the employee to be accompanied at an investigation meeting by a trade union representative or work colleague.
- 48** The Investigating Officer may ask someone to be present to take notes at investigation meetings and must give thought to the appropriateness of the person carrying out this role. Confidentiality must be maintained.
- 49** Upon completion of the investigation, the Investigating Officer will write a report setting out their findings and determining whether or not, on the balance of probabilities, there is a case to answer.
- 410** Copies of meeting notes should be sent to the individual concerned for verification and witness statements and notes should be signed and dated and agreed by both parties.

4.11 Having carried out a thorough investigation the Investigating Officer will make a decision as to whether there is a case to answer and notify the Headteacher of the decision.

4.12 Once the Investigating Officer has made the decision the School HR Manager will notify the employee whether there is a case to answer or not. If there is no case to answer, the employee should be notified in writing that no further action will be taken.

5. Disciplinary Meeting

5.1 Where there is a case to answer the School HR Manager will notify the employee in writing and invite them to attend a Disciplinary Meeting. The notice will usually be provided no later than 10 working days in advance of the meeting; should this fall during a school holiday period an alternative date may be mutually agreed.

5.2 The employee will be advised of the alleged misconduct, informed of the possible outcomes, copies of any evidence, which may include witness statements. The employee has the right to be accompanied to this meeting with a colleague or trade union representative.

5.3 The Headteacher will Chair the Disciplinary Meeting. The intention of the meeting is to:

- Establish the facts and consider whether any disciplinary action should be taken in accordance with the procedure.

5.4 When deciding whether a disciplinary penalty is appropriate and, if so, what form it should take the Headteacher should be take into consideration:

- Any rules / policies the school may have which indicate what the penalty for a particular misconduct are.
- What penalty has been imposed for previous similar cases.
- Whether the standards of other employees are acceptable and that this employee is not being unfairly singled out.
- The employee's disciplinary record, including current warnings, general work record, work experience, position and length of service.
- Any special circumstances which might make it appropriate to adjust the severity of the penalty.
- Whether the proposed penalty is reasonable in view of all of the circumstances.
- whether any training, additional support or work adjustments are necessary

5.5 Where it is found that there is no case to answer the School HR Manager will write to the employee and a copy of the letter will kept on file to show that an investigation has been held and the conclusion was that there was no case to answer.

5.6 Where it is found that there is a case to answer the Headteacher should decide whether a sanction is warranted and if so what level of sanction:

- **Recorded warning**
A recorded warning is issued for first acts of misconduct where there are no active warnings on an employee's file.
- **First Written Warning**
A first written warning is normally issued for misconduct where there is already a warning on file or misconduct that is considered serious enough to warrant a written warning.
- **Final Writing Warning**
A final written warning is normally issued for misconduct where there is already a warning on file or misconduct that is considered serious enough to warrant a final written warning.
- **Dismissal**
Dismissal may be appropriate if, despite warnings, their conduct has not improved within the specified timescale or there has been another incident of misconduct or in cases of gross misconduct.

The School HR Manager will notify the employee of the sanction in writing within 5 working days of the meeting. The employee will be asked to acknowledge receipt of the letter.

- 5.7** Where the employee has been dismissed for gross misconduct this will usually result in immediate dismissal without notice.

Where a written warning is issued, this should be removed from the individual's personal file upon its expiry and be disregarded for disciplinary purposes.

6. Stage 3 – Appeal

- 6.1** Where the employee is not happy with the outcome of the formal stage they may appeal.

The appeal must be submitted in writing to the Headteacher within 10 school days, setting out the grounds for the appeal. The Headteacher will immediately inform the GLT Head of HR and the Clerk to the LGB.

- 6.2** The appeal will be heard by a meeting of the Disciplinary Committee of the Local Governing Body.
- 6.3** On receipt of an appeal from an employee, the Clerk to the LGB will arrange a meeting of the Disciplinary Committee of the Local Governing Body without unreasonable delay and ideally within 15 working days of the receipt of the letter of appeal.
- 6.4** The Clerk of the LGB will establish a Disciplinary Committee of the Local Governing Body by drawing members from the appropriate panel and avoiding conflict of interest.

6.5 The Clerk to the LGB will notify the employee and Headteacher of the arrangements for the meeting and provide them with copies of all relevant documentation prior to the meeting. Both parties should provide any further relevant paperwork and notify the names of any witnesses to be called at least 5 working days before the date of the meeting so that these can be copied to all parties.

Governors may be required to serve on a committee to consider an appeal under the disciplinary procedure. It is therefore, essential that matters relating to individual disciplinary cases are not discussed at governing body meetings.

6.6 The Disciplinary Committee will select a chair for the meeting from amongst its members.

6.7 The employee will attend the meeting to present the case. Employees have the right to be accompanied by a work colleague or trade union representative or official at a grievance appeal meeting.

6.8 The employee, Headteacher and their companions will leave the meeting and the Disciplinary Committee will consider the facts and reach their decision.

6.9 The possible outcomes of the Disciplinary Committee meeting are:

- To uphold each of the grounds for appeal.
- To fully or partially uphold the appeal.
- Dismiss the appeal.
- Lessen the penalty that was awarded at the first hearing.
- The committee may not increase the penalty.

6.10 The employee and the Headteacher will be notified of the outcome of the appeal in writing within 5 working days.

If the result of the appeal is to reinstate the employee who had been dismissed they will receive payment of salary for the period from the date of dismissal to the date of reinstatement.

6.11 There is no further right of appeal.

7.0 Alternatives to dismissal

7.1 Where applicable, and in agreement with the employee concerned, alternatives to dismissal should be considered, these could include deployment to another role within the school, redeployment to another GLT school or removal of responsibility, where this is a substantial factor in the case.

8.0 Agreed Outcome

- 8.1** Following the conclusion of an investigatory process, an employee, with advice from their representative may accept a disciplinary sanction without being subject to the full normal procedure. This is called an ‘agreed outcome’.

In accepting an agreed outcome, an employee will forego their right of appeal. The School must seek guidance from the GLT Head of HR or GLT HR Advisors before proceeding with an agreed outcome.

9.0 Records

- 9.1** Notes of hearings and meetings with the employee will be taken and shared with him/her as soon as possible after the hearing. The employee has the right to challenge the accuracy of any minutes and have these recorded.
- 9.2** No one may record meetings or hearings, except for the clerk to assist with producing the minutes, where permission is given by all parties. The recording will be destroyed once minutes are completed.
- 9.3** On the expiration of any warning, it will be removed from an employee’s record and destroyed.
- 9.4** Letters of expectation are not disciplinary sanctions and will remain on the employee’s personal file indefinitely.
- 9.5** If an investigation or hearing concludes that an allegation is totally unsubstantiated, all records will be removed from the employee’s personal file. The only exception would be where the allegation relates to issues around care of vulnerable people.
- 9.6** Details of any on-going disciplinary action and/or sanctions, and in the case of safeguarding matters, will be referred to in an employee reference requested of the Academy.

10. Expiration of Warnings

- 10.1** Warnings will be considered to have expired after the following periods, provided there has been no further issues arising. After these periods warnings will be removed from the employees’ record and destroyed.

Recorded warning – 6 months

First written warning – 9 months

Final written warning – 12 months

PART B – DISCIPLINARY PROCESS GUIDANCE

1. Criminal Investigations

When an allegation of a criminal nature is made against a member of staff, the matter may need to be referred to the police for investigation. A criminal offence could occur outside employment and the Trust will be notified by the Police.

Employees should inform the Trust at the earliest opportunity of any criminal proceedings or convictions that may affect their suitability for their job. This could include driving offences where driving is a requirement of the job.

In cases where the police are carrying out investigations, the school will need to be in contact with the police, and not commence disciplinary investigations until the police have confirmed that this can go ahead. This is to ensure that disciplinary investigations do not prejudice the police investigations.

Where an employee is charged with, or convicted of, a criminal offence this is not normally automatically a reason for disciplinary action. Consideration needs to be given to what effect the charge or conviction has on the employee's ability to do the job and their relationship with their employer, work colleagues and pupils/students. The Trust should:

- investigate the facts as far as possible and come to a view about whether they show that the conduct is sufficiently serious to warrant instituting the disciplinary procedure
- note that, where the conduct requires prompt attention, there is no need to await the outcome of any prosecution before taking fair and reasonable action
- note that where the police are involved they should not be asked to conduct any investigation on behalf of the school, nor should they be present at any Disciplinary Meeting

Where an employee charged with or convicted of a criminal offence refuses or is unable to co-operate with the Trust's disciplinary investigations and proceedings, this should not deter action from being taken. The Trust should write to the employee advising them that unless further information is provided, a disciplinary decision will be taken on the information available and could result in dismissal.

It may be decided that the nature of the offence does not justify disciplinary action because it has no bearing on the employment. However the employee may not be available for work because they are in custody or on remand. In these cases the Trust will have to decide whether the job can be kept open bearing in mind the needs of the school. The nature of the conviction, for example the loss of a driving licence, may make employment in a particular job illegal so consideration should be given as to whether alternative work is appropriate and available.

Where it is unlikely that the employee will return to work or has resigned the disciplinary procedure should still be followed.

2. Safeguarding

The Trust as the employer must inform the Local Authority Designated Officer (LADO) as soon as an allegation related to Safeguarding is made against a member of staff.

In safeguarding cases, disciplinary investigations should not start until after the safeguarding enquiries are complete and have been discussed at a Senior Strategy Meeting.

Where a member of staff tenders their resignation or ceases to provide services to the Trust/school this must not prevent an allegation being followed up. It is important that every effort is made to reach a conclusion in all cases where an allegation concerning the safety and welfare of children, young people and vulnerable adults has been made.

If appropriate a referral to NCTL/DBS may be required.

Settlement agreements where an employee agrees to resign and the school agrees not to pursue any disciplinary action and both parties agree to a form of words to be used in any future reference, must not be used in safeguarding cases.

3. Suspension

It may be decided that a period of suspension, is considered necessary whilst the investigation is taking place. For example in cases of potential gross misconduct, where there is a possible risk of harm to children, young people or vulnerable adults posed by the employee, where the employee may hinder/interfere with the investigation or pressurise witnesses or where relationships have broken down.

During a period of suspension an employee will receive the full rate of normal salary, including allowances. The suspension will be reviewed regularly.

Suspension should only be imposed after careful consideration. Every effort should be made to complete any investigation as quickly as possible. The employee's suspension should be reviewed every 28 days and the employee and his/her union representative kept informed of the progress of the case.

If it is deemed that suspension is appropriate, the Headteacher or Executive Headteacher may suspend. Advice should always be sought from the GLT Head of HR or GLT HR Advisors prior to a suspension taking place.

Suspension from duty is a neutral act; it is a facility to enable the allegation of misconduct to be investigated. It is not in itself a disciplinary measure nor does it

represent any prejudgment of the outcome. This should be made clear to the employee.

A decision to suspend may have to be taken quickly and will be confirmed in writing to the employee within 3 working days. A copy of the letter should be sent to the employee's professional association/trade union representative.

The letter must state:

- The reason[s] for the suspension.
- That the employee has the right to consult his/her professional association/trade union representative.
- That the matter will be dealt with as quickly as possible.
- That support is available from their trade union. Teachers can also be informed that they can access the Education support line at www.teachersupport.info.

Template letters are available from the GLT Head of HR.

The police and other relevant agencies should always be consulted before informing a person who is the subject of an allegation(s) that it may possibly require a criminal/child protection investigation.

It is important that the Trust remain in touch with the employee to keep them up to date with information on general Trust matters

Where a Trade Union representative is suspended the full time official of the Union concerned will be informed by the Trust.

4. Definition of Gross Misconduct

Gross misconduct is generally seen as misconduct serious enough to undermine the contract of employment between the employee and the employer thus justifying summary dismissal [dismissal without notice] Acts which constitute gross misconduct are very serious. The following list gives examples but is not exhaustive:

- serious breaches of any Trust/school policies, rules or standards
- maltreatment of pupils/students
- theft or unauthorised removal of school property
- fraud, including the falsification of timesheets and expense claims
- physical violence or assault
- offences of dishonesty
- inappropriate behaviour of a sexual nature, serious sexual offences or misconduct
- bullying
- vandalism/deliberate and serious or malicious damage to school property
- serious misuse of the Trusts/schools property or name

- deliberately accessing internet sites containing pornographic, offensive or obscene material or distributing such material
- serious insubordination, and failure to follow a legitimate and reasonable management instruction
- bringing the Trust/school into disrepute, including inappropriate use of social networking sites
- serious incapability at work brought on by alcohol or illegal drugs
- causing loss, damage or injury through serious negligence,
- a serious breach of health and safety rules
- a serious breach of confidence
- corruptly soliciting or receiving any benefit or advantage from any individual or body with whom the school has dealings
- misuse of Trust/school property, including taking or using without permission, taking Trust/school vehicles for private use, using school computers to access any social networking sites such as Facebook,
- making telephone calls outside the United Kingdom or using any premium rate numbers e.g. chat lines,
- unlawful discrimination, victimisation, bullying and/or harassment of any individual
- Engaging in unauthorised employment or business during hours when contracted to work for the Trust e.g. when on sick leave, suspension

Where an employee is accused of an act of gross misconduct they may be suspended from work on full pay whilst the alleged offence is investigated. At the end of the investigation and completion of the Full Disciplinary Process where the Panel is satisfied that the act of gross misconduct did occur the result would normally be summary dismissal without notice or payment in lieu of notice.

5 Right to be Accompanied

Employees have the right to be accompanied at a Disciplinary Meeting by a work colleague or trade union representative or official. The employee is responsible for arranging for their representative to attend. They should also provide the name of their representative, in advance of the meeting. It would not normally be reasonable for an employee to be accompanied by a companion whose presence would prejudice the hearing or who might have a conflict of interest.

The trade union representative or work colleague may address the Disciplinary Meeting to explain and or sum up the employee's case, respond on behalf of the employee to any views expressed at the Disciplinary Meeting, ask witnesses questions and confer with the worker during the Disciplinary Meeting. However the companion does not have the right to answer questions on the employee's behalf, address the Disciplinary Meeting if the employee does not wish it or prevent the employer from explaining the case.

Where a work colleague has agreed to accompany the employee they are entitled to take a reasonable amount of paid time off to fulfil that responsibility.

If the trade union representative or work colleague is unable to attend on the date set, the employee can suggest an alternative date so long as this is reasonable and not more than 5 working days after the original date.

If the employee is a trade union representative the case should be discussed with a full time union official after obtaining the employee's agreement. This is because it may be seen as an attack on the union.

6. Referral to the relevant Statutory Bodies

It is a statutory requirement for employers to refer all cases of misconduct that have a child protection / safeguarding element, even where the employee resigns during an investigation, to the Disclosure and Barring Service.

In all cases of teacher misconduct or incompetence, even where the employee resigns in circumstances where dismissal might otherwise have been considered, employers have a statutory duty to refer such cases to the National College for Teaching and Leadership.

The GLT Head of HR will advise on the process to notify DBS and/or NCTL.

7. Guidance on conducting a Formal Meeting

7.1 When preparing for a Formal Disciplinary Meeting the Headteacher, supported by the School HR Manager should:

- Arrange for the meeting to be in private where there will not be interruptions, with separate waiting areas for both parties and for witnesses.
- Inform the employee of their right to be accompanied at the hearing.
- Allow the employee time to prepare their case.
- Ensure that copies of any relevant papers and witness statements are made available to the employee in advance of the meeting.
- Allow the employee to call witnesses and/or submit witness statements subject to prior notification.
- Treat evidence from a witness who wishes to remain anonymous with caution and after taking written statements, seek corroborative evidence and check that the person's motives are genuine.
- Consider what explanation may be given by the employee and if possible check it out before the meeting.
- Arrange for someone who is not involved in the case to take notes of the meeting. The employee will be given a copy of these notes. Thought should be given to the appropriateness of the person carrying out this role. Confidentiality must be maintained.
- Ensure that all the relevant facts are available, such as disciplinary records, any other relevant documents and, where appropriate written witness statements.

- Check whether there are any special circumstances which may have affected the employee's conduct, for example any personal or other outside issues.
- Consider arranging for an interpreter where the employee has difficulty speaking in English. It may be that this person is in addition to the companion although ideally the person should carry out both roles.*
- Consider whether adjustments are necessary for a person who is disabled and/or their companion is disabled. Reasonable adjustment may be needed for an employee with a disability [and possibly for their companion if they are disabled] for example the provision of a support worker or advocate with knowledge of the disability and its effects. It may be that this person is in addition to the companion although ideally the same person should carry out both roles*
- Prepare an agenda for the meeting.
- * *The employee should make known any special requirements as soon as possible so that appropriate arrangements can be made.*

There could be occasions where an employee is unable or unwilling to attend a Disciplinary Meeting for a genuine reason, such as illness. Where there are genuine reasons for non-attendance the meeting could be rearranged on a maximum of two occasions. Where an employee is persistently unable or unwilling to attend a Disciplinary Meeting without good cause the Chair should consider whether to hold the meeting in the employee's absence. In making this decision the following factors should be considered:

- The seriousness of the disciplinary issue under consideration.
- The employee's disciplinary record, including current warnings, general work record, work experience, position or length of service.
- Medical opinion as to whether the employee is fit to attend the meeting.
- How similar cases in the past have been dealt with.
- Whether alternatives have been offered e.g. other venues, employee's representative could present case, employee could provide a written statement etc.

The employee should be advised that if they fail to attend the meeting, it may proceed in their absence taking account of the evidence available.

7.2 Notification of the Disciplinary Meeting

When notifying the employee of the Disciplinary Meeting, the School HR Manager will provide:

- Sufficient information about the alleged misconduct to enable the employee to prepare to answer the case at a Disciplinary Meeting.
- The time, date and venue for the meeting.
- The possible outcomes of the meeting
- Copies of any written evidence, which may include witness statements.

- Advice of their right to be accompanied by a work colleague or trade union representative.
- Notification of any witnesses to be called by the Investigating Officer.
- A request that the name/s of any witnesses to be called by the employee is notified at least 3 working days in advance of the meeting.
- A request that any documentary evidence the employee wishes to present be sent to arrive no later than at least 3 working days before the date of the meeting.
- A request that the employee confirms that they will be attending and provides the name of their companion.
- A request that the employee advises of any adjustments required for the hearing.
- A copy of the disciplinary policy and procedure.

Template letters are available from the GLT Head of HR

73 Holding the Disciplinary Meeting

At the Disciplinary Meeting the Headteacher should:

- Introduce those present, explaining their role.
- Explain that the purpose of the meeting is to establish the facts and consider whether any disciplinary action should be taken in accordance with the procedure.
- Explain how the meeting will be conducted.
- Listen carefully and wait for answers as this can encourage the employee to be more forthcoming.
- Ask relevant questions to the Investigating Officer and the employee in order to establish the facts of the case.

A model agenda is available from the GLT Head of HR

The Investigating Officer should explain exactly what the allegation[s] against the employee is and outline the case by going through the evidence that has been gathered.

The Chair should allow the employee to put their case forward and respond to the allegation(s) that have been made. This includes giving them a reasonable opportunity to ask questions, present evidence, invite and ask questions of any relevant witnesses.

The Chair should use this stage to establish the facts and:

- Ask the employee if they have any explanation for the alleged misconduct or if there are any special circumstances to be taken into account.
- Keep the approach formal and encourage the employee to speak freely with a view to establishing the facts.
- Use questions to clarify the issues and to check that what has been said is understood.

- Avoid getting into arguments or making personal or humiliating remarks.
- Avoid physical contact or gestures which could be misconstrued as judgemental.
- If it becomes apparent during the meeting that the employee has provided an adequate explanation or there is no real evidence to support the allegation, the proceedings should be brought to a close.

If new facts emerge during the meeting it may be necessary to adjourn, in order to investigate them and the meeting can be reconvened when this has been done.

7.4 Summing Up

Once questioning has finished both parties should independently summarise their respective positions. The purpose of this is to ensure that all parties are reminded of the nature of the offence, the arguments and evidence put forward and to make sure that nothing has been missed.

The employee should be asked whether they have anything further to say. This will help to demonstrate that the employee has been treated reasonably.

7.5 Adjournment

The Disciplinary Meeting should be adjourned to allow for reflection and proper consideration of the evidence before a decision is taken about whether any disciplinary action is appropriate. It also allows time for further checking of points raised, particularly if there is a dispute over facts.

7.6 Decision

The employee should be notified of the decision in writing. The letter should set out:

- Confirm when the hearing took place and who was present.
- Set out the nature of the unsatisfactory conduct and the evidence considered.
- Give the outcome.
- Give the right to appeal against the disciplinary sanction, including the timescales.

Where the sanction is a warning:

- Give details of the change in behaviour expected.
- Give the timescale in which the improvement is required.
- Explain the next step if there is no improvement or there is further misconduct.
- Explain the warning will be kept on their personal file and how long for: 6 months for recorded, 9 months first written warning and 12 months for final warnings.
- Request acknowledgement of receipt of the letter.

Where the sanction is dismissal:

- Confirm the date that employment will be terminated.
- Confirm the appropriate notice period.

Template letters are available from the GLT Head of HR.

7.7 Problems that Could Arise During the Disciplinary Meeting

Where an employee raises a grievance during a Disciplinary Meeting consideration should be given to suspending the disciplinary procedure to allow for the grievance to be heard under the grievance procedure. This may be necessary when:

- The employee raises a grievance by alleging that the Chair has a conflict of interests.
- Bias is alleged in the conduct of the Disciplinary Meeting.
- There is possible discrimination.

The Chair should be aware that Disciplinary Meetings may not proceed smoothly and people may become upset or angry. They should be prepared for this and allow time for a distressed or angry employee to compose themselves before continuing. It may be advisable to take a short adjournment. It could be that people will let off steam during the meeting but abusive language or conduct should not be tolerated.

7.8 Arranging the Appeal Meeting:

When arranging an Appeal Meeting the Clerk to the LGB, supported by the School HR Manger should:

- Organise a venue for the meeting together with separate waiting areas for each party and witnesses will be arranged.
- Ensure that the employees' requests for support that they may require are conveyed to and considered by and the Trust/school. (Employees can make requests for support that they may require and the Trust/school can determine whether they are able to provide it.)
- Write to the employee to invite them to the meeting giving the time, date and venue, informing them of their right to be accompanied and that there is no further right of appeal.
- Prepare an agenda for the meeting
- Send copies of all relevant paperwork to all parties including the relevant records and notes from the original disciplinary hearing to the employee and all panel members.
- Attend the hearing to take minutes and invite both parties in to the meeting together.
- Send a letter to the employee without unreasonable delay and ideally within 5 working days, giving them the outcome of the appeal hearing.

7.9 Conducting the Appeal Meeting

The Disciplinary Committee of the Local Governing Body will elect a Chair for the meeting from among their number, ideally someone with experience of chairing meetings.

The Appeal Meeting may be a complete re-hearing of the matter where all evidence is presented again or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light. This will be at the Trust's discretion depending on the circumstances of the case.

The Investigating Officer and the employee will attend the meeting to present their cases, together with their companions. Separate waiting areas will be arranged for each party.

Any witnesses will sit in a separate area and will wait until called. They will be invited into the meeting to give evidence and be questioned and will then return to the waiting area.

The committee will consider whether to uphold each of the grounds for appeal. The committee can decide to:

- Fully or partially uphold the appeal.
- Dismiss the appeal or lessen the penalty that was awarded at the first hearing.
- The committee cannot increase the penalty.

At the end of the meeting both parties will leave together and be told that the decision will be given in writing as soon as possible and ideally within 5 working days. The committee may wish to call either party back to clarify a point. Where this is the case both parties will be required to return and then leave together. However it may have been decided at the start of the meeting that the decision will be given verbally in which case both parties should be asked to wait and invited back to hear the result together.

There is no further right of appeal after this stage of the process.

If the result of the appeal is to reinstate the employee who had been dismissed they will receive payment of salary for the period from the date of dismissal to the date of reinstatement.

Disciplinary appeal meetings can be emotive and people may become upset or angry. Be prepared for this and allow time for a distressed or angry employee to compose themselves before continuing, possibly by taking a short adjournment. It could be that people will let off steam during the meeting but abusive language or conduct should not be tolerated. Bear in mind that all participants will be under stress and be even-handed in your treatment of all participants.

The committee members, the clerk and the GLT Head of HR [if in attendance] will be present throughout the meeting.

The Appellant and the Headteacher along with their companions will be invited into and asked to leave the meeting together. At no time should the Appellant, Headteacher or their companions or witnesses be able to talk to the panel without

both the Appellant and Headteacher being present. These arrangements may have to be modified if one or more of the parties have absented themselves from the meeting.

Witnesses should be invited to join the meeting when their input is required and asked to leave immediately afterwards.

The committee should decide whether to give the outcome verbally to both parties once they have come to their decision, at the end of the meeting and inform the participants accordingly.

7.8 At the Start of the Meeting

- Take control of the meeting with confidence, using judgment to move the meeting on when necessary.
- Treat all participants even-handedly to convey the committee's impartiality.
- Once the main participants have joined the meeting, explain the proceedings [see below].
- Be firm about keeping to the agenda and reminding participants as necessary about the procedure, for example if interruptions occur.

7.9 Explaining the Proceedings

- Introduce everyone present and explain their role.
- Explain the purpose of the meeting, how it will be conducted and the powers of the committee.
- Make it clear that the agenda will be followed as this will allow everyone to have a fair hearing.
- Ask the employee to explain their grounds for appeal.

7.10 During the Meeting

Keep the approach formal, listen carefully to all parties giving everyone the opportunity to speak. Make sure all relevant issues have been explored and that all points raised are clearly understood.

7.11 Concluding the discussion

It is important that all the participants feel that they have had every opportunity to be heard but if they are beginning to repeat themselves the meeting should be moved on to the summing up stage when both parties should be given the opportunity to sum up.

The Chair should then summarise the facts.

The meeting will then adjourn to allow the committee to consider their decision.

Both parties should be informed that they will be told the decision, in writing, without unreasonable delay and ideally within 5 working days unless it has been decided to relay the decision verbally in which case both parties should be asked to wait and then be invited back together to hear the outcome.

Both parties will be asked to leave the meeting together.

After both parties have left the meeting the committee will consider their decision based on the written and oral evidence presented. Their decision should be written down so this can be accurately recorded in the minutes. If both parties are invited back to hear the decision, make it clear to all parties that no further discussion is possible.